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

ENTRY ON REHEARING

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 low-income, low-use pilot program (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 and directed Staff to review the program and file a report.

(5) The Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy, and the Citizens Coalition were granted intervention in this matter.

(6) Staff filed its report and supplemental report on April 29, 2010, and September 20, 2010, respectively. DEO and intervenors filed comments and reply comments on the staff report, as supplemented.

(7) By Supplemental Finding and Order issued December 21, 2010, the Commission reviewed the pilot program, as well as the staff report, as supplemented, and the comments and reply comments, and determined that DEO may discontinue the pilot program. In the order, the Commission points out that the original goal of the low-use, low-income pilot program was to mitigate the impact of the imposition of the SFV rate design on low-use, low-income customers. The Commission found that, as shown in the supplemental report filed by Staff, the 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. Therefore, the Commission concluded that DEO's should be allowed to discontinue its low-use, low-income pilot program effective April 1, 2011.

(8) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in the proceeding by filing an application within 30 days after the entry of the order upon the journal of the Commission.

(9) On January 14, 2011, OCC filed an application for rehearing setting forth two assignments of error. Specifically, OCC asserts the following assignments of error:

(a) The Commission erred when it failed to comply with the requirements of Section 4903.09, Revised Code, and provide specific findings of fact and written opinions that were supported by record evidence.

(b) The Commission erred by terminating the low-income pilot program when it would be reasonable to continue the program for existing participants.

(10) DEO filed a memorandum contra OCC's application for rehearing on January 31, 2011. In its memorandum contra, DEO states that OCC raises no new evidence in it application for rehearing to support a finding that the Commission's conclusions that commodity prices have declined prices or that the purpose of the

low-income pilot program has been achieved are unjust or unreasonable.

(11) In its first assignment of error, OCC argues that the Commission issued an entry that violated Section 4903.09, Revised Code, because it did not set forth sufficient reasoning supporting its decision, based upon findings of fact. Section 4903.09, Revised Code, provides that:

> In all contested cases heard by the public utilities commission, a complete record of all of the proceedings shall be made, including a transcript of all testimony and of all exhibits, and the commission shall file, with the records of such cases, findings of fact and written opinions setting forth the reasons prompting the decisions arrived at, based upon said findings of fact.

According to OCC, the December 21, 2010, Supplemental Finding and Order did not include the Commission's rationale and the findings of fact that were relied upon in support of its decision. Instead, OCC asserts that the Commission failed to consider the rising number of DEO customers utilizing the percentage of income payment program (PIPP), and the number of customers who have been disconnected for non-payment. OCC asserts that the Commission further should have recognized that the current decrease in natural gas commodity prices may not continue into the future.

(12) In considering OCC's reliance on Section 4903.09, Revised Code, the Commission notes that OCC appears to be arguing that, in arriving at our conclusion to allow DEO to discontinue its low-use, low-income pilot program, the Commission did not rely on the facts set forth in the case record; however, those are the very same facts that OCC relies in reaching its own result in this case. Contrary to OCC's assertions, the Commission considered all of the facts in the present case, set forth those facts in the order in this case, and reached a conclusion based on our consideration of those facts. Specifically, the Commission considered the original purpose of the pilot program, to mitigate rate shock, and concluded that the program had achieved its purpose. Therefore, we find that our December 21, 2010, supplemental finding and order complies with

Section 4903.09, Revised Code. Accordingly, we conclude that OCC's first assignment of error should be denied.

(13) In its second assignment of error, OCC argues that the Commission erred by allowing DEO to discontinue the pilot program. Specifically, OCC argues that the Commission disregarded evidenced supporting the need to continue the pilot program. In support of its assertion, OCC states that only 87 of the 5,120 initial participants in the pilot program were disconnected for nonpayment, a rate that OCC argues compares favorably with DEO's overall disconnection rate. Moreover, OCC argues that the overall disconnection rates in DEO's territory have steadily risen since 2005, evidencing a need for the pilot program. OCC also points out an increase in PIPP enrollment since 2006, and argues that the existence of the pilot program helped consumers stay off of PIPP. In addition, OCC claims that the Commission allowed DEO to discontinue the pilot program based on the current low commodity prices, which OCC argues may not remain low. Therefore, according to OCC, a true evaluation of the pilot program cannot occur until the natural gas commodity prices return to the level experienced at the time the SFV rate design was implemented. Finally, OCC argues that the poor economic condition in DEO's service territory warrants continuation of the pilot program.

(14) In response to OCC's second assignment of error, DEO asserts that the Commission has already considered, and rejected, all of the arguments made in OCC's application for rehearing. DEO points out that, although the Commission considered declining commodity prices, we considered them in the context of the intent of the pilot program: to mitigate any rate shock that would occur as the SFV rate design was implemented. In sum, DEO asserts that total bills have declined since the current rates went into effect, due to decreased commodity prices; therefore, no rate shock occurred and the increase in disconnections and PIPP enrollment have no connection to the implementation of the SFV rate design.

(15) In considering the arguments regarding continuation of the pilot program, the Commission is again mindful of the original goal of the pilot program: to mitigate the impact of the imposition of the SFV rate design on low-use, low-income customers. The program was not designed to provide permanent rate relief for this class of customers. Instead, the pilot program was intended to ease the transition to the new rate design. In evaluating the need to

continue the pilot program, the Commission considered whether the transition to the SFV rate design had occurred, and how severely customers had been impacted by the transition. Although all customer classes will feel the impact if commodity prices increase, the pilot program was never intended to provide relief from high commodity prices or to mitigate the current economic conditions in DEO's service territory. Moreover, our review was limited to the pilot program and was not an opportunity for parties to further comment on the SFV rate design. Accordingly, we find that our conclusion that DEO be authorized to discontinue the pilot program is consistent with our intent in creating the program. Therefore, OCC's second assignment of error is denied.

It is, therefore,

ORDERED, That OCC's application for rehearing be denied. It is, further.

ORDERED, That a copy of this Entry on Rehearing be served upon all interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Steven D. Lesser, Chairman

Paul A. Centolella

Valerie A. Lemmie

Cheryl L. Roberto

KLS/dah

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Reneé J. Jenkins
Secretary