

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE NO. 22-216-GA-GCR

IN THE MATTER OF THE UNCOLLECTIBLE
EXPENSE RIDER OF SUBURBAN NATURAL
GAS COMPANY AND RELATED MATTERS.

CASE NO. 22-316-GA-UEX

IN THE MATTER OF THE PERCENTAGE OF
INCOME PAYMENT PLAN RIDER OF
SUBURBAN NATURAL GAS COMPANY
AND RELATED MATTERS.

CASE NO. 22-416-GA-PIP

OPINION AND ORDER

Entered in the Journal on December 14, 2022

I. SUMMARY

{¶ 1} The Commission adopts the stipulation and recommendation filed by the parties on September 14, 2022, resolving all issues relating to the gas cost recovery, uncollectible expense, and percentage of income payment plan audits of Suburban Natural Gas Company.

II. DISCUSSION

A. *Procedural Background*

{¶ 2} Suburban Natural Gas Company (Suburban or the 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} Further, Suburban is a natural gas company within the meaning of R.C. 4905.302 and, as such, the Company implements a purchased gas adjustment mechanism. Pursuant to R.C. 4905.302(A)(1), the uniform purchased gas adjustment mechanism allows a natural gas company to adjust the rates that it charges customers in accordance with any

fluctuation in the cost that the company incurs for the gas that it sells to customers. To facilitate the purchased gas adjustment mechanism and the audit of the mechanism, the rules contained in Ohio Adm.Code Chapter 4901:1-14 direct that the jurisdictional cost of gas be separated from all other costs incurred by a natural gas company and provide for each company's recovery of the gas costs.

{¶ 4} R.C. 4905.302 also directs the Commission to establish investigative procedures, including periodic reports, audits, and hearings to examine the arithmetic and accounting accuracy of the gas costs reflected in the company's gas cost recovery (GCR) rates and to review each company's production and purchasing policies and their effect upon the rates. Pursuant to such authority, Ohio Adm.Code 4901:1-14-07 requires that the gas costs for each natural gas company be audited annually, unless otherwise ordered by the Commission. 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 and Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be provided at least 15 days and not more than 30 days prior to the date of the scheduled hearing.

{¶ 5} By Entry issued on February 9, 2022, the Commission initiated Case No. 22-216-GA-GCR in order to review the operation of the purchased gas adjustment clause and the gas purchasing practices and policies of Suburban. The Entry established the financial audit period, set the deadline for the filing of the financial audit report, and instructed Staff to perform the financial audit for the period of September 1, 2019, to August 31, 2021. The Commission also set a hearing date of September 20, 2022, and directed Suburban to publish notice of the hearing.

{¶ 6} On March 19, 2008, the Commission authorized Suburban to establish an uncollectible expense (UEX) rider. *In re Suburban Natural Gas Co.*, Case No. 07-689-GA-AIR, Opinion and Order (Mar. 19, 2008). In approving the UEX rider, the Commission required that the rider be audited. In the February 9, 2022 Entry, the Commission initiated Case No.

20-316-GA-UEx for the purpose of the audit of Suburban's UEx rider for the period of January 1, 2020, to December 31, 2021.

{¶ 7} The Commission has also authorized natural gas companies to recover percentage of income payment plan (PIPP) arrearages associated with providing natural gas service through their PIPP riders. *In re Establishment of Recovery Method for Percentage of Income Payment Plan*, Case No. 87-244-GE-UNC, Finding and Order (Aug. 4, 1987). In the February 9, 2022 Entry, the Commission initiated Case No. 20-416-GA-PIP for the purpose of the audit of Suburban's PIPP rider for the period of January 1, 2020, to December 31, 2021.

{¶ 8} On July 15, 2022, Staff filed its GCR, UEx, and PIPP audit reports in the above-captioned cases for the designated audit periods.

{¶ 9} On September 2, 2022, Suburban filed a motion for a limited waiver of the notice requirements stated in the February 9, 2022 Entry and for a finding that Suburban substantially complied with Ohio Adm.Code 4901:1-14-08(C).

{¶ 10} By Entry issued September 7, 2022, the attorney examiner granted the motion for a limited waiver of Ohio Adm.Code 4901:1-14-08(C) and the publication requirements described in the February 9, 2022 Entry, to allow Suburban to publish notification of the hearing by September 7, 2022, and September 8, 2022, as described in Suburban's motion. The attorney examiner noted that Suburban would still be in substantial compliance with Ohio Adm.Code 4901:1-14-08(C), despite the limited waiver.

{¶ 11} On September 14, 2022, Suburban and Staff filed a joint stipulation and recommendation (Stipulation), which, if adopted by the Commission, would resolve all of the issues in these proceedings.

{¶ 12} The hearing was held, as scheduled, on September 20, 2022. During the hearing, Staff offered the testimony of Tornain Matthews in support of the Stipulation. Staff also offered into evidence the GCR audit report (Staff Ex. 1), the UEx audit report (Staff Ex. 2), the PIPP audit report (Staff Ex. 3), and the Stipulation (Joint Ex. 1). Suburban also offered

into evidence the actual adjustment calculation (Suburban Ex. 1) and the proofs of publication of notice of the hearing (Suburban Ex. 2).

B. *Summary of the Audit Reports*

1. GCR Audit

{¶ 13} Staff conducted an audit of Suburban's GCR mechanism for the period of September 1, 2019, through August 31, 2021. Staff states that, except as otherwise noted in the audit report, Suburban accurately calculated its GCR rates for the audit period. Following its review, Staff offers two proposed adjustments: an actual adjustment (AA) of (\$626) for an over-collection and a balance adjustment (BA) of \$4 for an under-collection. Staff recommends that both adjustments be applied in Suburban's first GCR filing following the issuance of the Commission's order in these proceedings. Further, Staff notes that, during the audit, Staff found that the Company accurately billed its customers per the monthly GCR rates filed with the Commission and recommends that the Company continue to follow its procedures to ensure that approved tariff rates are charged to customers. (Staff Ex. 1 at 2, 5, 11, 17.)

2. UEX Audit

{¶ 14} Staff conducted an audit of Suburban's UEX rider for the period of January 1, 2020, through December 31, 2021. Staff found no exceptions or discrepancies with respect to Suburban's Annual Balance Reconciliation, Bad Debt Account Listing, and Recoveries – Other account. Staff also confirmed that the number of accounts and amounts written-off were accurate and that monies subsequently collected by the outside collection agency or Suburban were properly credited to customers' arrearages. Finally, Staff calculated Suburban's UEX sales volumes with its approved UEX Rider rate for each month of the audit period, compared these calculations to the amount recovered each month as reported by the Company, and concluded that there were no exceptions. Accordingly, Staff proposes no adjustments to Suburban's December 31, 2021 UEX ending balance of \$59,745. (Staff Ex. 2 at 1-2.)

3. PIPP Audit

{¶ 15} Staff conducted an audit of Suburban's PIPP rider for the period of January 1, 2020, through December 31, 2021. Staff concluded that Suburban properly accounted for charge-offs and recoveries for 2020 and 2021. Staff also found that Suburban properly implemented Ohio Adm.Code Chapter 4901:1-18, as modified in 2015. Staff also notes that it reviewed the PIPP Rider rates for the audit period and found that the Company correctly billed its customers. Accordingly, Staff recommends no adjustments to the December 31, 2021 PIPP ending balance of \$190,484. (Staff Ex. 3 at 2-4.)

C. *Summary of the Stipulation*

{¶ 16} As stated previously, a Stipulation signed by Suburban and Staff was filed in these proceedings on September 14, 2022. The Stipulation was intended by the parties to resolve all outstanding issues in these proceedings. The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the Stipulation.

{¶ 17} The Stipulation provides that Suburban has reviewed all three audit reports and, for the purposes of settlement only, agrees with and endorses Staff's conclusions and recommendations in the audit reports, except as otherwise stated in the Stipulation (Joint Ex. 1 at 2).

{¶ 18} With respect to the GCR audit, Staff recommends and Suburban stipulates as follows:

- (1) The differences between the Staff and Company calculations for the AA are not self-correcting through the GCR mechanism. Staff recommends an adjustment of \$96 for an under-collection. Staff corrected a typographical error in the AA calculation for the quarter ending November 2020. Staff also corrected an error in its Purchased Gas Costs calculation where Staff inadvertently

excluded prior period adjustments (PPA) for January 2021 in the amount of (\$86.55) and April 2021 in the amount of (\$500). The net effect of the PPA and AA adjustment rate calculations results in an increase in Staff's calculated AA from (\$626) to \$96. The adjusted calculation is attached to the Stipulation. (Joint Ex. 1 at 2-3.)

- (2) The differences between the Staff and Company calculations for the BA are not self-correcting through the GCR mechanism. Staff recommends an adjustment of \$4 for an under-collection. (Joint Ex. 1 at 3.)
- (3) Consistent with the September 7, 2022 Entry, the parties recommend that the Commission find that the manner of publication described in the Stipulation is in substantial compliance with Ohio Adm.Code 4901:1-14-08(C)(2).

{¶ 19} With respect to the UEX audit, Staff recommends and Suburban stipulates as follows:

- (1) The parties agree that no adjustment is needed to the December 31, 2021 UEX ending balance of \$59,745 (Joint Ex. 1 at 4).

{¶ 20} With respect to the PIPP audit, Staff recommends and Suburban stipulates as follows:

- (1) The parties agree that no adjustment is needed to the December 31, 2021 PIPP ending balance of \$190,484 (Joint Ex. 1 at 4).

D. Consideration of the Stipulation

{¶ 21} 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 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.

{¶ 22} 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:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

{¶ 23} The Supreme Court of Ohio 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 Supreme Court of Ohio 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.

{¶ 24} Based on the three-part standard of review, we find that the first criterion, which requires that the process involve serious bargaining by knowledgeable, capable parties, is met. As Staff witness Matthews testified, the individuals that participated in these proceedings and negotiated the Stipulation on behalf of Suburban and Staff have many years of experience and have been involved in numerous cases before the Commission, including many GCR, UEX, and PIPP cases. In addition, the parties have provided helpful information to the Commission in cases regarding fuel-related policies and practices. The Stipulation also meets the second criterion. As a package, the Stipulation benefits ratepayers and advances the public interest by seeking to resolve all of the issues related to the review of Suburban's GCR, UEX, and PIPP riders for the designated audit periods, without the need to engage in litigation. Mr. Matthews testified that the purpose of the audits was to verify the costs incurred by Suburban and to ensure that those costs were properly reflected in customer bills. Mr. Matthews noted that, during the course of the audit, Staff noticed some minor differences and made adjustments with respect to the GCR mechanism, which were resolved through the Stipulation in these proceedings. Finally, Mr. Matthews testified that the Stipulation meets the third criterion because it does not violate any important regulatory principle or practice. (Tr. at 11-13.)

{¶ 25} Upon review of the Stipulation, the Commission concludes that the terms and conditions contained therein represent a reasonable resolution of the issues in these cases and that, 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 11-13.) Accordingly, the Stipulation should be adopted in its entirety.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

{¶ 27} R.C. 4905.302 and Ohio Adm.Code 4901:1-14-07 require the Commission to review the purchased gas adjustment clause contained within the tariffs of each natural gas company on an annual basis, unless otherwise ordered by the Commission.

{¶ 28} On February 9, 2022, the Commission initiated these proceedings; established the GCR, UEX, and PIPP audit periods; established the date upon which the GCR, UEX, and PIPP audit reports must be filed; and directed Staff to conduct the GCR, UEX, and PIPP audits. The Commission also scheduled a hearing for September 20, 2022.

{¶ 29} On July 15, 2022, Staff filed its GCR, UEX, and PIPP audit reports.

{¶ 30} On September 2, 2022, Suburban filed a motion for a limited waiver of the notice requirements stated in the February 9, 2022 Entry and for a finding that Suburban substantially complied with Ohio Adm.Code 4901:1-14-08(C).

{¶ 31} By Entry issued September 7, 2022, the attorney examiner granted the motion for a limited waiver of Ohio Adm.Code 4901:1-14-08(C) and the publication requirements described in the February 9, 2022 Entry, to allow Suburban to publish notification of the hearing by September 7, 2022, and September 8, 2022, as described in Suburban's motion.

{¶ 32} Suburban published notice of the hearing in substantial compliance with Ohio Adm.Code 4901:1-14-08(C).

{¶ 33} On September 14, 2022, the parties filed the Stipulation, which was intended to resolve all of the issues in these proceedings.

{¶ 34} Pursuant to R.C. 4905.302 and Ohio Adm.Code 4901:1-14-08(A), a public hearing was held September 20, 2022. No public witnesses registered to testify at the hearing.

{¶ 35} The Stipulation submitted by the parties meets the criteria used by the Commission to evaluate stipulations, represents a just and reasonable resolution of the issues in these proceedings, and should be adopted.

{¶ 36} To the extent noted in the GCR audit report and the Stipulation, Suburban's determination of its GCR rates for the audit period was in accordance with the financial and procedural aspects of Ohio Adm.Code Chapter 4901:1-14, and such rates were properly applied to customer bills. Accordingly, the gas costs passed through Suburban's GCR mechanism for the audit period were fair, just, and reasonable, except as otherwise noted in the audit report and the Stipulation.

{¶ 37} To the extent noted in the UEX audit report and the Stipulation, Suburban accurately calculated its UEX rider rate during the audit period.

{¶ 38} To the extent noted in the PIPP audit report and the Stipulation, Suburban accurately calculated its PIPP rider rate for the audit period.

IV. ORDER

{¶ 39} It is, therefore,

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

{¶ 41} ORDERED, That the auditor that conducts Suburban's next audits shall evaluate how the Company implemented the agreements set forth in the Stipulation and the directives set forth in this Opinion and Order. It is, further,

{¶ 42} 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,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MJA/dmh

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Case No(s). 22-0216-GA-GCR, 22-0316-GA-UEX, 22-0416-GA-PIP

Summary: Opinion & Order adopting the stipulation and recommendation filed by the parties on September 14, 2022, resolving all issues relating to the gas cost recovery, uncollectible expense, and percentage of income payment plan audits of Suburban Natural Gas Company. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio