

FILE

13

JOINT EXHIBIT 1

RECEIVED-DOCKETING DIV

2008 APR 10 AM 10:37

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Application of )  
The East Ohio Gas Company d/b/a )  
Dominion East Ohio for Approval of a )  
General Exemption of Certain Natural )  
Gas Commodity Sales Services or )  
Ancillary Services from Chapters 4905, )  
4909, and 4935 Except Sections 4905.10, )  
4935.01, and 4935.03, and from Specified )  
Sections of Chapter 4933 of the Revised )  
Code. )

Case No. 07-1224-GA-EXM

---

STIPULATION AND RECOMMENDATION

---

Pursuant to Section 4901-1-30, Administrative Code, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "Company"), the Staff of the Public Utilities Commission of Ohio ("Staff") (which, for the purpose of entering into this Stipulation and Recommendation, will be considered a party by virtue of Section 4901-1-10(C), Administrative Code), Office of the Ohio Consumers' Counsel, Ohio Partners for Affordable Energy; Industrial Energy Users-Ohio; Integrys Energy Services, Inc.; Dominion Retail, Inc.; MXenergy Inc.; National Energy Marketers Association; Ohio Gas Marketers Group (which comprises Commerce Energy, Inc.; Direct Energy Services, LLC; Hess Corporation; Interstate Gas Supply, Inc.; Southstar Energy Services LLC; and Vectren Retail LLC); and Northeast Ohio Public Energy Council (collectively, the "Signatory Parties") stipulate and recommend as follows:

1. In addition to this Stipulation and Recommendation, which shall be designated as Joint Exhibit 1, the Signatory Parties agree that the following previously filed documents be admitted as exhibits to the record with the understanding that each such exhibit be amended in accordance with the provisions of this Stipulation and Recommendation:

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 Sm Date Processed 4/10/08

- a. Joint Exhibit 2: Matrix illustrating the commodity service options available to customers following the initial movement of Choice-eligible sales customers to SCO service through the retail SCO auction.
- b. DEO Exhibit 1: The Application filed in the above-captioned case on December 28, 2007 ("Application");
- c. DEO Exhibit 2: Phase 2 Transition Plan, filed with the Application as Appendix A;
- d. DEO Exhibit 3: Written materials related to service and product offerings which promote effective customer choice and the provision of adequate service, filed with the Application as Appendix B;
- e. DEO Exhibit 4: Data regarding the participation and competition within DEO's Energy Choice program and the list of marketers currently operating on DEO's system, filed with the Application as Appendix C;
- f. DEO Exhibit 5: Information available on the DEO, Commission and Ohio Office of Consumers' Counsel websites, filed with the Application as Appendix D;
- g. DEO Exhibit 6: Total volumes delivered from marketer pools operating on DEO's system, filed with the Application as Appendix E;
- h. DEO Exhibit 7: Demonstration of substantial compliance with Section 4929.02, Revised Code; explanation of how granting the exemption will affect percentage of income payment plan customers; discussion showing that the requested exemption does not involve undue discrimination for similarly situated customers; and description of complaint and inquiry process, filed with the Application as Exhibit (C)(1);
- i. DEO Exhibit 8: Discussion of effective competition in reasonably available alternatives in DEO's commodity sales service market, filed with the Application as Exhibit (C)(2);
- j. DEO Exhibit 9: Discussion of services for which exemption is requested; number of customers affected; availability of upstream capacity; and open, equal, and unbundled nature of DEO's distribution service, filed with the Application as Exhibit (C)(3);
- k. DEO Exhibit 10: Separation plan, filed with the Application as Exhibit (C)(4);
- l. DEO Exhibit 11: Code of conduct, filed with the Application as Exhibit (C)(5);
- m. DEO Exhibit 12: Scored copy of all proposed tariff schedules where applicable (schedule E-1), and current tariff schedules to which changes are proposed (schedule E-2), filed with the Application as Exhibit (C)(6);

- n. DEO Exhibit 13: Rationale underlying the proposed changes to the tariffs (schedule E-3) , filed with the Application as Exhibit (C)(7);
- o. DEO Exhibit 14: Description of dockets in which special arrangements filed pursuant to section 4905.31 of the Revised Code, which customers may be affected by the application, filed with the Application as Exhibit (C)(8); and
- p. DEO Exhibit 15: Testimony of Jeffrey Murphy and Vicki Friscic in support of the Application, filed with the Application.

2. The Signatory Parties agree to and request approval of the Application as filed, subject to the following amendments and clarifications:

3. DEO will conduct a Standard Service Offer ("SSO") auction utilizing a descending clock approach to secure natural gas supplies for a seven-month term from September 1, 2008, through March 31, 2009. The auction format will be the same as the August 29, 2006, auction authorized by the Commission in Case No. 05-474-GA-ATA. Supplies procured in the auction will be used to meet the aggregate commodity service needs of mercantile and non-mercantile sales customers served under the Company's General Sales Service and Large Volume General Sales rate schedules, including residential customers participating in the Percentage Income Payment Plan ("PIPP") program. Mercantile and non-mercantile customers served under other rate schedules will continue to be served by their respective suppliers and will not be included in the aggregate load to be auctioned. The intent of the SSO auction is to effectively extend DEO's Phase 1 SSO period through March 31, 2009, with certain operational modifications detailed herein.

4. On or before February 15, 2009, DEO will conduct two auctions to secure natural gas supplies for the one-year term from April 1, 2009, to March 31, 2010. A wholesale SSO auction will be conducted for PIPP, Choice-ineligible and transitional<sup>1</sup> customers' natural gas

---

<sup>1</sup> Transitional customers comprise Choice-eligible customers that may be provided SSO commodity service for up to two consecutive billing periods. Such customers include those establishing new service and those whose

requirements. A retail Standard Choice Offer ("SCO") auction will be conducted for Choice-eligible SSO customers. The auction will employ the structure described in DEO Exhibit 2 with the following changes in the nature of the SSO and SCO commodity service to be provided:

a. SCO service will be provided as Energy Choice commodity service rather than DEO-provided sales service and, as such, will be subject to applicable sales and use tax. The Signatory Parties agree to develop standard terms and conditions under which SCO commodity service will be provided in conjunction with DEO's Energy Choice Transportation Service or Large Volume Energy Choice Transportation Service rate schedules. DEO will file a subsequent application seeking Commission approval to include those standard terms and conditions in the Company's tariff. As a result, DEO will withdraw the proposed Designated Supplier Service and Large Volume Designated Supplier Service rate schedules.

b. As illustrated in the attached Joint Exhibit 2, the following commodity service options will be available to customers following the initial movement of Choice-eligible sales customers to SCO service through the retail SCO auction. Such customers may receive SSO commodity service for up to two consecutive billing periods.

i. New Choice-eligible customers<sup>2</sup> will receive at least one SSO bill, after which they may enroll with an Energy Choice supplier or participate in an opt-out governmental aggregation program. If they do not do so, such customers will, after their second SSO bill, be assigned to an Energy Choice Supplier that has agreed to

---

(continued...)

Energy Choice supplier agreement or aggregation program terminates without timely enrollment with another supplier or aggregator.

<sup>2</sup> New customers include those (a) establishing service at DEO for the first time, (b) relocating within DEO's service territory and whose Energy Choice or aggregation agreement is not portable, and (c) restoring service more than 10 days after being disconnected for non-payment.

accept customers at the price established in the retail SCO auction under the standard terms and conditions of SCO commodity service included in DEO's tariff.

ii. Choice-eligible customers whose opt-out governmental aggregation program is terminated may enroll with an Energy Choice supplier or participate in an opt-out governmental aggregation program if a subsequent one is offered. If they do not do so, such customers will, after their second SSO bill, be assigned to an Energy Choice Supplier that has agreed to accept customers at the price established in the retail SCO auction under the standard terms and conditions of SCO commodity service included in DEO's tariff.

iii. Choice-eligible customers whose Energy Choice or opt-in governmental aggregation contract expires without renewal may enroll with an Energy Choice supplier, participate in an opt-out governmental aggregation program or elect to be assigned to an Energy Choice Supplier that has agreed to accept customers at the price established in the retail SCO auction under the standard terms and conditions of SCO commodity service included in DEO's tariff. If they do not do so, such customers will after their second SSO bill be assigned to an Energy Choice Supplier that has agreed to accept customers at the supplier's posted monthly variable rate ("MVR") under the standard terms and conditions of SCO service included in DEO's tariff.

All Choice-eligible SSO, SCO and MVR commodity service customers are eligible to be enrolled in opt-out governmental aggregation programs.

5. In February 2010, DEO will conduct another wholesale SSO auction and retail SCO auction to secure natural gas supplies for the one-year term from April 1, 2010, to March

31, 2011, using the approach and structure described in paragraphs 3 and 4 above for the initial SSO and SCO auctions, respectively. As in the February 2009 auction, SSO gas supplies will be procured on a wholesale basis for PIPP and other Choice-ineligible customers. The February 2010 SCO retail auction will be conducted only for those customers who are then receiving SCO service and Choice-eligible SSO customers. Other customers, including those assigned to an Energy Choice supplier at the supplier's then standard monthly variable rate, will not be included in the February 2010 SCO auction.

6. DEO must seek and obtain, through an additional future separate application, Commission approval before moving from the SCO commodity-service market described above to a market in which Choice-eligible customers will be required to enter into a direct retail relationship (complete exit from the merchant function) with a supplier or governmental aggregator to receive commodity service ("full-choice commodity-service market"). Approval of the pending Application does not constitute approval of a transition by DEO from an SCO commodity-service market to a full-choice commodity-service market. DEO shall not implement a full-choice commodity service market until it files an application proposing the transition and receives Commission approval to implement such a market structure.

7. In the event DEO has not obtained Commission approval to move into a full-choice commodity-service market upon the expiration of the second term of SCO service from April 1, 2010, to March 31, 2011, another SCO service auction will be held for a subsequent annual period, and so on thereafter. Prior to the expiration of any such subsequent annual period, DEO may file a new application with the Commission for authority to enter a full choice commodity service market.

8. The Signatory Parties agree that the following changes will be made to the capacity and operational provisions described in DEO Exhibit 2:

a. From October 1, 2008, through April 30, 2010, DEO will on a pilot basis change the period over which it requires comparable capacity to be demonstrated pursuant to Section 6.1 of the General Terms and Conditions of Energy Choice Pooling Service ("General Terms and Conditions") from October through April to November through March. DEO will reserve the right to revert to the October through April assessment period if, after consultation with Commission Staff and the OCC, it concludes that a lack of sufficient comparable capacity contributed to reduced flowing supplies that adversely affected reliability or storage operations. Comparable capacity requirements will be applied consistently across all SSO, SCO and Energy Choice suppliers.

b. Sections 4.3 and 4.5 of the General Terms and Conditions will be revised to indicate that capacity released by DEO will be recallable upon a material decrease in a supplier's "aggregate end user demand" rather than "Energy Choice market share." Any capacity so recalled will be made available to all SSO, SCO and Energy Choice suppliers pursuant to the provisions set forth elsewhere in Section 4.

c. The standard fuel retention rate that will be made effective as of September 2008 will be 3.7%. The fuel retention rate will be reviewed as part of the annual audit of DEO's Transportation Migration Rider – Part B. As noted in DEO Exhibit 2, the updated rate will serve as the standard system-wide fuel retention rate charged to Energy Choice and traditional transportation service as well as SSO and SCO commodity service providers.

9. The Signatory Parties agree that stakeholders shall meet regularly to evaluate Standard Service Offer ("SSO") and SCO services and to continue discussions for the development of a process by which to achieve a potential transition by DEO from an SCO commodity-service market to a full-choice commodity-service market. Despite participation in the regular stakeholder meetings, the Signatory Parties retain all rights with respect to their ability to seek Commission resolution of any issues that arise.

10. If the Commission does not accept this Stipulation and Recommendation without material alteration or addition, the Signatory Parties shall have the right, within thirty days of the Commission's order, to file for rehearing with the Commission. If an application for rehearing is filed, and if the Commission does not accept the Stipulation and Recommendation without material alteration or addition on rehearing, any party may terminate and withdraw from the Stipulation and Recommendation by filing a notice with the Commission within thirty days of the entry on rehearing. On notice of termination and withdrawal by any party pursuant to this paragraph, the Stipulation and Recommendation shall be void and shall not be binding on any party and shall not constitute any part of the record in this proceeding. In the event of a notice of termination and withdrawal, a hearing shall go forward and the Parties will be afforded the full opportunity to present evidence through witnesses, to cross examine all witnesses, to present rebuttal testimony, and to brief all issues which shall be decided based upon the record and briefs as if this Stipulation had never been executed. Termination of this Stipulation and Recommendation shall not preclude the filing of an amended stipulation and recommendation by the same or different parties to this Stipulation and Recommendation. Prior to any Party seeking a withdrawal from this Stipulation pursuant to this provision, the Parties agree to convene immediately to work in good faith to try to achieve an outcome that satisfies the intent of the



Stipulation or proposes a reasonable equivalent thereto to be submitted to the Commission for its consideration. The Parties agree they will not oppose or argue against any other Party's application for rehearing that seeks to uphold the original, unmodified Stipulation.

11. Subsequent to Commission approval of this Stipulation and Recommendation, DEO shall, to the extent necessary, file with the Commission or otherwise provide to Commission Staff and the Signatory Parties such amendments or revisions to DEO Exhibits 2 and 12 as are necessary to effectuate this Stipulation and Recommendation pursuant to such terms as approved by the Commission.

12. This Stipulation and Recommendation is entered into as an overall compromise and resolution of all issues presented in the case, in order to minimize litigation and controversy, and does not necessarily represent the position any party would have taken absent its execution.

13. The Stipulation and Recommendation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, nor is it to be offered or relied upon in any other proceeding, except as necessary to enforce the terms of this Stipulation and Recommendation.

14. The Signatory Parties stipulate, agree, and recommend that the Commission issue a final Opinion and Order in this proceeding, ordering as follows:

- a. That the Application as amended and clarified by this Stipulation and Recommendation is approved in accordance with Section 4929.04, Ohio Revised Code;
- b. That DEO is hereby authorized to hold auctions for SSO and SCO commodity service as provided in this Stipulation and Recommendation;

- c. That DEO file a notice of intent to implement the Application as amended and clarified by this Stipulation and Recommendation and its revised rate schedules within 30 days of this order, or 20 days of any decision on rehearing, whichever is later;
- d. That DEO convene a meeting of the stakeholders group within 180 days of the date of this order to continue discussions for the development of a process by which to achieve a potential transition by DEO from an SCO commodity-service market to a full-choice commodity-service market;
- e. That DEO coordinate with Staff its plans for the hiring of an auctioneer and securing by staff of a consultant to monitor the auction process;
- f. That DEO schedule in a timely manner a pre-auction meeting with potential bidders to review the auction process and any requirement upon bidders; and
- g. Granting any and all other relief necessary to implement the Application as amended and clarified by this Stipulation and Recommendation.


[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

**DOMINION EAST OHIO  
POST SCO AUCTION COMMODITY SERVICE OPTIONS**

Type of Choice-Eligible Customer	Service Options			
	Standard Service Offer (SSO) (1)	Standard Choice Offer (SCO) (2)	Monthly Variable Rate (MVR) (3)	Energy Choice or Opt-Out Aggregation
New customer (4)	Yes	Yes, without election (5)	No	Yes, but not until an initial SSO bill is issued
Customer whose opt-out governmental aggregation program is terminated	Yes	Yes, without election (5)	No	Yes
Customer whose Energy Choice or opt-in governmental aggregation contract expires without renewal	Yes	Yes, with election	Yes, without election (5)	Yes

1. SSO commodity service is available to Choice-eligible customers for up to two consecutive billing periods. Choice-eligible SSO customers may be enrolled in opt-out government aggregation programs.
2. SCO service is the NYMEX + offer based on the SCO auction result that is made available by Energy Choice suppliers that participate in the SCO assignment process. Such suppliers will be assigned customers on a rotating basis. SCO customers may be enrolled in opt-out government aggregation programs.
3. MVR commodity service is the NYMEX + offer that is posted by Energy Choice suppliers that participate in the MVR assignment process. Such suppliers will be assigned customers on a rotating basis. MVR customers may be enrolled in opt-out government aggregation programs.
4. New customers include those (a) establishing service at DEO for the first time, (b) relocating within DEO's service territory and whose Energy Choice or aggregation agreement is not portable, and (c) restoring service more than 10 days after being disconnected for non-payment.
5. Represents the default commodity service provided to customers who have not elected another type of commodity service.

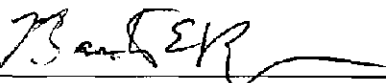
THE EAST OHIO GAS COMPANY  
D/B/A DOMINION EAST OHIO

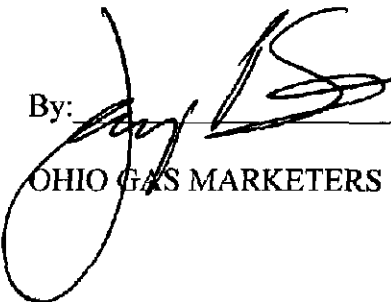
By:   
Mark A. Whit

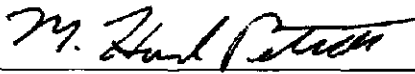
INDUSTRIAL ENERGY USERS-OHIO

By: \_\_\_\_\_

DOMINION RETAIL, INC.

By:   
BARTH E. ROYER  
OFFICE OF THE OHIO CONSUMERS'  
COUNSEL


By:   
OHIO GAS MARKETERS GROUP

By:   
M. Howard Petricola

OHIO PARTNERS FOR AFFORDABLE  
ENERGY


By: \_\_\_\_\_

STAFF OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO

By:   
Anne L. Hammerstein

INTEGRYS ENERGY SERVICES, INC.

Daniel J. Verbanac  
chief operating officer  
authorized by Bobby Singh  
as per phone authorization


By:   
M. Howard Petricola

MXENERGY INC.


By: \_\_\_\_\_

NATIONAL ENERGY MARKETERS  
ASSOCIATION

Craig Gouldman as per  
phone authorization

By:   
~~Thomas O'Brien, counsel~~ M. Howard Petricola

NORTHEAST OHIO PUBLIC ENERGY  
COUNCIL

By:   
Thomas O'Brien, counsel

## **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Stipulation and Recommendation was delivered to the following persons by hand delivery or regular U.S. Mail this 10th day of April, 2008:

Ohio Partners for Affordable Energy  
David C. Rinebolt  
231 West Lima Street  
P.O. Box 1793  
Findlay, Ohio 45839-1793

Industrial Energy Users-Ohio  
Samuel C. Randazzo  
McNees Wallace & Nurick, LLC  
21 East State Street, 17th Floor  
Columbus, Ohio 43215-4228

Integrus Energy Services, Inc.  
Bobby Singh  
300 West Wilson Bridge Road, Suite 350  
Worthington, Ohio 43085

Dominion Retail, Inc.  
Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-390010

MXenergy Inc.  
Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, Ohio 43215-3900

Office of the Ohio Consumers' Counsel  
Joseph P. Serio  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485

National Energy Marketers Association  
Craig Goodman  
3333 K. Street, N.W., Suite 110  
Washington, D.C. 20007

The Ohio Gas Marketers Group  
Stephen M. Howard  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008

NOPEC  
Thomas J. O'Brien  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215-4291

Staff of the Public Utilities Commission of  
Ohio  
Anne Hammerstein  
Stephen Reilly  
State of Ohio Office Attorney General  
180 East Broad Street, 9th Floor  
Columbus, OH 43215-3793



Mark A. Whitt  
An Attorney for The East Ohio Gas Company  
d/b/a Dominion East Ohio