BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Applications 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

INITIAL BRIEF OF THE OHIO OIL AND GAS ASSOCIATION

The Ohio Oil and Gas Association ("Association") submits this initial brief in support of the *Stipulation and Recommendation* filed in this proceeding on August 22, 2008 ("*Stipulation*"); and the rate design resolution set forth in attached Joint Exhibit 1.A, proposed and agreed to by both the Company (i.e., Dominion East Ohio) and the Staff (i.e., the Staff of the Public Utilities Commission of Ohio).

I. BACKGROUND

The Association is one of the largest and most active state-based oil and natural gas associations in the country. Its 1,300 members are primarily small business entities – similar to small family farms – involved in all aspects of the exploration, development, production and marketing of Ohio crude oil and natural gas. The Association participates in proceedings like these, both statewide and nationally, to protect its members' interests when Ohio production is at risk. And that risk is certainly present here.

Historically, Ohio is one of the oldest producing states in the world. Natural gas was first produced commercially in 1884, near the town of Findlay. Since that time, Ohio producers have supplied more than 8 Tcf (i.e., trillion cubic feet) of natural gas to consumers, much of it from and into regions served by the Dominion East Ohio system. Yet, that system has seen a decline in overall throughput – from approximately 413 Bcf (i.e., billion cubic feet) in 1972 (excluding throughput from the River Gas and West Ohio systems) to under 250 Bcf last year, or a nearly 40% decline in annual throughput. And that decline has Ohio producers, and should have all of us, concerned.

II. ARGUMENT

A. The Stipulation Is Just and Reasonable.

Rule 4901-1-30 of the Ohio Administrative Code provides that parties to a proceeding may enter into a full or partial stipulation to resolve contested matters. While not binding on the Commission, the terms of the stipulation are properly accorded substantial weight, just as the findings of the Staff are entitled to careful consideration, when determining whether the stipulation is just and reasonable. *Office of Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125-26 (1992). To make that determination, the Commission has generally applied a three-part test: First, is the stipulation the product of serious bargaining among capable, knowledgeable parties? Second, does the stipulation – as a package – benefit rate payers, and is it in the public interest? Third, does the stipulation violate any important regulatory principle or practice? *Id*. at 126. That test is satisfied here.

That the Stipulation is product of serious bargaining by knowledgeable, capable parties is self-evident. Parties to the settlement negotiations included, among others, the Company, the Staff, the Consumers' Counsel ("OCC"), Ohio Partners for Affordable Energy ("OPAE"), Citizens' Coalition, and the Association. Each brought with them diverse viewpoints and goals, and yet each supports the Stipulation. As described by Mr. Puican, "The Stipulation represents a comprehensive compromise of issues raised by parties with diverse interests. All parties have signed the Stipulation and adopted it as a reasonable resolution of all issues except the single rate design issue that [was] reserved for litigation." Second Supplemental Direct Testimony of Stephen E. Puican at 2 (filed Aug. 25, 2008).

That the Stipulation – in its entirety – benefits ratepayers and is in the public interest is equally evident. Without requiring needless litigation, it provides, among other things, "a fair and reasonable revenue requirement" for the Company, a mechanism for replacing an aging pipeline distribution system, a program that addresses the safety concerns associated with prone-to-fail risers, a mechanism for the Company to assume ownership and responsibility over customer service lines, and additional revenues for customers needing help paying for and making efficient use of Company services. *Id.* at 2-3.

Lastly, the Stipulation does not violate any significant regulatory principle that the Association is aware of.

Accordingly, the Association urges the Commission to approve and adopt the Stipulation in its entirety.

B. The Rate Design Proposed by the Company and Staff is a Just and Reasonable Mechanism for Addressing the Serious Impacts of a Declining Throughput.

The rate design attached as Joint Exhibit 1-A to the Stipulation represents a modified straight-fixed-variable ("SFV") rate structure for the General Sales Service and Energy Choice Transportation Service customer classes ("SFV Rate Design"). Supported by the Company, the Staff, and the Association, it serves to recover most of the fixed costs incurred by the Company to serve these customer classes in a fixed monthly charge, but leaves the remainder to a volumetric rate. See Fourth Supplemental Direct Testimony of Jeffrey A. Murphy at 7-8 (dated Aug. 25, 2008). The Association believes that the SFV Rate Design is a reasonable alternative to the decoupling rider originally proposed by the Company and is necessary to assure the Company's continuing, long-term viability.

The Association is concerned about the Company's ability to recover its fixed costs – and thus adequately maintain its pipeline system – in a declining throughput and customer usage environment. That concern is amplified by the Staff Report:

> Staff has traditionally recommended and supported a rate design for the natural gas distribution component consisting of a minimal customer charge and a volumetric rate or blocks of rates. That structure, while not truly cost-reflective, sufficed to allow the utility the opportunity to recover the recommended revenue requirement as long as gas consumption remained level or increased. **In recent years, due primarily to the volatile and relatively high cost of gas** * * * **the trend of gradually increasing gas consumption, per customer, has been reversed**. Therefore, DEO, and other gas utilities, have seen the recovery of distribution costs deteriorate as **the volume of gas used decreased**. [*Id*. at 34 (emphasis added).]

The Commission – under similar circumstances – agreed recently with that type of reshaping of the traditional natural gas utility rate design in *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Rates*, Case No. 07-589-GA-AIR, et al. (May 28, 2008), stating:

> Conditions in the natural gas industry have changed markedly in the past several years. The natural gas market is now characterized by volatile and sustained price increases, causing customers to increase their efforts to conserve gas. **The evidence of record clearly documents the declining sales-per-customer trend over the decades**. * * * Under traditional rate design, the ability of a company to recover its fixed costs of providing service hinges in large part on its actual sales, even though the company's costs remain fairly constant regardless of how much gas is sold. Thus, **a**

> **negative trend in sales has a corresponding negative effect on the utility's ongoing financial stability**, **its ability to attract new capital to invest in its network**, and its incentive to encourage energy efficiency and conservation. [*Id*. at 17 (emphasis added).]

And that is precisely the Association's concern here. Ohio natural gas produced into the Company's pipeline system over the last five years has increased by 18%, going from approximately 50 Bcf of natural gas throughput in 2003 to roughly 59 Bcf in 2007. The Association believes that this trend is likely to continue, at least this year and next, based on the active drilling on the Dominion East Ohio system and the potential for new natural gas plays here in the Appalachian Production Basin. Yet, the overall throughput on the system has seen a dramatic decline of nearly 40% since 1972. To assure that the Company is financially stable and able to appropriately invest in its pipeline system, it is essential to separate the Company's recovery of its fixed costs in operating and maintaining the system from the volumes of gas transported by its customers.

Simply put, it is critical to the Company's financial future to move to a non-volumetric rate for distribution services.

III. CONCLUSION

For the reasons set forth above, the Association urges the Commission to approve the Stipulation filed by the parties herein and approve the SFV Rate Design proposed and supported by the Company, the Staff and the Association.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following persons by regular U.S. mail, postage prepaid, and, where applicable, by e-mail, this 10th day of September, 2008.

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