

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. 14-218-GA-GCR  
Duke Energy Ohio, Inc. and Related )  
Matters. )

In the Matter of the Uncollectible Expense )  
Rider of Duke Energy Ohio, Inc. and ) Case No. 14-318-GA-UEX  
Related Matters. )

In the Matter of the Percentage of Income )  
Payment Plan Rider of Duke Energy Ohio, ) Case No. 14-418-GA-PIP  
Inc. )

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:

Amy Spiller, Deputy General Counsel, and Elizabeth H. Watts and Jeanne W. Kingery, Assistant General Counsel, 139 East Fourth Street, 1303-Main, Cincinnati, Ohio 45201-0960, 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 the Staff of the Public Utilities Commission of Ohio.

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 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 March 26, 2014, the Commission initiated Case No. 14-218-GA-GCR (2014 GCR Case), established the financial audit period, and established the date upon which the financial audit report must be filed. In the March 26, 2014 Entry, the Commission scheduled a hearing date of January 13, 2015, and directed Duke to publish notice of the hearing. In accordance with the March 26, 2014 Entry, the financial audit report (Comm.-ordered Ex. 1) was timely filed on November 14, 2014.

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 & Elec. Co.*, Case No. 05-732-EL-MER, et al., Finding and Order (Dec. 21, 2005) at 18. Since that time, the UEX rider rate has been updated. Most recently, by Finding and Order issued in Case No. 14-318-GA-UEX (2014 UEX Case) on May 28, 2014, the Commission authorized an increase in Duke's UEX rider to \$0.09802 per thousand cubic feet (Mcf). Further, in the March 26, 2014 Entry, the Commission established the audit period for Duke's UEX rider. The UEX audit report (Comm.-ordered Ex. 2) was filed on November 14, 2014.

By Finding and Order issued on December 2, 1993, the Commission approved a stipulation authorizing Duke to recover percentage of income payment plan (PIPP) arrearages associated with providing natural gas service through its PIPP rider. *In re Review of PIP Plan Riders*, Case No. 88-1115-GE-PIP, et al., Finding and Order (Dec. 2, 1993). In 2013, Duke's PIPP rider of \$0.06572 per Mcf was approved through the Commission's automatic approval process for PIPP riders. *In re Duke Energy Ohio, Inc.*, Case No. 13-1308-GA-PIP. By Entry issued on June 5, 2014, the automatic approval process was suspended in order to allow the Commission an opportunity to review Duke's most recent application to adjust its PIPP rider. *In re Duke Energy Ohio, Inc.*, Case No. 14-418-GA-PIP (2014 PIPP Case), Entry (June 5, 2014). Staff filed comments concerning the 2014 PIPP Case on July 1, 2014. Thereafter, by Finding and Order issued in the 2014 PIPP Case on July 23, 2014, the

Commission authorized an increase in Duke's PIPP rider to \$0.21642 per Mcf. Additionally, in the March 26, 2014 Entry, the Commission established the audit period for Duke's PIPP rider. The PIPP audit report (Comm.-ordered Ex. 3) was filed on November 14, 2014.

The hearing in the *2014 GCR Case* was convened, as scheduled, on January 13, 2015. At the hearing, no members of the public appeared to testify. On December 22, 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 *2014 GCR Case*, the *2014 UEX Case*, and the *2014 PIPP 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 9, 2015, Duke submitted an affidavit of publication (Duke Ex. 1) stating that notice was provided in newspapers of general circulation published in Brown, Clinton, Hamilton, Highland, and Montgomery Counties on December 16, 17, and 18, 2014. 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 and related appendices. In the financial audit, Deloitte examined the periodic filings of Duke that support the GCR rates for the monthly periods ended September 29, 2013, through August 28, 2014. 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.)

Concerning other issues identified in its audit, Deloitte found that, due to a clerical error during a portion of the audit period, Duke had miscalculated the actual adjustment rate in the GCR calculation. Deloitte stated that the actual adjustment rate was erroneously calculated during the audit period from September 2013 through January 2014 and that this clerical error resulted in a misstatement of the individual monthly GCR rate, which had a dollar impact of \$1,896,081 over that time period. Deloitte noted that the error amount was corrected through the application of an amended rate used over the remaining period of revenue months, February 2014 through May 2014. (Comm.-ordered Ex. 1 at 3.)

In addition, Deloitte found that, due to an administrative error during a portion of the audit period, Duke had misreported company use for purposes of determining the monthly GCR rate. Deloitte stated that this error resulted in a misstatement of the individual monthly GCR rate calculated from August 2013 through November 2013, which had a dollar impact of \$26,811. Deloitte stated that the error amount was corrected through a prior period adjustment in the second quarter 2014 GCR filing. (Comm.-ordered Ex. 1 at 3.)

### III. UEX Audit

Deloitte reviewed Duke's UEX recovery mechanism for the period January 1, 2013, through December 31, 2013, 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 and that the bad debts written off for this period, net of customer recoveries, totaled \$4,870,550. Deloitte noted findings related to non-timely charge-offs for 7 of its 25 charge-off selections. Deloitte also noted that, in 2013, several longstanding programming issues in Duke's Customer Management System prevented certain final accounts to proceed through the final collections timeline to be ultimately charged-off. Further, management of the Company stated that the programming issues have been resolved and controls have been put in place to monitor accounts not charging-off in the appropriate period. (Comm.-ordered Ex. 2 at 1-2.)

### IV. PIPP Audit

Deloitte reviewed Duke's PIPP recovery mechanism for the period January 1, 2013, through March 31, 2014, and proved the mathematical accuracy in Duke's calculations of its deferred PIPP balances, arrearages credits, and PIPP rider revenues from sales customers during the audit period. Deloitte stated that it performed audit procedures related to the application of the PIPP rider rates in effect during the audit period, the application of credits to customer balances, planned billed volumes used to calculate the PIPP rider rate, and the balance of accumulated deferrals for the PIPP rider. Deloitte noted no exceptions to its audit procedures. Further, based on a random review of 25 customer bills, Deloitte stated that it compared the PIPP rider rate used in the customer's bill calculation to the applicable rate filing approved by the Commission and that each rate selected for review was in agreement. With respect to the balance of accumulated deferrals for the PIPP rider, Deloitte also noted that, as of March 31, 2014, Duke had not identified reconciling items and/or differences. (Comm.-ordered Ex. 3 at 1-3.)

## V. Stipulation

As stated previously, a stipulation (Jt. Ex. 1), signed by Duke and Staff, was filed in these dockets on December 22, 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, 2014, were fairly determined by the Company, in accordance with the provisions of Ohio Adm.Code Chapter 4901:1-14 and related appendices, during the audit period.
- (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 Adm.Code 4901:1-14-07.
- (5) The Deloitte GCR audit report, Comm.-ordered Ex. 1, shall be admitted into the record in these proceedings.
- (6) The specific findings presented in the "Summary of Findings" of the Deloitte GCR audit are reasonable and should be adopted by the Commission.
- (7) The Deloitte UEX and PIPP audit reports, Comm.-ordered Ex. 2 and Comm.-ordered Ex. 3, respectively, shall be admitted into the record in these proceedings.

(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, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 30, 1989); *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:

- (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, 2015 public hearing, Roger Sarver, who supervises GCR 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 7-9.) 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. Both parties to the stipulation have been involved in numerous cases before the Commission and have consistently provided extensive and helpful information to the Commission. 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. Further, the stipulation meets the third criterion because it does not violate any important regulatory

principle or practice. We, therefore, find that the stipulation is reasonable and should be adopted. In addition, the Commission finds that, as set forth in the audit reports in the *2014 UEX Case* and the *2014 PIPP Case*, Duke accurately calculated the UEX and PIPP rider rates during the applicable audit periods. Accordingly, the Commission adopts the findings in the UEX and PIPP audit reports.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Duke is a natural gas company as defined in R.C. 4905.03 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 March 26, 2014, 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, 2015, and directed Duke to publish notice of the hearing.
- (4) The financial, UEX, and PIPP audit reports were filed on November 14, 2014.
- (5) On December 22, 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 compliance with Commission requirements and R.C. 4905.302.
- (7) No public witnesses appeared to testify at the January 13, 2015 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 monthly periods ended September 29, 2013, through August 28, 2014, 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.

- (10) Duke accurately calculated the UEX and PIPP rider rates during the UEX and PIPP audit periods.

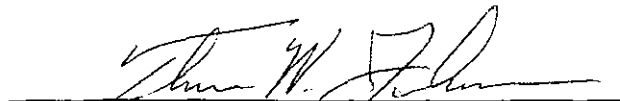
ORDER:


It is, therefore,

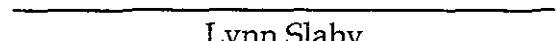
ORDERED, That the stipulation of the parties be adopted and approved. It is, further,

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


THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Thomas W. Johnson, Chairman

  
Steven D. Lesser

  
Lynn Slaby

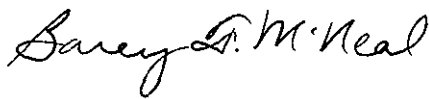
  
M. Beth Trombold

  
Asim Z. Haque

KKS/vrm

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**FEB 19 2015**



Barcy F. McNeal  
Secretary