ORDER NO. 03-198

ENTERED APR 03 2003

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 449

In the Matter of a Rulemaking to Amend OAR 860-022-0070(7) To Allow the Continuation of the Annual Earnings Review Mechanism for Natural Gas Utilities.	))))	ORDER

DISPOSITION: RULE AMENDED

On December 13, 2002, the Public Utility Commission of Oregon (Commission) filed a Notice of Proposed Rulemaking with the Oregon Secretary of State proposing to amend OAR 860-022-0070(7). The notice was published in the Oregon Bulletin on January 2, 2003.

On February 19, 2003, Michael Grant, an Administrative Law Judge with the Commission, held a rulemaking hearing in Salem, Oregon. Only representatives from the Commission Staff (Staff) appeared.

OAR 860-022-0070—Purchased Gas Adjustment Mechanism

This rule governs the procedures and standards for reviewing natural gas utility rates in the context of the purchased gas adjustment mechanism (PGA). PGAs are "automatic adjustment clauses" as defined in ORS 757.210(1). The purpose of the PGA is to permit each natural gas utility to adjust revenue annually to reflect actual increases or decreases in gas costs.

The PGA has two components. The first component is prospective and resets base gas costs each year to reflect changes in the utility's cost of purchased gas. The second component is retroactive and allows the utility to defer, for later inclusion in rates, differences between actual fixed costs and the base level in rates and a portion of the differences between actual commodity-related costs and the base level in rates.

To ensure that earnings of a natural gas utility are not excessive prior to passing through prudently incurred base gas costs, OAR 860-022-0070 requires that an earnings review be conducted on an annual basis. In OAR 860-022-0070(7), the Commission established the earnings review mechanism for a four-year period beginning in 1999. The rule further provides that the mechanism will be reviewed for possible extension during the fourth year.

In this rulemaking, Staff originally proposed that section (7) be deleted, allowing the earnings review mechanism to continue indefinitely. After subsequent discussions with interested persons, Staff concluded it would be preferable to amend the section as shown below, rather than delete it, to provide another date for the Commission to again review the earnings review mechanism:

> (7) The earnings review mechanism established and extended under the terms of this rule will be effective for four years, with earnings reviews conducted in ~~**1999**~~**2003** counting as the first year. The mechanism will be reviewed for potential further extension after the fourth year.

Resolution

No person objected to Staff's recommendation. We find it reasonable and adopt it. OAR 860-022-0070(7) should be amended accordingly.

ORDER

IT IS ORDERED that:

1. The modifications to the rule as set forth in Appendix A, attached to and made part of this order, are adopted.

2. The amended rule shall become effective upon filing with the Secretary of State.

Made, entered, and effective ________________________________.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-022-0070

Procedures and Standards for Reviewing Gas Utility Rates in the Context of the Purchased Gas Adjustment Mechanism

(1) The purpose of sections (1) through (7) of this rule is to ensure that earnings of a natural gas utility local distribution company ("gas utility" or "LDC") with a purchased gas adjustment ("PGA") mechanism are not excessive prior to passing through prudently incurred base gas cost changes in rates through a mechanism which is fair to all parties and efficient to administer. For purposes of this rule, earnings are excessive only if a gas utility does not share with its customers past revenues related to earnings that exceed an earnings threshold determined by the Commission.

(2) Prudently incurred base gas cost changes will be included in rates through tracking filings, subject to the Commission's review of gas cost purchasing practices at the time of those filings.

(3) A separate, simplified earnings review will be conducted on an annual basis independent of and in advance of the PGA filings. The purpose of such an earnings review is to determine whether the gas utility's earnings are above an earnings threshold so as to require some sharing of revenue with customers before passing through base gas cost changes. The purpose is not to make a forward-looking, permanent change in rates.

(4) In an earnings review conducted under this rule, it is reasonable for PGA base gas cost changes to be passed through into rates if, in circumstances when the gas utility's earnings in the prior year were above an earnings threshold determined in section (5) of this rule, revenue representing a percentage of earnings in that year above that earnings threshold is shared with customers.

(5) The standards to be applied in an earnings review under this rule for each LDC are as follows:

(a) Test year: The test year for the earnings review will be the calendar year immediately prior to the year in which the PGA filing is made, unless otherwise specified by the Commission.

(b) Normalization and adjustments: The test year results will be adjusted with a predetermined list of rate-making adjustments equivalent to those applied in the gas utility's most recent general rate proceeding.

(c) Earnings threshold: There will be no revenue sharing required for years when a gas utility's return on equity from utility operations in Oregon is lower than the earnings threshold determined by the Commission for each LDC. Neither this value nor any of the components implied in establishing it will be precedential in a general rate case involving any Oregon public utility.

The Commission will update the value for the earnings threshold annually for each LDC, pursuant to a mechanism established by order of the Commission for each LDC, to reflect changes in conditions in the capital markets. Upon a showing of good cause, the Commission may consider other relevant factors in addition to changes in conditions in the capital markets.

(d) Sharing percentage: The amount of revenue in a test year representing a specified percentage of the earnings above the earnings threshold will be shared with customers. The Commission by order will determine the sharing percentage for each LDC.

(e) Deferral and amortization: Any revenue determined for the gas utility for a test year under section 5(d) of this rule will be deferred as of December 31 of the test year. The balance in the deferred account will accrue interest from that date at the LDC's rate of return on rate base determined in its last general rate case. Interest will continue to accrue at this rate during the amortization period, which will begin on the date of the next PGA rate change and extend for twelve months. The Commission by order will determine the method for allocating amounts to be amortized among customer classes.

(6) Each LDC will file test year results of operations by May 1. Any person may request to be placed on a list to receive all such earnings review filings at the time they are submitted to the Commission or may request a copy of individual filings. Any person wishing to participate as a party shall so notify the Commission and other parties via letter. Commission staff will complete its review and distribute summary conclusions by June 10 to all parties. Staff will present the results of the earnings review at the first regular public meeting in July; alternatively, if issues are unresolved among all parties, a settlement conference including all parties will be conducted. By August 1, the parties will file position statements with the Commission on unresolved issues, if needed. The Commission will issue its decision on unresolved issues, if any, by September 15. Unless otherwise directed by the Commission, each LDC will file its annual gas cost tracking filing by October 15, including amortization of credit amounts in the deferred account, if any, resulting from the earnings review.

(7) The earnings review mechanism established under the terms of this rule will be effective for four years, with earnings reviews conducted in ~~1999~~**2003** counting as the first year. The mechanism will be reviewed for potential extension after the fourth year.

(8) Application of earnings reviews conducted under this rule to amortization of deferred gas costs: The results of the earnings review conducted under this rule will be applicable to amortization of deferred gas costs if the LDC has a risk sharing mechanism for variations in commodity gas costs, as defined in the PGA tariff, that allocates less than 33 percent of the risk to the LDC. An earnings review will not be applicable to amortization of deferred gas costs if the LDC assumes at least 33 percent of the responsibility for commodity cost differences in the risk sharing mechanism. The Commission may modify this requirement if it authorizes an alternative incentive mechanism relating to variations in gas costs for an LDC.

Stat. Auth.: ORS Ch. 183 & 757
Stats. Implemented: ORS 757.210 & 757.259
Hist: PUC 1-1999, f. & ef. 4-21-99 (Order No. 99-284)