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PUCO

In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Automated Meter Reading Cost Recovery Charge and Related Matters.	)))))	Case No. 09-1875-GA-RDR

INITIAL BRIEF
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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April 20, 2010

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I. INTRODUCTION.

This case was initiated by The East Ohio Gas Company d/b/a Dominion East Ohio Gas Company ("Dominion" or "the Company") with a Pre-filing Notice ("PFN") on November 30, 2009. The Company followed the PFN with its Application on March 1, 2010, which requested an Automated Meter Reading ("AMR") Cost Recovery Charge Rider of $0.49 per month, per customer.[1] Pursuant to a March 5, 2010 Entry ("March 5 Entry") by the Attorney Examiner in this docket[2] the Office of the Ohio Consumers' Counsel ("OCC") and the Staff of the Public Utilities Commission of Ohio ("Commission" or "PUCO") filed Comments on March 29, 2010.

In its Comments, the OCC questioned the low level of Meter Reading Operation and Maintenance ("O&M") cost savings reported by Dominion ($680,658.76[3]) as well as

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[1] Dominion Ex. No. 2 (Application) at 4.

[2] March 5 Entry at 2.

[3] OCC Ex. No. 1 (OCC Comments) at 5.

the fact that Dominion had reported no Call Center O&M cost savings.[4] OCC suggested alternative cost savings levels to reduce charges to customers. OCC's proposal was based on Dominion's estimates made during the 2007 Dominion Rate Case,[5] which gave rise to the current AMR program. On April 2, 2010, Dominion filed a Statement informing the PUCO that the issues raised in the OCC Comments had not been resolved. Dominion and the PUCO Staff filed expert testimony on April 5, 2010. The evidentiary hearing was held on April 9, 2010, during which the Attorney Examiners established a briefing schedule calling for Initial Briefs on April 20, 2010, and Reply Briefs on April 26, 2010.[6]

II. BURDEN OF PROOF.

The burden of proof regarding the Application and the AMR cost recovery rider in this case rests upon Dominion. In a hearing regarding a proposal that involves an increase in rates, R.C. 4909.19 provides that, "[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility."[7] The AMR program is an outgrowth of Dominion's 2007 Rate Case, and the Company acknowledged it has the burden of proof at hearing.[8] Therefore, neither OCC nor the Staff bear any burden of proof in this case.

Like Dominion's Pipeline Infrastructure Replacement ("PIR") Program, the AMR program was designed to permit the Company to accelerate the installation of AMR

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[4] OCC Ex. No. 1 (OCC Comments) at 6.

[5] *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, Opinion and Order (October 15, 2008) ("2007 Rate Case").

[6] Tr. at 142.

[7] Also see R.C. 4909.18.

[8] Tr. at 112.

devices,[9] to accelerate its collection of the costs from customers associated with installation of the AMR devices,[10] and also to accelerate the flow-though of benefits to customers in the form of Meter Reading and Call Center O&M cost savings.[11]

Through the first two years of the AMR program there can be no dispute that the Company has benefited from accelerating what it collects from customers for its investment in AMR devices. However, the benefits that were supposed to accrue to residential customers have not been as apparent. In last year's AMR proceeding, the Company, OCC and Staff agreed to $275,928.62 in Meter Reading O&M cost savings and zero dollars in Call Center O&M cost savings.[12] That agreement resulted in an AMR Rider charge of $0.30 per customer per month.[13]

For its 2010 AMR Application, Dominion submitted figures of $680,658.76 in Meter Reading O&M cost savings and zero dollars in Call Center O&M cost savings.[14] The two-year total O&M savings amount to $956,587.38 ($275,928.62 + $680,658.76). Although this is not an insignificant amount of money to be credited to customers, it pales in comparison to the savings projected by the Company during the 2007 Rate Case, which served as a basis for the AMR program. At that time Dominion projected total Meter Reading and Call Center O&M cost savings of $6,784,472.[15]

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[9] Tr. at 113.

[10] Tr. at 113.

[11] Tr. at 114.

[12] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Automated Meter Reading Cost Recovery Charge and Related Matters*, ("2009 AMR Case") Case No. 09-38-GA-UNC, Stipulation and Recommendation (April 22, 2009) at Stipulation Attachment 1; Dominion 2009 AMR Case, Opinion and Order (May 6, 2009).

[13] *2009 AMR Case*, Opinion and Order (May 6, 2009) at 5.

[14] Dominion Ex. No. 2 (Application) at 4.

[15] OCC Ex. No. 1 (OCC Comments) at Attachment 1 and 2.

In this case, Dominion must prove that its proposed AMR Rider is just and reasonable or else the proposed increase should be rejected. In order to meet its burden of proof, Dominion must demonstrate not only that its AMR expenditures are reasonable but also that the management decisions behind those expenditures were also reasonable -- because of the financial ramifications of those decisions. In this case, there is no dispute that Dominion alone controlled the timing and deployment location of AMR installations.[16] The timing and deployment location of AMR installations is a critical component of any potential AMR-related O&M cost savings, because those savings are tied to the Company achieving a critical mass in any community or meter reading area.[17]

To date, Dominion has installed approximately 58% of the total AMR's to be installed company-wide.[18] Yet to date, less than 20 communities have sufficient AMR deployment to reach the critical mass necessary to permit the change-over from manual to drive-by meter reading.[19] Because the Company controls the order of AMR installations[20] -- and in turn when critical mass is achieved -- Dominion must explain why its management decisions leading to this discrepancy were just and reasonable. Dominion has failed to do so.

Dominion must also explain why cost savings estimates made less than three years ago, using the Company's self-described best efforts and the best data available at that time,[21] are no longer valid and reliable. Finally, the Company must explain why

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[16] Tr. at 30.

[17] Tr. at 18-20.

[18] Dominion Ex. No. 2 (Application) at 3.

[19] Tr. at 30.

[20] Tr. at 30.

[21] Tr. at 48, 51.

millions of dollars in alleged Call Center expenses -- that have nothing at all to do with AMR or AMR installations, and that were never discussed by the parties or approved by the PUCO -- should now be permitted to offset any and all Call Center O&M cost savings that were achieved by Dominion in 2009. Dominion has not met any of these burdens, and the Commission should reject the Company's Application and instead impose the modifications discussed below on the AMR Rider, reducing the AMR Rider from $0.49 per customer per month to $0.27.1per customer, per month.[22]

III. A GOAL OF THE AMR PROGRAM WAS IMMEDIATE OPERATION AND MAINTENCE SAVINGS.

The language in the 2007 Rate Case Stipulation and Recommendation and the Opinion and Order contemplated that any cost savings from Meter Reading or Call Center O&M expenses resulting from the AMR program would be credited against expenses in order to reflect some of the immediate savings touted in support of the AMR program.[23] Neither the Stipulation or the Opinion and Order indicated that immediate savings were to be put off until the end of the program or until critical mass was achieved.

Rather, as anticipated with the establishment of annual AMR case filings, savings were to flow as soon as they were achieved. A Dominion witness in the 2007 Rate Case, Jeff Murphy, Director, Rates and Gas Supply, testified that AMR deployment **would provide cost savings**, including "lower rates over time," in addition to reduced "time, labor and other costs."[24] Mr. Murphy also testified that the Company would:

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[22] This figure includes the $0.02/Mcf adjustment proposed by PUCO Staff in the Staff Comments at page 2.

[23] *2007 Rate Case*, Stipulation and Recommendation (August 22, 2008) at 10.

[24] *2007 Rate Case*, Second Supplemental Direct Testimony of Jeffrey A. Murphy (June 23, 2008) at 20-23. (Emphasis added).

> compare its annual meter reading operating and maintenance ("O&M") expense to a base year, which the Staff has recommended to be 2007. Any savings relative to that base year will be used to reduce the year-end regulatory asset **in order to provide customers the benefit of any meter-reading cost reductions achieved as a result of the AMR deployment.**[25]

In order for residential customers to actually receive this benefit, there MUST be a cost savings reduction in O&M expenses. To the extent that the Company is permitted to offset any cost savings with higher expenses, then customers are denied this intended benefit. There is no benefit to customers from a proceeding where the accelerated cost savings are offset by alleged increases in expenses. Keep in mind that customers do not benefit just because the Company does not get cost recovery of the alleged increases in expenses because that was never intended to be part of the AMR program, and because recovery of such costs is dealt with as part of any utility base rate case filing.

Even the testimony of Ms. Friscic describes the immediate savings achievable under the AMR program. Fewer estimated bills, more frequent actual meter reads which improve accuracy, and less need for Dominion to schedule appointments to read inside meters[26] are all real, quantifiable and immediate savings for both Meter Reading and Call Center O&M expenses.

Despite the Company's claims when selling the merits of its AMR proposal, the Company has now failed to deliver the scope and magnitude of cost savings necessary to fulfill its obligation. More to the point, limited projected O&M cost savings have only been delivered in the Meter Reading cost savings category. Call Center cost savings, on

[25] *2007 Rate Case*, Second Supplemental Direct Testimony of Jeffrey A. Murphy (June 23, 2008) at 24. (Emphasis added).

[26] Dominion Ex. No. 1 (Direct Testimony of Vicki Friscic) at 3. See also Tr. at 13-16.

the other hand, have yielded alleged significant increases in expenses instead of cost savings.[27] Such an outcome was not contemplated, and not agreed to by the parties.

A. Dominion Used Its Best Efforts To Estimate O&M Cost Savings.

In response to Staff Data Requests in the 2007 Rate Case, the Company estimated that Meter Reading O&M cost savings would total $6,000,000 by 2012 with full deployment.[28] Ms. Friscic noted that the Company's 2007 Rate Case cost savings estimate used the best data available at that time, and that the Company's intent was to be as accurate as possible.[29] Yet, despite these best efforts during the 2007 Rate Case,[30] the Company is now rejecting those same estimates as being hypothetical and not actual cost savings.[31]

Although Ms. Friscic rejected the cost savings estimates as being hypothetical,[32] she testified that she was NOT claiming that the estimate was no longer valid:

> I say that that was the estimate at the time of the rate case. **I do not say that it is no longer valid.**[33]

Ms. Friscic went on to add:

> I don't know if that's a valid estimate today. I'm pointing out the estimate we made at that time. **I am not providing a new estimate at this time.**[34]

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[27] Dominion Ex. No. 2 (Application) at Schedule 11.

[28] OCC Ex. No. 1 (OCC Comments) at Attachment 1.

[29] Tr. at 48, 51.

[30] Tr. at 48, 51.

[31] Tr. at 12.

[32] Tr. at 12.

[33] Tr. at 53. (Emphasis added).

[34] Tr. at 53. (Emphasis added.)

Apparently, Ms. Friscic was attempting to defend the Company's efforts at developing the cost savings estimate, while simultaneously disavowing it now without the benefit of a reasonable alternative.

Since the 2007 Rate Case, the Company has attempted to distance itself from its own cost savings estimates. In the Stipulation that settled the 2008 AMR Case ("2008 AMR Stipulation") the Company attached an AMR Revenue Requirement Schedule that included estimated cost savings calculations for 2010 through 2013.[35] On this schedule, the line items for estimated Call Center O&M cost savings and Meter Reading O&M cost savings were set at zero dollars.[36] On cross examination, Ms. Friscic explained:

> We didn't know **actual** costs at the time the schedule was put together so we did not attempt to project what those savings would be. And instead for the projected years we included zero as the amount for those years.[37]

The Company's failure to estimate Meter Reading and Call Center O&M cost savings is not as much about the lack of available actual information -- because the Company was able to provide all the other estimated numbers on that schedule which weren't actual -- but rather more about the Company's desire to avoid passing savings back to consumers. The Commission should take a strong stand against the Company's actions and hold Dominion to its obligation to pass cost savings back to its consumers.[38]

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[35] OCC Ex. No. 2.

[36] OCC Ex. No. 2 at Stipulation Attachment 1.

[37] Tr. at 37. (Emphasis added).

[38] *2007 Rate Case*, Stipulation and Recommendation (August 22, 2008) at 10.

B. There Was No Intent to Permit Increases in Non-AMR Related Expenses to Offset Any and All AMR-Related O&M Savings.

In order to provide immediate Call Center O&M cost savings to residential customers, the PUCO should reject the unanticipated, unexplained and non-AMR related cost increases. Instead, the PUCO should establish a minimum cost savings level for Call Center cost savings using Dominion's own estimates in order to restore some semblance of balance between customers and utility stockholders for the AMR program. The promise of reduced O&M Call Center expenses was an important part of the balance between accelerated cost recovery for Dominion in exchange for accelerated cost savings for residential customers. This *quid pro quo* is not currently being achieved or provided to customers.

The alleged dramatic increases in expenses now claimed for Call Center expenses were never contemplated or even discussed during the 2007 Rate Case which gave rise to the AMR program.[39] Rather, residential customers only agreed to accelerated AMR installation cost recovery in exchange for accelerated O&M cost savings for Meter Reading expenses, and for Call Center expenses.[40] The AMR program was never intended to provide Dominion with a blank check. As discussed below, the Company has readily acknowledged that the alleged increases in Call Center expenses had nothing what so ever to do with the AMR installations, or use.[41]

To the extent that the Call Center expenses continue to increase for customers, these costs have the impact of fundamentally altering the balance of benefits from the AMR program. If the AMR program is to continue on an accelerated basis -- with the

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[39] Tr. at 59-73.

[40] *2007 Rate Case*, Stipulation and Recommendation (August 22, 2008) at 10.

[41] Tr. at 59-73.

Company accelerating its cost recovery -- then the PUCO must restore the balance by either eliminating Call Center expenses that were not contemplated by the AMR Stipulation or by ordering a minimum level of accelerated Call Center savings.

C. Dominion's PIR Case Establishes A Commission Precedent For Assuring Immediate Customer Benefits.

The PUCO recently addressed the matter of accelerated savings in accelerated cost recovery programs in the Dominion PIR case, Case No. 09-458-GA-RDR, where the PUCO ruled:

> Therefore, the Commission concluded that, **because immediate customer savings were articulated as a goal of the PIR program**, the O&M baseline savings should be calculated using only the savings from each category of expenses.[42]

Essentially, the PUCO was restoring balance to the PIR program that was absent under the Company's implementation which saw the Company fail to achieve accelerated O&M cost savings to offset some of the accelerated cost recovery.

This important goal of the accelerated AMR program is being negated by alleged increased expenses that are totally unrelated to the AMR project. On cross-examination Staff witness, Mr. Soliman, testified that it was not the Staff's intention to allow unrelated AMR costs to negate Call Center O&M cost savings.

> Q. Okay. So, but in your opinion it would be reasonable to remove those costs that are unrelated to the implementation of the AMR that are incurred in the call center but not in furtherance of installing the AMR devices.
>
> A. If none of these six areas' costs is related to the AMR, they should be excluded.[43]

[42] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge and Related Matters*, Case No. 09-458-GA-RDR, Entry on Rehearing (February 11, 2010) at 5 ("2010 PIR Case"). (Emphasis added).

[43] Tr. at 122-123.

The Company naturally believes its intent (and that of the other parties) was to not remove costs for such non-AMR related activities to derive Call Center O&M cost savings because this would enable the Company to control the level of cost savings through its spending.[44] However, such a position is disingenuous when contrasted with the Meter Reading O&M cost savings adjustment that Dominion insisted upon in this case.[45] That adjustment pertained to inside meter inspections that posed the potential to provide Meter Reading O&M cost savings that would have been unrelated to Meter Reading activity. Mr. Soliman confirmed the following on cross-examination:

> Q. Were these adjustments made because any associated savings with these activities are unrelated to meter reading activities?
>
> A. I believe that's why the adjustment was made.[46]

Finally, and most importantly, on cross-examination from Attorney Examiner Pirik, Ms. Friscic could not confirm that DEO's position on this issue was the intention of the Commission or was discussed in the Commission's Order.[47]

The PUCO should act now in this case in a manner similar to its actions in the recent Dominion PIR case. That is, the PUCO should use the Dominion O&M cost savings estimates as a surrogate for the lack of actual O&M cost savings. Those potential cost savings for moderating customer rates were negated by Dominion's actions and alleged excessive spending levels.

[44] Tr. at 105.

[45] Staff Ex. No. 1 (Staff Comments) at 7.

[46] Tr. at 119-120.

[47] Tr. at 105-106.

In the 2010 PIR Case, the PUCO was faced with a similar problem as the Company reported significant increases in some of the expense accounts which had the effect of negating all actual O&M savings.[48] The PUCO recognized that the effect of the cost increases was to negate any immediate cost savings that would have otherwise flowed to residential customers. There the PUCO rejected the impact of the cost increases and assigned a value of $0 to any account that showed an increase in expense level.[49] As a result, only actual cost savings that were achieved were now recognized and flowed as an immediate benefit to residential customers.

IV. THE COMMISSION MUST PROVIDE RESIDENTIAL CUSTOMERS WITH CALL CENTER O&M COST SAVINGS.

A. When The AMR Program Was Implemented, Call Center O&M Cost Savings Were Estimated And Contemplated As An Offset To The Expense That Customers Would Pay.

In the 2007 Rate Case that gave rise to the AMR program, accelerated O&M savings were contemplated for both Meter Reading and Call Center expenses. The two were separated in part so that residential customers would be able to receive the benefits from the AMR program on a more immediate and certain basis. Separation of Meter Reading and Call Center O&M cost savings provided residential customers with a better opportunity to actually receive the cost savings touted as one of the accelerated benefits of the AMR Program.

Unfortunately, the same structural flaw that would have existed if Meter Reading and Call Center costs were consolidated, exists within the accounting of the individual accounts that make up the Meter Reading and Call Center O&M accounts. That flaw is

[48] *2010 PIR Case*, Opinion and Order (December 16, 2009) at 11-12.

[49] *2010 PIR Case*, Opinion and Order (December 16, 2009) at 11-12.

increased utility spending above the established baseline, which erodes the O&M savings that should have been available to moderate the rates that customers pay. On cross-examination, DEO witness Friscic argued that the Company WOULD never intentionally increase spending to avoid passing savings to customers, but admitted the Company COULD through increased spending accomplish that result [50] It is this flaw that Dominion has utilized in an attempt to avoid passing back Call Center cost savings.

As discussed below, Dominion has significantly increased its non-AMR related Call Center expense spending allegedly in an attempt to address issues arising from the Minimum Gas Service Standards ("MGSS") and the alleged fall-out from its affiliate no longer taking customer service-related calls in Virginia.[51] These alleged increased expenses are totally within the Company's discretion and are in no way related to the AMR installations or operation,[52] and as such should not be permitted to negate the actual Call Center O&M cost savings that would otherwise have been reported.

B. Dominion Used Non-AMR Related Spending to Negate Real And Quantifiable AMR-Related Cost Savings.

Instead of crediting Call Center O&M cost savings and flowing them to customers, the Company recorded significant alleged increases in Call Center expenses that completely offset any and all Call Center O&M cost savings.[53] This phenomenon first occurred in 2008 when Call Center O&M expenses exceeded the 2007 baseline by $1,596,977.31.[54] Having been successful once, this strategy now seems to be

[50] Tr. at 79.

[51] Dominion Ex. No. 1 (Direct Testimony of Vicki Friscic) at 11-12; See also Tr. at 70.

[52] Tr. at 59-73.

[53] Dominion Ex. No. 2 (Application) at Schedule 11.

[54] *2008 AMR Case*, Application at Schedule 12 (February 27, 2009).

Dominion's blueprint on how to avoid passing through cost savings. In this case, that deficit grew to $1,950,775.53.[55]

This trend of higher costs was not contemplated to be a part of the AMR program and has had the effect of fundamentally altering the balance of benefits from the AMR program. With the installation of AMR devices nearly 58% complete and Call Center costs continuing to skyrocket, it appears unlikely that customers will ever see the cost savings to Call Center O&M expenses that were contemplated, unless the PUCO acts to protect customers.[56]

Dominion, through Ms. Friscic's testimony, stated that six items caused the alleged Call Center cost increases:

1. New technology to support interactive voice-response call handling;
2. 34 additional hires to provide bi-lingual support;
3. Re-organization of its Call Center;
4. Overtime used to shave peak Monday call volumes;
5. New telephone platform from West Corporation; and
6. Staffing increases for new hire testing.[57]

Under cross-examination, Ms. Friscic added that the entire amount of $1,950,775.53 in Call Center expense increases recorded in 2009 was related to these six items.[58] In fact she also acknowledged that these six items could have caused more than just $1,950,775.53 in cost increases to Call Center expenses.[59] Thus, absent these six

[55] Dominion Ex, No. 2 (Application) at Schedule 11.

[56] OCC Ex. No. 1 (OCC Comments) at Attachment 2.

[57] Dominion Ex. No. 1 (Direct Testimony of Vicki Friscic) at 11-12.

[58] Tr. at 56.

[59] Tr. at 56-57.

items, actual Call Center O&M cost savings would have been recorded and flowed to customers. Dominion bears the burden of proving that its Application was reasonable. Failure to separately identify these costs exemplifies the Company's failure to meet that burden.

However, more alarming is the fact that none of these six items had anything whatsoever to do with AMR devices, AMR installation or AMR use.[60] Rather, Ms. Friscic noted that most of the alleged increases in expenses were the result of the Company's need to implement changes in order to comply with its own alleged failure to meet MGSS, or due to the fact that its Virginia affiliate was no longer assisting with Call Center calls, or because the Company simply needed or wanted to implement the change.[61] When questioned about each of the six individual cost components, Ms. Friscic acknowledged that each was implemented in 2009, with the planning and decision to go forward having been made six to twelve months prior to implementation.[62] Ms. Friscic also noted without hesitation that none of the six cost items had anything to do with the installation or operation of AMR devices, and that the AMR's did not require any of the six cost items.[63]

Ms. Friscic also acknowledged that neither the 2007 Rate Case Application, nor the current AMR Application mentioned any of the six cost items.[64] She also acknowledged that installation of AMR devices should have the effect of **reducing** some

[60] Tr. at 59-73.

[61] Tr. at 70.

[62] Tr. at 59-73.

[63] Tr. at 59-73.

[64] Tr. at 59-73.

of the very expenses that were being **increased** by the Company.[65] She also noted that the 2007 Rate Case Stipulation and Recommendation that implemented the AMR program did not mention the six cost items, and neither did the Opinion and Order.[66] Thus it is undisputable that none of the other parties and the PUCO knew anything about these six cost items and how they could be manipulated to offset any and all Call Center O&M cost savings.

Ms. Fiscic also acknowledged that it was solely within the Companies' discretion to control the level of the spending in each of the six cost items.[67] Thus, the Company had the ability to control the spending level in all Meter Reading and Call Center accounts and to be able to increase non-AMR related spending sufficient to offset any and all AMR-related Meter Reading and Call Center O&M savings.[68] Although Ms. Friscic vehemently denied that Dominion would do such a thing, the following undeniable facts in this case speak for themselves:

1. Dominion alone controlled spending;[69]
2. Dominion alone controlled where and when to install AMR devices;[70]
3. None of the cost increases are AMR-related;[71]
4. The six items identified as the cost increases were things that the Company would have done regardless of the AMRs;[72]

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[65] Tr. at 59-73.

[66] Tr. at 59-73.

[67] Tr. at 79.

[68] Tr. at 79.

[69] Tr. at 79.

[70] Tr. at 30.

[71] Tr. at 59-73.

[72] Tr. at 59-73.

5. Dominion never mentioned the non-AMR related cost items when applying for or discussing the AMR program;[73]

6. The Stipulation does not mention the six non-AMR related cost items;[74]

7. The PUCO did not approve carte-blanche increases for non-AMR related costs in the Opinion and Order.[75]

In addition to these flaws with the Company's actions, significant contradictions exist involving Dominion's concept that it is appropriate for increases in non-AMR related expenses to more than offset AMR related cost savings, as was the case with the Call Center cost savings calculation.[76] Throughout its Application[77] and the testimony of Ms. Friscic,[78] the Company stuck with this position at the expense of fundamental fairness. In fact, Ms. Friscic offered that if Dominion was to experience a $1,000,0000 non-AMR related cost savings in the future, that customers would get the benefit of such a savings.[79] Although Ms. Friscic made this claim, Dominion has previously rejected this very concept.

In last year's initial AMR Rider proceeding, Case No. 09-38-GA-UNC, the PUCO noted in its Opinion and Order:

> DEO argues that any savings associated with outside contractors expenses associated with inspections of inside meters should not reduce the AMR expenses **because such expenses have nothing to do with meter reading.**[80]

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[73] Tr. at 59-73.

[74] Tr. at 59-73.

[75] Tr. at 59-73.

[76] Dominion Ex. No. 2 (Application) at Schedule 11.

[77] Dominion Ex. No. 2 (Application) at 11.

[78] Dominion Ex. No. 1 (Direct Testimony of Vicki Friscic) at 8-9.

[79] Tr. at 91-92.

[80] *2008 AMR Case*, Opinion and Order (May 6, 209) at 4. Emphasis added.

Staff witness Soliman confirmed this matching of AMR-related expenses and cost savings when he explained two of the adjustments that Staff made in their Comments. Specifically, Staff excluded cost of contractor–performed inside meter inspections and the cost of inside meter inspections performed by meter readers (other than in conjunction with the regular meter reading visit).[81] Mr. Soliman testified that that Staff made two adjustments because any cost savings associated with those activities were not related to meter reading activities.[82]

C. The Commission Should Not Jeopardize O&M Savings Because Dominion Has Suddenly Developed Data Availability Issues.

A review of the record highlights other inconsistencies or contradictions that raise questions as to the validity and reasonableness of the Company's Applications and the data underlying the Company's claims. An initial contradiction concerns the apparent data collection problem that Ms. Friscic identified as the basis for not crediting immediate Call Center cost savings. In response to OCC Interrogatory No. 4 (OCC Ex. No. 4), the Company claimed:

> Dominion does not maintain records or information in the ordinary course of business regarding the number of calls received from customers with inside meters. DEO does not track calls by customer location.

Dominion went on to repeat this same response with regard to three other OCC Interrogatories.[83] This claimed lack of ability to track customer calls by location is disturbing for two reasons. First, if the Company cannot track customer calls by meter location, and in turn the actual savings Dominion experiences from the installation of

[81] Staff Ex. No 1 Staff Comments) at 7; See also Tr. at 118-119.

[82] Tr. at 119-120. (Emphasis added).

[83] OCC Ex. No. 4 (Dominion response to OCC Interrogatory Nos. 5, 6, 7).

AMR's with regard to reduced calls to the Call Center, then the concept of Call Center O&M cost savings is negated. It is noteworthy that the Company did not identify this as a potential problem during the 2007 Rate Case.

In fact, just the opposite is true as the Company was able to track customer calls by meter location as is evidenced in the response that Dominion provided during the 2007 Rate Case in response to Staff Data Requests for O&M Cost Savings adjustments. Dominion Assumption No. 2 on OCC Ex. No. 1, Attachment 2 states that:

> **Based on several years of statistical data**, customers with inside meters call us 1.036 times per year on average, while customers with outside meters call us .65 times per year on average for billing and inside meter related inquiries. (Emphasis added.)

When asked about this contradiction, Ms. Friscic had no explanation.[84] However, she did acknowledge that "several years" constituted at least two years worth of data.[85]

Finally, although Ms. Friscic was unable to explain this contradiction when directly asked about it, she did have an opinion later in the hearing, which she shared with the Attorney Examiner -- after lunch -- when she apparently remembered something that she had previously forgotten.[86] Despite her recollection, the fact remains that Dominion did not inform the parties or the PUCO during the 2007 Rate Case that tracking customer calls by meter location would be a problem, or that Dominion did not routinely track that data and that this lack of data could be the basis for Dominion not being able to quantify the Call Center O&M cost savings that were promised. This fact has only now come to light as a defense against the calculation of immediate Call Center

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[84] Tr. at 44.

[85] Tr. at 41.

[86] Tr. at 103-104.

O&M cost savings. The PUCO should not permit Dominion to profit from this contradiction, of its own making.

Ms. Friscic noted in direct response to an inquiry from the Attorney Examiner, that even though the data was quantifiable during the 2007 Rate Case, and that it was used as a **persuasive argument** to support the AMR process -- the data is no longer tracked on an on-going basis.[87] This fact the Company conveniently forgot to mention at the time of the 2007 Rate Case, or in this Application. What is noteworthy is that if the cost savings cannot be calculated without this data, then Dominion's approach of not tracking the data demonstrates the Company's lack of good faith to ever quantify the savings that were touted to the public and the PUCO as a basis for the AMR program. Dominion counters this by claiming that this data is really not needed in order to do the cost savings calculation as was spelled out in the 2007 Rate Case Stipulation. However, this defense by Dominion is contingent on a recognition that the cost savings calculation as done by Dominion is vulnerable to being completely negated by non-AMR related expense increases.

V. THE COMMISSION MUST PROVIDE RESIDENTIAL CUSTOMERS WITH METER READING O&M SAVINGS.

Like Call Center O&M cost savings, the 2007 Rate Case contemplated accelerated Meter Reading O&M cost savings as a benefit for residential consumers under the AMR Program. Unlike the Call Center O&M cost savings, where alleged non-AMR-related increases in expenses offset any and all AMR-related cost savings, Dominion did report $680,658.76 in Meter Reading O&M cost savings. However, a review of the record indicates that these Meter Reading O&M cost savings were

[87] Tr. at 104. (Emphasis added).

undermined by actions totally within the Company's control, and as a result were significantly less than estimated.

To that end, a major contradiction between the actual Meter Reading O&M cost savings achieved and those estimated involves the scheduling of AMR installations. Dominion has completed 742,721 of 1,272,502 total AMR installations, or approximately 58%.[88] Ms. Friscic noted that the Company was not able to switch from manual meter reading to automated meter reading until a "critical mass" had been achieved either in an entire community or by area -- a term which she could not define.[89] Ms. Friscic acknowledged[90] that the number of communities in the Dominion service area was contained in the Company's 2007 Rate Case Application.[91] A review of the 2007 Rate Case Application indicates there are approximately 253 communities -- many of which according to Ms Friscic have more than one meter reading area -- in the Dominion service territory.[92]

Yet of the 253 communities, Dominion has been able to switch the meter reading function in fewer than 20 of them[93] or less than 7.8% of all communities.[94] Another measure shows that Dominion has converted 33,300 meters or only 2.62% of the total meters for automated reading.[95] Inasmuch as Dominion alone is responsible for the scheduling of AMR device installations, the number of total installations belies the

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[88] Staff Ex. No. 1 (Staff Comments) at 6.

[89] Tr. at 28.

[90] Tr. at 29.

[91] *2007 Rate Case*, PFN Ex. 2 List of Municipalities.

[92] Tr. at 29.

[93] Tr. at 30.

[94] 20 / 253 = 7.8%

[95] Staff Ex. No. 1 (Staff Comments) at 7.

number of communities or Meter Reading areas converted. With 58% of total AMR installations complete, it is reasonable to conclude that a similar number of communities or meter reading routes might also be complete.

Even concluding that 58% AMR installations does not mean 58% of communities with full AMR capabilities -- then we must also conclude that 58% of AMR installations should have produced more than 7.8% of communities or 2.62% of total meters with full AMR capability. Inasmuch as a delay in the number of communities with full AMR capability results in further delays in Meter Reading O&M cost savings that benefit consumers, the Company has failed to explain this contradiction that has delayed the benefits of the AMR program for residential customers. A review of the numbers leads to the conclusion that achieving and passing on cost savings to customers was not a high priority, if completion of 58% of AMR installations resulted in conversion of less than 20 of the 253 total communities Dominion serves.

VI. DOMINION'S PROMISE OF CALL CENTER O&M COST SAVINGS IS ILLUSORY.

Ms. Friscic testified that there will be quantifiable O&M savings for the Call Center, but they depend on the stipulated cost savings calculation.[96] This claim is internally contradictory. First, Ms Friscic testified that there would be Call Center O&M cost savings, as well as Meter Reading O&M cost savings.[97] She emphasized that there was no doubt that customers would get the benefit of cost savings once the Company achieved critical mass.[98]

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[96] Tr. at 34.

[97] Tr. at 13-14.

[98] Tr. at 9-10.

However, this claim is totally misleading with respect to Call Center cost savings because the $1,950,775.53 in alleged new Call Center expenses more than offset any projected Call Center cost savings. Dominion estimated that it would achieve a total of $784,472 in Call Center O&M cost savings by the end of the AMR program in 2012.[99] Yet the alleged new Call Center expenses of $1,950,775.53 more than twice the projected $784,472 in total savings.

Thus for any of the projected benefits of Call Center O&M cost savings to ever actually flow to residential customers, Dominion must more than double its estimated Call Center O&M cost savings, while at the same time avoiding any additional cost increases. Based on the history of the AMR program to date -- lower than projected O&M savings and significant new expenses -- it is a virtual impossibility that residential customers will ever see the benefits that Ms. Friscic assured them of receiving.

Ms. Friscic also contradicted her own assurance of Call Center cost savings when she acknowledged:

> What we're saying here is that those call center impacts are not separately identifiable and in the manner in which we agreed to in the prior AMR case, calculate the savings, it's an aggregate look at call center expense
>
> And the call center expense has increased because we have hired additional employees to meet the 90-second average speed of answer required by the Minimum Gas Service standards, and because our Virginia Power call center is no longer taking calls for the gas side, so we staffed up to handle those.[100]

Ms. Friscic defended the alleged new Call Center expenses by claiming:

> So we have a customer benefit from that resulting from the increase in expense. While we have increase in the call center,

[99] OCC Ex. No. 1 (OCC Comments) at Attachment 2.

[100] Tr. at 22-23.

> we're not able to directly see the benefit that AMR is providing. But it stands to reason that those benefits will in fact be there.[101]

However, it must be noted that whether residential customers benefit from the alleged increased expenses associated with the 34 additional Call Center hires and the other cost items -- that is not relevant for the purpose of the calculation of Call Center O&M cost savings! Ms. Friscic acknowledged this very point when she testified that the standard for review for expenses in a rate case is not whether customers benefited or whether the economy in Northeast Ohio benefited, but it is whether the costs are just and reasonable[102] -- a finding that has NOT yet been made with regard to any of the alleged expense items that make up the $1,950,775.53. Thus whether the alleged increases in expenses created any benefits is not relevant to the issue of whether they should be permitted to negate any and all Call Center O&M cost savings that otherwise would have been flowed to residential customers.

VII. OCC'S PROPOSAL FOR O&M COST SAVINGS IS A REASONABLE SURROGATE TO ASSURE CUSTOMERS RECEIVE THE INTENDED BENEFIT OF THE AMR PROGRAM.

A. Dominion's Estimated Meter Reading O&M Cost Savings Is A Reasonable Surrogate.

In the recent Dominion PIR case, the Commission looked to the record at hand to come up with a reasonable surrogate for the initial calculation in order to meet the stated goal of immediate cost savings. That case provides a reasonable blueprint for this case as again the record provides us with a reasonable surrogate -- one that the Company itself developed.

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[101] Tr. at 23.

[102] Tr. at 81-82.

According to the Company's 2007 Rate Case cost savings calculation, Dominion anticipated cumulative Meter Reading cost savings of $6,000,000 by the end of the AMR program in 2012.[103] Using the $6,000,000 as a starting point, it is not unreasonable to expect or to conclude that if the program is 58% complete, then 58% of savings should be achievable -- especially for a program that identified the recognition of accelerated cost savings as a goal of the program. Applying the 58% AMR installation completion figure to the $6,000,000 in total Meter Reading savings nets an estimated Meter Reading savings of $3,480,000. In light of the fact that Dominion alone has controlled the location and timing of the AMR meter installations, this level of savings is a reasonable surrogate for this year's actual Meter Reading O&M cost savings of $680,658.76.[104] Thus for this case, OCC recommends that customers be given the benefit of Meter Reading O&M cost savings in the amount of $3,480,000.

As a secondary alternative to savings of $3,480,000, OCC recommends that the PUCO rely on the Company's estimate of O&M cost savings of $900,000 for 2009[105] in place of the $680,658.76 reported by Dominion.

B. Dominion's Estimated Call Center O&M Cost Savings Is A Reasonable Surrogate.

Using the same 2007 Rate Case cost savings estimate, Dominion calculated Total Annual Call Center cost savings of $784,472 at the completion of the AMR program.[106] Again, with deployment approximately 58% complete it is reasonable to expect 58% percent of the total estimated savings to be achieved by this point. Applying the 58%

[103] OC Ex. 1 (OCC Comments) at Attachment 1.

[104] $275,928.62 in 2008 + $680,658.76 in 2009 = $956,587.38 total Meter Reading O&M cost savings.

[105] OCC Ex. No. 1 (OCC Comments) at Attachment 1.

[106] OCC Ex. No. 1 (OCC Comments) at Attachment 2

percent project completion level to the Company-estimated total savings of $784,472 results in O&M Call Center savings of $454,927 in 2009, instead of no cost savings reported by the Company.[107] This surrogate would provide residential customers with the benefit of the bargain they were promised when the AMR program was presented.

Ms. Friscic downplayed this figure by noting that it was based on a 2006 baseline calculation[108] and not the 2007 baseline approved in the Stipulation and Opinion and Order.[109] However, Ms. Friscic's criticism also ignores the fact that the Company made the 2007 cost savings calculation before making the decisions that led to the 6 cost items that negated Call Center cost savings. Thus, the Company using its best efforts[110] calculated $784,472 in cost savings without the impact of the $1,950.775.53 million in Call Center expense increases.

As a secondary alternative to savings of $454,927, OCC recommends that the PUCO reject the Company's calculation of no Call Center savings and instead rely on the Company's own O&M savings estimate of $194,000 for 2009[111] as the appropriate O&M Call Center savings.

VIII. CONCLUSION

Like other numerous utility infrastructure rider cases, the Dominion AMR case was intended to be a trade-off of accelerated installation and accelerated cost recovery as a benefit for Dominion, in exchange for accelerated cost savings as a benefit for

[107] OCC Ex. No. 1 (OCC Comments) at Attachment 2.

[108] Dominion Ex. No. 1 (Direct Testimony of Vicki Friscic) at 9.

[109] Dominion Ex. No. 1 (Direct Testimony of Vicki Friscic) at 9.

[110] Tr. at 48, 51.

[111] *2007 Rate Case*, OCC Ex. 18A (Direct Testimony of Trevor Roycroft) at 14, See also OCC Ex. No. 1 (OCC Comments) at 7.

residential customers. In establishing this balance of interests, Meter Reading O&M cost savings were intentionally segregated from Call Center O&M cost savings in order to ensure that both types of savings would be recognized for residential customers. Rather than follow through with that simple and direct approach to this case, Dominion has instead stacked the deck against significant O&M cost savings for residential customers. Dominion increased non-AMR-related Call Center expenses to a level that obliterates the actual Call Center O&M cost savings that would otherwise be recognized and credited to residential customers.

In further avoidance of giving consumers the accelerated Call Center and Meter Reading O&M cost savings, Dominion has attempted to disavow its own best efforts cost savings estimates from the 2007 Rate Case. Although Call Center O&M cost savings could be quantified, Dominion has instead chosen to allege Call Center cost increases and lack of data.

The PUCO should not reward the Company's actions and should not deny consumers their benefit from the AMR. Rather, the PUCO should act in a manner similar to its actions in the recent Dominion PIR case, where the PUCO recognized the intent of immediate cost savings and relied on reasonable data in the record to calculate a surrogate cost savings amount for consumers.

Dominion proposed Meter Reading O&M cost savings of $680,658.76, which pale in comparison to its estimated $6,000,000 in Meter Reading O&M cost savings at the end of the program. With 58% of the AMR installations complete, expecting recognition of 58% of the total estimated savings ($3,480,000) is reasonable. Because the Company controls the timing and location of the AMR installations, OCC recommends $3,204,071.38[112] for Meter Reading O&M cost savings in this case.

Dominion's proposed Call Center O&M cost savings is even more egregious as the Company reported an alleged $1,950,775.53 increase in Call Center O&M expenses, thus negating any otherwise quantifiable cost savings for consumers. The alleged increases have nothing what so ever to do with AMR installation or operation, yet are used by the Company to avoid cost savings for customers. OCC recommends that the PUCO use the 58% completion rate for AMR installation based on the $784,472 in total Call Center cost savings at the end of the program, for a Call Center cost savings figure of $454,993.76 in this case.[113] OCC recommends total cost savings in this case of $3,659,065.14 made up of $3,204,071.38 in Meter Reading O&M cost savings and $454,993.76 in Call Center O&M cost savings.

The question of non-AMR related expenses demonstrates the Company's true intent with regard to cost savings. Although Ms. Friscic claimed that the Company would credit a fictional $1,000,000 non-AMR related cost savings against the baseline costs,[114] the fact remains that Dominion, in last year's AMR proceeding, argued that non-AMR related Meter Reading O&M cost savings should not be included as part of the cost savings methodology. The PUCO Staff witness agreed with OCC that non-AMR-related expenses should not be used to offset AMR-related cost savings.

As a secondary alternative, OCC recommends using Dominion's own 2009 specific Meter Reading O&M cost savings estimate of $785,000. For Call Center O&M

[112] $3,480,000 less the $275,928.62 from last year's AMR Meter Reading O&M cost savings.

[113] $784,472 x .58 completion rate = $454,993.76.

[114] Tr. at 91-92.

cost savings, OCC recommends a secondary alternative of $194,000 -- the calculation made by OCC witness Roycroft in the 2007 Rate Case which was also based on the Company's own estimate.

OCC recommends these cost savings in order to restore for consumers the balance that was initially contemplated when the AMR program -- a program that diverges from the public protections of traditional regulation -- was agreed to. Having embarked upon the alternative regulation that is the AMR, the PUCO should act now to preserve for the public the benefits that were supposed to justify this non-traditional form of regulation, which at the moment seems to clearly favor Dominion, the utility company.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Initial Brief of the Office of the Ohio Consumers' Counsel* was served via Electronic Mail upon the following persons on this 20th day of April, 2010.

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