A Report by the Staff of the Public Utilities Commission of Ohio

Northeast Ohio Natural Gas Corp.
Case Number 20-1427-GA-ALT

March 30, 2021

Ohio | Public Utilities Commission

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Northeast Ohio Natural Gas Corp. for Approval of Alternative Regulation.	)))	Case No. 20-1427-GA-ALT

Jenifer French, Chair
M. Beth Trombold, Commissioner
Lawrence K. Friedeman, Commissioner
Dennis P. Deters, Commissioner
Daniel R. Conway, Commissioner

To the Honorable Commission:

In accordance with the provisions of Ohio Administrative Code Section 4901:1-19-07, the Public Utilities Commission of Ohio's Staff submits its investigation findings and recommendations within the Staff Report.

The Staff Report was prepared by the Commission's Rates & Analysis Department. The Staff Report is intended to present for the Commission's consideration, the results of the Staff's investigation. It does not purport to reflect the views of the Commission nor should any party to the above captioned proceeding consider the Commission as bound in any manner by the representations or recommendations set forth therein. The Staff Report, however, is legally cognizable evidence upon which the Commission may rely in reaching a decision in this matter. (See *Lindsey v. Pub. Util. Comm*., 111 Ohio St. 6 (1924)).

Respectfully Submitted,

David Lipthratt
Chief, Accounting and Finance Division
Public Utilities Commission of Ohio

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Northeast Ohio Natural Gas Corp.
Case No. 20-1427-GA-ALT

Introduction

Ohio Revised Code Section 4929.05 governs approval of alternative rate plans for natural gas companies. This section provides that the Public Utilities Commission of Ohio (Commission) shall approve an alternative rate plan if: (1) the applying natural gas company is in compliance with R.C. 4905.35 and the state's policy found in R.C. 4929.02; (2) the natural gas company is expected to continue to be in substantial compliance with R.C. 4929.02 after the implementation of the alternative rate plan; and (3) the natural gas company's proposed alternative rate plan is just and reasonable. In addition, the natural gas company has the burden of proof to show that its proposed alternative rate plan meets all of the preceding requirements.

This report by the Staff of the Public Utilities Commission of provides Staff's conclusions and recommendations to the Commission in regard to Northeast Ohio Natural Gas Corp. (NEO or Company) proposed alternative rate plan (Application) as filed in Case No. 20-1427-GA-ALT.

Background

NEO is an Ohio corporation engaged in the business of transporting and distributing natural gas to over 30,000 customers in Ohio. NEO is a public utility, a natural gas company, and a pipeline company as defined in R.C. 4905.02, R.C. 4905.03(E), and R.C. 4905.03(F), respectively, and is subject to the Commission's jurisdiction. On October 18, 2019, NEO and Orwell-Trumbull Pipeline Co., LLC (OTP), by and through the receiver over the personal and real property of OTP, Zachary B. Burkons of Rent Due, LLC[1], filed a joint application in Case No. 19-1921-PL-ATR (Transfer Case) seeking Commission approval of a proposed transfer of certain pipeline assets, real property, books and records, and other non-cash items of OTP to NEO (Purchased Assets) pursuant to an asset purchase agreement dated October 15, 2019.[2]

In addition, without access to the historic books and records of OTP to determine the original installed cost of the Purchased Assets, NEO sought Commission approval for certain accounting authority to establish the value of the Purchased Assets for ratemaking purposes. Specifically, relying on the plant value information provided in OTP's most recent rate case application,[3] NEO requested accounting authority to accept OTP's initial rate base value of $13,310,881 as the

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[1] On November 17, 2017, the Court of Common Pleas, Cuyahoga County, Ohio (Court) appointed Zachary B. Burkons of Rent Due, LLC as the receiver of the assets of OTP and its affiliates in Case No. CV-14-822810. The Court granted Receiver, among other things, the authority to take possession of, manage, preserve, and sell, in an expedited and commercially reasonable manner, all property, both real and personal, owned by OTP and its affiliates.

[2] *See In the Matter of the Joint Application of Northeast Ohio Gas Corp. and Orwell-Trumbull Pipeline Co., LLC, by and through Receiver Zachary B. Burkons, to Transfer Certain Pipeline Assets of Orwell-Trumbull Pipeline Co., LLC to Northeast Ohio Natural Gas Corp. Pursuant to R.C. 4905.48(B) and (C) and for Related Authority*, Case No. 19-1921-PL-ATR ("OTP Asset Approval Case"), Verified Joint Application for Approval of the Transfer of Assets and for Accounting Authority (Oct. 18, 2019). A copy of the Asset Purchase Agreement is attached as Exhibit 1 to the Verified Joint Petition, including an enumerated list of specific assets comprising the "Purchased Assets." *See* Joint Application, Ex. 1, paragraph 2.1.

[3] *See In re Orwell-Trumbull Pipeline Co., LLC*, Case No. 16-1726-PL-AIR

installed cost of the Purchased Assets, less accumulated depreciation of $4,100,921 as of September 1, 2019. Importantly, however, the Joint Application did not request recovery on and of the Purchased Assets nor did it request a determination as to whether the Purchased Assets were used and useful, as NEO explained that it would seek such regulatory approvals in a subsequent proceeding.

On November 26, 2019, Staff recommended the Commission approve the Joint Application, finding, among other things, that NEO's request to use OTP's rate case filing value as a starting point was reasonable to determine a value of the Purchased Assets for the purpose of the asset transfer.[4] Staff also advised that it would conduct a used and useful review before any recovery on and of the Purchased Assets were included in future base rates of NEO.

On December 4, 2019, the Commission issued a Finding and Order wherein it agreed with Staff and approved the transfer of the Purchased Assets to NEO.[5] Given NEO's stated intent to pursue recovery on and of the Purchased Assets in a future proceeding, the Finding and Order approved 1) NEO's acquisition of the Purchased Assets from OTP, and 2) NEO's request for accounting authority to record the value of the Purchased Assets as $13,310,881, with an associated accumulated depreciation reserve of $4,100,921 as of September 1, 2019, subject to Staff conducting a used and useful test.

After receiving Commission approval, NEO integrated the Purchased Assets into its distribution system operations and is currently receiving the revenue it collects from applying OTP's previously existing rates. However, NEO avers these revenues are not sufficient for NEO to recover the operating expenses related to the Purchased Assets and the return of and on the additional rate base.

<u>Overview of NEO's Proposed Alternative Rate Plan</u>

On September 29, 2020, NEO filed an application in Case No. 20-1427-GA-ALT (Application) proposing recovery of the Purchased Assets until its next rate case, at which point the Purchased Assets will be included in NEO's rate base. To effectuate recovery, the Application proposes to establish a rate under a new rider not subject to a reconciliation, the Infrastructure Acquisition Adjustment Rider (OTP Rider), to collect the revenue needed to support the Purchased Assets until NEO files its next distribution rate case. Specifically, NEO requests recovery of and on the recorded value of the Purchased Assets including operating expenses. NEO avers that recovery is just and reasonable because it continues to assure the delivery of safe and reliable service, without interruption, to some 10,000 plus customers connected to the distribution by the Purchased Assets. The Company has proposed a test year of April 1, 2020 through March 31, 2021, with a date certain of June 30, 2020. The Company has proposed the following rider rates, based on the proposed revenue requirement of $1,558,041, which will continue until the Company's next rate case proceeding:

[4] OTP Asset Approval Case, Staff Review and Recommendation (Nov. 26, 2019), pp. 1-3.
[5] OTP Asset Approval Case, Finding and Order (Dec. 4, 2019).

Table 1 – Company Proposed Rider Rates

Rate Schedule	Customer Charge Per Month	Volumetric Charge Per Mcf
Small General Service	$1.88	$0.1696
General Service – GS-1	$4.70	$0.1751
General Service – GS-2 and General Transportation Service	$9.39	$0.1751
Large General Service and Large General Transportation Service	$28.18	$0.0719

Staff's Investigation

Staff investigated NEO's Application, exhibits, and testimony supporting the creation of the OTP Rider. Staff reviewed the schedules supporting the OTP Rider revenue requirement and proposed rider rates. Staff conducted its investigation through a combination of interrogatories, interviews with Company personnel, and document review.

Staff's Comments and Recommendations

Gas Cost Recovery Verification

In the Application, the Company proposed to remove the gas supply costs from its Gas Cost Recovery (GCR) rates and roll those supply costs into the proposed OTP rider rates. Staff will confirm in the Company's next GCR filings that the gas supply costs were correctly removed from the GCR and now solely recovered through this rider.

Summary of Total Plant Language – Schedule B-2

In the Transfer Case, the Commission approved the transfer of the Purchased Assets; however, the Transfer Case did not address the recovery of the purchased assets nor did it determine whether the purchased assets were used and useful. As part of this proceeding, Staff performed an audit of the Purchased Assets to determinate whether the assets are in fact used and useful. Staff performed this investigation by going onsite and physically verifying the assets through a combination of in person and virtual review. Staff's review of the purchased assets resulted in a reduction of $191,089 due to the assets no longer being used or useful, abandoned or unable to be located.

Reserve for Accumulated Depreciation – Schedule B-3

The Company maintains its depreciation reserve, by account, on a total company basis. The current case included only the acquired assets pertinent to this case, so a full theoretical reserve analysis was not deemed necessary or proper. At the time of the Company's next rate case, a full depreciation study will be required, and the accumulated reserve will be studied in the aggregate to determine adequacy. Staff adjusted the depreciation reserve by $59,192 in coordination with the reduction of plant in service items due to the assets no longer being used or useful, abandoned or unable to be located.

Normalized Revenues- Schedule C-3.1
In the Application, the Company's actual test year revenues for the three months of April, May and June 2020 were normalized for weather and adjusted to remove telemetering fees that were previously paid to OTP by NEO and have already been included in NEO's distribution rates. Staff accepts the Company's adjustment to test year revenue which decreases revenue by $19,343.

Telemetering Expense – Schedule C-3.2
The Company removed from the test year expenses related to telemetering services, as these costs represented amounts previously paid to OTP by NEO. Staff accepts the Company's adjustment to remove $6,796 in telemetering expenses.

Payroll and Benefits Expense – Schedule C-3.3
In the Application, the Company annualized payroll, benefits, and payroll taxes for three newly hired employees to operate the Purchased Assets. The proposed adjustment increased total payroll expense by $7,863. Staff finds the Company's adjustment to be reasonable and does not recommend any other adjustments.

Other Distribution Expense – Communications and Cellphones – Schedule C-3.4
In the Application, the Company proposed inclusion of $6,000 for incremental communications and cell phone expenses, based on normalized test year. The annual expense was based on the Company's budget and best-known estimates at the time of filing. Given the test year was based on nine months of forecasted information, Staff requested the Company provide actual expenses for the forecasted months as the actuals became available. During Staff's investigation, the Company advised the original forecasted amount was too high, and the annual communications and cell phone expense appeared to be closer to $1,800.[6] Based upon Staff's review, Staff found the Company's adjusted forecast to be reasonable, and recommends an adjustment to revise the communications and cell phone expense to $1,800 annually. Staff's adjustment reduces other distribution expenses by $4,200.

Other Distribution Expense – Professional Certifications – Schedule C-3.4
The Company proposed an adjustment to reflect normalized expenses of $6,000 attributable to professional certifications. The Company informed Staff the amount was related to National Association of Corrosion Engineers (NACE) certification for the Company's three newly hired employees, as well as continuing education courses required for each of the new employees to maintain their licenses. The Company further advised Staff the COVID-19 pandemic caused the NACE course to be delayed, with the Company expecting the course to take place in July 2021.[7] Staff acknowledges the COVID-19 pandemic caused delays in the professional certification courses; however, Staff's position is disallowance of expenses incurred outside of the test year. Given that the professional certification expenses will be four months after the end of the test year,

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[6] See response to DR #10.
[7] See responses to DRs #5 and #11.

Staff cannot recommend inclusion of the expenses for recovery. Therefore, Staff recommends an adjustment to remove the $6,000 in forecasted professional certification expenses.

Professional Services Expense – Schedule C-3.5

The Company proposed to include an annualized amount of $100,000 for professional services in the test year, which were primarily for legal fees necessary to defend and resolve disputes over rights of way related to the Purchased Assets. The Company advised Staff that it expects disputes to continue at the forecasted level until the next rate case, estimating two disputes annually, and ten to twelve disputes in total.[8] The Company advised it estimated each dispute to be incurred to be approximately $50,000 in legal fees. Staff reviewed the legal fees incurred by the Company during the test year through December 18, 2020, totaled $154,157. In addition, Staff examined underlying invoices for thirteen of the twenty-two transactions to determine the nature of the cases for which the legal fees were incurred. The transactions examined totaled $109,524, of which $96,081 related to disputes. Based on Staff's review, Staff accepts the Company's proposed annualized professional services expenses of $100,000.

Distribution Maintenance Expense – Schedule C-3.6

The Company proposed the inclusion of $60,000 in distribution maintenance expenses. During Staff's investigation, the Company advised the COVID-19 pandemic slowed down the Company's maintenance efforts, due to the necessary maintenance required employees be NACE certified. As a result, the Company avers the maintenance expenses incurred during the test year were not indicative of a normal year. Staff understands the COVID-19 pandemic has affected the level of distribution maintenance expenses incurred by the Company, however, Staff is unable to assess the reasonableness of the Company's forecasted level of expenses. In total, the Company incurred three transactions totaling $6,111 in distribution maintenance expenses from April 1, 2020, through February 2021, which represents 11 months of the test year. In addition, Staff notes that the Company recorded no distribution maintenance expenses between July 2020 and February 2021. Taking into account the lack of actual expenses for which the reasonableness of the forecast can be measured, and that no expenses were incurred during an 8 month period within the test year, Staff cannot recommend inclusion of distribution maintenance expenses at the level forecasted by the Company. Instead, Staff recommends inclusion of actual distribution maintenance expenses incurred, or $6,111. This adjustment represents a reduction of $53,889 to the amount proposed by the Company.

Depreciation Expense – Schedule C-3.7

The Applicant's current depreciation accrual rates were prescribed by this Commission in the Company's most recent base rate case, Case No. 18-1720-GA-AIR. Staff recommends the Applicant continue to use the authorized accrual rates from the last rate case for book depreciation purposes, effective concurrently with customer rates from this proceeding. Staff notes the Applicant's accrual rate for account 396 Power Operated Equipment in the application is not correct and recommends correcting it to the authorized rate of 6.15 percent. Depreciation expense reduction relating to plant exclusions is a flow-through calculation.

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[8] See response to DR #5. Staff notes that the estimated total disputes is based on the Company's assertion that five to six years is a reasonable estimate of the time frame until another base rate case may occur.

Property Tax Expense - Schedule C-3.8

In the Application, the Company adjusted property tax expense for Purchased Assets to normalize and increase the test year property tax expense by $3,411. During Staff's investigation, the Applicant was unable to provide property tax support for OTP assets prior to the purchase of those assets. The Applicant has since included the Purchased Assets as part of the total Company property tax returns and is currently unable to separate them from the total. Staff was unable to verify the supporting documentation for the Purchased Assets property tax expense and recommends an adjustment to remove requested property tax increase. Staff's adjustment reduces test year property tax expense by $3,411.

Excise tax and GRT Expense – Schedule C-3.9

To eliminate expenses attributable to the gross receipts tax, the Company proposed an adjustment to remove $146 of gross receipts taxes included in the actual months of the test year. Staff accepts the Company's adjustment.

Federal Income Tax - Schedule C-3.10 & C-4

To reflect Staff's adjustments to test year operating income, including the flow-through effects on deductible interest expense associated with Staff's adjustments to rate base, Staff recommends an adjusted test year federal income tax expense of $34,804.

Conclusion

Ohio Adm. Code 4901:1-19-07 (C) provides, "The commission staff will file a written report which addresses, at a minimum, the justness and reasonableness of the proposed alternative rate plan." Exhibit D of the Company's supplemental application addresses compliance with R.C. 4905.35 and 4929.02. NEO states that it complies with R.C. 4905.35. NEO states that its public utility services are available on a comparable and nondiscriminatory basis. NEO states it does not offer any bundled regulated and unregulated services. NEO states it does not condition or limit service on the basis of the identity of the supplier or the purchase of unregulated services or good. NEO states that it offers regulated services or goods to all similarly situated customers, including any person with which it is affiliated or which it controls, under comparable terms and conditions.

NEO states that its Application is consistent with R.C. 4929.02, regarding state policy on natural gas services and goods. NEO states it is committed to fulfilling the policy goals of 4929.02. NEO states that it intends to continue to, provide adequate, reliable, and reasonably priced natural gas services and goods. For transport customers, NEO states that it intends to continue providing those customers with an effective choice of supplier. NEO asserts that it provides customers with essential information in its bills and on its website and they ensures that no subsidies flow to or from its regulated service and that non-jurisdictional activities do not harm its ability to comply with state policy. NEO states that its proposed alternative rate plan is just and reasonable.

Staff's recommendations result in an adjusted revenue requirement of $1,471,211. Based on the Staff's recommended revenue requirement, Staff recommends revised rider rates, as shown on Table 2. Additionally, Staff recommends that the OTP Rider be trued up on an annual basis. This recommendation is primarily based on the fact that the expense adjustments for professional certifications and distribution maintenance were a result of a lack of spending in the test year, with the lack of spending driven primarily by the impact of the COVID-19 pandemic. Furthermore, Staff avers that expenses professional services will not be incurred in perpetuity at an annualized amount of $100,000. The elevated level of professional services expenses is driven primarily by various disputes over rights of way, which the Company estimates will continue until the next base rate case, or five to six years. Staff asserts that an annual true up of the OTP Rider will allow for the Company to recover actual expenses incurred and help to mitigate large variances in over- or under-recovery of the Company's cost of providing utility service.

With the adoption of Staff's recommendations outlined above, Staff finds NEO's alternative rate plan meets the requirements set out in R.C. 4929.05, and respectfully recommends that the Commission approve NEO's Application, as modified by Staff's conclusions and recommendations made herein.

Table 2 – Staff Proposed Rider Rates

Rate Schedule	Customer Charge Per Month	Volumetric Charge Per Mcf
Small General Service	$1.77	$0.1601
General Service – GS-1	$4.43	$0.1652
General Service – GS-2 and General Transportation Service	$8.87	$0.1652
Large General Service and Large General Transportation Service	$26.60	$0.0678