THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO FOR APPROVAL TO CHANGE ACCOUNTING METHODS ASSOCIATED WITH ITS PIPELINE SAFETY MANAGEMENT PROGRAM.

CASE NO. 15-1712-GA-AAM

OPINION AND ORDER

Entered in the Journal on November 3, 2016

I. SUMMARY

{¶ 1} The Commission adopts the stipulation and recommendation submitted by The East Ohio Gas Company d/b/a Dominion East Ohio and Staff regarding the deferral of expenses associated with the pipeline safety management program.

II. PROCEDURAL BACKGROUND

{¶ 2} The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion or Company) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of the Commission.

{¶ 3} R.C. 4905.13 authorizes the Commission to establish systems of accounts to be kept by public utilities and to prescribe the manner in which these accounts will be kept. Pursuant to Ohio Adm.Code 4901:1-13-13, the Commission adopted the Uniform System of Accounts (USOA), which was established by the Federal Energy Regulatory Commission, for gas and natural gas companies in Ohio, except to the extent that the provisions of the USOA are inconsistent with any outstanding orders of the Commission. Additionally, the Commission may require the creation and maintenance of such additional accounts as may be prescribed to cover the accounting procedures of gas or natural gas companies operating within the state.

{¶ 4} On October 1, 2015, Dominion filed an application seeking authority to establish a regulatory asset and defer, for accounting and financial reporting purposes, the related expenditures for its new pipeline safety management program (PSMP). Dominion explains that federal pipeline safety regulations require operators of gas distribution pipelines to develop and implement a distribution integrity management plan (DIMP). Further, Dominion notes that new state regulations facilitate the enforcement of Ohio's existing underground damage prevention law. In response to federal and state regulations and industry best practices, and in accordance with the Company's DIMP, Dominion developed the PSMP. According to Dominion, its PSMP will consist of four initiatives - Damage Prevention, Advanced Workforce Training, Asset Data Collection, and Quality Assurance - to continue to ensure the safe and reliable operation of its system and to ensure compliance with pipeline safety laws. Dominion states the PSMP represents prudent and necessary business expenses to ensure the safe and reliable operation of its gas system and the safety of the communities Dominion serves. Further, the Company explains that incurrence of costs associated with these initiatives may result in a significant and unavoidable negative impact on Dominion's earnings, given that these costs are not factored into the Company's existing base rates. Consequently, Dominion requests authorization to revise its accounting procedures and to defer operations and maintenance costs incurred for the PSMP on or after January 1, 2016, with the annual increase not to exceed $15 million. Dominion also requests authority to recover carrying costs on the deferred balance, as costs are incurred until recovery of the deferral commences, at the Company's cost of long-term debt, without compounding. The Company acknowledges that the recovery of the deferred amount will be addressed in a separate proceeding or Dominion's next base rate case proceeding. Dominion concludes that Commission approval for this deferral accounting treatment is necessary for the Company to assert probability of recovery of such expenditures under generally accepted accounting principles.

{¶ 5} On September 9, 2016, Dominion and Staff (signatory parties) filed a stipulation and recommendation (stipulation), which purports to resolve all of the issues in this case.

{¶ 6} Pursuant to the Entry issued September 13, 2016, a hearing on the stipulation was held on September 26, 2016. At the hearing, the Company's application (Co. Ex. 2); the testimony of Vicki H. Friscic, as filed on September 19, 2016 (Co. Ex. 1); and the stipulation (Joint Ex. 1) were admitted into evidence (Tr. at 5-6).

III. Stipulation of the Parties

{¶ 7} The stipulation, if adopted, would resolve all of the issues in this proceeding and is summarized, as follows:[1]

> As part of the stipulation, the signatory parties recommend that the Commission approve the implementation of Dominion's PSMP and the deferral of PSMP costs as described in the Company's application filed on October 1, 2015, subject to the following provisions:
>
> (a) The Company agrees to biannual meetings with Staff to review progress under the PSMP, any proposed changes, the results of any new or ongoing investigations or evaluations, cost-savings measures, and other related matters.
>
> (b) By June 1 of each year, Dominion shall file an annual report detailing the deferred expenses, external auditor's findings, baseline performance levels for each safety initiative, safety performance improvements compared to baselines, results of ongoing and future investigations, any mid-term

1 This is a summary of the stipulation and is not intended to supersede or replace the stipulation.

adjustments, and efforts towards identifying efficiencies and implementing cost-savings measures.

(c) Within 90 days of the filing of the Company's annual report, Staff shall file a report. Dominion expressly agrees that Staff's reports on the Company's annual reports shall not be construed to indicate Staff's support for future recovery of the deferred expenses and acknowledges that Staff will investigate and make recommendations regarding future recovery of the deferrals in a proceeding determined by the Commission. The Company shall have 30 days after the filing of Staff's report to accept or object to the recommendations. If objections are filed, the Commission may establish a procedural schedule for the filing of testimony and an evidentiary hearing or other proceedings as it deems appropriate.

(d) The Company shall use its best efforts to identify and implement efficiencies and cost-savings measures to minimize PSMP deferrals.

(e) For its Cross-Bore Verification Program, the Company shall develop and utilize a risk-based approach to determining the potential cross-bores to camera as opposed to using cameras for all potential cross-bores.

(f) In consultation with Staff, Dominion shall develop specific performance measures for each PSMP initiative and establish a baseline performance so that safety improvements can be tracked.

(g) Dominion shall cooperate with Staff to develop threshold points for discontinuing the PSMP deferrals at the semi-annual meetings. If Staff and the Company cannot agree on proper thresholds, the Company acknowledges that Staff may make recommendations to the Commission in its 90-day annual report, which may potentially be addressed in an evidentiary hearing.

(h) The carrying-charge rate shall be three percent per annum without compounding.

(i) The maximum annual amount to be deferred for the PSMP is the amount specified in the Company's application. If Dominion seeks to accelerate the pace of PSMP deferrals, to increase the amount of such deferrals, or both, such authority shall be requested under a different case number.

(j) At such time when Dominion seeks to recover any deferred PSMP costs, recovery of these deferred expenditures will be limited to the recovery of the deferred asset reflected on its books with no return on the asset being provided through rate base recognition.

(k) Unless otherwise ordered by the Commission, the deferral authority will expire not later than January 1, 2024. Recovery of the deferred amounts shall be collected as determined by the Commission.

(l) Further, Dominion agrees that Staff reserves the right to investigate and make determinations and recommendations to the Commission regarding the recovery of the deferred expenses in a future recovery proceeding.

(Joint Ex. 1 at 2-4.)

IV. COMMISSION CONCLUSION

A. Dominion's Application

{¶ 8} The Commission evaluates applications for authority to establish a regulatory asset and to defer incurred expenses based primarily on a utility's demonstration of the following factors: whether the utility's current rates or revenues are sufficient to cover the costs associated with the requested deferral; whether the costs are material; whether the reason for requesting the deferral is outside the utility's control; whether the expenses are atypical and infrequent; and whether the financial integrity of the utility will be significantly and adversely affected, if the deferral is not granted. *See, e.g., In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 15-1238-GA-AAM, Finding and Order (July 6, 2016); *In re Duke Energy Ohio, Inc.*, Case No. 09-1097-GA-AAM, Finding and Order (Mar. 24, 2010); *In re The Dayton Power & Light Co.*, Case No. 08-1332-EL-AAM, Finding and Order (Jan. 14, 2009); *In re Citizens Utilities Co. of Ohio*, Case No. 98-1701-WS-AAM, Finding and Order (Apr. 29, 1999); *In re The Ohio Suburban Water Co.*, Case No. 92-1130-WW-AAM, Entry (Dec. 17, 1992); *In re The Cincinnati Gas & Elec. Co.*, Case No. 90-2017-EL-AAM, Entry (Mar. 14, 1991). Further, the Commission may, at its discretion, grant a deferral to incent a utility.

{¶ 9} In the application, Dominion states that its PSMP has been developed in accordance with its DIMP, other federal and state requirements, and industry best practices to reduce risk, to continue to ensure the safe and reliable operation of the Company's system, and to ensure compliance with pipeline safety laws. Dominion's PSMP initiatives will include monitoring of excavations by other entities near Dominion's pipelines; the location of customer service lines that cannot be detected by conventional methods; improved excavator communications and training; investigation of potential cross bores; establishment of a new centralized training facility; development of new curricula for instructor-led classroom training; scenario-based training exercises addressing emergency response actions; ongoing refresher training; implementation of enhancements to asset data collection, including legacy assets; and establishment of a centralized dedicated internal auditing team that will evaluate employee and contractor work. (Co. Ex. 2 at 2-4.) The focus of each PSMP initiative is designed to effectively identify and further improve pipeline risk-reduction opportunities across Dominion's service area (Co. Ex. 2 at 5). According to Dominion, its PSMP initiatives were developed in response to regulations and industry standards that became effective since the Company's last base rate case (Co. Ex. 2 at 4). *In re The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR, et al., Opinion and Order (Oct. 15, 2008); Entry on Rehearing (Dec. 19, 2008). Further, Dominion states that, because its PSMP costs are not factored into its existing base rates, the incurrence of these costs may result in a significant and unavoidable negative impact on its earnings (Co. Ex. 2 at 5). Therefore, in this instance, the Commission finds Dominion's application to establish a regulatory asset and defer expenses incurred for its PSMP to be consistent with the Commission's guidelines for approval of a deferral application.

B. Stipulation

{**¶ 10**} 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.

{**¶ 11**} 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 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. 31, 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?

{¶ 12} 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, 629 N.E.2d 423 (1994), *citing Consumers' Counsel* at 126. The Court stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

{¶ 13} At the hearing, Dominion presented the testimony of Vicki H. Friscic, Director of Regulatory and Pricing, in support of the stipulation. Ms. Friscic testified that the stipulation filed in this case is the product of a lengthy investigation and a serious and open review process of discussion and negotiations. According to Ms. Friscic, the parties were represented by able, experienced counsel and had access to technical experts. As a result of the negotiations, Ms. Friscic stated Dominion accepted, as part of the stipulation, several additional provisions and amendments to its application. In the witness' opinion, the stipulation represents a comprehensive, reasonable resolution of the issues presented by informed parties. (Co. Ex. 1 at 2.)

{¶ 14} Further, Ms. Friscic testified that the stipulation benefits ratepayers and is in the public interest, as it facilitates funding and continued implementation of important safety, public education, and system awareness initiatives as part of the Company's PSMP, which is a vital component to providing safe and reliable service to the Company's customers. The witness also noted that no funding will be recovered from customers until the expenses have been reviewed and approved by the Commission. Finally, Dominion witness Friscic testified that the stipulation does not violate any important regulatory principle or practice. (Co. Ex. 1 at 3.)

{¶ 15} Based on the three-part standard of review for the evaluation of stipulations, the Commission finds the stipulation should be approved. The first criterion, that the settlement process involve serious bargaining by capable and knowledgeable parties, is met. Dominion and Staff, as well as each party's counsel, have been involved in numerous cases before the Commission and are knowledgeable about utility accounting policies and practices. The stipulation also meets the second criterion. As a package, the stipulation advances the public interest by efficiently resolving all of the issues related to Dominion's PSMP deferral application. The stipulation provides for deferral authority for Dominion's PSMP, which facilitates the implementation of programs to continue to improve safety, public education, training, and system initiatives, including programs to reduce the risk associated with excavation damage, improve monitoring of excavation activities performed by others in proximity to Dominion facilities, develop a specialized team of service line location experts and quality assurance programs to ensure compliance with safety and system awareness initiatives. Finally, the Commission finds that the stipulation benefits ratepayers to the extent it establishes annual PSMP reporting requirements; establishes the interest rate to be used to determine carrying charges on the deferred PSMP costs, prior to recovery in a future proceeding, at three percent; and, in consultation with Staff, establishes specific PSMP initiative performance measures. Finally, the stipulation meets the third criterion, because it does not violate any important regulatory principle or practice. (Joint Ex. 1 at 2-3; Co. Ex. 1 at 2-3; Co. Ex. 2 at 3-4.) Accordingly, we find that the stipulation should be adopted and approved.

{¶ 16} Finally, the Commission's consideration of Dominion's deferral application does not constitute ratemaking. *Elyria Foundry Co. v. Pub. Util. Comm.*, 114 Ohio St.3d 305, 2007-Ohio-4164, 871 N.E.2d 1176. As a result, recovery of any deferred amounts is not guaranteed. Recovery of the deferred amounts will be addressed in a subsequent proceeding.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 17} Dominion is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of the Commission.

{¶ 18} On October 1, 2015, Dominion filed an application seeking approval to establish a regulatory asset to defer expenditures related to its implementation of new initiatives as part of its PSMP.

{¶ 19} On September 9, 2016, Dominion and Staff filed a stipulation that would resolve all of the issues in this proceeding.

{¶ 20} A hearing on the stipulation was held on September 26, 2016.

{¶ 21} The stipulation is reasonable, meets the criteria used by the Commission to evaluate stipulations, and should be adopted.

VI. ORDER

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That the stipulation filed by the parties be approved and adopted. It is, further,

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

{¶ 25} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

Lynn Slaby

M. Beth Trombold

Thomas W. Johnson

M. Howard Petricoff

GNS/dah

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