

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The East)
Ohio Gas Company d/b/a Dominion East)
Ohio for Authority to Modify its Accounting) Case No. 07-125-GA-AAM
Procedures to Provide for the Deferral of)
Expenses Related to the Commission's)
Investigation of Gas Service Risers.)

FINDING AND ORDER

The Commission finds:

- (1) On April 13, 2005, in Case No. 05-463-GA-COI, the Commission issued an Entry ordering an investigation into the type of gas service risers being installed, the conditions of installation, and the overall performance of natural gas service risers in Ohio. The Commission indicated in that Entry that the investigation would be followed by a Staff report and a determination by the Commission of any additional steps to be taken. In subsequent entries, the Commission directed Ohio's four largest local distribution companies ("LDCs"), including The East Ohio Gas Company d/b/a Dominion East Ohio ("Applicant"), to identify a sample number of installed risers and to remove a number of risers for submission to a testing laboratory selected by the Commission.
- (2) On August 3, 2005, the Commission issued an Entry in Case No. 05-463-GA-COI in which it found that the measures taken in that case were necessary for the protection of public safety and directed that the costs of the investigation were to be born by the LDCs. In recognition of these findings, the Commission indicated it would entertain applications for accounting deferrals for the cost of this investigation and review such applications on a case-by-case basis.
- (3) On November 24, 2006, the Commission Staff filed its Staff Report of Investigation in Case No. 05-463-GA-COI, in which it concluded that certain types of field-assembled, or "Design A" risers, were more prone to failure if not assembled and installed properly. This report further included a recommendation that distribution system operators conduct a riser inventory of their 07-294-GA-AAM system for determination of the types and locations of risers in their system.

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business
Technician Date Processed 3-26-08

- (4) The Commission permitted parties to file comments on the Staff Report. By letter dated January 2, 2007, the Chairman requested that parties address in their comments the additional question of whether LDCs should now assume responsibility for customer-owned service lines. Comments were filed by numerous parties in early February 2007.
- (5) Applicant filed comments on February 5, 2007. As part of those comments, Applicant states that it has very few Design-A risers on its system determined as potentially more prone to leakage than other Design-A risers identified by the Akron Rubber Development Laboratory Inc. report (the "ADRL Report") and the Staff Report. Applicant also states that of the relatively few Design-A risers that Applicant had discovered on its system thus far, only one was found to be leaking. Applicant states that it maintained standard operating procedures to ensure that only equipment listed on its specified equipment list is installed on its system. Applicant asserts that no Designer-A risers were installed on its system prior to their inclusion on the specified equipment list, or prior to January 2003.
- (6) On February 5, 2007, pursuant to Section 4905.13, Revised Code, Applicant filed an Application for authority to modify accounting procedures to provide for the deferral of expenses related to the investigation of the installation, use and performance of natural gas service risers.
- (7) Applicant identified the following types of costs that it has incurred and will continue to incur:
 - (a) contractor services, labor and related costs for the removal and replacement of the risers selected for the initial testing and ongoing investigation of leaking risers;
 - (b) labor and non-labor expenses related to the submission of monthly riser failure reports, the riser inventory, replacement of defective risers identified during the course of the inventory process, testing fees, and project and data management;
 - (c) the PUCO assessment to cover the costs of testing laboratory expenses and,

- (d) carrying charges on the deferred balance.

Applicant indicated that it has incurred at least \$337,960.54 in the above expense categories as of its February 5, 2007 Application and expects to incur additional costs in those categories in the future. Applicant further stated that recovery of the deferrals will be addressed in Applicant's next base rate proceeding.

- (8) On February 22, 2007, the Ohio Consumers' Counsel ("OCC") filed a Motion to Intervene and comments. On March 12, 2007, Ohio Partners for Affordable Energy ("OPAЕ") filed a Motion to Intervene and Memorandum in support, and a Motion to admit David C. Rinebolt to practice before the Commission. In their comments and Memoranda, OCC and OPAЕ (collectively, the "Intervenors") argued that customers have already paid in base rates for the expenses that Applicant sought to recover through the deferrals on the basis that LDCs have always had the responsibility to investigate failures, check for leaks and prevent failures of customer-owned facilities under the federal gas pipeline safety regulations. Thus, they said, the costs associated with these responsibilities must already be in base rates. Intervenors also argued that Applicant's requested deferrals based on expenses incurred in the past are not permissible because they constitute retroactive ratemaking and that Applicant's request for blanket deferrals of all future expenses is not consistent with the Statement 71 of the Financial Accounting Standards Board ("FASB 71") which allows an enterprise to capitalize costs that would otherwise be charged to expense only if certain criteria are met. Intervenors also contended that such blanket deferrals are contrary to Commission precedent.
- (9) On March 12, 2007, Applicant filed its Response to OCC's Comments. Applicant argued that the costs associated with the Commission-ordered investigation are out-of-the-ordinary expenditures and pointed out that the issue is whether Applicant's rates provide for expenses associated with the riser investigation, not whether Applicant is responsible for service lines. Applicant noted that the Supreme Court has rejected the argument that granting deferral authority amounts to retroactive ratemaking and has held that deferrals do not constitute ratemaking at all. Applicant asserted that it only requested to defer expenses in carefully delineated categories that relate specifically to Applicant's compliance with the Commission's directives issued in Case No.

05-463-GA-COI. Further, Applicant notes that its approach to accumulate actual costs up to some point in time and request authority to defer similar costs in the future is reasonable. Applicant also notes that, contrary to OCC's contention, FASB 71 does not apply to the Commission and becomes relevant only after the Commission rules on Applicant's deferral Application.

- (10) On March 22, 2007, OCC filed a Reply to Applicant's Response. OCC argued that Applicant was responsible for, but neglected, activities under the pipeline safety rules that could have prevented the riser safety issue and therefore should be required to bear the costs of the investigation. OCC further argued that, as Applicant and other Ohio LDCs have been responsible for the Commission-ordered activities to address gas riser leaks, the costs of such activities are not out-of-the-ordinary expenditures. OCC concluded that, in order for the deferrals to be appropriate, Applicant must not include expenses previously incurred and must specifically identify the expenses it intends to defer.
- (11) On March 26, 2007, Applicant filed its Memorandum Contra OPAE's Motion to Intervene. Applicant stated that OPAE has not identified a valid legal interest in this proceeding. Applicant stated that the Commission's decision on Applicant's application will only allow it to defer riser investigation-related expenses and will not result in a change in any rate or "unlawful rates" as described by OPAE. Applicant further stated that OPAE has failed to explain why OPAE's constituency of low-and moderate-income households is not already represented in this proceeding by OCC.
- (12) On March 29, 2007, OPAE filed its Reply to Applicant's Memorandum Contra Motion to Intervene. OPAE stated that the Commission typically does not grant authority for deferrals and then disallow those deferrals in the subsequent base rate case. OPAE contends that the Commission should not allow deferrals of ordinary expenses when the proper lawful remedy for inadequate rates is an application for an increase in rates. OPAE stated that OCC does not represent OPAE's interest in this or any other proceeding before the Commission. OPAE further contends that to the extent the Commission has recognized the distinct interest of OPAE and OCC in many proceedings before it, Applicant's argument that OCC may stand in for OPAE in this proceeding should be rejected.

- (13) The Commission finds that OCC and OPAE have set forth sufficient justification for their intervention in this proceeding. Therefore, we are, in this Finding and Order, granting their motions for intervention and OPAE's related motion for admission of Mr. Rinebolt to practice before the Commission.
- (14) The Commission finds that Applicant's request for authority to modify its accounting procedures to defer costs related to the investigation of the installation, use and performance of natural gas service risers is an accounting procedure that does not result in an increase in any rate or charge. As the Supreme Court has previously held, deferrals do not constitute ratemaking. *See, e.g., Elyria Foundry Co. v. Pub. Util. Comm.*, 114 Ohio St. 3d 305 (2007).
- (15) Approval of this Application does not constitute the Commission's determination of Applicant's ultimate recovery of these assets.
- (16) The Commission finds that the costs for which Applicant seeks deferral authority appear related to the activities directed by the Commission in Case No. 05-463-GA-COI. The Commission further finds that Applicant should separately identify all costs to be deferred in a sub-account of Account 182, Other Regulatory Assets. Issues relating to the merits of recovery may be raised in Applicant's pending base rate proceeding, Case No. 07-829-GA-AIR, where recovery is being considered.
- (17) The Commission finds that Applicant's request to modify its accounting procedures and to defer costs related to the investigation of the installation, use and performance of natural gas service risers should be granted, subject to the conditions stated in Finding No. 16, set forth in this Finding and Order.

It is, therefore,

ORDERED, That Applicant, the East Ohio Gas Company d/b/a Dominion East Ohio, be authorized to modify its accounting procedures and to defer costs related to the installation and replacement of natural gas service risers, subject to the conditions stated in Finding No. 16. It is, further,

ORDERED, That the motion to admit David Rinebolt *pro hac vice* be granted. It is, further,

ORDERED, That the motions to intervene filed in this proceeding by the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy be granted. It is, further,

ORDERED, That nothing in this Finding 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,

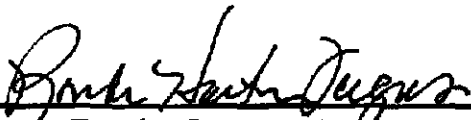
ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

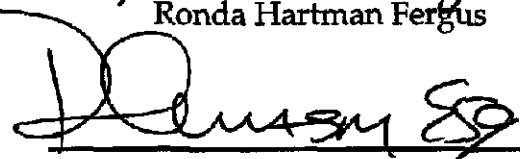



Paul A. Centolella



Ronda Hartman Fergus

Valerie A. Lemmie



Donald L. Mason


SUM:sm

Entered in the Journal

MAR 26 2008



Renee J. Jenkins

Renee J. Jenkins
Secretary