

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of the Application of the)
East Ohio Gas Company d/b/a Dominion)
East Ohio for Approval of Tariffs to)
Recover Certain Costs Associated with a) Case No. 08-169-GA-UNC
Pipeline Infrastructure Replacement)
Program Through an Automatic)
Adjustment Clause, And for Certain)
Accounting Treatment.)

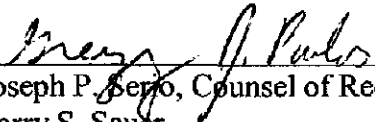
MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all the approximately 1.1 million residential utility consumers of The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "the Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in the above-captioned proceeding where the Company is proposing, among other things, to recover from its customers, including residential customers, approximately \$2.5 billion (in 2007 dollars) over the next 25 years for a Pipeline Infrastructure Replacement program. Pursuant to R.C. Chapter 4911; R.C. 4903.221; Ohio Adm. Code 4901-1-11, OCC's Motion should be granted because OCC meets the legal standards for intervention, as explained in detail in the attached Memorandum in Support.

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Respectfully submitted,

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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|--|------------------------|
| In the Matter of the Application of the East) | |
| Ohio Gas Company d/b/a Dominion East) | Case No. 08-169-GA-UNC |
| Ohio for Approval of Tariffs to Recover) | |
| Certain Costs Associated with a Pipeline) | |
| Infrastructure Replacement Program) | |
| Through an Automatic Adjustment Clause,) | |
| And for Certain Accounting Treatment.) | |

MEMORANDUM IN SUPPORT

On February 22, 2008, DEO filed an Application requesting: (1) approval of tariffs to recover, through an automatic adjustment mechanism, costs associated with a 25-year Pipeline Infrastructure Replacement ("PIR") program and the assumption of responsibility for and ownership of curb-to-meter service lines; (2) accounting authority to permit the deferral of those costs for subsequent recovery from customers through automatic adjustment mechanisms¹. Because the approximately \$2.5 billion cost (in 2007 dollars) of the proposed program will be assessed to all of DEO's customers including all of its residential customers and the fact that DEO proposes ownership and maintenance of service lines on residential customers' property, the Commission should grant OCC's Motion to Intervene in this proceeding so that OCC can fully participate in this proceeding and protect the interests of DEO's residential customers.

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, under R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding may seek

¹ In re Application of East Ohio Gas Company d/b/a Dominion East Ohio, Case No. 08-169-GA-UNC, Application at 1. (February 22, 2008).

intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially if the consumers are unrepresented in a proceeding where DEO is seeking to assess all of its customers approximately \$2.5 billion (in 2007 dollars) for its proposed PIR program and the Company proposes ownership and maintenance of service lines on residential customers' property. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing **all of the residential** consumers of DEO. This interest is different than that of any other party and especially different than that of the utility that advocates for the financial interest of stockholders.

Second, OCC's legal position will be to advocate that DEO's proposed PIR program must be reasonable and permissible under Ohio law, and provide service that is adequate and reasonably priced under Ohio law. OCC's position is therefore directly related to the merits of this case pending before the PUCO that regulates public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC has longstanding expertise and experience in PUCO proceedings, and will contribute to the process of the case.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case where DEO proposes a program that will cost all of its customers, including residential customers, approximately \$2.5 billion (in 2007 dollars) over the next 25 years and includes ownership and maintenance of service lines on residential customers' property.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC has addressed above, and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion because it has been uniquely designated as the state representative of the interests of Ohio's residential utility consumers. That interest is different from, and not represented by, any

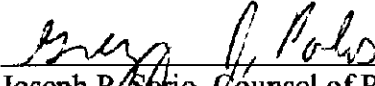
other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.²

OCC meets the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Additionally, granting OCC intervention is consistent with the intervention standards explained by the Supreme Court of Ohio. On behalf of DEO's residential consumers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

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² *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Motion to Intervene* was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 3rd day of March 2008.



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