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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 to File Revised Tariffs Extending Its Low Pilot Program.	))))	Case No. 10-200-GA-ATA

COMMENTS
BY
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I. PROCEDURAL HISTORY

On October 15, 2008, the Public Utilities Commission of Ohio ("PUCO" or "Commission") issued its Opinion and Order ("O&O") in the Dominion East Ohio ("Dominion" or "Company") 2007 Rate Case ("2007 Rate Case"), Case No. 07-829-GA-AIR, et al. One of the issues in the rate case was the imposition of the Straight Fixed Variable ("SFV") rate design.[1] As part of the debate over the SFV rate design, the Office of the Ohio Consumers' Counsel (" OCC") opposed the SFV rate design, in part, because there was concern that the SFV rate design would adversely impact low-use and low-income residential consumers. In recognition of the adverse impacts of moving to the SFV rate design on low-income residential consumers, the Commission directed Dominion to establish a one-year Pilot Program ("Pilot Program") designed to help low-income, low-use customers pay their bills.[2] In addition, the 2007 Rate Case Order stated

[1] *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* ("Dominion Rate Case"), Case No. 07-829-GA-AIR, et al., Opinion and Order (October 15, 2008).

[2] Id. at 26-27.

"the Commission will evaluate the program for its effectiveness in addressing our concerns relative to the impact on low-use, low-income customers."[3] The Company filed tariffs in compliance with the Commission's directive effective March 13, 2009.[4]

On February 17, 2010, the Company filed revised tariffs requesting the Commission to authorize Dominion to extend the Pilot Program to allow the Commission and Staff time to complete the required evaluation.[5] On March 4, 2010, OCC filed its Motion to Intervene. On April 6, 2010, Ohio Partners for Affordable Energy ("OPAE") filed its Motion to Intervene.

On March 10, 2010, the Commission issued a Finding and Order stating:

> The Commission envisions that our review of the pilot program will include consideration of the results of staff's review of the pilot program. To that end, the Commission finds that, once staff has completed its review of the pilot program, it should file the results of its review in this docket. Upon the filing of staff's document, the Commission will establish a procedural process for consideration of the pilot program in this case.

In compliance with the Commission's order, the Staff Report ("Staff Report") was filed on April 29, 2010.

The Commission issued an Entry on May 12, 2010 ("May 12 Entry") to establish the procedural schedule. The May 12 Entry stated:

> On April 29, 2010, Staff filed the report of its review of the pilot program. Accordingly, the attorney examiner finds that the following procedural schedule should be established: (a) June 3, 2010 - Deadline for the filing of motions to intervene. (b) June 3, 2010 - Deadline for the filing of comments on the pilot program.

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[3] Id. at 26-27.

[4] Application at 1.

[5] Application at 1.

> (c) June 17, 2010 - Deadline for the filing of reply comments on the pilot program [6]

OCC hereby files its Comments in accordance with the Commission's established procedural schedule.

II. COMMENTS

In Dominion's 2007 Rate Case, OCC argued that the SFV rate design has the effect of increasing the distribution cost per Mcf that a customer faces at lower consumption levels than at higher consumption levels.[7] As a result, such a rate design is inherently unfair to low-usage low-income customers, who because of their limited means, likely live in smaller dwellings, such as apartments, and use less natural gas than homeowners with larger homes.[8] The Commission addressed OCC's concern for the impact that the SFV rate design will have on Dominion's low-income customers by stating in its Opinion and Order:

> The Commission is concerned with the impact that the change in rate structure will have on some [Dominion] customers who are low-income, low-use customers. One of the major concerns raised by customers at the local hearings held in these matters was the effect a levelized rate design would have on low-use customers with low incomes. As a result, the Commission believes that some relief is warranted for this class of customers. In the Duke case, we approved a pilot program available to a specified number of eligible customers, in order to provide incentives for low-income customers to conserve and to avoid penalizing low-income customers who wish to stay off of programs such as PIPP. We emphasized in the Duke case that the implementation of the pilot program was important to our decision to adopt a levelized rate

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[6] May 12 Entry at 1.

[7] *In re 2007 Rate Case*, Staff Ex. No. 3B Puican Second Supplemental Testimony at Exhibit SEP-1A (August 25, 2008) (By way of example as usage increases the cost per Mcf decreases: 12 month usage of 5 Mcf Proposed Bill $167.25 Cost per Mcf = $33.45; 12 month usage of 100 Mcf Proposed Bill $362.72 Cost per Mcf = $3.6272; and 12 month usage of 5000 Mcf Proposed Bill $12,405.60 Cost per Mcf = $2.4811).

[8] *In re 2007 Rate Case*, OCC Application for Rehearing (November 14, 2008) at 14-15.

> design in that case. Therefore, the Commission finds that [Dominion] should likewise implement a one-year low-income pilot program aimed at helping low-income, low-use customers pay their bills.[9]

because of this concern, the Commission ordered Dominion's shareholders to fund a pilot program to assist its low-income residential customers faced with the onerous impacts of the SFV rate design by stating:

> As in the Duke case, the customers in the low-income pilot program shall be non-PIPP low-usage customers, verified at or below 175 percent of the poverty level. [Dominion's] program should provide a four-dollar, monthly discount to cushion much of the impact on qualifying customers. This pilot program should be made available one year to the first 5,000 eligible customers. * * *. Following the end of the pilot program, the Commission will evaluate the program for its effectiveness in addressing our concerns relative to the impact on low-use, low-income customers.[10]

The Company implemented the Pilot Program on or about March 13, 2009. In compliance with the Commission's instruction, at the conclusion of the first year of the Pilot Program, the Staff prepared the Staff Report evaluating the Pilot Program's effectiveness.

The Staff Report includes conflicting recommendations. First, the Staff Report states: "Staff recommends a continuation of the program based primarily on the significant impact its elimination would have on current participants as shown by the above analysis."[11] However, the Staff Report further recommends the following:

> **Since the intent of the program was to mitigate the initial impact of the SFV rate design on low-income, low-use customers**, continuing to bring in new participants is inconsistent with that goal since they have been paying the full rate for twelve

[9] *In re 2007 Rate Case*, Opinion and Order (October 15, 2008) at 26.

[10] *In re 2007 Rate Case*, Opinion and Order (October 15, 2008) at 26-27.

[11] Staff Report (April 29, 2010) at 2.

> plus months. Staff recommends the Commission eliminate the requirement to replace customers that leave the program in order to maintain the 5,000 customer participation level. **In this way the program can be phased-out through normal attrition over time without the disruption a sudden elimination would cause.**[12]

OCC disagrees with the Staff's false premise that the intent of the program was to mitigate the initial impact of the SFV rate design. There is absolutely no evidence to suggest that the onerous impact of the SFV rate design on low-use low-income customers that gave rise to the need for the low income program will recede with time. Therefore, OCC opposes Staff's recommendation to "phase-out" the Pilot Program for the following reasons:

A. The Lack Of Available Participant Statistics Requires The Commission To Maintain The Pilot Program Without Modification.

The Commission instituted the Pilot Program because it perceived that "some relief is warranted for this class of customers."[13] The Staff report contains data that demonstrates the severe magnitude of impact of the SFV rate design on this class of customers. In fact the increases, depending on usage, ranges from 47.8% to 10.9%.[14] Therefore, the Commission must not modify the Pilot Program without first demonstrating that it is not effective.

The Staff Report simply includes a review of certain participant statistics. The following is a summary of the first year program statistics that the Staff evaluated:

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[12] Staff Report (April 29, 2010) at 3 (emphasis added).

[13] *In re 2007 Rate Case*, Opinion and Order (October 15, 2008) at 26-27.

[14] Staff Report (April 29, 2010) at Attachment 3.

5,120 Initial Participants
5,026 Participants after 12 months
4,132 Initial Participants remaining after 12 months
988 Initial Participant Attrition (5,120 - 4,132)
894 Net Participants Added (5,026 - 4,132)
460 Enrolled in PIPP
87 Disconnected for non-payment.[15]

By the Staff's own admission, "these raw statistics are not very instructive in terms evaluating the program's overall effectiveness."[16] It must be noted; however, the Pilot Program has remained fully subscribed by offering the program benefits to new participants as initial participants have dropped off. That statistic demonstrates the need and interest in the program. In light of customer interest, it would be premature to curtail the ability of new customers to participate. Therefore the Commission should not adopt the Staff's recommendation to make a drastic change to the structure of the Pilot Program (e.g. phase it out) without a more detailed analysis that includes more *instructive* statistics.

One reason the Commission explained for approving the Pilot Program in this case, was that it provided incentives for low-income customers to conserve and to avoid penalizing low-income customers who wish to stay off of programs such as PIPP.[17] In the Staff Report, it can be ascertained that of the 5,120 initial Pilot Program participants 460 or 9% enrolled in PIPP. However, we know nothing more than that. Before the Commission decides to modify the Pilot Program a more comprehensive study must be undertaken to better understand the effectiveness of the program in accomplishing its intended purpose.

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[15] Staff Report (April 29, 2010) at 1.

[16] Staff Report (April 29, 2010) at 2.

[17] *In re 2007 Rate Case*, Opinion and Order at 26 (October 15, 2008).

To a lesser degree, the Staff raises the possibility capping usage as a means of limiting participation. The Staff Report states:

> Staff believes it may well be counterproductive to completely eliminate the program at this point in time. However, in recognition that we are recommending an open ended continuation of a program funded with shareholder dollars Staff recommends the Commission adopt the following concessions. Because of the relatively smaller impact on higher use customers, the Commission could establish a firm usage cap at 70 Mcf per year with the discount being eliminated for customers that exceed that level on a going forward basis.[18]

Fortunately, the Staff recognized that the program costs associated with relative small number of customers (480) that would be affected by using annual usage cap as a means of limiting participation is not justified by the additional costs it would impose on these customers.[19]

Although Staff admitted that the participant statistics were not instructive, there was one statistic that the Staff reviewed and found to be instructive. That one statistic involved Pilot Program participant disconnections. As the Staff Report explained, during the period of review, there were 87 Pilot Program disconnections that amounted to 1.7 percent of program participants compared to 6.9 percent disconnect rate for all Dominion customers.[20] This is however not conclusive as the comparison should have been made instead to customers in this usage level prior to the SFV rate design implementation. To the extent that the Pilot Program is effective in keeping low-income customers from being disconnected, the Commission should not consider phasing out the program or further limiting participation as Staff recommends.

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[18] Staff Report (April 29, 2010) at 2-3.

[19] Staff Report (April 29, 2010) at 3.

[20] Staff Report (April 29, 2010) at 2.

B. The Implementation of the Pilot Program Took Place During The Same Time That Natural Gas Commodity Prices Plummeted.

The Pilot Program became effective with bills rendered on or after March 13, 2009.[21] During the year in which the Pilot Program was initially offered the natural gas commodity market saw prices reach seven year lows.[22] It is difficult to imagine that in evaluating a program intended to improve affordability for low-income customers this significant drop in the natural gas commodity prices was not even mentioned in the Staff Report.

It is important to put the natural gas commodity market price decrease in context. Dominion argued in its Initial Brief in the 2007 Rate Case that the fixed monthly distribution charge makes up roughly twenty percent of Dominion's cost of providing distribution service,[23] thus the natural gas commodity cost approximately makes up the remaining eighty percent. The natural gas commodity market prices play a significant factor in the affordability of low-income customers' utility bills. Therefore, it is inappropriate for the Staff to have evaluated the Pilot Program by looking at the participant statistics in isolation without recognition of the part that commodity prices would play in this analysis.

[21] Entry (May 12, 2010) at 1.

[22] http://tonto.eia.doe.gov/oog/info/ngw/historical/2009/08 27/ngupdate.asp ("Natural gas prices at the Henry Hub fell below $3.00 for the first time since August 8, 2002, falling to $2.78 per MMbtu in trading on Friday, August 21[, 2009].").

[23] *In re 2007 Rate Case*, Dominion Brief (September 16, 2008) at 8.

The decline in natural gas commodity rates may skew the apparent effectiveness of the Pilot Program. Therefore, the actual effectiveness of this program cannot be accurately measured until such time as the natural gas commodity prices return to the level experienced during Dominion's 2007 Rate Case -- the implementation of the SFV rate design. Rather than modify the Pilot Program now, the Commission should require the Staff to re-evaluate the Pilot Program again in three years, to get a more accurate reflection of the impact of natural gas commodity prices on the SFV rate design, to more accurately demonstrate the true effectiveness that the $4.00 per month discount plays in protecting low-income customers from the impacts of the SFV rate design. Therefore, it would be unreasonable and premature for the Commission to accept Staff's recommendation in the Staff Report to phase-out the Pilot Program.

C. The Cost Of The Pilot Program Is Minimal Compared to the Benefits the SFV Rate Design Provides the Company.

The cost of the Pilot Program to Dominion's shareholders is approximately $240,000 per year.[24] However, this cost pales in comparison to the benefits that the SFV rate design provides Dominion and Dominion's shareholders. During Dominion's 2007 Rate Case it was argued by Dominion that the SFV rate design was necessary in order to avoid a multitude of future rate cases,[25] and that the SFV rate design was needed to address the problem of revenue erosion caused by declining average usage per

[24] 5,000 customers x $4.00 discount per customer/month x 12 months per year = $240,000.

[25] *In re 2007 Rate Case*, Tr. Vol. II (Friscic) (August 6, 2008) at 269.

customer,[26] an annual benefit estimated by Dominion to be $33.4 million.[27] The benefits that Dominion derives from the SFV rate design will dwarf the Pilot Program cost to the Company and its shareholders. Therefore, the Commission should order the Pilot Program continue without any degradation in participation created by the Staff's recommendation to phase- out participation through normal attrition.

III. CONCLUSION

For all the reasons discussed above, the Commission should not adopt the Staff's recommendation to phase-out the Pilot Program through attrition. The Staff has only superficially evaluated the Pilot Program, and has performed the evaluation at a time in which natural gas commodity rates have reached seven year lows. Therefore, the true effectiveness of the Pilot Program cannot be accurately measured. The Commission should also look at the costs of the Pilot Program contrasted to the benefits that the SFV rate design has provided the Company and its shareholders before adopting Staff's recommendations to limit participation or phase-out the Pilot Program through normal attrition.

[26] *In re 2007 Rate Case*, Dominion Ex. No. 1.0 (Murphy Direct Testimony) at 41 (September 13, 2007); See also Staff Ex. No. 3 (Puican Prefiled Testimony) (July 31, 2007) at 7.

[27] *In re 2007 Rate Case*, September 24, 2008 Oral Argument Dominion Presentation (October 8, 2008).

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was served on the persons stated below via first class U.S. Mail, postage prepaid, this 3rd day of June 2010.

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