

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. 15-210-GA-GCR  
Glenwood Energy of Oxford, Inc. and )  
Related Matters. )

In the Matter of the Uncollectible Expense )  
Rider of Glenwood Energy of Oxford, Inc. ) Case No. 15-310-GA-UEX  
and Related Matters. )

In the Matter of the Percentage of Income )  
Payment Plan Rider of Glenwood Energy ) Case No. 15-410-GA-PIP  
of Oxford, Inc. and Related Matters. )

OPINION AND ORDER

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

APPEARANCES:

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

Mike DeWine, Ohio Attorney General, by Werner L. Margard, III, 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. History of Proceedings

Glenwood Energy of Oxford, Inc. (Glenwood or the Company) is a natural gas company, as defined in R.C. 4905.03, and a public utility under R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

Glenwood is also a natural gas company, as defined in R.C. 4905.302(C), and, as such, Glenwood implements a purchased gas adjustment mechanism. Pursuant to R.C.

4905.302(A)(1), the uniform purchased gas adjustment mechanism allows a gas company or natural gas company to adjust the rates that it charges customers in accordance with any fluctuation in the cost the company incurs for the gas that 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 gas or 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, the Commission adopted Ohio Adm.Code 4901:1-14-07, which requires that the gas costs for each gas or natural gas company be audited annually, unless otherwise ordered by the Commission. Ohio Adm.Code 4901:1-14-08(A) requires the Commission to hold a public hearing at least 60 days after the filing of the audit report and Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be published at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

By Opinion and Order issued September 19, 2007, the Commission approved an agreement between Glenwood, the city of Oxford, and Staff, which, among other things, provided for the establishment of Glenwood's uncollectible expense (UEX) rider. *In re Complaint and Appeal of Oxford Natural Gas Co. from Ordinance No. 2896 Passed by Council of the City of Oxford on February 7, 2006*, Case No. 06-350-GA-CMR, et al., Opinion and Order (Sept. 19, 2007). Furthermore, the Commission authorized utility companies to recover percentage of income payment plan (PIPP) arrearages associated with providing gas or natural gas service through their PIPP riders. *In re Establishment of Recovery Method for Percentage of Income Payment Plan*, Case No. 87-244-GE-UNC, Finding and Order (Aug. 4, 1987).

By Entry issued on February 19, 2015, the Commission initiated the above-noted cases in order to review Glenwood's operation of the purchased gas adjustment clause and the gas purchasing practices and policies in the GCR case; to review the practices, policies, and the accuracy of its bad debt write-offs, recoveries, and collection activities in the UEX rider case; and to review the practices, policies, and the accuracy of PIPP arrearages and recoveries in the PIPP mechanism case. The February 19, 2015 Entry established the audit period of January 1, 2013, through December 31, 2014 for each proceeding, set the due date for the filing of the audit reports, and instructed Staff to perform the audits. By this same Entry, the Commission scheduled a hearing date of September 1, 2015, and directed Glenwood to publish notice of the hearing.

Staff conducted the GCR, UEX, and PIPP audits pursuant to the Commission's February 19, 2015 Entry in these cases. On July 2, 2015, Staff filed its GCR, UEX and PIPP audit reports in the respective proceedings.

At the hearing, no members of the public appeared to testify (Tr. at 5). Admitted into evidence at the hearing was a Joint Stipulation and Recommendation (Stipulation) executed by Glenwood and Staff (Signatory Parties) and filed on August 27, 2015 (Joint Ex. 1), as well as the GCR audit report (Commission-ordered Ex. 1), the UEX audit report (Commission-ordered Ex. 2), and the PIPP audit report (Commission-ordered Ex. 3). The Stipulation purports to resolve all the issues raised in each of the audits and related matters (Joint Ex. 1 at 1). In the Stipulation, Glenwood agrees to the recommendations set forth in the GCR, UEX, and PIPP audit reports (Joint Ex. 1 at 3, 5, 6). Staff also offered the testimony of Roger Sarver in support of the Stipulation (Tr. at 7-11).

Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be published in a newspaper of general circulation throughout the company's service area, or by bill insert, bill message, or direct mail to customers. At the hearing, Glenwood requested permission to file, as a late-filed exhibit, its proof of publication (Tr. at 12). On September 9, 2015, Glenwood filed documentation that notice of the hearing was provided in a newspaper of general circulation on August 6, 2015, in Butler County, Ohio (Glenwood Ex. 1). Thus, notice was properly provided in accordance with the rule.

## II. Summary of Audit Reports

### A. Summary of Staff's GCR Audit Report

Staff conducted a GCR financial audit, in accordance with the objectives outlined in Ohio Adm.Code Chapter 4901:1-14. In the audit, Staff examined the periodic filings of Glenwood that support the GCR rates for the period from January 1, 2013, through December 31, 2014. With regard to the issues identified in its GCR audit, Staff found and recommended the following:

- (1) Glenwood's GCR rates were fairly determined, in accordance with the provisions of Ohio Adm.Code Chapter 4901:1-14, during the audit period, except for those instances noted in the GCR audit report.
- (2) Glenwood accurately determined and billed the GCR rates for the audit period, in accordance with Ohio Adm.Code Chapter 4901:1-14 and related appendices, except for those instances noted in the GCR audit report.

- (3) Glenwood's GCR rates were properly applied to customer bills during the audit period.
- (4) When a Glenwood transportation customer has insufficient or excess gas delivered to Glenwood, Glenwood sells gas to the customer or purchases gas from the customer. The imbalance of gas, is cashed out at Glenwood's cost of service rate and reflected in the GCR. Glenwood should incorporate the inclusion or exclusion of Texas Eastern Transmission Co. volumetric demand charges into its imbalance cash-out calculation for the Company's transportation customers.
- (5) The auditor in the Company's next GCR audit proceeding shall verify that the correction to the 2015 true-up was properly credited on the Company's bill from Atmos Energy Marketing.
- (6) Glenwood should make a reconciliation adjustment in the amount of \$30,913 in the customers' favor in relation to the actual adjustment (AA).
- (7) Glenwood should make a reconciliation adjustment in the amount of \$2,576 in the Company's favor in relation to the balance adjustment (BA).
- (8) Glenwood's level of unaccounted for gas for the GCR audit period was within the requirements of Commission rules.

(Commission-ordered Ex. 1 at 1, 5-6, 12, 17-18.)

#### B. Summary of Staff's UEX Audit Report

Staff performed an audit of Glenwood's practices and procedures regarding its uncollectible accounts and recoveries, associated customer account information, sales volumes and carrying charges, and application of the appropriate UEX rider rate for the audit period, January 1, 2013, through December 31, 2014.

With regard to the issues identified in the UEX audit, Staff found and recommended the following:

- (1) Glenwood accurately calculated its UEX rider rates, except as noted in the UEX audit report.

- (2) In Case No. 13-310-GA-UEx, the Commission approved a UEx rider rate of \$0.0459 per thousand cubic feet to be effective October 1, 2013. Glenwood did not bill the newly effective UEx rider rate until the January 2014 billing cycle, which caused an over-collection of \$29,448. Staff recommends Glenwood include the over-collection in its next UEx rider application.
- (3) Glenwood should apply the UEx rider rate to customer bills when the tariff takes effect and employ additional internal controls to verify amounts when analyzing the annual budget reconciliation.

(Commission-ordered Ex. 2 at 2-4.)

#### C. Summary of Staff's PIPP Audit Report

Staff conducted an audit of Glenwood's PIPP rider for the period January 1, 2013, through December 31, 2014, and filed a report of its findings on July 2, 2015. Staff concluded that Glenwood properly accounted for charge-offs and recoveries for calendar years 2013 and 2014, with one exception. Staff determined that Glenwood did not properly account for an additional \$1,000 payment made by a customer on the PIPP program. With that exception, Staff determined that Glenwood has properly implemented the PIPP Plus program, including its arrearage forgiveness program. Staff recommends that Glenwood improve its tracking and documentation of the PIPP customers by employing the full capabilities of its spreadsheet program to reduce the Company's need to manually input data and minimize the possibility of errors. Staff recommends that Glenwood's PIPP arrears balance as of December 31, 2014, be set at \$29,527.49. (Commission-ordered Ex. 3 at 3-4.)

### III. Summary of the Stipulation

A Stipulation, signed by the parties in these proceedings, was filed in the dockets on August 27, 2015 (Joint Ex. 1). The Stipulation was intended by the Signatory Parties to resolve all outstanding issues in the GCR, UEx, and PIPP proceedings. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation. The Stipulation includes, inter alia, the following provisions:

- (1) All findings and recommendations contained in the GCR audit report are reasonable and should be adopted. Accordingly, Glenwood agrees:

- (a) Glenwood will incorporate the inclusion, or exclusion, of Texas Eastern Transmission Co. volumetric demand charges into its cash-out calculations for its transportation service customers. The auditor in Glenwood's 2017 GCR audit shall verify that the correction to the 2015 true-up was properly credited on the Company's bill from Atmos.
  - (b) As the difference between the Staff and Glenwood calculations in the AA are not self-correcting through the GCR mechanism, Glenwood will make a reconciliation adjustment in the amount of \$30,913, in the customers' favor.
  - (c) As the difference between the Staff and Glenwood calculations in the BA are not self-correcting through the GCR mechanism, Glenwood will make a reconciliation adjustment in the amount of \$2,576, in the Company's favor.
- (2) All findings and recommendations contained in the UEX audit report are reasonable and should be adopted. Accordingly, Glenwood agrees:
  - (a) In its next UEX rider application, Glenwood will apply the UEX rider to customer bills when the tariff takes effect and employ additional internal controls to verify amounts when reconciling the annual budget reconciliation.
  - (b) Glenwood will include the \$29,448 over-collection, caused by its failure to bill a reduced rider rate from October 2013 through December 2013, in its next UEX rider rate application.
- (3) All findings and recommendations contained in the PIPP audit report are reasonable and should be adopted. Thus,

Glenwood agrees its balance of PIPP arrears as of December 31, 2014, of \$29,527.49 should be approved.

(Joint Ex. 1 at 3-6.)

#### IV. 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. *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., *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Tele. 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); 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 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 September 1, 2015 hearing, Roger Sarver, who supervises GCR audits for the Commission, testified that the Stipulation resulted from negotiations between knowledgeable, capable parties and benefits the public. Staff witness Sarver offered that representatives for Staff and Glenwood each had more than 20 years of experience in the gas industry. The witness noted the purpose of these proceedings is to ensure Glenwood accurately reflects the costs incurred, revenues collected, and income in the GCR, UEX, and PIPP riders. Staff witness Sarver noted that the Stipulation adopts the recommendations in the audit reports. Mr. Sarver additionally testified that the Stipulation does not violate any regulatory practice or principle. (Tr. at 7-11.)

Based on our three-pronged standard of review, the Commission finds the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is met. Staff witness Sarver and John Stenger, consultant for Glenwood, were key participants in these proceedings, including the negotiation of the Stipulation, and each has more than 20 years experience in the gas utility industry. Glenwood is also represented by counsel familiar with Commission proceedings. Staff witness Sarver and Mr. Stenger have been involved in numerous cases before the Commission, including numerous GCR and UEX cases. Moreover, these parties have provided helpful information to the Commission in cases regarding fuel-related policies and practices and the PIPP program.

The Stipulation also meets the second criterion. The purpose of the audits is to ensure the accuracy of Glenwood's GCR, UEX and PIPP riders and to ensure that the rates reflect the costs of the utility services provided. As a package, the Stipulation advances the public interest by resolving all of the issues related to the review of Glenwood's GCR, UEX and PIPP riders and related policies and practices, without the need to engage in extensive litigation. Moreover, the Stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Rather, the Stipulation incorporates the recommendations of Staff to continue to improve the service Glenwood provides to its customers, and to reduce gas costs and GCR rates. Staff witness Sarver testified that the Stipulation satisfies all three prongs of the standard of review employed by the Commission in considering stipulations (Tr. at 7-11).

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



FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Glenwood is a natural gas company, as defined in R.C. 4905.03, and a public utility under R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.
- (2) R.C. 4905.302, in conjunction 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 February 19, 2015, the Commission initiated these proceedings, established the audit periods, established the due date by which the audit reports must be filed, scheduled a hearing date of September 1, 2015, and directed Glenwood to publish notice of the hearing.
- (4) On July 2, 2015, Staff filed its audit reports in the respective cases.
- (5) On August 27, 2015, a Stipulation signed by Glenwood and Staff, the only parties to these proceedings, was filed.
- (6) Glenwood published notice of the hearing within the period from 15 to 30 days prior to the date set for the hearing, in compliance with Ohio Adm.Code 4901:1-14-08(C).
- (7) No public witnesses appeared to testify at the September 1, 2015 hearing. At the hearing, the Stipulation, intended to resolve all issues in these cases, was admitted into the record.
- (8) The Stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.
- (9) Glenwood accurately calculated its GCR rates for the period of January 1, 2013, through December 31, 2014, in accordance with the uniform purchased gas adjustment clause as set forth in Ohio Adm.Code Chapter 4901:1-14, and related appendices, except for those instances noted in the GCR audit report. Further, Glenwood's gas costs, which were passed through the Company's GCR clause for the audit period, were fair, just, and reasonable, except as otherwise noted in the GCR audit report.
- (10) Glenwood accurately calculated the UEX rider rate and reflected the rate on customer bills during the audit period, except as otherwise noted in the UEX audit report.

- (11) Glenwood properly accounted for PIPP charge-offs and recoveries for the period January 1, 2013, through December 31, 2014, except as otherwise noted in the PIPP audit report. Glenwood also properly implemented the PIPP program, including the Company's arrearage forgiveness program.

ORDER:

It is, therefore,

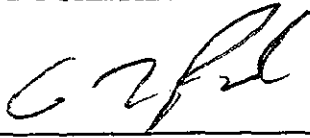
ORDERED, That the Stipulation be adopted and approved. It is, further,

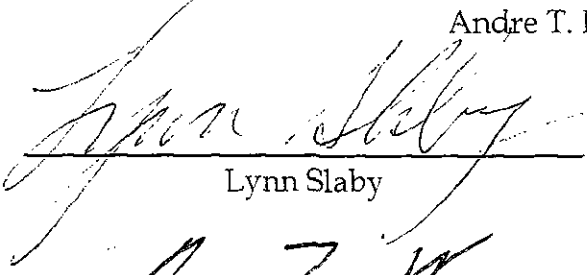
ORDERED, That the auditor of Glenwood's next GCR audit review the Company's actions in carrying out the terms of the Stipulation. It is, further,

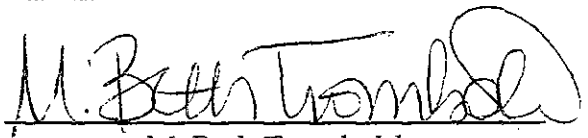
ORDERED, That nothing in this Opinion and Order shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

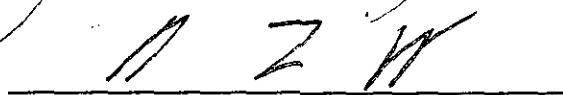
ORDERED, That a copy of this Opinion and Order be served upon all parties and interested persons of record.

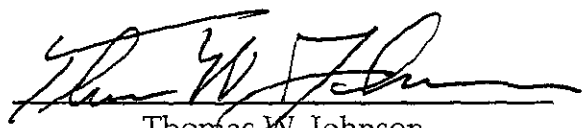
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Andre T. Porter, Chairman

  
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GNS/dah

Entered in the Journal

FEB 10 2016

  
Barcy F. McNeal  
Secretary