

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2024-00136

October 23, 2024

SUMMIT NATURAL GAS OF MAINE, INC.
Request for Approval of Tariff Changes to
Implement Gas Cost Adjustment Mechanism

ORDER APPROVING
STIPULATION

BARTLETT, Chairman; SCULLY and GILBERT, Commissioners

I. SUMMARY

In this Order, the Commission approves the Corrected Stipulation filed on October 16, 2024¹ (the Stipulation) entered into by Summit Natural Gas of Maine, Inc. (Summit or the Company) and the Maine Office of the Public Advocate (OPA) and adopts the stipulating parties' proposed modifications to its Gas Cost Adjustment (CGA) Terms and Conditions of Service (T&C) to establish a monthly CGA rate adjustment mechanism and deferred gas cost interim adjustment provisions. Accordingly, the Commission approves the stipulated revisions to Summit's T&C Sheets No. 87, Revision 1; Sheet No. 88, Revision 1; Sheet No. 89, Revision 1; and Sheet 89.1, Original.

II. PROCEDURAL HISTORY

On June 14, 2024, Summit Natural Gas of Maine, Inc. (Summit or the Company) filed a request for approval of proposed changes to its Gas Cost Adjustment Terms and Conditions (T&C) Sheets 87 through 89 to modify its Cost of Gas Adjustment (CGA) T&C to establish a monthly rate change mechanism to more closely track market prices, implementing "a pre-approved formulaic rate adjustment mechanism." Summit Letter at 1.²

On June 21, 2024, the Hearing Examiners issued a notice of proceeding, scheduling a deadline of July 8, 2024, for petitions to intervene and an initial case conference for July 9, 2024. The Office of the Public Advocate (OPA) petitioned to

¹ CMS item 27.

² Summit has operated under an Alternative Rate-making Mechanism (a.k.a. an alternative rate plan) pursuant to 35-A M.R.S. § 4706 since its inception. Section 4706(8), entitled "Cost-of-gas adjustment," authorizes the Commission, within such a plan, to "waive or modify the requirements of 4703 to the extent necessary to promote efficiency in operation, appropriate financial incentives, rate stability or equitable cost recovery." Under Summit's current rate plan, Summit sets its cost of gas rate annually for the upcoming 12 months but petitions the Commission for adjustments if necessary due to large accruing over- or under-collections caused by variations in market prices or usage, or other factors.

intervene on the same date. Sprague Operating Resources, LLC (Sprague) petitioned to intervene on July 8, 2024.³ Both petitions to intervene were granted without objection at the Initial case and technical conference.

On July 12, 2024, Hearing Examiners issued Suspension Order No. 1 (Cost of Gas Mechanism), finding that the status of the proceeding at that time necessitated a suspension of the effective date, pursuant to 35-A M.R.S. §307(3), for an initial period of up to 12-months to allow sufficient time to resolve this matter.

Technical conferences were held on July 9, 2024 and August 20, 2024. Following each technical conference, Oral Data Requests (ORD) were propounded upon the Company, and it provided timely responses on July 23, 2024 and August 27, 2024, respectively.

Multiple procedural orders were issued amending the schedule, allowing time for additional revised COG T&C draft submissions by the Company.⁴ On September 25, 2024, Hearing Examiners issued a procedural order suspending the existing schedule to facilitate settlement discussions between the parties. On October 4, 2024, the Company advised Staff that an agreement in principle had been reached between the active parties, and that Sprague did not intend to oppose, comment on, or sign the 2024 Stipulation.

On October 16, 2024, Summit filed an executed Stipulation between the Company and the Office of the Public Advocate, with Attachments A and B⁵ and its supporting memorandum (2024 Stipulation), and also requested that the Hearing Examiners issue Protective Order No. 1 to protect the confidentiality of commercially sensitive and proprietary information in Attachment C.⁶ Attachments A and B to the Stipulation present proposed tariff changes to implement monthly adjustments to the

³ Sprague Operating Resources LLC, indicated at the initial case and technical conference that it would not be participating in any material way in this proceeding. Tr. 36:10-13 (July 9, 2024), consistent with Summit's observation that "there's no impact in this proceeding with respect to capacity costs relative to transportation customers." Tr. 33: 9-25 (July 9, 2024).

⁴ These orders were issued on July 12, 2024, July 26, 2024, August 7, 2024, August 13, 2024, August 23, 2024, and September 15, 2024.

⁵ The proposed 2024 Stipulation includes proposed T&C Sheet No. 87, Revision 1, 5th Draft replacing Sheet No. 87, Original, Sheet No. 88, revision 1, 5th Draft replacing Sheet No. 88, Original, Sheet No. 89, Revision 1, 4th Draft, replacing Sheet No. 88, Original and Sheet No. 89.1, Original, presented in Attachment A (redlined) and Attachment B (clean), and Confidential Attachment C (template for monthly adjustments to the commodity price).

⁶ Summit filed a Corrected Stipulation later on October 16, 2024.

CGA rate as a formulaic mechanism and other related provisions. On October 17, 2024, the Hearing Examiners issued Protective Order No. 1 (Gas Cost Adjustment Mechanism Template), whereupon Summit filed Confidential Attachment C to the Stipulation, presenting its proposed monthly commodity rate change template.

III. DESCRIPTION OF THE STIPULATION

Under the 2024 Stipulation, the active parties agree to the changes to the Cost of Gas Terms and Conditions (COG T&C), which are designed to allow for monthly changes in the CGA rate based on changes in Summit's cost of commodity, as well as providing improved readability and clarity of the T&C.⁷ The Stipulation sets out a proposed methodology for a monthly calculation of its costs of gas, designed to accomplish four goals: (1) provide that in Summit's annual CGA proceeding the Commission will set the Forecasted Capacity Cost Rate and Deferred Gas Cost Rate for a one-year period starting October 1 of each year (the CGA rate year); (2) establish a process for setting a monthly Forecasted Gas Commodity Rate based on market prices; (3) clarify and modify specific provisions and definitions in Summit's T&C to be consistent with the above points; and (4) provide a trigger for an interim CGA rate adjustment if the under- or over-recovery balance in the Deferred Gas Cost balance exceeds \$1.5 million.

The Stipulation establishes that Summit shall file its annual CGA proposal on or about July 15th each year. In the annual proceeding, the Forecasted Capacity Cost Rate and the Deferred Gas Cost Rate will be set for the upcoming CGA rate year. In addition, Summit will provide an estimate of the monthly Forecasted Gas Commodity Cost Rates and total Recovered Gas Cost for the upcoming CGA rate year (e.g., the twelve-month period beginning October 1).

The Stipulation provides that each month, within five (5) business days before the first of the following month, the Company will file a populated Confidential Attachment C that calculates the proposed Forecasted Gas Commodity Cost Rate for the upcoming month based on updated market rates, the forecasted volume of sales for the month from the most recently approved annual CGA proceeding, and Summit's most recent Deferred Gas Cost balance.

In addition, the Company will monitor its Deferred Gas Cost over or under-recovery balance, and in the case that the Deferred Gas Cost over- or under-recovery balance is estimated to exceed plus or minus \$1.5 million as of December 31 of that year, the Company shall file a request for an interim adjustment to modify the Deferred Gas Cost Rate with an effective date of March 1 the following year. In addition to this requirement to file a request for interim cost of gas adjustment, Summit, in its discretion, may also request an interim adjustment of the cost of gas at other times.

⁷ Sprague, which serves Transportation customers on Summit's system, also intervened in this proceeding but elected not to actively participate in this case as the CGA rate does not apply to Transportation Service customers.

The stipulating parties agree that the record on which the Commission may base its decision whether to accept and approve this Stipulation shall consist of (a) this Stipulation and (b) any and all confidential or public materials filed in the Commission's Case Management System (CMS) in this docket.

The parties waived any rights under 5 M.R.S. § 9062(4) and Chapter 110, Section 8(F)(4) of the Commission's Rules of Practice and Procedure to the extent necessary to permit Staff to discuss the Stipulation with the Commissioners before and at deliberations without the need for a written Examiners' Report or an opportunity to file exceptions. Additionally, the parties waived their rights to request reconsideration pursuant to Section 11(D) of the Commission's Rules of Practice and Procedure to appeal pursuant to 35-A M.R.S.A. §1320, or to otherwise seek reconsideration or judicial review of any Commission Order approving this Stipulation, except to the extent that the Order may contain a material condition or material conditions not prescribed by this Stipulation.

IV. DISCUSSION AND DECISION

A. Standard of Review

To accept a Stipulation, the Commission must find that:

- a. The parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be assured that there is no appearance or reality of disenfranchisement;
- b. The process that led to the stipulation was fair to all parties;
- c. The stipulated result is reasonable and is not contrary to legislative mandates; and
- d. The overall stipulated results are in the public interest.

MPUC Rules ch. 110 § 8(D)(7).

For the reasons set forth below, the Commission finds that all of the requirements for Commission approval have been satisfied in this instance.

B. Whether the Parties to the Stipulation Represent a Sufficiently Broad Spectrum of Interests

The parties to the Stipulation include the active parties to this proceeding, Summit and the OPA. The Commission therefore finds that these parties represent a sufficiently broad spectrum of interests—covering both customers and the utility—to

satisfy the first requirement for approval, as there is no appearance or reality of disenfranchisement.

C. Whether the Process that Led to the Stipulation Was Fair to All Parties

As described in Summit's cover letter to the Stipulation filed on October 16, 2024, the process leading to the Stipulation included written discovery requests, two technical conferences, and three settlement discussions between the active parties on September 18, 2024, October 4, 2024, and October 15, 2024, respectively. Commission Staff also participated in the initial settlement conference as requested by Summit and agreed to by the parties.

Additionally, all parties had an opportunity to be heard, and the process facilitated good-faith negotiations between the OPA and the Company. Moreover, the parties were given the ability to participate in settlement discussions and provide feedback on the terms of the proposed revisions.⁸ The Commission concludes that the process leading to the Stipulation was thus fair to all parties and finds that the second requirement for approval has also been satisfied.

D. Whether the Stipulation is Reasonable, in the Public Interest, and Consistent with Legislative Mandates

As described above, the Stipulation memorializes the agreement between the Company and the OPA, to modify the Company's CGA T&C to implement a monthly CGA rate adjustment mechanism.

The Stipulation also sets out the parties' agreement on an interim adjustment process and calculation methodology and establishes a fixed balance amount to trigger the Company's filing of an interim CGA rate adjustment. Specifically, the Company will file for an adjustment if its Deferred Gas Cost over- or under-recovery balance is estimated to reach \$1.5 million by December 31st of the rate year. This modification in Summit's T&C would begin November 1, 2024, and continue year to year unless otherwise amended by the Commission.

In its letter supporting the Stipulation, Summit represents that the parties agree that the proposed revised CGA T&C are in the public interest, not contrary to any legislative mandate, and provide an integrated solution to the issues that have been raised in this proceeding.

The Commission has approved formulaic monthly CGA rate adjustment mechanisms for Maine's three other natural gas distribution utilities to better align CGA rates with fluctuations in gas costs and market prices. Doing so, helps avoid large

⁸ As noted above, Sprague, an intervenor serving Transportation customers, declined to participate in settlement discussions and took no position in opposition or in favor of the Stipulation.

deferred gas cost balances, providing better price signals and less rate distortion for customers. In addition, having regular, easily processed rate adjustments reduces regulatory proceedings.

Therefore, the Commission finds that the parties' proposed revised CGA T&C to allow Summit to submit for Staff compliance review monthly, formulaic rate adjustments beginning November 1, 2024, and to establish the content and process for making further interim adjustments of large, deferred gas cost balances that may arise, serves regulatory efficiency. Moreover, monthly rates are expected to better align with the utility's costs than do annual rates.

Therefore, the Commission finds that the Stipulation is reasonable, in the public interest, and not inconsistent with any legislative mandates.

V. CONCLUSION

The Commission finds the Corrected Stipulation filed on October 16, 2024, along with proposed revised Sheets 87, 88, 89, and (new) Sheet 89.1, for effect beginning November 1, 2024, to be reasonable and in the public interest and to satisfy the tests accorded to approval of stipulations as discussed herein.

Accordingly, the Commission

ORDERS

1. That the Commission approves the Corrected Stipulation filed on October 16, 2024, executed by Summit Natural Gas of Maine, Inc. and the Office of the Public Advocate, revising the Cost of Gas Adjustment Terms and Conditions to allow for a monthly rate adjustment mechanism and its terms for filing proposed interim Deferred Gas Cost balance rate adjustments;

2. That the Commission approves the following Terms and Conditions of Service, for effect November 1, 2024:

- Summit Natural Gas of Maine, Inc.'s Sheet Nos. 87 and 88, First Revision, fifth draft, replacing Original Sheet Nos. 87 and 88, effective November 1, 2024;
- Summit Natural Gas of Maine, Inc.'s Sheet No. 89, First Revision, fourth draft, replacing Original Sheet No. 89, effective November 1, 2024; and
- Summit Natural Gas of Maine, Inc.'s Sheet No. 89.1, Original, effective November 1, 2024.

Dated at Hallowell, Maine, this 23rd day of October 2024

BY ORDER OF THE COMMISSION

/s/ Amy Dumeny

Amy Dumeny, Administrative Director

COMMISSIONERS VOTING FOR: Bartlett
 Scully
 Gilbert

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Pursuant to 5 M.R.S. § 8058 and 35-A M.R.S. § 1320(6), review of Commission Rules is subject to the jurisdiction of the Superior Court.

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.