

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

FOURTH ENTRY ON REHEARING

Entered in the Journal on April 20, 2022

I. SUMMARY

{¶ 1} The Commission grants the application for rehearing filed by Suburban Natural Gas Company on March 25, 2022, for the purpose of further consideration of the matters specified in the application for rehearing.

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 provided 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 stated that 50 percent of the current book value of the pipeline extension would 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 proposed 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 requested 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 proposed 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 requested 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. Among other things, Suburban argued that OCC misstated the Court's holding and other aspects of the Court's decision; ignored key precedent and R.C. 4909.15, pursuant to which Commission rate orders remain in effect until the Commission issues a subsequent order; acted untimely in opposing the Company's notice to implement the third year of the phase-in; attempted to relitigate issues that have already been resolved by the Court or the Commission; and sought to interject additional record evidence. Suburban also emphasized 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 prevent the Company from meeting its existing financial obligations and cause severe financial injury.

{¶ 16} By Entry dated October 6, 2021, the Commission found, in light of the Court's decision, that Suburban's distribution charges should remain at the amounts currently in effect. The Commission also directed 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. Finally, the Commission established 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, pursuant to the legal standard set forth in R.C. 4909.15(A)(1), and in accordance with the Court's decision.

{¶ 17} On October 8, 2021, Suburban filed a motion seeking a partial stay of execution of the October 6, 2021 Entry.

{¶ 18} On October 13, 2021, Suburban filed correspondence, along with compliance tariffs in response to the October 6, 2021 Entry.

{¶ 19} On October 15, 2021, OCC filed a memorandum contra Suburban's motion for a stay.

{¶ 20} OCC also filed on October 15, 2021, an objection requesting that the Commission reject Suburban's compliance tariffs.

{¶ 21} By Entry issued on October 20, 2021, the Commission noted that it was not the intention of the Commission to require that the full amount of the customer service charge and the usage charge be collected subject to refund; rather, it is only a portion of the charges that would be subject to further review by the Commission on remand. The Commission found that Suburban's compliance tariff filing should be approved with modifications, in order to provide that the customer service charge and the usage charge are subject to refund to the extent that they include costs associated with more than 2.0 miles of the 4.9-mile DEL-MAR pipeline extension. Finally, Suburban's motion for a partial stay was denied as moot.

{¶ 22} Pursuant to the October 20, 2021 Entry, Suburban filed revised tariffs on October 21, 2021.

{¶ 23} On October 28, 2021, Staff filed its initial brief addressing the issue identified in the Court's remand. Initial briefs on remand were filed by Suburban and OCC on October 29, 2021.

{¶ 24} On November 12, 2021, reply briefs on remand were filed by Suburban and OCC.

{¶ 25} On February 23, 2022, the Commission issued an Order on Remand. Upon review of the record, and in accordance with R.C. 4909.15(A) and the Court's decision, the Commission concluded that there is insufficient evidence to demonstrate that the entire 4.9-mile pipeline extension was useful as of the date certain and that the Stipulation should, therefore, be modified.

{¶ 26} Pursuant to the February 23, 2022 Order on Remand, Suburban filed revised tariffs on March 4, 2022.

{¶ 27} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

{¶ 28} On March 25, 2022, Suburban filed an application for rehearing of the February 23, 2022 Order on Remand. OCC filed a memorandum contra the application for rehearing on April 4, 2022.

{¶ 29} The Commission believes that sufficient reason has been set forth by Suburban to warrant further consideration of the matters specified in the application for rehearing filed on March 25, 2022. Accordingly, the application for rehearing filed by Suburban should be granted.

III. ORDER

{¶ 30} It is, therefore,

{¶ 31} ORDERED, That the application for rehearing filed by Suburban on March 25, 2022, be granted for further consideration of the matters specified in the application for rehearing. It is, further,

{¶ 32} ORDERED, That a copy of this Fourth Entry on Rehearing be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
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 granting the application for rehearing filed by Suburban Natural Gas Company on March 25, 2022, for the purpose of further consideration of the matters specified in the application for rehearing electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio