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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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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-GARBR

PUCO

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

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**BEFORE
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APPLICATION FOR REHEARING**

Pursuant to Rule 4901-1-35(B), Ohio Administrative Code ("O.A.C."), The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") hereby responds to the Application for Rehearing of the Commission's May 5, 2010 Order in this proceeding ("Order") filed by the Office of the Ohio Consumers' Counsel ("OCC").

I. INTRODUCTION

OCC's Application presents no basis for rehearing. The Application is largely a repackaged version of arguments that the Commission has already addressed and properly rejected. The Application for Rehearing should be summarily denied.

Before addressing OCC's specific arguments, it is necessary (again) to set the record straight concerning a recurring theme argued by OCC. OCC basically accuses DEO of lying about estimated meter reading and call center cost savings in order to get the AMR program approved. See OCC Memorandum in Support of Application for Rehearing ("OCC Mem."), p. 2 (claiming savings estimates provided "as part of its attempt to convince the PUCO and other parties to the 2007 Rate Case that the AMR installation proposal was reasonable."). OCC's accusation is wholly unfounded. As OCC knows full well, DEO proposed the AMR program as a means of complying with new Minimum Gas Service Standards ("MGSS") meter reading

requirements. All parties in DEO's last rate case understood that the benefits of AMR cannot be fully realized until the devices are installed system-wide and meter reading routes are reconfigured to make full use of AMR technology. Accelerated deployment allows customers to receive the benefits of AMR sooner than they otherwise would if the devices were installed under DEO's normal capital budgeting process. There is nothing to suggest that meter reading cost savings that could be achieved during the deployment process was a major factor in the Commission's decision to approve accelerated deployment. The more important issue for the Commission and parties to the rate case was the cost savings and other efficiencies that would be achieved once AMR was fully deployed.

OCC completely misses this distinction. It conflates the savings and benefits expected after full deployment with savings expected during the deployment process. OCC then lumps meter reading savings and call center savings into one category to falsely accuse DEO of misleading the Commission concerning call center savings. In the rate case, DEO provided a response to discovery that specifically asked for expected call center savings that would be achieved after full deployment. (OCC Exhibit 1.0, Attachment 1.) OCC has not cited (and cannot cite) any evidence that DEO ever represented that there would be significant call center savings during the deployment process. It is obvious -- or should be obvious -- that during the deployment process the AMR program actually increases DEO's call center costs in the short term. Among other things, approval of the AMR program means that DEO now has 1.2 million appointments to schedule for AMR installation that it did not have before. After the devices are installed and service areas re-routed, DEO should begin to realize savings in the call center. So far no such savings has been achieved. It is hard to understand why OCC doesn't get this.

Meter reading savings presents a slightly different story. DEO's rate case discovery responses provided savings estimates for each year of the five year program. Contrary to OCC's blatant misstatement that "O&M Meter Reading cost savings were significantly less than estimated" (OCC Mem., p. 7), the cumulative savings achieved thus far exceeds the estimates that DEO provided in the rate case. (DEO Ex. 1.0, p. 10.)

Any rational person would understand that the savings estimates provided in the rate case were just that -- best estimates. The rate case parties did not stipulate to crediting the AMR Cost Recovery Charge ("AMR Charge") based on estimates. They agreed to quantifiable savings. The Order properly approves the \$0.47 AMR Charge based on the record evidence of quantifiable savings.

Considering these undisputed facts, OCC's rehearing application provides no basis for granting rehearing or overturning the Order. OCC basically makes two arguments. First, OCC argues that the Order's finding concerning meter reading O&M savings is erroneous because, according to OCC, DEO did not show that it attempted to maximize meter reading O&M savings. OCC claims that DEO is intentionally dragging its feet in re-routing service areas so that DEO may avoid passing along meter reading O&M savings to customers. The record evidence establishes just the opposite. DEO is deploying AMR exactly the way it said it would when the Company sought approval for the program. As just explained above, the level of meter reading O&M savings achieved to date exceeds the estimate DEO provided during the distribution rate case. The AMR Charge approved in this proceeding is substantially less than the \$0.62 charge DEO estimated when the parties signed the stipulation in the last AMR proceeding. (2009 AMR Stipulation, Attachment 1.) And there is no disconnect between the number of AMR devices installed and the number of service areas re-routed. DEO has

committed to full deployment and re-routing within five years and is on track to meet that commitment. OCC presents no facts and no evidence to suggest that DEO should be deploying AMR any differently than it has done so in the past. Indeed, when DEO asked for feedback about its deployment plan at the start of the program, OCC didn't provide any.

Second, OCC argues that the Order's findings regarding call center savings are erroneous. To be clear, DEO believes that the Commission's new methodology for calculating call center savings is wrong, and has sought rehearing on this issue. But under the circumstances, the Order appropriately defers the re-calculation of 2009 call center costs and savings until the next AMR proceeding, in a manner that does not prejudice any party or ratepayers. The Commission previously approved the measurement of call center costs or savings based on aggregate call center expense, so that is how DEO presented call center costs in this proceeding. The Order, however, finds that the measurement of call center savings (if any) should exclude non-AMR costs. (Order, p. 11.) Because there is no evidence showing what 2009 call center costs were under the Commission's newly-ordered approach, there is no basis to credit any level of quantifiable savings to the AMR Charge.

DEO relied on the Commission's approval of the 2009 AMR Stipulation as the basis for presenting call center savings on an aggregate basis. It would be patently unfair (and unlawful) to change the methodology for calculating call center savings and deny any increase in the AMR Charge because DEO presented evidence consistent with the previously-approved savings methodology instead of the new methodology ordered in this proceeding. In any event, the Order on rehearing will establish the ground rules for calculating call center savings in the next proceeding. To the extent a revised calculation in the next AMR proceeding yields any savings, it will be credited to ratepayers, with interest. OCC's suspicion that DEO will attack any credit

of 2009 call center savings as "retroactive ratemaking" is wholly unfounded, as DEO has made no such claim.

Having failed to establish any basis for rehearing, OCC's Application for Rehearing should be denied.

II. ARGUMENT

A. The Record Evidence Supports The Commission's Determination Of Meter Reading Savings.

OCC claims that DEO "has failed to prove that it maximized O&M meter reading cost savings due to an unreasonable and unexplained delay in achieving critical mass." (OCC Mem., p. 7.) According to OCC, "[d]espite achieving installation of 58% of the AMR devices, record evidence shows that of Dominion's 253 communities, almost beyond belief, the Company has only been able to automate the meter reading function in fewer than 20 of them, or less than 7.9% of all communities." (OCC Mem., p. 8.)

OCC's claim that "O&M cost savings were not maximized" (OCC Mem. p. 7) ignores the fact that the meter reading savings achieved to date thus far exceed the estimates that DEO provided in the rate case. In its rate case discovery response, DEO estimated that through 2009 the total cumulative meter reading savings would be \$900,000. (OCC Ex. 1.0, Attachment 1.) The actual cumulative savings is \$957,000 (\$276,000 in 2007/2008 plus \$681,000 in 2009). (DEO Ex. 1.0, p. 10.) In light of this undisputed fact, the claim that "O&M Meter Reading cost savings were significantly less than estimated" (OCC Mem., p. 7) is simply baffling.

In any case, OCC's criticism of the pace of AMR deployment and re-routing of communities is baseless. DEO has and continues to deploy AMR in the manner proposed in DEO's rate case. As DEO witness Mr. Murphy explained:

DEO is planning a two-pronged deployment strategy. Teams of Field Metering Services employees will focus on a "shop by shop" deployment of AMR devices (that is, a series of conversions moving from one service area to the next as service areas are converted). In addition, individual employees will deploy AMR devices coincident with day-to-day customer work, such as inspecting or servicing meters. (Second Supplemental Direct Testimony of Jeff Murphy, Case No. 07-829-GA-AIR, June 23, 2008, p. 19.)

At the April 9, 2010 hearing, DEO witness Ms. Friscic confirmed that DEO continues to follow this two-pronged plan of AMR deployment. DEO is installing AMR devices by service area, while also taking the opportunity to schedule AMR installation appointments when customers contact the call center regarding matters unrelated to AMR, or installing AMR devices on individual customer meters when DEO is on the premises for other reasons, such as reading inside meters. (Tr. 20.) Over 500,000 of DEO's meters are inside, and most existing meter reading routes have combinations of inside and outside meters. All inside meter locations require an appointment with the customer before AMR can be installed. It should be remembered that the challenges associated with gaining access to inside meters was a major factor in the decision to implement system-wide AMR in the first place. These same challenges present limitations to the pace at which DEO is able to achieve the critical mass necessary to re-route entire communities to monthly, automated reading. Nevertheless, DEO's overall approach is working. Staff confirms that DEO has completed approximately 60 percent of its AMR deployment through three years of the five-year program. (Staff Ex. 1.0, p. 6.) In addition, the pace of deployment is increasing, as the 332,135 AMR devices installed in 2009 is a 19% increase over the number of installations completed in 2008. (Id., p. 5.)

OCC's criticism of the pace of re-routing completely glosses over the fact that DEO committed to a system-wide deployment of AMR within five years -- not two years, not three

years and not four years. It will take five years to install all AMR devices and re-route all communities. If OCC believes there is a way to complete system-wide deployment more quickly and cost-effectively, it should speak up and offer constructive suggestions, which thus far it has failed to do. Ms. Friscic testified that, with regard to its proposed AMR deployment plan, "the company did seek feedback on that in the course of preparing that application and did not receive any specific direction on how we should go about that." (Tr. 30.)

The two-pronged approach provides DEO's customers the convenience of scheduling an appointment at the time they call to conduct other business with the Company. If DEO has not heard from a customer, the customer would be targeted as DEO reaches the area to complete the installations. An average meter reading route has approximately 500 to 600 meters, thus if 60% of a given route has AMR devices installed, the meter reader would still need to walk between 200 to 240 meters to complete the route on a given day. It would not be efficient to reconfigure the route at this point and then have to reconfigure it again once all the devices have been installed on that route. In addition, the rerouting will require changes to the customer's due date when they pay their bill. DEO made the decision that it would attempt to minimize the impact to customers by not changing the due date of their billing multiple times during the deployment and avoid sending out multiple mailings due to several changes that could occur. In addition, to avoid any disparate treatment of customers by reading some meters monthly in a municipality while others continue to be read bi-monthly, DEO monitors all installations by community and, as meter reading routes reach 85% complete, the accounts in that specific area are then targeted for completion so that rerouting can occur and the customers can be moved to a monthly meter reading schedule.

OCC presented no evidence that the AMR deployment plan or pace of related re-routing is anything but reasonable, particularly given the nuances and complexities of the process. OCC essentially argues DEO's deployment process is unreasonable simply because OCC's says so -- regardless of whether OCC has any suggestions for how to do it better. In fact, there is no better evidence that DEO has met its burden of proof than the complete absence of any alternative deployment plan on the part of OCC.

OCC also misrepresents the Commission's Order. The Order did not "agree with OCC's concerns" that DEO is somehow dragging its feet in re-routing communities. (OCC Mem., p. 10.) The Order merely states that "Dominion should be installing the AMR devices such that savings will be maximized and rerouting will be made possible in all of the communities at the earliest possible time." (Order, p. 7.) The Order does not find that DEO failed to maximize savings in 2009 or that "maximizing savings" is the primary goal of the AMR program. Again, 2009 was the third year of a five year program. And OCC ignores the fact that DEO is on pace to have approximately 300,000 meters read monthly by the end of 2010, a nearly 400% increase from the numbers at the end of 2009. (Tr. 27-28.)

OCC's argument that DEO did not meet its burden of proving the accuracy of its calculation of \$681,000 in meter reading savings in 2009 is absurd. OCC claims that "it is unreasonable for the Commission to shift the burden to the OCC to prove that Dominion's calculation is inaccurate instead of affirmatively requiring Dominion to prove that the calculation is accurate." (OCC Mem., p. 8.) DEO's Application and supporting schedules lay out the calculation of the AMR Charge, including the meter reading savings credited to the charge. (See, e.g., Application, Schedules 1 and 11.) Ms. Friscic provided prefiled testimony supporting this calculation. (DEO Ex. 1.0, pp. 8-10.) Staff's comments confirm that DEO's calculations

"yield a 2009 meter reading expense savings of \$680,659 which is reflected in DEO's application. The Staff believes that DEO's calculation of the AMR operating expense savings is consistent with the AMT stipulation adopted by the Commission in Case No. 09-38-GA-UNC." (Staff Ex. 1.0, p. 8.) DEO has thus met its burden of proving the accuracy of 2009 meter reading cost savings. OCC made no effort in this proceeding to demonstrate otherwise.¹

OCC's claim that meter reading savings achieved to date are "anemic" and that its deployment process is unreasonable are wholly unsupported. On the contrary, no fair-minded person could dispute that DEO has surpassed the savings estimates provided in the rate case, and that such savings is irrefutable evidence of the reasonableness of DEO's deployment plan.

B. Although The Order Erred In Requiring The Exclusion Of Non-AMR Costs From The Calculation Of Call Center Savings, The Decision To Defer Recalculation Of 2009 Call Center Costs Until The Next AMR Proceeding Is Reasonable.

The Order finds that DEO should have excluded six non-AMR cost categories from its calculation of call center costs and savings. (Order, p. 11.) DEO has sought rehearing on this finding. OCC does not seek rehearing on this finding per se, but argues that in light of this finding, DEO has not met its burden of proof of quantifying call center O&M cost savings, thereby requiring the Commission to reject any increase in the AMR Charge. (OCC Mem., pp. 12-13.) Alternatively, OCC argues that the Commission should require DEO to recalculate 2009 call center costs and savings in this proceeding instead of the next AMR proceeding.

¹With regard to the burden of proof, OCC's citation to The Ohio Bell Telephone Co. v. Public Utilities Comm'n. (1981) 68 Ohio St. 2d 193, actually supports DEO. In Ohio Bell, the Supreme Court sustained a Commission decision that the utility failed to show the actual tax credit flow-through to customers, and as such, excluded the unamortized balance of the tax credit from rate base. Id. at 194. Here, in contrast, there is no question DEO has presented the figures underlying its meter reading savings calculation and AMR deployment for evaluation by Staff and the Commission, and those figures have been approved. OCC has not raised -- and cannot raise -- any dispute as to the accuracy of DEO's calculations.

As explained in DEO's Application for Rehearing, the Order's finding that DEO should exclude non-AMR categories in calculating costs and savings is unreasonable and unlawful. Call center costs and savings should be calculated in the aggregate, as discussed at length in DEO's post hearing briefs and Application for Rehearing. (Initial Post-Hearing Brief, pp. 5-6; 11-16; Post-Hearing Reply Brief, pp. 14-20; and Application for Rehearing, pp. 4-6.) OCC does not dispute that aggregate call center expense in 2009 did not yield any savings. Thus, DEO has met its burden of proving aggregate call center costs or savings based on the methodology underlying the 2009 AMR Stipulation.

OCC argues, "With no basis in the record to determine what actual Call Center expenses, after subtracting the non-AMR increases, were actually incurred in 2009, there can be no lawful conclusion that the ensuring AMR Rider Rate is just and reasonable; and the proposed increase must be rejected." (OCC Mem., p. 13.) In other words, OCC wants the AMR Charge to remain at \$0.30 instead of \$0.47. The Commission plainly cannot reject the entire increase in the AMR Charge. The \$0.30 AMR Charge is based on a revenue requirement of \$4.8 million. (AMR Stipulation, Attachment 1.) The revenue requirement approved in this proceeding is approximately \$7.2 million. (Order, p. 4.) Rejecting any increase in the AMR Charge would cause DEO to under-recover the revenue requirement by \$2.4 million -- an amount more than three times the level of call center savings (\$765,000) that DEO estimated could occur after full deployment. (DEO Ex. 1.0, p. 10.) The remedy that OCC seeks would plainly be unlawful and confiscatory. There is no record evidence that supports any adjustment to the revenue requirement based on quantifiable call center savings.

While DEO disagrees that call center costs and savings should be calculated as directed in the Order, the decision to not require a re-calculation of 2009 call center costs and savings

until the next AMR proceeding represents a reasonable balancing of interests. The Rate Case Stipulation requires that quantifiable savings be credited to the AMR Charge. (Rate Case Stipulation, p. 20.) DEO presented evidence that no quantifiable savings occurred in 2009, based on the same calculation of aggregate call center costs that was approved in the 2009 AMR Stipulation. Staff's review confirms that DEO's calculation of call center costs "is consistent with the AMR stipulation adopted by the Commission in Case No. 09-38-GA-UNC." (Staff Ex. 1.0, p.8.) The lack of evidence concerning call center costs or savings exclusive of non-AMR factors is not a function of DEO failing to meet its burden of proof. It is a function of the Commission adopting a different methodology in this proceeding than the methodology underlying the 2009 AMR Stipulation.²

Based on the Order, the parties are now on notice that call center costs and savings must - in the future -- be calculated differently than what was approved in the past (assuming the Commission does not change the Order, and it should, as explained in DEO's Application for Rehearing.) Customers are not prejudiced by waiting until next year to re-calculate 2009 costs and savings because, if any such savings are identified, it will be credited to customers, with interest. The Commission's approach is manifestly more reasonable than OCC's. OCC's concern that "Dominion may argue such a refund would constitute retroactive ratemaking" is unfounded.

² OCC's "comingling" argument misses the mark. OCC concedes that the issue in Mount Vernon Telephone Corp. v. Public Utilities Comm'n., (1955) 163 Ohio St. 381, was whether the Commission correctly concluded it could not determine the "observed depreciation" of the utility's used and useful office equipment. *Id.* at 387. The office equipment in existence on the date certain was destroyed by fire, so the utility tried to establish "observed depreciation" of the equipment using estimated information. *Id.* The court upheld the Commission's dismissal of the utility's application, stating that the "comingled" estimates were insufficient to meet the utility's burden because "no examination by [the Commission's] engineers or accountants could have established the value of the central plant as an operating part of the telephone system after total destruction." *Id.* at 389. Here, by contrast, DEO provided actual and substantiated data for call center expenses that was made available to OCC, as well as to Staff. It appears the only basis for OCC's citation to Mount Vernon is that it contains the word "comingled."

(OCC Mem., p. 15.) DEO made no such claim in its Application for Rehearing and does not intend to raise such a claim in future AMR proceedings.

III. CONCLUSION

For the foregoing reasons, OCC's Application for Rehearing should be denied and the Commission's May 5, 2010 Order amended as requested in DEO's Application for Rehearing.

Dated: June 14, 2010

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra The Office of Ohio Consumers' Counsel's Application for Rehearing was served by electronic mail to the following on this 14th day of June, 2010:

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