

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
SUBURBAN NATURAL GAS COMPANY
FOR AN INCREASE IN GAS DISTRIBUTION
RATES.

CASE NO. 18-1205-GA-AIR

IN THE MATTER OF THE APPLICATION OF
SUBURBAN NATURAL GAS COMPANY
FOR TARIFF APPROVAL.

CASE NO. 18-1206-GA-ATA

IN THE MATTER OF THE APPLICATION OF
SUBURBAN NATURAL GAS COMPANY
FOR APPROVAL OF CERTAIN
ACCOUNTING AUTHORITY.

CASE NO. 18-1207-GA-AAM

ENTRY

Entered in the Journal on October 6, 2021

I. SUMMARY

{¶ 1} The Commission directs Suburban Natural Gas Company to file tariffs reflecting that the customer service charge and usage charge are subject to refund as of September 21, 2021. Additionally, the Commission establishes a briefing schedule for the parties to address the issue of whether the 4.9-mile DEL-MAR pipeline extension was used and useful as of the date certain.

II. DISCUSSION

{¶ 2} Suburban Natural Gas Company (Suburban or the 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} The fixation of rates for public utilities in the state of Ohio is governed by R.C. Chapter 4909. R.C. 4909.15 sets forth the formula prescribed by the General Assembly for the fixation of reasonable rates for a public utility. Among other things, in fixing just and reasonable rates, the Commission is required, pursuant to R.C. 4909.15(A)(1), to determine the “valuation as of the date certain of the property of the public utility used and useful or, with respect to a natural gas, water-works, or sewage disposal system company,

projected to be used and useful as of the date certain, in rendering the public utility service for which rates are to be fixed and determined.”

{¶ 4} On August 31, 2018, Suburban filed, pursuant to R.C. 4909.18, an application to increase its rates for natural gas distribution service.

{¶ 5} Pursuant to R.C. 4909.19, Staff conducted an investigation of the facts, exhibits, and matters relating to the application. On February 6, 2019, Staff filed a written report of its investigation (Staff Report). Objections to the Staff Report were filed by Suburban, Ohio Consumers’ Counsel (OCC), and Ohio Partners for Affordable Energy (OPAE) on March 8, 2019.

{¶ 6} On May 23, 2019, a joint stipulation and recommendation (Stipulation) was filed by Suburban and Staff. OCC and OPAE opposed the Stipulation.

{¶ 7} On September 26, 2019, the Commission issued an Opinion and Order, adopting the Stipulation and resolving all of the issues related to Suburban’s application to increase its natural gas distribution rates. Among other matters, the Stipulation provides for a phase-in of the total revenue increase and revenue requirement over three years, as well as a phase-in of Suburban’s 4.9-mile DEL-MAR pipeline extension into rate base over a three-year period. More specifically, the Stipulation states that 50 percent of the current book value of the pipeline extension will be included in rate base in the first year of the phase-in, followed by 80 percent in the second year, and the full 100 percent in the third year and thereafter. September 26, 2019 Opinion and Order at ¶¶ 25-26, 31.

{¶ 8} On October 28, 2019, OCC filed an application for rehearing, which was denied by the Commission on April 22, 2020.

{¶ 9} On June 22, 2020, OCC filed a notice of appeal to the Supreme Court of Ohio with respect to the Commission’s orders in these proceedings.

{¶ 10} On September 4, 2020, Suburban filed a request to implement the second phase of its distribution rate increase, which was approved to the extent set forth in an Entry issued by the Commission on September 23, 2020. Suburban was authorized to implement a fixed customer service charge of \$34.41 for the small general service (SGS) class, a fixed customer service charge of \$178.95 with a volumetric charge of \$2.1251 per thousand cubic feet (Mcf) for the large general service (LGS) class, and a fixed customer service charge of \$168.61 with a volumetric charge of \$2.3817 per Mcf for the large general transportation service (LGTS) class. In accordance with the Commission's Entry, Suburban filed tariffs reflecting the approved charges on September 25, 2020.

{¶ 11} On August 23, 2021, Suburban filed a notice requesting approval of revised tariffs to implement the third and final phase of its distribution rate increase, with an effective date of September 30, 2021. In the notice, Suburban proposes a fixed customer service charge of \$34.60 for the SGS class, a fixed customer service charge of \$195.87 with a volumetric charge of \$2.1811 per Mcf for the LGS class, and a fixed customer service charge of \$186.90 with a volumetric charge of \$2.4444 per Mcf for the LGTS class.

{¶ 12} On September 14, 2021, Staff filed its review and recommendation in response to Suburban's notice.

{¶ 13} On September 21, 2021, the Supreme Court of Ohio determined that the Commission failed to properly apply the used-and-useful standard set forth in R.C. 4909.15(A)(1) with respect to the DEL-MAR pipeline extension, specifically "by looking beyond the date certain and in considering whether the investment was prudent rather than 'useful.'" The Court, therefore, remanded these proceedings to the Commission to "evaluate the evidence and determine whether the 4.9-mile pipeline extension was used and useful as of the date certain." *In re Application of Suburban Natural Gas Co.*, Slip Opinion No. 2021-Ohio-3224, at ¶ 35.

{¶ 14} On September 22, 2021, OCC filed a motion and request for expedited ruling. In its motion, OCC requests that, in light of the Court's decision, the Commission deny

Suburban's request to implement the third year of the phase-in. In addition, OCC requests that the Commission direct Suburban to file tariffs reflecting the value of 2.0 miles of the 4.9-mile DEL-MAR pipeline extension, while these proceedings are pending on remand. According to OCC, this would decrease the customer service charge for the SGS class from \$34.41 to \$33.09 per month. In the alternative, OCC requests that the Commission immediately order that the customer service charge be subject to refund as of the date of the Court's decision.

{¶ 15} On September 29, 2021, Suburban filed a memorandum contra OCC's motion. First, Suburban argues that OCC misstates the Court's holding and other aspects of the Court's decision. Suburban further argues that OCC ignores key precedent and R.C. 4909.15, pursuant to which Commission rate orders remain in effect until the Commission issues a subsequent order. According to Suburban, until the Commission issues a subsequent order in these proceedings, the entirety of the September 26, 2019 Opinion and Order remains in effect and the Company is legally obligated to charge rates consistent with that Order, including rates that reflect the third phase of the rate increase. Additionally, Suburban contends that OCC's motion is procedurally improper, as OCC is untimely in opposing the Company's notice to implement the third year of the phase-in. Suburban adds that OCC attempts to relitigate issues that have already been resolved by the Court or the Commission and to interject additional record evidence. In particular, Suburban notes that the Opinion and Order made no reference to refunds and, therefore, the Company asserts that OCC's motion constitutes an improper attempt to seek rehearing on this issue. As a final matter, Suburban emphasizes that OCC's request to include only 2.0 miles of the 4.9-mile DEL-MAR pipeline extension in rate base, which would result in a \$5 million reduction, would harm the Company and its customers. Suburban maintains that OCC's proposed rate reduction would prevent the Company from meeting its existing financial obligations by defaulting on its loan covenants and causing the Company to suffer severe financial injury that may lead to a forced sale or bankruptcy.

{¶ 16} Upon review of the Court's decision, as well as OCC's motion and Suburban's opposing memorandum, the Commission finds that Suburban's distribution charges should, at this time, remain at the amounts currently in effect: \$34.41 for the SGS class; \$178.95 with a volumetric charge of \$2.1251 per Mcf for the LGS class; and \$168.61 with a volumetric charge of \$2.3817 per Mcf for the LGTS class. We further find that the customer service charge and usage charge should be subject to refund as of September 21, 2021. The Commission, therefore, directs Suburban to file revised tariffs that provide that the customer service charge and usage charge are being collected subject to refund, as of September 21, 2021, and until otherwise ordered by the Commission.

{¶ 17} Additionally, in order to comply with the Court's directives, the Commission finds it appropriate to permit the parties an opportunity to file briefs addressing the issue of whether the 4.9-mile DEL-MAR pipeline extension was used and useful as of the date certain, pursuant to the legal standard set forth in R.C. 4909.15(A)(1), and in accordance with the Court's decision. Initial and reply briefs should be filed by the parties no later than October 29, 2021, and November 12, 2021, respectively.

III. ORDER

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That the parties adhere to the briefing schedule set forth in Paragraph 17. It is, further,

{¶ 20} ORDERED, That Suburban file tariff pages reflecting that the customer service charge and usage charge are being collected subject to refund as of September 21, 2021, and until otherwise ordered by the Commission. It is, further,

{¶ 21} ORDERED, That Suburban file the revised tariffs, in final form, consistent with this Entry. Suburban shall file one copy in these case dockets and one copy in its TRF docket. It is, further,

{¶ 22} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Dennis P. Deters

SJP/mef

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Case No(s). 18-1205-GA-AIR, 18-1206-GA-ATA, 18-1207-GA-AAM

Summary: Entry directing Suburban Natural Gas Company to file tariffs reflecting that the customer service charge and usage charge are subject to refund as of September 21, 2021. Additionally, the Commission establishes a briefing schedule for the parties to address the issue of whether the 4.9-mile DEL-MAR pipeline extension was used and useful as of the date certain electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio