

FILE

**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 Increase Rates
for its Gas Distribution Service.**

Case No. 07-829-GA-AIR

**In the Matter of the Application of The
East Ohio Gas Company d/b/a Dominion
East Ohio for Approval of an Alternative
Rate Plan for its Gas Distribution Service**

Case No. 07-830-GA-ALT

**In the Matter of the Application of The
East Ohio Gas Company d/b/a Dominion
East Ohio for Approval to Change
Accounting Methods**

Case No. 07-831-GA-AAM

**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
Pipeline Infrastructure Replacement
Program Through an Automatic
Adjustment Clause, And for Certain
Accounting Treatment**

Case No. 08-169-GA-UNC

**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
Automated Meter Reading Deployment
Through an Automatic Adjustment Clause,
and for Certain Accounting Treatment**

Case No. 06-1453-GA-UNC

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**MEMORANDUM CONTRA APPLICATION FOR REHEARING
BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "Company"),
pursuant to Rule 4901-1-35, Ohio Administrative Code, files its Memorandum Contra the

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Application for Rehearing by the Ohio Partners for Affordable Energy ("OPAE"). For the reasons that follow, the Commission should deny OPAE's Application for Rehearing.¹

I. INTRODUCTION

OPAE's Application merely recycles a number of arguments that were raised by the Office of the Ohio Consumers' Counsel ("OCC") in its Application for Rehearing filed on April 18, 2008, and responded to by DEO in its Memorandum Contra filed on April 29, 2008. Little need be said here that has not already been said. OPAE raises virtually identical arguments as OCC; some passages appear nearly verbatim. To save the time of the Commission (as well as paper), DEO will respond here only by referring to the passages of its prior briefing on these subjects. Responding at length would be a needless exercise in cutting and pasting.

What should be clear on review of OPAE's Application is that it has raised no arguments that have not already been raised by OCC and responded to by DEO. Assuming that the Commission is prepared to do so, there is no reason to delay ruling on the matters raised in the Applications for Rehearing filed by OCC and OPAE.

II. ARGUMENT

A. DEO Appropriately Filed the PIR Application under R.C. 4929.11.

1. The PIR Application Is Not for an Increase in Rates.

OPAE argues that the PIR Application "is clearly for an increase in rates." (OPAE Reh'g at 3.) OPAE is mistaken. As explained before and not rebutted here, the PIR Application is *not* for an increase in rates.²

¹ DEO's underlying application filed in Case No. 08-169-GA-UNC will be referred to as the "PIR Application."

² See DEO's Reply to the Memorandum Contra Dominion East Ohio's Motion to Consolidate on Behalf of OCC and OPAE, at 6-9 (filed on March 26, 2008); DEO's Memorandum Contra the Application for Rehearing of OCC, at 10 (filed on April 29, 2008).

2. The PIR Application Is Not for an Alternate Rate Plan.

OPAE argues that “the Commission unlawfully finds that applications for automatic adjustment mechanisms do not require an alternate rate plan.” (OPAE Reh’g at 3.) Once again, OPAE misses the mark. As explained before and not rebutted here, the PIR Application is *not* for an alternate rate plan.³

3. The PIR Application Fits Well Within the Terms of R.C. 4929.11.

Like OCC, OPAE argues that “automatic adjustments are permitted only where the costs being tracked fluctuate on the same automatic basis.” (OPAE Reh’g at 5.) Like OCC, OPAE complains that “the recovery of any cost could be considered” under R.C. 4929.11. (*Id.*) Like OCC, OPAE cites *Pike Natural Gas Co.* (*Id.*) The same responses that compelled rejection of these positions when advanced by OCC also compel rejection of them when advanced by OPAE.⁴

B. The Commission Did Not Err in Granting Consolidation.

In its Application, OPAE’s arguments against consolidation amount to little more than ad hominem attacks on the Commission (*e.g.*, for a purported lack of “courage”), and conclusory assertions that “it is far too late” to consolidate. (*See, e.g.*, OPAE Reh’g at 7.) These assertions provide no grounds for rehearing. As explained before and not rebutted here, OPAE has not shown any prejudice resulting from consolidation.⁵

³ See DEO’s Reply to the Memorandum Contra Dominion East Ohio’s Motion to Consolidate on Behalf of OCC and OPAE, at 9–12 (filed on March 26, 2008); DEO’s Memorandum Contra the Application for Rehearing of OCC, at 9–10 (filed on April 29, 2008).

⁴ See DEO’s Memorandum Contra the Application for Rehearing of OCC, at 8–9 (filed on April 29, 2008).

⁵ See DEO’s Reply to the Memorandum Contra Dominion East Ohio’s Motion to Consolidate on Behalf of OCC and OPAE, at 13–14 (filed on March 26, 2008, in these cases); DEO’s Memorandum Contra the Application for Rehearing of OCC, at 2–7 (filed on April 29, 2008).

III. CONCLUSION

For the above reasons, DEO respectfully requests that the Commission deny OP&E's Application for Rehearing.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra the Application for Rehearing by the Ohio Partners for Affordable Energy was sent by ordinary U.S. mail to the following parties on this 9th day of May, 2008.



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