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-Income Pilot Program.	)))))	Case No. 10-200-GA-ATA

SUPPLEMENTAL FINDING AND ORDER

The Commission finds:

(1) The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

(2) In its October 15, 2008, Finding and Order in Case No. 07-829-GA-AIR, et al. (07-829), the Commission, *inter alia*, authorized DEO to implement a straight fixed variable (SFV) rate design and directed DEO to establish a low-income pilot program for one year aimed at helping low-income, low-use customers pay their bills. In accordance with the Commission's directive, DEO filed tariffs for General Sales Service – Low Usage Heat Pilot Program (GSS-LU) and Energy Choice Transportation Service – Low Usage Heat Pilot Program (ECTS-LU), which became effective with bills rendered on or after March 13, 2009. In the October 15, 2008, Finding and Order, the Commission also indicated its intent to evaluate the program after completion of the pilot period.

(3) On February 17, 2010, DEO filed the instant application requesting approval of proposed revisions to its tariffs GSS-LU and ECTS-LU, which would extend the pilot program past its initial one-year term, and requesting authority to continue the program until such time as the Commission directs the program be modified or terminated.

(4) By Finding and Order issued March 10, 2010, the Commission, *inter alia*, granted DEO's application to extend the pilot program. In addition, the Commission noted that its review of the pilot program, which was contemplated in the Commission's decision in 07-829, will include consideration of the results of Staff's review of the pilot program. To that end, the Commission directed Staff to file the results or its review with the Commission and stated that,

after the report is filed, a procedural process for review of the pilot program would be established.

(5) On April 29, 2010, Staff filed a report (staff report) of its review of the DEO low-income program.

(6) By entry issued May 12, 2010, the Commission established June 3, 2010, as the deadline for interested persons to file motions to intervene in this case, as well as comments on the staff report. Reply comments were due by June 17, 2010.

(7) The motions to intervene filed by The Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAE) were granted by decisions issued March 10, 2010, and May 12, 2010, respectively.

(8) On June 3, 2010, and June 17, 2010, DEO, OCC, and OPAE filed comments and reply comments, respectively, on the April 29, 2010, staff report.

(9) In its April 29, 2010, report, Staff found that the statistics from the first year of the program were not instructive in terms of evaluating the program's overall effectiveness; however, Staff noted that the number of disconnects for nonpayment in the first year, 87 or 1.7 percent of the initial program participants, compared favorably with the 6.9 percent disconnect rate in 2009 for DEO customers. Thus, Staff found that this evidence, while inconclusive, seemed to support the effectiveness of the program. Staff then evaluated the impact on participants should the program be eliminated and found that the elimination of the program would impact low-usage customers much harder than higher-usage customers. Overall, Staff concluded that, "(g)iven the economic upheavals that occurred concurrent with the implementation of this program, it is not realistic to reach any firm conclusions regarding the impact of the program in reducing disconnections or movement to the [percentage of income payment program] PIPP program." Staff recommended a continuation of the low-income program. However, Staff recognized that the low-income program is funded by shareholder dollars and concluded that the program should be phased-out through attrition.

(10) By entry issued September 15, 2010, the Commission reviewed the staff report, the comments and reply comments on the staff report,

and the Commission's decision in 07-829, and found that, prior to making a determination in this case, it was necessary to obtain additional information on the record and to allow for comment on the additional information. Accordingly, the Commission directed Staff to supplement the staff report with additional information by September 22, 2010. The Commission further provided that interested parties wishing to comment on Staff's supplemental report may file comments by October 13, 2010, and reply comments by October 27, 2010.

(11) Staff filed its supplemental report on September 20, 2010.

(12) On October 14, 2010, a motion to intervene was filed by the Citizens Coalition, which is comprised of The Neighborhood Environmental Coalition (Coalition), The Empowerment Center of Greater Cleveland (Center), Cleveland Housing Network (Network), The Consumers for Fair Utility Rates (Consumers), and United Clevelanders Against Poverty (Clevelanders). The Commission notes that, pursuant to the May 12, 2010, entry, motions to intervene were due by June 3, 2010. The Commission notes that these entities neither requested that their motion to intervene be considered timely filed nor explained why they have requested intervention in this case four months after the established deadline for the filing of motions to intervene. Therefore, upon review of the motion to intervene filed by these entities, the Commission concludes that it should be denied.

(13) On October 13, 2010, joint comments on the supplemental staff report were filed by OCC and OPAE.[1] DEO filed reply comments on October 27, 2010.

(14) In its supplemental report, Staff provided information regarding a comparison of the total annual bill incurred by customers consuming between 10 and 70 thousand cubic feet (Mcf) per year, at 10 Mcf intervals, utilizing the following: the distribution and commodity rates in effect prior to the base rate proceeding in 07-829; the distribution and commodity rates in effect on September

[1] Coalition, Center, Network, Consumers, Communities United for Action, and Ohio Poverty Law Center joined in the comments filed by OCC and OPAE on October 13, 2010. Of these entities, Coalition, Center, Network, Consumers, and Clevelanders also filed a motion to intervene in this case; however it has been denied by this same order. Neither Communities United for Action nor Ohio Poverty Law Center requested intervention in this matter.

15, 2010, and the distribution and estimated commodity rates that will become effective in October 2010. At the rates in effect at the time of the supplemental report, Staff noted that a breakeven level of consumption, where a customer's bill is the same as it would have been prior to the rate proceeding in 07-829, occurs at an annual Mcf usage of 31.76, which encompasses 5.62 percent of home energy assistance program (HEAP) eligible customers. At usage levels above the break even point, a customer's annual bill is lower than before the rate proceeding in 07-829. Regarding rates that went into effect in October 2010, Staff concluded that the breakeven point occurs at a consumption rate of 44.47 Mcf annually, which encompasses 12.64 percent of HEAP eligible customers. Staff asserts that, during its original consideration of the SFV rate design, the break even point occurred at an annual consumption level of approximately 100 Mcf. However, declining commodity rates have resulted in a lowered break even point.

(15) In their comments on the supplemental report, OCC and OPAE note that Staff included the declining natural gas commodity prices in its analysis. According to OCC and OPAE, the Commission should not use declining commodity prices as justification for elimination or modification of the pilot program because commodity prices could increase in the future. OCC and OPAE assert that, instead, when commodity prices are removed from the analysis, it shows that the burden that results from the SFV rate design remains unchanged. Accordingly, OCC and OPAE argue that the pilot program should either be continued or expanded from 5,000, to encompass 20,000 participants. However, despite their own recommendation, OCC and OPAE argue that a better use of the funds, instead of continuing or expanding the pilot program, would be the establishment of a fuel fund for low-income payment assistance using the $960,000 that would be required to fund the expansion of the program to include 20,000 participants. Finally, OCC and OPAE argue that the cost of the pilot program is relatively insignificant when compared to the benefits that DEO derived from the SFV rate design because it allows the company to avoid the cost of future rate cases. In sum, OCC and OPAE request that the pilot program be expanded to serve 20,000 low-use, low-income customers, or, in the alternative, be converted to a fuel fund to provide bill payment assistance to low-income customers.

(16) In its reply comments, DEO asserts that the low-use, low-income pilot program was designed to mitigate anticipated rate increases

for low-use, low-income customers as a result of the transition to the SFV rate design. Instead, DEO points out, the drop in the commodity rates have lead to a bill decrease for virtually all consumers. According to DEO, the analysis performed by OCC and OPAE is not reflective of reality because it does not include the gas commodity costs. Moreover, DEO asserts that, although OCC and OPAE express concern that gas commodity prices could suddenly increase, they do not support that concern with any evidence. Instead, DEO avers that any reliance on potential future commodity prices as a justification for expanding the program is misplaced if commodity prices are irrelevant to the analysis by OCC and OPAE. According to DEO, because of the decline in commodity prices, no rate shock occurred when the SFV rate design was implemented, making continuation of the low-use, low-income pilot program unnecessary.

(17) The Commission has reviewed the staff report and supplemental report, as well as the comments and reply comments filed in response to both reports. Initially, we would note that it was never our intention in our October 15, 2008, Finding and Order in 07-829 to limit the low-use low-income program to a one-year term. Had the Commission intended to conclude the program after one year, we would not have stated our intent to evaluate the program at the end of that term. Such an evaluation would have been meaningless under those circumstances.

Instead, the Commission now has an opportunity to evaluate the low-use, low-income pilot program to determine whether it should be continued. In evaluating the future of the low-use, low-income program, the Commission is aware that the original goal of the low-use, low-income pilot program was to mitigate the impact of the imposition of the SVF rate design on low-use, low-income customers. The supplemental report filed by Staff demonstrates that declining commodity prices served to mitigate much of the feared rate shock and continued to do so as the full SVF rate went into effect in October 2010. Accordingly, we find that DEO's should be allowed to discontinue its low-use, low-income pilot program.

(18) In its February 17, 2010, application in the instant case, DEO requested approval to extend the pilot program past its initial one-year term in order to allow the Commission to complete its evaluation of the pilot program, as contemplated by the rate case

order in 07-829. DEO requested approval of revised tariffs that would continue the pilot program "until such time as the Commission directs that the program be modified or terminated." Our March 10, 2010, Finding and Order approved the revised tariff language proposed by DEO. In light of our determination in this Supplemental Finding and Order that DEO may discontinue its low-use, low-income pilot program, and in consideration of the winter heating season, we find that DEO may discontinue its program effective April 1, 2011, or anytime thereafter.

It is, therefore,

ORDERED, That the motion to intervene filed by Coalition, Center, Network, Consumers, Clevelanders be denied. It is, further,

ORDERED, That Dominion is authorized to discontinue its low-use, low-income pilot program effective April 1, 2011. It is, further

ORDERED, That Dominion is authorized to file four complete copies of tariffs in final form, consistent with this Finding and Order. Dominion shall file one copy in this case docket and one copy in its TRF docket (or may file electronically as directed in Case No 06-900-AU-WVR). The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That DEO shall notify its customers of the changes to the tariffs via bill message or bill insert 30 days prior to the effective date of the revised tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability, and Service Analysis Division at least 10 days prior to its distribution to customers. It is, further, ORDERED, That a copy of this Supplemental Finding and Order be served upon all interested persons of record in this proceeding.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Valerie A. Lemmie

Steven D. Lesser

Cheryl L. Roberto

KLS/dah

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Reneé J. Jenkins
Secretary