

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. 14-206-GA-GCR  
Brainard Gas Corporation, Northeast Ohio ) Case No. 14-209-GA-GCR  
Natural Gas Corporation, and Orwell ) Case No. 14-212-GA-GCR  
Natural Gas Company and Related )  
Matters. )

In the Matter of the Uncollectible Expense )  
Riders of the Northeast Ohio Natural Gas ) Case No. 14-309-GA-UEx  
Corporation and Orwell Natural Gas ) Case No. 14-312-GA-UEx  
Company. )

In the Matter of the Percentage of Payment )  
Plan Rider of Northeast Ohio Natural Gas ) Case No. 14-409-GA-PIP  
Corporation. )

OPINION AND ORDER

The Commission, having considered the above-entitled matters, including the Amended Stipulation and Recommendation, and the record in these proceedings, and being otherwise fully advised, hereby issues its Opinion and Order.

APPEARANCES:

Taft, Stettinius & Hollister, LLP, by Mark S. Yurick and Devin D. Parram, 65 East State Street, Suite 1000, Columbus, Ohio, 43215-4213, on behalf of Northeast Ohio Natural Gas Corporation, Orwell Natural Gas Company, and Brainard Gas Corporation.

Mike DeWine, Ohio Attorney General, by Werner L. Margard III, Thomas G. Lindgren, and Katherine L. Johnson, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission of Ohio.

Bruce J. Weston, Ohio Consumers' Counsel, by Joseph P. Serio and Maureen R. Grady, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215, on behalf of the residential customers of Northeast Ohio Natural Gas Corporation, Orwell Natural Gas Company, and Brainard Gas Corporation.

OPINION:I. HISTORY OF THE PROCEEDINGS AND PENDING MOTIONSA. Background

Northeast Ohio Natural Gas Corporation (Northeast), Orwell Natural Gas Company (Orwell), and Brainard Gas Corporation (Brainard) (jointly referred to as the Companies) are natural gas companies, as defined in R.C. 4905.03, and public utilities as defined in R.C. 4905.02. As such, the Companies are subject to the jurisdiction of this Commission, in accordance with R.C. 4905.04 and 4905.05. Further, the Companies are natural gas companies, within the meaning of R.C. 4905.302(C); thus, the Companies implement purchased gas adjustment mechanisms.

Pursuant to R.C. 4905.302(A)(1), the uniform purchased gas adjustment mechanism allows a natural gas company to adjust the rates it charges customers in accordance with any fluctuation in the cost the company incurs for the gas it sells to customers. To facilitate the purchased gas adjustment mechanism and the audit of the mechanism, the rules contained in Ohio Adm.Code Chapter 4901:1-14 direct that the jurisdictional cost of gas be separated from all other costs incurred by a natural gas company and provide for each company's recovery of the gas 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 the company's gas cost recovery (GCR) rates and to review each company's production and purchasing policies and their effect upon the rates. Pursuant to such authority, Ohio Adm.Code 4901:1-14-07 requires the gas costs for each natural gas company be audited annually, unless otherwise ordered by the Commission. R.C. 4905.302(C) and Ohio Adm.Code 4901:1-14-08(A) require the Commission to hold a public hearing at least 60 days after the filing of an audit report and Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be published in newspapers of general circulation throughout the service area, at least 15 days and not more than 30 days prior to the date of the scheduled hearing.

By Entry issued February 13, 2014, the Commission initiated the above cases, established the financial audit review periods, the date of hearing, and due dates for various filings. The Commission also directed the Companies to publish notice of the hearing.

By Entry issued June 11, 2014, the Office of the Consumers' Counsel (OCC) was granted intervention in these cases. By Entries issued January 23, 2015, and March 23, 2015, the parties' motions for extension of time to file the audits reports and for

continuance of the hearing were granted. By Entries issued March 23, 2015, and May 15, 2015, the parties' motions for further continuance of the hearing were granted, and the hearing was rescheduled for July 28, 2015.

On January 22, 2015, Staff filed its audit report of the uncollectible expense mechanisms (UEX) for Northeast and Orwell for the period January 2012, through December 2013, and the audit report of the percentage of income payment plan (PIPP) rider for Northeast for the period January 2012, through December 2013. On January 27, 2015, Staff filed its GCR audit report for Brainard for the period January 1, 2013, through June 30, 2014, Northeast for the period March 1, 2012, through June 30, 2014, and Orwell for the period July 1, 2012, through June 30, 2014.

On July 14, 2015, Staff and the Companies filed a Stipulation and Recommendation in the above cases. On July 23, 2015, as corrected on October 20, 2015, Staff and the Companies filed an Amended Stipulation and Recommendation (Amended Stipulation) in the above cases. On July 24, 2015, the Companies filed proof of publication of the notice of the hearing.

The public hearing was held on July 28, 2015, at the offices of the Commission. No public witnesses testified at the hearing. At the hearing, Staff offered into evidence the Companies' GCR audit report (Comm. Ord. Ex. 1), the UEX audit report for Northeast (Comm. Ord. Ex. 2), the UEX audit report for Orwell (Comm. Ord. Ex. 3), and the PIPP audit report for Northeast (Comm. Ord. Ex. 4). The Companies offered into evidence the testimony of Martin K. Whelan (Co. Ex. A), the proofs of publication of notices of the hearing (Co. Ex. B), and the Amended Stipulation (Jt. Ex. 1). These exhibits were admitted into evidence. OCC, while not a signatory party, indicated at the hearing that it does not oppose the Amended Stipulation (Tr. at 10). OCC also moved the admission of the testimony of Gregory Slone; however, the attorney examiner reserved ruling on its admission pending the Commission's consideration of the motion.

B. OCC's Motion for Admission of Testimony

At the hearing, Staff and the Companies indicated that they had entered into an Amended Stipulation that resolved all of the issues in these cases. The OCC also indicated that it did not oppose the Amended Stipulation. Martin Whelan testified on behalf of the Companies in support of the Amended Stipulation and no parties conducted any cross-examination of Mr. Whelan.

At the conclusion of Mr. Whelan's testimony, OCC made a motion to admit the testimony of Mr. Gregory Slone, a senior energy analyst at OCC. Initially, OCC claimed that the testimony of Mr. Slone described the reasons OCC opposed the initial stipulation (Tr. at 9). OCC also suggested that the intent of Mr. Sloan's testimony was

to: "explain OCC's position when taken in totality with the book audit reports and the resulting Stipulation shows the reason for the parties meeting where they did" (Tr. at 21). As explained in the beginning of Mr. Sloan's testimony, "[T]he purpose of my testimony is to address certain issues related to the natural gas purchasing practices and policies of Northeast, Orwell and Brainard. These policies and practices implicate how the charges to consumers are adversely impacted by contracts with affiliate and related companies. And how the [U]tilities system reliability and diversity of fuel supply was negatively affected by Orwell's abandonment or dismantling of interconnects (or taps) on Dominion East Ohio Gas Company's ("Dominion") system." (OCC Ex. 1 at 4.)

At the hearing, the attorney examiner sought to determine the relevance of Mr. Sloan's testimony to the Amended Stipulation by noting that the word "stipulation" did not appear in his pre-filed testimony and OCC acknowledged that no where in Mr. Sloan's testimony did the words "amended stipulation" appear. Staff and the Companies did not oppose the admission of Mr. Sloan's testimony; however, the attorney examiner determined that a ruling on OCC's motion for admission of Mr. Sloan's testimony would be held in abeyance pending consideration by the Commission.

Upon review, the Commission finds that the motion for admission of the testimony of Mr. Sloane should be denied. Once the parties filed the Amended Stipulation, the scope of the hearing became the Amended Stipulation. Mr. Sloan's testimony did not address the Amended Stipulation. Further, OCC did not raise any issues or seek to question any Staff witness or the Companies' witness on any matter relevant to the hearing, including the Amended Stipulation, or the rationale for how the Amended Stipulation was achieved. More importantly, OCC did not oppose the Amended Stipulation, yet it sought admission of Mr. Sloan's testimony, which includes recommendations that appear contrary to the provisions of the Amended Stipulation. If OCC wished to raise issues related to the matter, OCC could have done so. As such, we find that Mr. Sloan's testimony is outside of the scope of the hearing in these matters, and therefore, we deny the motion of OCC to admit the testimony of Mr. Sloan.

## II. SUMMARY OF AUDIT REPORTS

### A. General

Northeast serves customers in Ashland, Carroll, Columbiana, Coshocton, Cuyahoga, Fairfield, Franklin, Guernsey, Harrison, Hocking, Holmes, Huron, Knox, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, Washington, and Wayne counties. As of June 2014, Northeast served approximately 15,186 residential and 1,108 commercial customers and provided transportation

service to 66 customers. Orwell serves customers in Ashtabula, Geauga, Lake, and Trumbull counties. As of June 2014, Orwell served approximately 7,752 residential and 892 commercial customers and provided transportation service to 96 customers. Brainard serves customers in Middlefield and Parkman townships, in the southeastern portion of Geauga County, as well as customers in Lake County. As of June 2014, Brainard served approximately 173 residential and commercial customers and provided transportation service to 8 customers. (Comm. Ord. Ex. 1 at 6-7.)

B. Summary of Staff's GCR Audit Reports for Northeast, Orwell, and Brainard

1. Expected Gas Cost - Matches Future Gas Revenues With Anticipated Cost to Procure Gas

The GCR audit periods reviewed in these proceedings were: January 1, 2013, through June 30, 2014, for Brainard; March 1, 2012, through June 30, 2014, for Northeast; and July 1, 2012, through June 30, 2014, for Orwell. In its GCR audit report, Staff reviewed the Companies' calculations of their expected gas cost (EGC) for the audit periods, and reviewed the supply agreements, sales volumes, and transportation services of the Companies. The EGC mechanism attempts to match future gas revenues for the upcoming quarter with the anticipated cost to procure gas supplies. It is calculated by extending 12-month historical purchase volumes from each supplier by the rate that is expected to be in effect during the upcoming period. The cost for each supplier is summed and the total is divided by 12-month historical sales to develop an EGC rate to be applied to customer bills. (Comm. Ord. Ex. 1 at 4.)

Staff found that, beginning in December 2013, the Companies utilized an in-house employee to procure their interstate and local production supplies which complies with the Commission's directive issued on November 13, 2013. *In re Northeast Ohio Natural Gas Corp.*, Case Nos. 12-209-GA-GCR et al., (2012 GCR Audit Cases), Opinion and Order (Nov. 13, 2013). However, Staff noted that this individual is employed by both the Companies and by an affiliated entity, which Staff believes creates the conditions for potential issues with the purchasing of regulated and unregulated supplies. Staff indicated that, for Northeast and Orwell, the purchase volumes appear to be higher in comparison to sales volumes than they have been in the past audits. For Brainard, purchase volumes appear to be lower in comparison to sales volumes. Staff believes these variances are associated with several factors, including British Thermal Unit content on local production and interstate supplies, system loss, inclusion and exclusion of storage volumes in the calculation, and, in the case of Brainard, the timing of the audit period of January 2013 to June 2014, and the differences in meter reading times. (Comm. Ord. Ex. 1 at 13.)

Staff reported that, while the sales volumes for Brainard and Orwell were adjusted to account for a customer billing issue, Northeast's sales volumes were correctly reported. Staff also reported excessive timing differences continue to exist between Cobra's 10:00 am electronic meter read and Brainard's visual read of its largest transportation customers. (Comm. Ord. Ex. 1 at 13.)

Staff made several recommendations related to the EGC. Staff recommended that the person responsible for gas procurement for the Companies should be completely separate from the person responsible for gas procurement for Gas Natural Resources<sup>1</sup>. It is Staff's experience that it can be difficult for the same individual to provide impartial unbiased purchasing decisions on behalf of both regulated and unregulated entities. Also, Staff recommended Brainard should conduct visual meter readings for the large transportation customers within one hour of the Bridge Road meter reading by Cobra. (Comm. Ord. Ex. 1 at 14.)

2. Actual Adjustment - Reconciles Cost of Purchased Gas With EGC

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 quarter by total sales for the quarter. Staff reviewed the Companies' purchase invoices, sales volumes, and worksheets used in the calculation of the Companies' AA. Staff's calculations resulted in differences for each quarter. The differences between Staff's and the Companies' calculations in the AA are not self-correcting through the GCR mechanism; therefore, Staff recommended the following reconciliation adjustments to be applied in the first GCR filing following the order in these cases: Brainard, \$2,329 for an over-collection; Northeast, \$856,647 for an over-collection; and Orwell, \$8,952 for an under-collection. (Comm. Ord. Ex. 1 at 16.)

3. Refund and Reconciliation Adjustment - Returns Supplier Refunds and Commission-Ordered Adjustments

The refund and reconciliation adjustment (RA) is used to return the jurisdictional portion of refunds received from gas suppliers and adjustments ordered by the Commission. Staff found that all three companies delayed initiating the refunding of the RA, as ordered in the *2012 GCR Audit Cases*. For Brainard, Staff found that it should have filed the ordered adjustment of \$8,351 in the customer's favor in April. For Northeast, Staff found that it filed its RA in August 2014, seven months after the Commission Order was issued; however, Northeast should have filed the ordered adjustments of \$765,936 in the customers' favor in February. For Orwell, Staff found that it filed its RA in August 2014, seven months after the Order was issued;

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<sup>1</sup> The Companies and Gas Natural Resources are all owned by Gas Natural Inc.

however, Orwell should have filed the ordered adjustment of \$261,283 in the customer's favor in February. (Comm. Ord. Ex. 1 at 29.)

Staff recommended that the Companies include in their future GCR filings the Commission-ordered RAs in a timely fashion. Staff also recommended that, for delaying the passing back of the 2012 and 2013 Commission ordered RAs, the Companies include reconciliation adjustments of \$418 in the customers' favor for Brainard, \$38,297 in the customers' favor for Northeast, and \$13,064 in the customers' favor for Orwell, as interest for the six-month delay. (Comm. Ord. Ex. 1 at 29.)

4. Balance Adjustment - Corrects Under- or Over-Recoveries in Previous AAs and RAs

The balance adjustment (BA) mechanism corrects for under- or over-recoveries of previously calculated AAs and RAs. In its review of the Companies' BA, Staff made several adjustments. Staff adjusted for customer billing errors that affected the BA for Brainard and Orwell. For Northeast, Staff reported that there were errors in all but two of the quarterly calculations. The first error resulted when Northeast did not carry through for 12 consecutive months the proper rate. This resulted in an adjustment of \$51,674 in the customer's favor. Staff also noted that there was one quarter in which Northeast did not properly sequence the inclusion of AA amounts and the corresponding rate. Further, Staff noted that there were four quarters when Northeast improperly included the RA amount and rate. For Orwell, Staff found that there was an error in the sales volume reported for the 12-month period ending March 2013. This resulted in an error of \$51,205 in Orwell's favor. A volume error for the 12-month period ending March 2014, resulted in a \$3,391 error in the customers' favor. There were other small errors related to volumes. The total adjustment was \$47,582 in favor of Orwell. (Comm. Ord. Ex. 1 at 30.)

Staff explained that, because the differences between Staff's and the Companies' calculations of the BA are not self-correcting through the GCR mechanism, it recommended the following adjustments be applied in the first GCR filing following the Opinion and Order in these cases: Brainard, \$2,213 for an over-collection; Northeast, \$182,957 for an over-collection; and Orwell, \$47,582 for an under-collection. (Comm. Ord. Ex. 1 at 30-31.)

5. Unaccounted-for Gas - Difference Between Gas Purchase Volumes and Sales Volumes

Unaccounted-for gas (UFG) is the difference between gas purchase volumes and sale volumes. It is calculated on a 12-month basis, ending in one of the low usage summer months to minimize the effects of unbilled volumes on the calculation. Pursuant to R.C. 4905.302 and Ohio Adm.Code 4901:1-14-08, the Commission is vested

with the authority to adjust any gas company's future GCR rates for a UFG above a reasonable level, which is presumed to be no more than five percent during the audit period. Based on its review, Staff had no recommendations related to the Companies' UFG.

#### 6. Customer Bills

Staff evaluated whether the Companies properly applied the GCR and base rates to customer bills during the audit period. For their customer billings, Staff did not identify any customer billing errors for the Companies. However, for Brainard and Orwell, Staff discovered there were multiple GCR filings within a single month which Staff used to audit customer billings. (Comm. Ord. Ex. 1 at 45-46.)

#### C. Summary of UEX Audit Reports for Orwell and Northeast

By Finding and Order issued on August 19, 2009, in Case No. 08-1229-GA-COI, all natural gas companies with UEX riders, including Northeast and Orwell, were directed to file annual reports detailing their bad debt accounts and bad debt recovery calculations. *In re the Five-Year Review of Natural Gas Company Uncollectible Riders*, Case No. 08-1229-GA-COI, Finding and Order (Aug. 19, 2009) at 4-6. (Staff Ex. 2 at 2). The UEX audit period for Northeast and Orwell was January 2012, through December 2013.

#### 1. Orwell's UEX Audit Report

In the Orwell UEX audit report, Staff found Orwell's collection policies and practices require accounts to be written-off after 180 days for nonpayment of billed charges. Staff found Orwell did not act in accordance with this policy and did not follow the Commission's Order in the *2012 GCR Audit Cases*. Staff found no errors in write-off amounts compared to customer's ending account balances. In addition, Staff did not find any customer accounts that were billed monthly service and finance charges when no payment activity had taken place on the account following the 180-day time frame. Staff also did not find any customer accounts that were billed monthly service and finance charges after disconnection of service. Staff noted Orwell correctly applied the UEX rider rates to customer's bills during the audit period; however, recoveries were underreported due to incorrect sales volumes used in the calculations for the audit period, and accounts of deceased individuals were written-off at 180 days. Staff also reported Orwell wrote-off accounts before the 180-day limit upon notification of a Chapter 11 bankruptcy filing. Staff noted such a practice is contradictory to the Commission's Order in the *2012 GCR Audit Cases*. Staff also indicated Orwell complied with the annual filing requirements as contained in *In re The East Ohio Gas Co. d/b/a Dominion East Ohio, et al.*, Case No. 03-1127-GA-UNC, Finding and Order (Dec. 17, 2003). (Comm. Ord. Ex. 3 at 5-6.)



Staff recommended Orwell should follow company procedures in writing off accounts after 180 days of nonpayment to individual accounts. In addition, Staff recommended that, upon notification of a Chapter 11 bankruptcy filing, Orwell should place the account into a contra account until the 180-day time frame has been attained to write-off the account to the bad debt rider account. If Orwell has received notification from a bankruptcy court that the bad debt has been discharged prior to the 180-day limit, Orwell may place the account in the bad debt rider account. Staff recommended Orwell should adjust its December 2013 ending balance to (\$39,166.58)<sup>2</sup> to correct errors made in the annual balance reconciliation (ABR). (Comm. Ord. Ex. 3 at 5-6.)

## 2. Northeast's UEX Audit Report

In the Northeast UEX audit report, Staff indicated Northeast's collection policies and practices require accounts to be written-off after 180 days for nonpayment of billed charges. While Staff found Northeast did not follow procedures with this policy, it showed signs of improvement in writing-off accounts. Staff indicated that, in its examination of bad debt write-offs, the amounts included on the ABRs matched those detailed in Northeast's bad debt reports. When calculating recovery through the UEX rider, Staff found Northeast properly calculated recoveries for November and December 2013. Staff noted that it was in agreement with Northeast's December 2013 ending balance. Further, Staff found Northeast filed the Commission-ordered annual uncollectible expense rider balance reports in 2012 and 2013. Staff recommended Northeast should follow company procedures in writing-off accounts 180 days after nonpayment of individual accounts. (Comm. Ord. Ex. 2 at 4-5.)

### D. Summary of PIPP Audit Report for Northeast

The PIPP audit period for Northeast was January 2012, through December 2013. Staff indicated it randomly selected customers for which their billing histories were requested. Using the customers' billing history, Staff compared the customers' account balances, monthly billed amount, monthly payments, additional payments, Home Energy Assistance Program, and arrearage forgiveness credits to those contained on the PIPP reports and found no discrepancies. (Comm. Ord. Ex. 4 at 4.)

Staff also found that, other than the omission of the \$16,102.51 from the accumulative customer account balances, Northeast properly accounted for charge-offs and recoveries for 2012 and 2013. In addition, Staff found that Northeast properly implemented the Commission approved arrearage forgiveness program. Staff recommended Northeast increase its customers' account beginning balance as of January 1, 2014, by \$16,102.51 and that the beginning balance, as of January 2014, should be set at \$107,587. (Comm. Ord. Ex. 4 at 5.)

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<sup>2</sup> Numbers in parenthesis indicate negative numbers.

### III. SUMMARY OF THE AMENDED STIPULATION

On July 14, 2015, the Companies and Staff filed an Amended Stipulation that, if adopted, would resolve all of the issues in these proceedings. The Amended Stipulation has been submitted, subject to the condition that it be adopted by the Commission without material modification and, if not, any party may withdraw from the agreement. The following is a summary of the Amended Stipulation and does not superseded or replace the Amended Stipulation. The parties agree:

- (1) An adjustment of \$4,960 in the customer's favor will be applied to Brainard's GCR and included in Brainard's GCR filing in the month following the Commission's Order in these cases.
- (2) Brainard will conduct visual meter readings for the large transportation customers within one hour of the Bridge Road meter reading by Cobra Pipeline.
- (3) An adjustment of \$1,013,401<sup>3</sup> in the customers' favor will be applied to Northeast's GCR and included in Northeast's GCR filing in the month following the Commission's Order in these cases.
- (4) An adjustment of \$181,639<sup>4</sup> in the customers' favor will be applied to Orwell's GCR. This will be refunded to GCR customers as an adjustment to quarterly GCR rates equally over the next eight quarters without interest.
- (5) Consistent with Staff's recommendation on pages 4 and 13 of the GCR audit report, Brainard, Northeast, and Orwell agree the person responsible for gas procurement for Brainard, Northeast, and Orwell will be a different individual than the person responsible for gas procurement for Gas Natural Resources. Brainard, Northeast, and Orwell represent that each company implemented this recommendation prior to entering into this Amended Stipulation, and agree each company will maintain this

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<sup>3</sup> This reduced adjustment reflects the customers' contribution of \$42,500 to the cost of a \$100,000 management performance (m/p) audit.

<sup>4</sup> This reduced adjustment reflects the customers' contribution of \$7,500 to the cost of a \$100,000 m/p audit.

practice and policy in the future, until otherwise ordered by the Commission.

- (6) Orwell will, at its earliest opportunity, but no later than 30 days after the execution of the Amended Stipulation, enter into good faith negotiations with The East Ohio Gas Company d/b/a Dominion East Ohio Gas to reestablish the taps or interconnections that were previously in place. Orwell agrees it will not collect the cost of reestablishing the taps or interconnections from its GCR customers. Orwell agrees to keep Staff and OCC apprised of the negotiations.
- (7) The Companies agree to use good faith efforts to pursue litigation of the complaints in *In re Complaint of Orwell Natural Gas Co. v. Orwell-Trumbull Pipeline Co., LLC*, Case Nos. 15-475-GA-CSS and 15-637-GA-CSS (*Orwell Complaint Cases*), including pursuing damages, refunds, or other relief.<sup>5</sup>
- (8) Any damages, refunds, or other relief obtained from Orwell-Trumbull Pipeline as a result of the *Orwell Complaint Cases* shall be shared between GCR customers and Orwell as follows:
  - a. From \$0.00 to \$200,000, the damages, refunds, or other relief are to be refunded at 100 percent to customers through Orwell's GCR in the month following the final resolution of the *Orwell Complaint Cases*.
  - b. Any amount in excess of \$200,000 will necessitate a split of the damages, refunds, or other relief evenly between GCR customers and Orwell, whereby 50 percent of the amount in excess of the \$200,000 will be refunded to GCR customers through Orwell's GCR in the month following the final resolution of the *Orwell Complaint Cases*.
- (9) The signatory parties recommend the Commission order a management/performance (m/p) audit conducted by an

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<sup>5</sup> The two complaints were filed by Orwell against Orwell-Trumbull Pipeline and are related to contracts for natural gas and gas transportation service.

independent auditor, selected by the Commission, with an audit period July 1, 2014, through June 30, 2016. The Companies' shareholders and the customers of Orwell and Northeast will split the actual cost of the m/p audit. Orwell's and Northeast's customers' share of the cost of the m/p audit (assuming the audit cost is \$100,000) has been paid as a result of the reduction of their respective refund amounts. The cost of the m/p audit will not exceed \$100,000. If the actual cost of the m/p audit is less than \$100,000, the Companies will refund to the customers an amount that ensures an equal sharing of the cost between the Companies and their customers. The scope of the m/p audit shall be set to enable the m/p auditor to make recommendations that may include prior period adjustments are based on new information or findings.

- (10) Northeast and Orwell will follow procedures for writing-off accounts 180 days after nonpayment of individual accounts.
- (11) Upon notification of a nonpaying customer's Chapter 11 bankruptcy filing, Orwell will place the nonpaying customer's account into a contra account until the 180-day timeframe has lapsed before writing-off the account to the bad debt rider. If Orwell receives notification from a bankruptcy court that the debt has been discharged before the 180 days has lapsed, Orwell can place the account in the bad debt rider account.
- (12) Orwell will adjust its December 2013 ending balance to (\$39,166.58).
- (13) Northeast will increase its PIPP customers' account beginning balance as of January 1, 2014, by \$16,102.51. The beginning balance as of January 1, 2014, should be \$107,587.
- (14) The signatory parties agree to meet (and include OCC in such meetings) not less than once per year to discuss potential capacity and supply options available to Northeast and Orwell in order to promote the diversity of supplies for the economic and reliability benefit of Northeast and Orwell customers. The signatory parties will continue this periodic meeting until such time as all

signatory parties determine future meetings on the matter are no longer necessary.

#### IV. CONCLUSION

Ohio Adm.Code Chapter 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 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., *Dominion Retail v. Dayton Power and Light*, Case No. 03-2405-EL-CSS *et al.*, Opinion and Order (Feb. 9, 2005); *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *Ohio Edison Co.*, Case Nos. 91-698-EL-FOR *et al.*, Opinion and Order (Dec. 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-179-EL-AIR, Opinion and Order (Jan. 31, 1989). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases 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). Additionally, the Court stated 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.

Based on our three-pronged standard of review, we find the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is met. The Companies and Staff have been involved in numerous cases before the

Commission, including a number of GCR cases. In addition, these parties have provided helpful information to the Commission in cases regarding fuel-related policies and practices. The Amended Stipulation also meets the second criterion. As a package, the Amended Stipulation advances 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 and PIPP riders, for the audit periods. Moreover, the Amended Stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Rather, the Amended Stipulation incorporates the recommendations of the signatory parties to continue to improve the service the Companies provide to their customers, and to reduce gas costs and GCR rates. Company witness Martin Whelan, president of the Companies, testified the Amended Stipulation satisfies all three prongs of the standard of review employed by the Commission in considering stipulations (Co. Ex. A at 5-6; Tr. at 6-10). While not a signatory to the Amended Stipulation, OCC did not oppose the Amended Stipulation. OCC also indicated at the hearing that the settlement negotiations involved in the Amended Stipulation resulted in increased refunds for consumers regarding the bills they paid for natural gas and a future independent management audit (Tr. at 9).

Upon review of the Amended Stipulation, the Commission concludes the terms and conditions contained therein represent a reasonable resolution of the issues in these cases and, as a package, the Amended Stipulation benefits ratepayers and advances the public interest. Further, the Commission finds there is no evidence the Amended Stipulation violates any important regulatory principle or practice. Accordingly, the Amended Stipulation should be adopted in its entirety.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) The Companies are natural gas companies, as defined in R.C. 4905.03, and public utilities, as defined in R.C. 4905.02. As such, the Companies are subject to the jurisdiction of this Commission.
- (2) Pursuant to R.C. 4905.302 and Ohio Adm.Code 4901:1-14-08, the GCR dockets were initiated by the Commission's Entry of February 13, 2014, to review the Companies' GCR rates.
- (3) On January 22, 2015, Staff filed the UEX audit reports for Northeast and Orwell and the PIPP audit report for Northeast. On January 27, 2015, Staff filed its GCR audit report for the Companies.

- (4) On July 23, 2015, as corrected on October 20, 2015, Staff and the Companies filed an Amended Stipulation in the above cases. While not a signatory, OCC does not oppose the Amended Stipulation.
- (5) The public hearing was held on July 28, 2015, at the offices of the Commission. No public witnesses testified at the hearing.
- (6) The Amended Stipulation submitted by the Companies and Staff meets the criteria used by the Commission to evaluate stipulations, represents a just and reasonable resolution of the issues in these proceedings, and should be adopted.
- (7) Except as otherwise noted in the audit reports, Amended Stipulation, and this Order, Northeast, Orwell, and Brainard accurately determined their GCR rates for the audit periods and applied the GCR rates to customer bills in accordance with the financial and procedural aspects of Ohio Adm.Code Chapter 4901:1-14. Accordingly, the gas costs passed through the companies' GCR rates for the audit periods were fair, just, and reasonable, except to the extent noted in this decision.
- (8) Northeast and Orwell accurately calculated their UEX rider rates during the UEX audit periods, except to the extent noted in this decision.
- (9) Northeast accurately calculated its PIPP rider rates during the PIPP audit period, except to the extent noted in this decision.

It is, therefore,

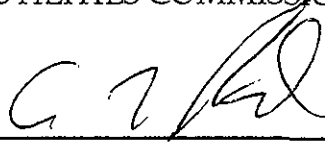
ORDERED, That the Amended Stipulation filed by Staff and the Companies be adopted and approved. It is, further,

ORDERED, That OCC's motion to admit the testimony of Mr. Sloan be denied. It is, further,

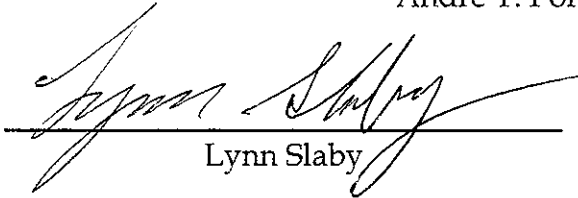
ORDERED, That the auditor selected to conduct the Companies' next GCR audit review the Companies' actions in carrying out the terms of the Amended Stipulation. It is, further,

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

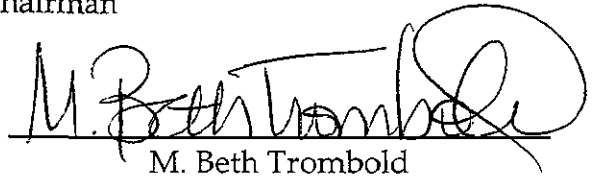
THE PUBLIC UTILITIES COMMISSION OF OHIO



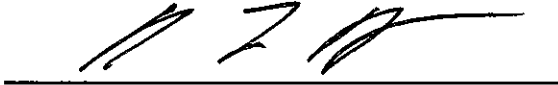
Andre T. Porter, Chairman



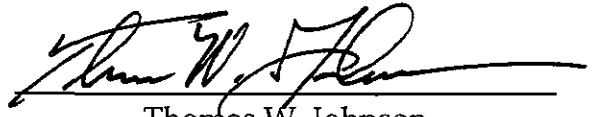
Lynn Slaby



M. Beth Trombold



Asim Z. Haque



Thomas W. Johnson

SEF/dah

Entered in the Journal

**OCT 21 2015**



Barcy F. McNeal  
Secretary