

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REGULATION OF
THE PURCHASED GAS ADJUSTMENT
CLAUSE CONTAINED WITHIN THE RATE
SCHEDULES OF OHIO CUMBERLAND GAS
COMPANY AND RELATED MATTERS.

CASE NO. 20-211-GA-GCR

OPINION AND ORDER

Entered in the Journal on September 23, 2020

I. SUMMARY

{¶ 1} The Commission adopts the Stipulation and Recommendation filed on April 3, 2020, which resolves all the issues relating to the gas cost recovery audit of Ohio Cumberland Gas Company for the period August 1, 2017, through July 31, 2019.

II. PROCEDURAL BACKGROUND

{¶ 2} Ohio Cumberland Gas Company (Cumberland or Company) is a natural gas company, as defined by R.C. 4905.03, and a public utility, as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} As a natural gas company under the Commission's jurisdiction, Cumberland implements a purchased gas adjustment mechanism under R.C. 4905.302(C), pursuant to which this 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.

{¶ 4} R.C. 4905.302 further directs the Commission to establish investigative procedures, such as periodic reports, audits, and hearings, and to examine the arithmetic and accounting accuracy of the gas costs reflected in the company's gas cost recovery (GCR) rates. The Commission must also review each company's purchasing and procurement policies regarding those rates. Pursuant to this authority, Ohio Adm.Code 4901:1-14-07

requires that the gas costs for each gas or natural gas company be audited annually, unless otherwise ordered by the Commission. Additionally, Ohio Adm.Code 4901:1-14-08(A) requires the Commission to hold a public hearing at least 60 days after the filing of an audit report. Ohio Adm.Code 4901:1-14-08(C) requires that the affected company issue notice of that hearing at least 15 days and not more than 30 days prior to the scheduled hearing.

{¶ 5} By Entry issued January 29, 2020, the Commission initiated this proceeding; established the financial audit period of August 1, 2017, through July 31, 2019; set the due date by which the financial audit must be filed; and directed that Staff conduct the audit required pursuant to Ohio Adm.Code 4901:1-14-07. The January 29, 2020 Entry also scheduled this matter for a hearing to be held on May 26, 2020, and directed the Company to publish notice of the hearing.

{¶ 6} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov.

{¶ 7} On March 19, 2020, Staff filed its GCR audit report for the designated review period.

{¶ 8} On April 3, 2020, Cumberland and Staff filed a Stipulation and Recommendation (Stipulation) that would resolve all issues in this case.

{¶ 9} By Entry dated April 27, 2020, the hearing in this matter was rescheduled to commence on July 7, 2020, in light of the guidance issued by the Executive Order and the Department of Health.

{¶ 10} By Entries dated June 25, 2020, and July 10, 2020, the attorney examiner directed that, due to the continued state of emergency, and given the passage of Am. Sub. H.B. 197, the hearing would be conducted on August 26, 2020, through Webex, which would enable the parties and interested persons to participate by telephone and/or video on the internet. Interested members of the public that wished to provide testimony were directed to register with the Commission before 12:00 p.m. on August 25, 2020, by phone or internet. No members of the public registered to testify at the hearing.

{¶ 11} In the July 10, 2020 Entry, Cumberland was directed to provide notice of the hearing, including instructions regarding registration for public testimony. On August 20, 2020, Cumberland filed its proof of publication of notice of the hearing.

{¶ 12} The hearing was held on August 26, 2020, via Webex. Admitted into evidence at the hearing were the Stipulation executed by Cumberland and Staff (Signatory Parties) filed on April 3, 2020 (Joint Ex. 1), the GCR audit report filed on March 19, 2020 (Commission Ordered Ex. 1), and Cumberland's proof of publication of notice of public hearing filed on August 20, 2020 (Cumberland Ex. 1).

III. DISCUSSION

A. *Summary of GCR Audit Report*

{¶ 13} Staff audited the GCR rates for conformity in all material respects with the procedural aspects of the uniform purchased gas adjustment clause as set forth in Ohio Adm.Code Chapter 4901:1-14 and related appendices, as well as the Commission's Entry in this case. Staff states that, except for instances noted in the audit report, Cumberland has accurately calculated the GCR rates for the period specified in accordance with the uniform

purchased gas adjustment clause as set forth in Ohio Adm.Code Chapter 4901:1-14. (Commission Ordered Ex. 1 at 1.)

{¶ 14} Cumberland was founded in 1906 and was formerly known as the Upham Gas Company. Cumberland changed ownership in 1944. Afterward, it was purchased in 1980 by Ramser Industries, Inc., a closely held Ohio corporation. Cumberland provides jurisdictional natural gas utility service to approximately 1,830 residential customers, 280 commercial customers, and 11 transportation customers. Transportation customers account for 80 percent of Cumberland's total system throughput; the remaining 20 percent represents sales customers. Cumberland provides service in portions of Ashland, Coshocton, Holmes, Knox, Licking, Morrow, and Richland counties. The Company relies upon the availability of locally produced gas to serve a portion of its customers' requirements. This gas supply consists of purchases from approximately 42 local producers and is delivered to the system through gathering lines. (Commission Ordered Ex. 1 at 3.)

{¶ 15} Cumberland receives the balance of its system requirements through an interstate pipeline, Columbia Gas Transmission Corporation (TCO). TCO provides transportation, storage, and balancing services to Cumberland through a general transportation service agreement. Cumberland also receives firm transportation capacity through an agreement with CenterPoint, formerly known as Atmos Energy Marketing. (Commission Ordered Ex. 1 at 3.)

1. EXPECTED GAS COST

{¶ 16} Staff reviewed Cumberland's calculations of its expected gas cost (EGC) for the audit period. The EGC mechanism attempts to match future gas revenues for the upcoming quarter with the anticipated cost to procure gas supplies. Cumberland sells gas to residential and small commercial customers pursuant to the Company's tariff. Cumberland also transports gas to 11 transportation customers. A small amount of gas is transported by Cumberland, as an intermediate transporter, to Columbia Gas of Ohio, Inc. Staff has reviewed Cumberland's sales and records and found a small difference for the

months of December 2017 and January 2019. In its review of purchased volumes, Staff found the same differences equal to sales volumes for the months of December 2017 and January 2019. Staff had no recommendations as to the EGC. (Commission Ordered Ex. 1 at 4.)

2. ACTUAL ADJUSTMENT

{¶ 17} 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 by total sales for those respective months. The calculations are performed quarterly and result in the unit book cost of gas, i.e., the cost incurred by the Company for procuring each one thousand cubic feet of gas sold that month. The unit book cost of gas for each month is compared to the EGC rate billed for the quarter. The difference between the unit cost of gas for the month and the EGC is multiplied by the jurisdictional sales to determine the total under- or over-recoveries of gas costs. The monthly recoveries are summed and divided by the 12-month historic jurisdictional sales to develop the AA rate to be included in the GCR for four quarters. Staff explains that errors in the AA calculation can be a result of several factors, including incorrectly reported purchased gas costs, errors in the stated sales volumes, and use of the wrong EGC rate. (Commission Ordered Ex. 1 at 5.)

{¶ 18} In its review, Staff noted differences in the purchased gas costs for the months of December 2017 and January 2019. Staff accounted for the differences in its AA calculations. The differences total (\$126)¹ and are not self-correcting through the GCR mechanism. To correct the error, Staff recommends a reconciliation adjustment of (\$126) for an over-collection, to be applied to Cumberland's GCR rates in the first GCR filing following the issuance of the Opinion and Order in this case. (Commission Ordered Ex. 1 at 5.)

¹ In this Opinion and Order, numbers in parentheses indicate negative numbers.

3. REFUND AND RECONCILIATION ADJUSTMENT

{¶ 19} Refund and reconciliation adjustments (RA) are used to return the jurisdictional portion of refunds received from gas suppliers and adjustments ordered by the Commission. A ten percent annual interest rate is applied to the net jurisdictional amount of the RA, which is then divided by 12 months of historic sales volumes to develop a volumetric rate to be included in the GCR calculation for four quarters. (Commission Ordered Ex. 1 at 10.)

{¶ 20} In the Company's 2018 GCR audit, the Commission ordered a reconciliation adjustment of \$4,574 that would correct the difference in the AA and the balance adjustment (BA). *In re Ohio Cumberland Gas Co.*, Case No. 18-211-GA-GCR, Opinion and Order (Aug. 29, 2018) at ¶ 21. Staff reviewed the RA calculations contained in each GCR filing in the audit period and found that, as a result of the effective date of the rates, only ten months of the RA had been completed by the end of the audit period. Staff will verify that Cumberland includes the two remaining months of the RA as part of the Company's next GCR audit. Staff, therefore, had no recommendations. (Commission Ordered Ex. 1 at 10.)

4. BALANCE ADJUSTMENT

{¶ 21} The BA mechanism corrects for under- or over-recoveries of previously calculated AAs and RAs. The BA is calculated by subtracting the product of each AA and RA, and the sales to which those rates were applied, from the dollar amounts of the respective AA or RA that was previously included in the GCR and used to generate those adjustment rates. Since those adjustment rates were derived by dividing the dollar amounts by historic sales, the BA calculation depicts the differences in revenues generated for each of these adjustment mechanisms using actual versus historical sales. The sum of the differences for the AA and RA calculations is the total BA, which is placed into the AA calculation. Errors detected in the BA generally are the result of incorrectly reported sales volumes, but also may be due to selecting an incorrect previous AA or RA rate for the purpose of calculating a given quarter's BA. (Commission Ordered Ex. 1 at 11.)

{¶ 22} In conducting the audit, Staff found differences in Staff's calculated and Cumberland's reported BA, which are not self-correcting through the GCR mechanism. Staff recommends a reconciliation adjustment of \$17 for the under-collection differences. (Commission Ordered Ex. 1 at 11; Tr. at 11.)

5. CUSTOMER BILLS

{¶ 23} Staff analyzed customer bills to ensure that Cumberland applied the correct GCR rate to customer bills. For its investigation, Staff randomly selected customer bills to review both the GCR and the customer service base rate charges to confirm that each monthly billing period was accurate. Staff found that the Company accurately billed its customers in accordance with the GCR rates filed monthly with the Commission. Staff, therefore, had no recommendations. (Commission Ordered Ex. 1 at 16.)

6. MANAGEMENT AND OPERATIONS

{¶ 24} Cumberland, a closely held Ohio corporation, presently has 4,000 shares outstanding. Mr. Mark R. Ramser owns 1,000 shares and Ramser FLP, Ltd. owns the remaining 3,000 shares. Mr. Ramser serves as Cumberland's president, chairman of the board, vice-president, secretary, and comptroller. The board of directors consists of two officers: Mr. Ramser and Ms. Mary E. Ramser. Ms. Denise M. Ramser serves as treasurer. The Company has 16 full-time employees. (Commission Ordered Ex. 1 at 17.)

{¶ 25} Staff stated that Cumberland's supply planning is relatively straightforward. The Company first examines historical usage by month to determine GCR customer requirements. Cumberland adjusts that figure to account for new customers and weather effects. The resulting figure is reduced by the amount of local production expected to move through Cumberland's system. The remainder is the amount of volumes needed to be procured and delivered on the interstate system. This figure is provided to Cumberland's marketer/broker to plan for and nominate, for delivery, the appropriate volumes for the coming month. Winter supplies are met by firm transportation and non-recallable released firm transportation and storage capacity. (Commission Ordered Ex. 1 at 17.)

{¶ 26} Staff stated that Cumberland currently receives natural gas from a combination of interstate supplies and local production. The interstate supplies, delivered via Cumberland's interconnection with TCO, currently are priced at a monthly index. Local production is acquired from approximately 42 producers and Aspire Energy. Of Cumberland's total system requirements, approximately 31 percent is met by local production, three percent is met through Aspire Energy, and the remaining 66 percent is met by interstate pipeline. Staff made no recommendation as to the Company's management and operations for the audit period. (Commission Ordered Ex. 1 at 17.)

IV. STIPULATION OF THE PARTIES

{¶ 27} As previously noted, on April 3, 2020, Cumberland and Staff filed a Stipulation that, if adopted, would resolve all the issues in this proceeding. The Signatory Parties agree, stipulate, and recommend that the Commission find as follows:²

- (a) With the exceptions noted below, Cumberland's GCR rates were accurately calculated during the audit period in accordance with the provisions of Ohio Adm.Code Chapter 4901:1-14 (Joint Ex. 1 at 3).
- (b) All findings and recommendations contained in the GCR audit report are reasonable and should be adopted. More specifically, the Staff recommendations to be implemented are as follows:
 - i. The differences between Staff's and the Company's AA calculations are not self-correcting through the GCR mechanism; thus, Staff recommends a reconciliation

² This is a summary of the Stipulation and does not supersede or replace the Stipulation.

- adjustment of (\$126) for an over-collection (Joint Ex. 1 at 3).
- ii. The differences between Staff's and the Company's calculations of the BA are not self-correcting through the GCR mechanism; thus, Staff recommends a reconciliation adjustment of \$17 for an under-collection (Joint Ex. 1 at 3-4).
- (c) Cumberland and Staff agree that, in satisfaction of R.C. 4905.302(C) and Ohio Adm.Code 4901:1-14-08(C)(1), Cumberland will cause notice to be published in a newspaper of general circulation throughout the Company's service territory. Cumberland shall offer an affidavit of publication, which shall be identified as Cumberland Exhibit 1 and be admitted into evidence in the record of this proceeding. (Joint Ex. 1 at 4; Cumberland Ex. 1.)

V. CONCLUSION

{¶ 28} Ohio Adm.Code 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 is especially true where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 29} 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 Dominion Retail, Inc. v. The Dayton Power and Light Co.*, Case No. 03-2405-EL-CSS, et al., Opinion and Order (Feb. 2, 2005); *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand

(Apr. 14, 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). 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?

{¶ 30} 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, although not binding upon it, the Commission may place substantial weight on the terms of a stipulation. *Consumers' Counsel* at 126.

{¶ 31} Based on the Commission's review, we find the Stipulation meets the first criterion, as the process involved serious bargaining by knowledgeable, capable parties. Staff witness Tornain Matthews testified that the Staff audit report was prepared by him or under his supervision in this proceeding. Further, Mr. Matthews stated that he participated in the negotiations that resulted in the Stipulation. Mr. Matthews testified that, based on his knowledge and experience, the Stipulation was entered into by Staff and Cumberland personnel who are knowledgeable and capable parties involved in these types of cases for many years. (Tr. at 10, 12-13.)

{¶ 32} The Commission finds that the Stipulation also benefits ratepayers and the public interest; therefore, the second criterion is satisfied. The purpose of the audit is to ensure the accuracy of Cumberland's GCR mechanism, to ensure that the rates reflect the costs of the utility services provided, and the rates are accurately reflected in customers' bills. As Cumberland agreed to implement all recommendations resulting from Staff's examination, the Stipulation advances the public interest by resolving these matters, 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. (Tr. at 13-14.)

{¶ 33} Upon review, the Commission concludes that the terms and conditions of the Stipulation represent a reasonable resolution of the issues in this case 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. (Tr. at 12-14.) Accordingly, the Stipulation should be adopted in its entirety.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 34} Cumberland is a natural gas company and a public utility as defined in R.C. 4905.03 and R.C. 4905.02, respectively. As such, Cumberland is subject to the jurisdiction of this Commission.

{¶ 35} 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 gas and natural gas company on an annual basis, unless otherwise ordered by the Commission.

{¶ 36} On January 29, 2020, the Commission initiated this proceeding, established the financial audit period, established the date upon which the financial audit report must be filed, and directed Staff to conduct the audit required under Ohio Adm.Code 4901:1- 14-07.

The Commission scheduled a hearing and directed the Company to publish notice of the hearing.

{¶ 37} Staff conducted an audit of Cumberland's GCR for the period August 1, 2017, through July 31, 2019, in compliance with R.C. 4905.302 and Ohio Adm.Code 4901:1-14-07. Staff filed the GCR audit report on March 19, 2020.

{¶ 38} On August 20, 2020, the Company filed its proof of publication of the hearing. The Company published notice of the hearing with the customer bills mailed on or about August 6, 2020, in compliance with Ohio Adm.Code 4901:1-14-08(C).

{¶ 39} The public hearing was called, as rescheduled, on August 26, 2020. No public witnesses registered to testify at the hearing.

{¶ 40} On April 3, 2020, the parties filed a Stipulation resolving all the issues in this proceeding.

{¶ 41} The Stipulation meets the criteria used by the Commission to evaluate stipulations, represents a just and reasonable resolution of the issues in this proceeding, and should be adopted.

{¶ 42} With the exceptions noted in the GCR audit report, the Stipulation, and this Order, Cumberland accurately determined its GCR rates for the audit period and applied the GCR rates to customer bills in compliance with the financial and procedural aspects of Ohio Adm.Code Chapter 4901:1-14. Accordingly, the gas costs passed through the Company's GCR rates for the audit period were fair, just, and reasonable, except as noted in this Order.

VII. ORDER

{¶ 43} It is, therefore,

{¶ 44} ORDERED, That the Stipulation filed by Cumberland and Staff be adopted and approved. It is, further,

{¶ 45} ORDERED, That the auditor that conducts Cumberland's next GCR audit evaluate how the Company implements the agreements set forth in the Stipulation and the directives set forth in this Opinion and Order. It is, further,

{¶ 46} 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,

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

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

GNS/hac

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Summary: Opinion & Order adopting the Stipulation and Recommendation filed on April 3, 2020, which resolves all the issues relating to the gas cost recovery audit of Ohio Cumberland Gas Company for the period August 1, 2017, through July 31, 2019. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio