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The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215-3793

September 10, 2008

PUCO

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SUBJECT: *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 Case East Ohio for Approval of an Alternative Rate Plan for its Gas Distribution Service No. 07-830-GA-ALT
In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Case Ohio for Approval to Change Accounting Methods Case No. 07-831-GA-AAM

Dear friends:

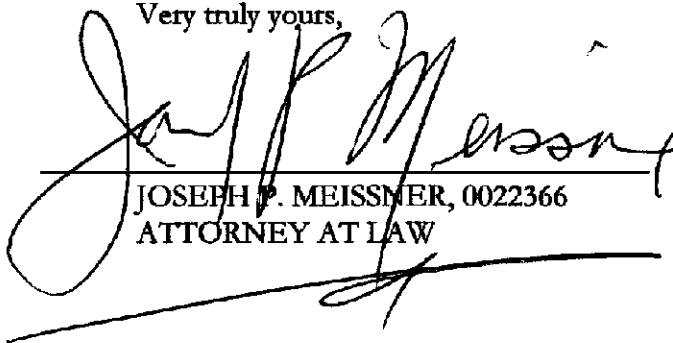
We are enclosing our Initial Brief in this proceeding for our clients, the Citizens Coalition.

We have already faxed this. Please file it today. We are mailing by overnight express the original and requisite copies. Other parties are being served. We have also enclosed an envelope addressed back to us. Please time-stamp one of the enclosed copies and return this to us.

Let us know of any problems.

Thank you.

Very truly yours,


JOSEPH P. MEISSNER, 0022366
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**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)	Case No. 07-829-GA-AIR
for its Gas Distribution Service.)	
)	
In the Matter of the Application of The)	
East Ohio Gas Company d/b/a Dominion)	Case No. 07-830-GA-ALT
East Ohio for Approval of an Alternative)	
Rate Plan for its Gas Distribution Service)	
)	
In the Matter of the Application of The East)	
Ohio Gas Company d/b/a Dominion East)	Case No. 07-831-GA-AAM
Ohio for Approval to Change Accounting)	
Methods)	
)	
In the matter of the Application of)	Case No. 08-169-GA-ALT
The East Ohio Gas Company)	
d/b/a Dominion East Ohio for Approval)	
of Tariffs to Recover Certain Costs)	
Associated with a Pipeline)	
Through an Automatic Adjustment)	
Clause, and for certain Accounting)	
Treatment)	
)	
In the matter of the Application of)	
The East Ohio Gas Company)	Case No. 06-1453-GA-UNC
d/b/a Dominion East Ohio for Approval)	
of Tariffs to Recover Certain Costs)	
Associated with a Automatic Meter)	
Reading Deployment Through an)	
Automatic Adjustment Clause, and for)	
Certain Accounting Treatment)	

**INITIAL BRIEF
FILED ON BEHALF OF THE
NEIGHBORHOOD ENVIRONMENTAL COALITION
THE EMPOWERMENT CENTER OF GRAETER CLEVELAND,
CLEVELAND HOUSING NETWORK
AND
THE CONSUMERS FOR FAIR UTILITY RATES**

Now comes The Neighborhood Environmental Coalition (hereinafter "Coalition"), The Consumers for Fair Utility Rates (hereinafter "Consumers"), The Cleveland Housing Network (hereinafter "Network"), and The Empowerment Center of Greater Cleveland (hereinafter "Center") who, through their counsel, hereby file this Initial Brief. Most of the issues have been resolved in this proceeding by way of a Stipulation. The major issue left for briefs, an oral hearing, and a PUCO decision concerns the rate design, especially the proposed exorbitant increases in the customer charge.

Public participation in this case has been almost unprecedented, compared to past PUCO proceedings. Some 270 letters were sent to the PUCO, almost all opposed to the rate increase. Thirty-Eight of these letters were specifically opposed to the increased customer charge proposal, usually because this would impose financial hardships on customers. Surprisingly, 55 other letters opposed the higher customer charge proposal because it penalizes those who try to conserve. In addition, there was a petition opposing the rate increase signed by 156 individuals. The public hearings attracted many witnesses and DEO customers. Many of these testified under oath while many others signed a variety of petitions against the DEO rate increase request. These petitions were included with the transcripts of the hearings.

Initially, the PUCO Staff—not the Company itself—proposed an increase of the customer charge from \$5.00 to \$17.50. As Public Witness Mr. Arnold Barzak testified, "And I most certainly haven't forgotten that they wanted to raise this rate from \$5.70 to \$17.50, which is 11.80 per month. Outrageous. Outrageous." (Youngstown Hearing, July 28, p. 87; see also Public Witness Pat Sharkey, Cleveland Hearing, p. 21; Public Witness Kenneth Cain, Geneva Hearing, p. 22; and Public Witness Tom Dailey, Youngstown Hearing, August 19, pp. 52-3.) This was echoed by another customer Mr. Vernard Richberg who testified as follows about the customer charge increase:

That is an incredible huge rate increase and I think it's unprecedented. I've never heard of a rate increase like this. You know, to go from 5 to 10 is a hundred percent increase. From 5 to 15 that's a 200 percent increase. From 5 to 17, that's a 250 percent increase. What kind of country are we living in?" (Youngstown Hearing, July 28, pp. 116-7.)

In a discussion with the Stipulation, this has been modified slightly to provide for a two step increase. The first would go from \$5.70 to \$12.50 in the first year. Then in the second year the customer charge would increase from \$12.50 to \$15.40. This is still a blatant case of rate shock and totally unacceptable.

The following Brief will present a number of reasons why the customer charge should not be increased at all, and in fact should be eliminated completely. These arguments will focus on the testimony provided by the public at the various public hearings held throughout Ohio.

ARGUMENT ONE: IN SETTING THE RATE DESIGN, THE PUCO SHOULD CONSIDER THE FOLLOWING: A) THE RELATIVE ECONOMIC SITUATIONS OF THE UTILITY COMPANY AND ITS CUSTOMERS; AND B) THE RELATIVE IMPACT— INCLUDING POSSIBLE RATE SHOCK—OF THE RATE DESIGN UPON THE CUSTOMERS.

Let us focus, first, upon the relative economic situation of DEO versus the economic situation of the Company's customers. The general rationale for a high customer charge, as opposed to the customer costs being spread across all gas volume usage, is that this will protect the company's annual revenues from decreases caused by declining volume sales of gas. (There is also a contention that presumes such losses in sales will trigger more litigation before the PUCO, leading to greater administrative burdens and costs. In response, it might be asked why is the PUCO in existence if not to hear and decide cases.) On the other hand, customer groups worry about the effect of high customer charges upon low users, low-income families, and those interested in conservation incentives.

When we examine the relative economic situations of company versus customers, we find a well-to-do prosperous utility able to pay its executives millions and millions of dollars in compensation (really customer moneys) as contrasted with DEO's hard-pressed and "economically challenged" customers. Here is some of the testimony from the public hearings. (Because of the limitation on the Briefs to only 15 pages, we are only able to present some of the public testimony on this issue.)

We begin with some personal statements about customer hardship.

Ms. Frances Gerish: "And then when you talk about percentages, okay, I get Social Security. So when they tell us they're giving us a percentage rate on Social Security, oh, they say inflation only went up one percent. One and a half, two percent, that's what we get in a raise, but all the things that really went up they don't include in the inflation so we can't win.

"So what do I do this year if they raise it [gas rates] again? Do I have to sit there with my coat and hat on and don't take a shower until spring? I've done everything I could." (Youngstown Hearing, August 19, pp. 45-6.)

Ms. Mary Anne Williams: "Many of our individuals and families are being stretched to the breaking point. Gasoline price increases have resulted in higher costs for almost everything. The price of our most basic necessity—food—has skyrocketed. The clothing that we need costs more. The costs of medication have gone up. The cost of back to school supplies has gone up.

"Many of our citizens today are already being forced to choose) between food or medication or gas to drive to work." (Marietta Hearing, p. 9.)j

The following statements are from personnel who work at various social agencies and see the overall dismal economic picture of what is happening

Sister Jean Orsuto, operates a center called The Emmanuel Community Care Center in Girard, Ohio:

"These people [seniors coming to her Center] have always paid their bills on time. They've paid them in full. They keep their thermostats low and they weatherize their homes, as other people have talked about tonight, and they still find that they cannot pay... their utility bills.

"They have to decide sometimes whether they're going to pay their gas bill, whether they're going to buy food or medication, and I'm not sure that in America anybody should have to make that choice. The people that come to me are also embarrassed to be at my center because they made it all their lives and at the age of 65 or 70 they can't make it any more." (Youngstown Hearing, August 19, p. 56.)

Ms. Beth Carney: "I work at Geneva Senior Center, and when I have someone who comes into my office crying and upset and tells me they just received their gas or electric bill and they don't know how they're going to pay for it, what do you suggest I tell them? This doesn't happen once, but it happens day after day after day. What do you suggest I say to the seniors at our center who live on fixed incomes and have to decide how they're going to spend their fixed income on food or medicine or utilities?" (Geneva Hearing, pp. 20-1.)

Ms. Anne Reese "With respect to my employment at the Legal Aid Society of Cleveland, I would like to let you know I represent people in foreclosures. And this year alone I've seen two people who had to make a choice between paying their utility bills last year and paying their mortgages. We're in a serious mortgage crisis now and housing crisis. To force people to have to pay an increase in their utility bills is going to force more people to make that choice. I think that's an absolute tragedy, and Dominion's greed in requesting this kind of a rate increase is absolutely obscene and the PUCO's tripling of it [the customer charge] is absolutely outrageous. I would request that you please deny this." Geneva Hearing, pp. 32-3.)

Mr. Steven Wertheim: "My name is Stephen Wertheim and I come to you today representing United Way 211-First Call for Help, a 24/7 health and human services information and referral line in Cuyahoga, Geauga, and Medina Counties. I want to give you a sense of some of the utility calls we have received in the past year. We have as recently as two years ago got about 9,700 utility-related requests for service annually. In the last 12 months of this year we have made about 17,000 referrals for families needing utility payment assistance, a 74% increase....

"It is no better in the suburbs....In the last 12 months we have seen an even larger increase in the number of seniors needing utility assistance. 1,219 seniors age 60-74 have called us needing utility bill payment assistance a 114% increase above just two years ago. And we have seen an increase of 83% during the same period for Seniors 75 and older." (Cleveland Hearing, pp. 31-34 and attached Letter from Steven Wertheim)

Contrast the grim economic circumstances of DEO customers from the above sworn testimony with the affluent condition of DEO.

Commissioner Dan Claypool, President of the Board of Ashtabula County

Commission, summarized the company's overall financial situation: "[W]e believe their [DEO] profits in 2007 according to their annual report exceeded the Dow Jones, exceeded the S&P, and we believe that those rates or those profits should be put back into the infrastructure to help the consumer rather than pass those on." (Geneva Hearing, p. 15.)

Congressperson Dennis Kucinich provided more facts about this wealthy utility company:

“....I ask that you reject any attempt on the part of Dominion to downplay its strong financial standing and outlook in an effort to rationalize rate increases which would, according to its own 2007 annual report, support a 12 percent return in equity.

“In 2007, Dominion, the parent company of Dominion East Ohio, posted a net income of \$ 2.5 billion, an estimated 84 percent increase from the year before and estimated 240 percent increase from 2005.” (Cleveland Hearing, pp. 7-8.)

One sign of DEO's wealth is its executive salaries, especially its three highest who reportedly have salaries of \$15 million, \$11 million, and \$9 million. (See Garfield Heights Hearing, p. 76.) The bloated executive salary of the DEO CEO came under attack repeatedly at the Public Hearings. Here are a few of the comments:

Mr. Bill Mountcastle: “I think that the gas company should sharpen their pencils and run more efficiently. And certainly it cannot justify someone making \$15 million running a utility that I have no choice [about].” (Cleveland Hearing, p. 13.)

Mr. Kenneth Cain: “....East Ohio should take its profits and maybe decrease a little bit of pay to its executives, maybe a lot of its pay to executives and plow it in. And maybe the shareholders who are wealthier than I am anyway to own the stock will take a little bit less of an increase in their share.” (Geneva Hearing, p. 24.)

Mr. Joe Turik: “Fifteen million a year he gets paid and he wants some of your money, some more of your money. What does he want, 30 million, 40 million?” (Garfield Heights Hearing, p. 39.)

Congressperson Dennis Kucinich in his Letter, which was included by the Court reporter for the Garfield Heights Hearing, summed up the DEO President's salary as follows:

“According to the publication Businessweek, the President and CEO of Dominion received a total calculated compensation of \$15,118,207 in 2007. This amount represents an average of 39% of the annual increase for customers of Dominion East Ohio which the PUCO Staff recommended.”¹

¹ This whole issue of utility company executive compensation may not be an issue in this case, but it is certainly a topic which needs PUCO investigation and oversight. One of the Public witnesses presented materials from around the world showing concern about astronomical executive salaries. (See Garfield Heights Hearing, pp. 93-9.) This problem is particularly acute when executives of monopoly utility companies--whose financial health is propped-up by regulated rates--command such huge, seemingly uncontrolled, salaries.

What is the relevance of the financial comparison of DEO with its customers, on the issue of a customer charge?

First, the rationale for a high customer charge to dodge possible risks of decreasing gas sales volumes is not as weighty when it is shown that DEO is a well-off company.

Second, the company's fear of what may happen to its gas sales is really a fear about something that may or may not happen in the future. For example, if this coming winter turns out to be extremely cold, DEO will see its gas sales not only strong, but zooming skyward.

Third, the PUCO should take into account the fragile economic situations of the customers in deciding whether customers should be subjected to such a rate shock of increasing a customer charge by almost 300%, even if it is over a two year period. It is interesting to note that the first DEO customer charge was for \$3.50 imposed in 1981. The customer charge reached its present level of \$5.70 in 1994, which was an increase averaging a dime a year. Since that time, the customer charge has remained stable. Even the increase to \$15.50, as opposed to the original Staff proposal of \$17.50 and as discussed along with the Stipulation, would be a tremendous percentage increase and a significant rate shock for customers.

In conclusion, the Citizens Coalition urge that any decision on rate design should be balanced toward the ratepayers and their concerns as opposed to any fears about the company and its possible loss of sales.

ARGUMENT TWO: SINCE NATURAL GAS IS AN ESSENTIAL NECESSITY FOR LIFE AND HEALTH WHICH IS CONTROLLED BY A MONOPOLY, THE CITIZENS COALITION STRONGLY RECOMMENDS THAT THE ENTIRE CUSTOMER CHARGE SHOULD BE ELIMINATED, IN LINE WITH THE CITIZENS COALITION SECOND MAIN ISSUE SUBMITTED TO THE PUCO IN JUNE 2008.

Hardly anyone can deny that DEO is a monopoly. This monopoly company controls our natural gas which is needed in order to preserve our health and lives, especially during the frigid cold of Northern Ohio winters. Customers also require gas for other essential needs, such as cooking, bathing, and washing clothes and dishes. Mr. Tim Love, one public witness, asked this, "...but – first of all, my first question is, where else is it that we as consumers, where else can we go when it comes down to gas?" (Garfield, p. 46.)

Another public witness, Ms. Glory Callion provided more detail on DEO's monopoly status over an essential service when she delivered this rhetorical statement directed at DEO:

"...and I want to talk about the idea that you can cut off gas because people can't pay their bill. You know what I mean? I think it's horrible. Because you have a monopoly on the heat, you know, and then cut off people's gas because they can't pay the bill is terrible. And if their bill's anything like mine, mine is never under \$500 a month in the winter. For three months that's \$1,500 that I have to pay for gas and it isn't even warm. You know what I mean? My house is never warm.

"And I remember the days when I used coal and I could control how things went and my house was always warm, but gas heat doesn't cut it. So what am I paying for? Coal air and gas heat. It's terrible. And I resent even having to use gas. I really do." (Youngstown Hearing, August 18, pp. 46-7.)

In their initial Statement of the Issues filed in June 2008, the Citizens Coalition specifically rejected any customer charge and requested that this charge be eliminated. Public Witness Ralph Samodell explained why there should be no customer charge

....I'd like to know what the PUCO had in mind to raise fixed rates independent of usage... To me, this is like Giant Eagle charging you five dollars at the door because they provide a service of providing food, so you pay before you even use any food or get any food just to go to use their stores. It's the same as if you went to the gas station to fill up your cars and the first thing the pump takes off your credit card is ten dollars just for use of the pump. I mean, this is ridiculous. Any commodity is the price of that commodity. All the customers, all the providers costs go into the price per unit. You don't go slapping everybody with a fixed service charge. That is not fair, and I don't even know if that really should be legal. I mean, they [DEO] have the purse strings. They're controlling the gas charges. Charge what you need to cover your profit margins, but charge it per unit. If people are saving gas by driving a motorcycle versus an SUV or heating homes with electricity and just providing hot

water heat for gas, why should they have to pay the same amount of fixed rate as everybody else? It's not fair. It's not American to be charged for something you're not using. (Geneva Hearing, pp. 33-4.)

There are circumstances where a customer charge or a cover charge may be understandable. For example, nightclubs—especially those with entertainment—may require a cover charge for a patron to enter even though the cover charge buys no drinks or food. Similarly, movie houses charge an admission, which again is like a cover charge. Individuals buy their ticket and enter the show house. They are free to leave right after the movie begins, but they get no refund even though they may see virtually nothing of the movie. A night club is not a necessity. Nor is a movie. People are free to choose whether they want to enter or not, and this has no consequences for their health and life. Choosing, however, to turn off your natural gas and heat in your house when the outdoors temperature is below zero –this is hardly a choice. Furthermore, people can go to many different places for entertainment. But for most people in the DEO territory there is hardly another readily available way to heat your house.

Another Public Witness, Mr. Kenneth Cain, expanded on Mr. Samodells' explanation on why there should be no customer charge for gas:

....the staff, the PUCO Staff recommended a new residential distribution rate structure under which customers would be charged nearly all the distribution costs that do not change with natural gas usage in a flat monthly fee and the usage rate would be lower. If I'm not using it, why do I have to pay the flat fee? If I had a choice, I wouldn't use it.... I make the choice to be conservative to help the planet and I'm going to get nailed for this? A smart, good company, an honest company builds in the costs of what it takes to repair. The gentleman who used the example of Giant Eagle, you're exactly right, they built in the cost of repairing the building of upkeep when they do this, and I don't see the prices rising dramatically like this. And when I look at the flat fee jumping as high as it jumps, that is a scary thought. (Geneva Hearing, p. 36.)

These witnesses argue persuasively that for an essential commodity, such as gas which affects our very health and lives, there should not be any customer charge particularly when this

commodity is dominated by a monopoly. Any customer charge only reinforces the powerful position of the monopoly while no customer charge provides a greater measure of autonomy to the customers who by conservation can generally achieve a lower bill.

In conclusion, the Citizens Coalition urge the PUCO to abolish completely the customer charge.

ARGUMENT THREE: SINCE CUSTOMERS PERCEIVE THAT A RATE DESIGN WITH A HIGH CUSTOMER CHARGE CONTRADICTS A LONG-STANDING POLICY OF ENCOURAGING CONSERVATION, SINCE THEY PERCEIVE THAT A HIGH CUSTOMER CHARGE PUNISHES THEM FOR CONSERVING, SINCE A RATE DESIGN WITH A HIGH CUSTOMER CHARGE UNDERMINES THE HEAP PROGRAM FOR THE POOR, AND SINCE OTHER OPTIONS ARE AVAILABLE TO THE PUCO FOR BOTH ENCOURAGING CONSERVATION AS WELL AS PROTECTING UTILITY COMPANY REVENUES, THE COMMISSION SHOULD ADOPT A RATE DESIGN BASED UPON A NO-OR-LOW CUSTOMER CHARGE.

A number of public witnesses criticized the high customer charge proposal on the basis that this runs contrary to the long-term policy of conservation of scarce natural gas resources. Here is a sample of the testimony:

Dan Claypool: "The PUCO has recommended \$17.50 increase [for the customer charge] while lowering the usage fee which discourages conservation." (Geneva Hearings, p. 14.)

Justin Reiter: "For the past 30 or so years we've been encouraged to conserve and become more energy efficient for a variety of reasons. It seems like a distinctive change to that message when utility companies with the support of the PUCO are refocusing on how they charge their customers by putting more emphasis on the flat fees that overlook consumptions." (Cleveland Hearings, p. 30.)

Dennis Spisak: "They'd like to move away from charging everyone based on their usage and towards higher fixed base rates, which they are doing to us today, in which they are asking for them — for them today and that's what we're here for. They're asking us to pay a higher rate because we have consumed less...." (Youngstown Hearings, July 28, p. 56.)

Judy Jacomet, Allen County Council on Aging: "Even with HEAP, agencies are not able to help all that need help. Flat rate unfair especially for those trying to conserve, which defeats the purpose." (Lima Hearings)

Sarah Puri: "While the rate based on usage varies with the amount of gas the consumer uses and is influenced by the size of the home and the season, the new flat rate which Dominion has asked for remains the same whether we're in the dog days of August or a mid-January blizzard and whether you live in a mansion or a dog house. Dominion's request, to put it bluntly, is an attempt to control the market rather than follow the market, and as such, it is a frontal attack on conservation." (Cleveland Hearing, pp. 14-5.)

Some public witnesses argued that a high customer charge was actually penalizing customers who try to conserve. Here is a sample of this public testimony:

E.P. Yavorcik, "Are they going to decrease the volumetric charge by that amount? I don't think so. Basically they are punishing people who are conserving fuel. (Youngstown Hearing, July 28, p. 49.)

Francine Esposito: "With the above distribution of delivering fees, you are rewarding the consumer who burns a lot of gas and you're penalizing the homeowners who are conserving gas." (Geneva Hearing, p. 9.)

Ms. Marie Rehmar: "I think that the proposed rate structure [with a high customer charge] looks like it penalizes the individuals who purposely chose to live in smaller houses or do without other things to take care of their utility costs." (Cleveland Hearing, p. 41.)

Les Foote, Brooklyn Heights: "This is the Robin Hood approach in reverse. We will be punished for putting in a new furnace, for insulating our homes, and for spending money on new windows and for conserving gas by being forced, if this proposal is passed, to pay a higher rate of increase than people who have not done these things. I think this is basically un-American." (Garfield Heights, pp.67-8.)

Ms. Rose Marie Thomas: "I'm 84, and I invested—two years ago, I invested in a 97 percent efficient furnace so that I could have better, you know gas bills, and I insulated—added some insulation to my home, and I'm trying to do everything I can to conserve both, you know, not spending and investing so that I will have lower bills.

"But this will really hurt the seniors if they put that flat charge on and I don't — that is not really what Dominion has asked, but it's what the PUCO has asked." (Marietta Hearings, p. 36.)

Ralph Konkowski: "That's the reward [high customer charges] I get for, in the past eight years, putting in \$8,000 into home improvements to save and conserve gas that everybody from the President of the United States to Dominion East Ohio to everybody all over, we had to go green. And that's the wonderful thing today, to go green. You know we're still building the monstrous homes that have millions of cubic feet.

"But my reward for conserving and spending \$8,000, amortized over eight years, is \$1,000 per year. So actually, my gas budget is \$116 plus \$100 that I have

paid to conserve gas. And that's my wonderful reward." (Garfield Heights Hearings, pp. 54-5.)

At first blush, talk about "punishing conserving customers," seems like hyperbole. But think about it for a minute. Customers try to conserve and many install various kinds of energy-efficient equipment like a new high-efficiency furnace or wall and ceiling insulation. Economically, the customers spend money now with the goal of eventually recovering these expenditures through a "pay-back period." But to the extent that a high customer charge is imposed along with lower gas volume charges, the pay back period is extended and customers may never recover their conservation expenditures. This is a financial penalty and punishment for these customers.

This problem is extremely acute for low-income families. Here is more public testimony.

Kathi Cruz, Assistant Director, Stark County Community Action Agency HEAP Dept., "There's no way for people to take these kinds of increases and then in turn still be energy efficient. It eats up any savings that they have trying to do that type of -that they may have put back to try and be energy efficient such as trying to make their household green. To increase something like this is really difficult for low-income families." (Canton Hearing, p. 11.)

U.S. Representative Dennis Kucinich: "It straps a disproportional burden on the backs of those consumers who have chosen to conserve, many of whom are low income." (Cleveland Hearing, p. 8.)

David Brightbill: "I support the Ohio Consumer Counsel's position on the increase to the flat-rate customer charge. It will negatively affect customers who try to conserve and subsidize people who are high users.... I certainly see this working against the families we serve.... These are people that are struggling to pay their bills now. This increase just adds to the difficulty of doing that." (Marietta Hearing, pp. 13-4.)

Other public witnesses worried that the high customer charge proposal would undermine the HEAP Program for the poor, many of whom are also low gas users:

Mr. Tim Walters, Community Organizer, Mae Dugan Center in Ohio City:
"And then they [the PUCO] have to consider the impact of this charge on individuals and families. If they went with the \$17.50 rate, this would amount to over

\$200 a year. Many of the families in our community, and I would say many in this room, wait each year for the HEAP program and submit their applications as soon as they can. Most receive a benefit of around \$300 a year.

"Were this service charge to go forward, it would wipe out almost two-thirds of that HEAP benefit, a benefit that is in place to help consumers cope with the high costs of energy. So what is given in one hand is then taken away by the other by the actions of government bodies. Again, it's the consumer who pays the ultimate price." (Garfield Heights Hearings, p. 28.)

If there really is an anxiety about DEO losing future revenues through loss of gas sales, there is another remedy besides imposing high customer charges. The company can always come in for a rate increase, including an emergency rate increase. Such a proceeding also allows all revenues and expenses to be examined, so that if one item is detrimental to the company, other items—whether revenue increases or cost decreases— may offset possible losses. These can then be included in any needed rate adjustments.

ARGUMENT FOUR: SINCE GAS COSTS ARE GENERALLY INCREASING, SINCE SUCH COST INCREASES ARE CAUSED BY DEMAND OUTSTRIPPING SUPPLY, SINCE CONSERVATION IS ONE WAY OF REDUCING DEMAND WHICH SHOULD REDUCE COSTS, IT SHOULD BE OUR STATE'S POLICY TO INCREASE INCENTIVES TO CONSERVE, AND INCREASE INCENTIVES NOT TO WASTE GAS. A RATE DESIGN WITH A NO-OR-LOW CUSTOMER CHARGE AND WITH CUSTOMER COSTS SPREAD EVENLY OVER GAS VOLUMES USED WILL INCREASE THE INCENTIVE TO CONSERVE AS WELL AS ENCOURAGE ALL INCLUDING LARGE USERS NOT TO WASTE GAS.

Various public witnesses viewed a high customer charge as reducing conservation incentives. Public witness Michele Lucas--the Community Services Director for HARCATUS Tri-County Community Action Organization-- testified as follows:

And then there's talk about raising the flat rate customer charge. All it will do is negatively impact customers who attempt to conserve energy and result in low use customers subsidizing the high use customers. (Canton Hearing, p. 31.)

Public Witness Kara Wright testified: "Such a change in the rate structure [higher customer charges] would negatively impact customers who attempt to conserve energy, and ultimately result in low-use consumers subsidizing high-use consumers. In addition, adding more of

Dominion's cost into a fixed consumer charge limits the ability for consumers to control their monthly bills by being more energy efficient." (Marietta Hearing, p. 16.)

Some public witnesses complained about "energy hogs" that they felt will benefit from a high customer charge rate design at the expense of those who try to conserve. Karen Russell from Maple Heights vehemently protested about such "energy hogs":

"And I'm outraged that the PUCO would even consider the new structure of these natural gas delivery charges. We've been wearing the sweaters. We're insulating our homes. We've done all this, and now the gas companies want to punish us for conserving our usage. And at the same time, we have energy hogs. These are the ones that use the most gas. And they may possibly even get a decrease in their rates, delivery charges under this plan. Well, few of us live in the McMansions (this is what I call these big oversized homes). This is where the people may get this decrease in rate. After they've preached to us to conserve and try to control our usage, now they want to take away all of the control and reward these energy hogs." (Garfield Heights Hearings, pp.102-103.)

See also Public Witness Kenneth Cain at Geneva Hearings, p. 37.

A high customer charge will result in lower rates for the gas volumes on customers' bills. Conversely, a low customer charge will require that the "customer costs" be spread out over the volumes used, resulting in higher rates for gas volumes. In the latter situation, as customers conserve gas, they will save more on their bill because the gas volumes they save have a higher rate attached to them. At the same time, those who make decisions to use more gas by choosing bigger homes, more showers, "hotter" homes, and so on, will have to spend more for these gas volumes than if there were higher customer charges with lower priced gas volumes.

As one Public Witness and apartment renter, Siobhan Dubin, testified,

".....but with service charge, that's [increased] eight or nine dollars, and our gas bill will almost triple, although we're using very little gas compared to people who live in a house. I think we're subsidizing people who have made bad energy choices by living in larger homes and it's very unfair." (Cleveland, p. 51.)

One Public Witness Robert Gruss had even calculated how he personally would have an increased bill under the PUCO Staff proposal while a large gas user would actually enjoy lower rates:

"This proposed adjustment to the monthly gas service charge by the PUCO is like a regressive tax on people like me because I make a little over a five figure income a year with my social security payments.... I heat my home at a level of 30,000 cubic foot of gas a year. I will see my gas service charge increased by \$115 a year, even after delivery charges are deducted from the bill, while the guy in a mansion who uses 180,000 cubic feet, six times what I use will, in a final calculation, save \$15.99 a year. I ask you is that fair?" (Cleveland Hearing, pp. 17-8.)

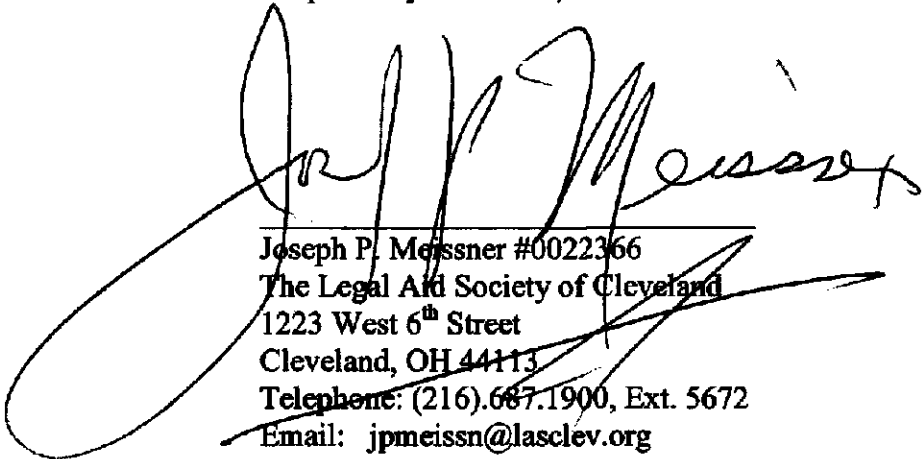
Similarly, some public witnesses complained about those who waste gas. Again under a rate design of low customer charges and higher prices for gas volumes, these energy wasters will have a greater incentive to cut down on waste because waste will lead to higher bills for them than under a rate design of a higher customer charge and lower gas volume rates.

In this age of "going green" and conserving scarce natural resources such as gas, our State of Ohio including the PUCO must promote more and more conservation. The public wants such alternative policies which also should lead to lower utility bills. Public witness Charlotte Robinson requested the PUCO to look for such policies: "We ask that you look at options that increase investment in energy efficiency that help families lower their bill instead of increasing it." (Akron Hearing, p. 21.)

This necessary policy is certainly assisted by a rate design that encourages conservation and discourages waste and extravagant usage. A rate design of lower customer charges coupled with higher gas volume rates promotes a conservation policy more than a rate design of higher customer charges coupled with lower gas volume charges.

In conclusion, the Citizens Coalition urges the PUCO to promote conservation and discourage waste and unnecessary gas usage by adopting a rate design of no/or low customer charges with "customer expenses" distributed equally over the rates for gas volumes.

Respectfully submitted,

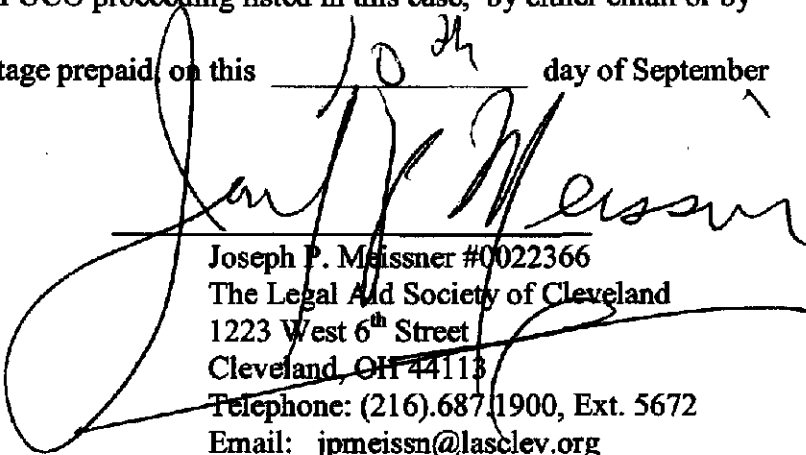


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NOTICE OF SERVICE

I hereby certify that a copy of the foregoing Legal Document was served upon the address of the parties in this PUCO proceeding listed in this case, by either email or by ordinary first class mail, postage prepaid, on this 10th day of September 2008.



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