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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- )  
Income Pilot Program )

Case No. 10-200-GA-ATA

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MEMORANDUM CONTRA  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S  
APPLICATION FOR REHEARING BY  
THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO

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 December 21, 2010 Order in this proceeding ("Order") filed by the Office of the Ohio Consumers' Counsel ("OCC"). OCC's Application presents no basis for rehearing. To the contrary, the Application presents OCC's prior arguments raised in this proceeding that the Commission has already addressed and properly rejected. Therefore, OCC's Application for Rehearing should be denied.

I. ARGUMENT

An application for rehearing "shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful." R.C. 4903.10. Upon reviewing the application, the Commission may rehear "the matter specified in such application, if in its judgment sufficient reason therefore is made to appear." *Id.* If the Commission grants rehearing and receives additional evidence, "it shall not upon such rehearing take any evidence that, with reasonable diligence, could have been offered upon the original hearing." *Id.* The Commission typically denies rehearing when an application for rehearing "has raised no new arguments or facts which the Commission did not consider regarding its finding as to the

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issue....” *Gannis v. The Cleveland Elec. Illuminating Co.*, Case No. 94-154-EL-CSS, Entry On Rehearing (July 7, 1994) at Finding 5. Similarly, the Commission also refuses to rehear “merely reiterations of arguments” already “fully considered and properly decided” in a proceeding. *15515 Van Aken Boulevard Corp. v. The East Ohio Gas Company*, Case No. 85-1023-GA-CSS, Entry on Rehearing (April 7, 1987) at Finding 5.

**A. OCC Presents No New Evidence To Support A Finding That The Commission’s Conclusions Concerning Low Commodity Prices Is Unjust Or Unreasonable.**

On December 21, 2010, the Commission issued a Supplemental Finding and Order in this proceeding discontinuing the Pilot Program. Order at Finding 17. The Commission discontinued the Pilot Program because Staff’s supplemental report “demonstrates that declining commodity prices served to mitigate much of the feared rate shock and continued to do so as the full [SFV] rate went into effect in October 2010.” *Id.*

OCC argues that the Commission “failed to recognize that natural gas prices are volatile,” and thus concludes that “the Commission’s decision to discontinue the Pilot Program based upon the current state of natural gas commodity prices is problematic.” (App. for Rehearing at 13.) OCC contends that “[t]he decline in natural gas commodity rates skewed the effectiveness of the Pilot Program. Thus, the true 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.” (App. for Rehearing at 13-14.)

The Commission has already fully considered OCC’ arguments. In the Joint Comments, OCC argued that “[t]he Commission should not use the impact that declining natural gas commodity prices have had on the customers’ total bill as justification for elimination or significant negative modification of the Pilot Program.” (Joint Comments at 6.) According to

OCC, “[b]ecause of the threat of future natural gas commodity price increases, the Commission should not consider eliminating or negatively modifying the Pilot Program.” (*Id.*) OCC concluded that “[t]he decline in natural gas commodity rates skews the effectiveness of the Pilot Program. Therefore, it would be unreasonable for the Commission to make any decision resulting in the elimination or reduction in the Pilot Program because natural gas price volatility could later result in natural gas commodity price increases.” (*Id.* at 9; *see also* OCC Comments at 9 (presenting the same argument against using current commodity prices to evaluate the Pilot Program).)

The Order acknowledges OCC’s concerns of the Commission using “declining commodity prices as justification for elimination or modification of the pilot program because commodity prices could increase in the future.” Order at Finding 15. Contrary to OCC’s arguments in its Joint Comments, the Commission, after reviewing “the staff report and supplemental report, *as well as the comments and reply comments filed in response to both reports*,” ordered the discontinuation of the Pilot Program. *Id.* at 17 (emphasis added). The Commission specifically cited the Staff’s supplemental report, which demonstrated “that declining commodity prices served to mitigate much of the feared rate shock and continued to do so as the full [SFV] rate went into effect in October 2010.” *Id.*

Under the Commission’s standard of review, it is improper to reconsider arguments the Commission has already addressed in its order. Because the Commission addressed OCC’s argument against using low commodity prices to evaluate the Pilot Program, the Commission should deny rehearing on this issue.

**B. OCC Presents No New Evidence To Support A Finding That The Commission's Conclusion That The Purpose Of The Low-Income Pilot Program Has Been Achieved Is Unjust Or Unreasonable.**

OCC's remaining arguments for rehearing revolve around a single contention – that DEO should continue to provide a subsidy for low-income, low-use customers. In its Application, OCC argues the Commission failed to adequately consider the rise in disconnections for non-payment since the SFV rate was implemented, and presents statistics of DEO disconnections for non-payment from 2005 to 2010. (App. for Rehearing at 10; *see also* Joint Comments at 11.) OCC concludes that these statistics are “critical when evaluating the Pilot Program because in the increase in disconnections tends to show that customers are having growing difficulty in paying their bills.” (App. for Rehearing at 10.)

OCC also argues that the Commission failed to consider the rise in PIPP enrollments. (*Id.* at 11.) OCC contends that the statistics cited in its Application are “more telling about the need for the Pilot Program” and “show that Dominion's customers are having difficulty paying their bills.” (*Id.* at 11.) In a similar vein, OCC claims that “economic conditions in the Dominion service territory do not support the elimination of the Pilot Program.” (*Id.* at 14; *see also* Joint Comments at 10.) OCC again presents statistics and concludes that “[l]ow-income, low-usage customers are going to need every bit of assistance available to help maintain utility services....” (App. for Rehearing at 15.)

As with the issue of commodity prices, OCC's arguments concerning the affordability of natural gas service for low-income customers have already been considered and properly rejected. (*See* Entry (Sept. 15, 2010) at Findings 7 and 9; Order at Finding 15; Joint Comments at 10, 11). To the extent customers have had trouble paying their bills, these difficulties cannot be blamed on higher gas bills. Total bills have *declined* since current rates went into effect due

to strongly decreasing commodity prices. (Supplemental Staff Report at Table 1, Table 2; Supplemental Staff Report at 2.). Because total bills are decreasing, disconnections for non-payment and enrollments in PIPP have nothing to do with base rates or SFV rate design. Natural gas service is more affordable for low-income, low-use customers now than at any time in the past several years.

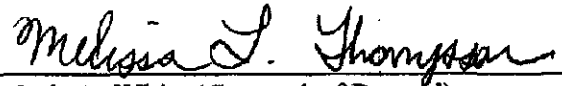
More importantly, the Pilot Program was designed *only* to mitigate the SFV rate design's impact on low-use, low-income customers. (Staff Report at 1; Entry (Sept. 15, 2010) at Finding 11; Order at Finding 17.) As evidenced from the decrease in total bills, the "rate shock" predicted with the SFV implementation never came to fruition. The Commission recognized this fact when it found, "that declining commodity prices served to mitigate much of the feared rate shock and continued to do so as the full [SFV] rate went into effect in October 2010." Order at Finding 17. Because the goal of the Pilot Program was met, the Commission discontinued the Pilot Program. OCC misconstrues the purpose of the Pilot Program and fails to recognize that this purpose has been satisfied. The Commission should not rehear its decision based upon OCC's unfounded claim that the program should continue in spite of lower natural gas rates.

## II. CONCLUSION

OCC's Application fails to satisfy the legal standards for rehearing required by Ohio Law and the Commission's rules. Its Application attempts to reintroduce the issue of using current commodity prices to evaluate the Pilot Program. The Commission, however, already addressed OCC's concern in its Order. OCC's remaining arguments for the Order's unreasonableness and unlawfulness ignore the Pilot Program's goal and evidence already before the Commission when it decided the Order. Therefore, the Commission should deny OCC's Application for failing to meet the statutory criteria required to grant rehearing.

Dated: January 31, 2011

Respectfully submitted,

A handwritten signature in cursive script, reading "Melissa L. Thompson", is written over a horizontal line.

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Memorandum Contra Application for Rehearing was served by regular U.S. Mail, postage prepaid, to the following on this 31<sup>st</sup> day of January, 2011:

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