

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of) Case No. 09-1982-GA-CSS
Cutter Exploration, Inc.)
)
Complainant,)
)
v.)
)
The East Ohio Gas Company d/b/a)
Dominion East Ohio,)
)
Respondent.)

**MOTION TO COMPEL AND FOR EXPEDITED
RULING BY CUTTER EXPLORATION, INC.**

Now comes Complainant, Cutter Exploration, Inc., ("Cutter Exploration") by and through counsel and hereby moves the Public Utilities Commission of Ohio ("PUCO" or "the Commission"), the legal director, or the attorney examiner assigned to the case to enter an order which compels The East Ohio Gas Company, d/b/a Dominion East Ohio ("DEO" or East Ohio"), to allow Cutter to have third-party R.L. Laughlin & Company install orifice meters in place of the rotary meters on the six metering stations which measure production gas flowing from Cutter wells in accordance with the proposal attached hereto as **Exhibit "A"**;

As discussed fully in the attached Memorandum in Support, Cutter is entitled to the relief sought and obtaining the same is necessary if Cutter is going to have a fair and full opportunity to present its claims to the Commission.

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PUCO

This Motion is supported by **Exhibits A through F** which includes the Affidavit of Michael J. Cutter which are incorporated by reference herein.

Respectfully submitted,

By: 

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Attorneys for Cutter Exploration, Inc.

MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

A. Cutter Exploration, Inc.

Cutter Exploration, Inc. ("Cutter Exploration") is an Ohio corporation which has been drilling and producing oil and gas in the State of Ohio since 1981.¹ Cutter Exploration has drilled wells in Wayne, Lake, Summit, Stark, Portage, Geauga and Washington counties.² One of the principals of Cutter Exploration, Michael Cutter, represents the fourth generation in his family to work in the oil and gas business in Ohio. Mr. Cutter began working with his father, John B. Cutter, in the business in the late 1970s and he currently is the President of the Cutter Exploration.³

B. Wells at Issue

The specific Cutter Exploration wells which relate to the claims before the PUCO are located in Geauga County, Ohio. In total, Cutter Exploration currently owns or operates in excess of 40 wells which are respectively associated with approximately 30 separate meter stations⁴ containing the "production receipt points" as defined by Tariff.⁵ These wells flow gas into East Ohio's NM11 distribution system or, in limited cases, into the TPL14 system.⁶ All of

¹ See, Affidavit of Michael J. Cutter attached hereto as **Exhibit "B"** ("Cutter Aff.") ¶3.

² Id. 3.

³ Id. 4.

⁴ The terms "meter station" and "production receipt point" are used somewhat interchanging in this brief. The issue is complicated by the fact that in many cases not one, but two rotary meters eventually were installed at various meter runs used to measure gas flowing from Cutter Exploration wells. The second picture submitted herewith as **Exhibit E** shows an example of two rotary meters installed on one meter run.

⁵ "Tariff" as referenced herein refers to the East Ohio's General Terms and Conditions of Transportation Service tariff effective October 16, 2008.

⁶ Id. 5.

the wells at issue, with one exception, operate as intermittent trip wells. This type of well is also sometimes referred to as a "plunger lift well" based upon how it operates. A diagram illustrating the components of a plunger lift wells is attached hereto as **Exhibit "C."** A key feature of a plunger lift well is that a plunger moves through the well bore which provides a number of benefits to the operation of the well and overall production including assisting in the evacuation of oil and fluid. The plunger within the well bore is driven from the bottom of the well bore to the top by bottomhole gas pressure from the reservoir. As will be shown at the hearing, the speed at which a plunger travels to the surface is normally around 500 to 700 feet per minute and this rate will vary based upon a number of factors including choke settings on the well. One of Cutter Exploration's contentions in this matter is that East Ohio's use of rotary meters and the accompanying rotary meter run design it has mandated, in addition to other problems, prevents the plunger lift wells from operating properly resulting in violations of the Tariff and damages to Cutter Exploration.⁷

C. East Ohio's Mandate that Rotary Meters be Utilized to Measure Production Gas Instead of Orifice Meters.

Setting aside the claims concerning East Ohio's violations of O.R.C. Sections 4905.26, 4905.30, 49032 and 4905.35, a fundamental dispute in this matter arises out of East Ohio's desire to move away from the use of **orifice meters**⁸ to measure production gas in Ohio to the use of **rotary meters**.⁹ As East Ohio admits in its Answer to the Amended Complaint, "East Ohio notified in producers by letter dated July 28, 2009 that, 'Effective September 1st, 2008, East

⁷ Cutter Aff. ¶¶ 6-9.

⁸ Attached hereto as **Exhibit "D"** is a picture of an orifice meter with an ABB total Flow computer attached for electronic measurement. Significantly, with an orifice meter no gas actually passes through the meter.

⁹ Attached hereto as **Exhibit "E"** is a picture of an rotary meter with a Mercury Mini Max instrument/computer which provides for electronic volume correction. Notably, with a rotary meter, the gas physically passes through the meter and is measured mechanically by the turning of internal impellers within the meter.

Ohio will require all new production measurement stations on East Ohio Gathering, Distribution, and Transmission Systems to be rotary meters.”¹⁰ East Ohio further admits that it has refused Cutter’s requests to allow the installation of orifice meters at production receipt points. East Ohio’s mandate that only rotary meters can be used is in direct violation of its Tariff regarding Production Receipt Points set forth in Section 10 of the Tariff.

In an effort to circumvent the Tariff and force producers like Cutter Exploration to use only rotary meters East Ohio claims that there was an “agreement” reached between East Ohio and the Ohio Oil & Gas Association (“OOGA”) in which this Association agreed with East Ohio’s mandate that only rotary meters be used at all Production Receipt Points after September 1, 2008. As will be demonstrated at the hearing, there is no “agreement” that was entered into between OOGA and East Ohio which prohibits the use of orifice meters at production receipt points. Because there is no agreement, East Ohio has no justification for refusing to allow orifice meters to be utilized at the Production Receipt Points as requested. Just as importantly even if there were some type of an “agreement” between East Ohio and OOGA, which there is not, such an agreement can neither void or override the applicable provisions of the Tariff. Accordingly, it cannot be binding upon Cutter Exploration. Further, in order to be lawful, such an agreement would need to be filed with and approved by this Commission pursuant to R.C. § 4905.31. Cutter Exploration has not entered into any agreement with OOGA or East Ohio which provides that orifice meters cannot be used as the production receipt points for Cutter Exploration wells.¹¹

Nonetheless, East Ohio continues to rely upon an unsupportable position in order to prevent Cutter from utilizing orifice meters at the production receipt points measuring gas

¹⁰ Answer to Amended Complaint ¶¶ 11, 16, 32 and 42.

¹¹ Cutter Aff. ¶12.

flowing from its plunger lift wells. Through the filing of this motion Cutter Exploration seeks immediate relief at this time for enforcement of the Tariff so that Cutter Exploration is able to at least have orifice meters installed at the six meter stations set forth on Exhibit A.¹²

Installation of orifice meters as requested will further give Cutter Exploration the opportunity to show that the rotary meters and the meter run design mandated by East Ohio for its plunger lift wells are wholly inappropriate and they do not work correctly for this application. Instead of using rotary meters, orifice meters (which have been the standard in Ohio for over 50 years for measurement of production gas) should be utilized. In accordance with Section 10 of the Tariff, Cutter Exploration has sought to utilize orifice meters at production receipt points to measure gas flowing from its wells, but East Ohio refuses to comply with the Tariff.¹³

In order to demonstrate the fact that orifice meters with high side measurement is the appropriate system to utilize for its wells, Cutter Exploration again requested that East Ohio allow Cutter Exploration to convert a limited number of meter stations to orifice meters.¹⁴ A specific written proposal for this request is attached hereto as **Exhibit "A."** The installation of orifice meters pursuant to this proposal will allow both parties to undertake a direct comparison of how the rotary meters and meter run design mandated by East Ohio perform as compared to orifice meters and a standard orifice meter run in terms of consistent measurement accuracy, well production, meter stoppages, mechanical failures, etc.

¹² Cutter Exploration ultimately seeks to have all of its production receipt points converted to orifice meter measurement as it has requested and it preserves its right to obtain this relief. But, due to the limited amount of time available before the hearing in this matter and the other pending issues, Cutter Exploration desires and believes it is entitled to immediately start with the six meter stations set forth on Exhibit A, which R.L. Laughlin has agreed to construct and maintain.

¹³ Cutter Aff. ¶¶ 11-14.

¹⁴ See, Keller Affidavit attached hereto as **Exhibit "F."**

Pursuant to the proposal (Exhibit A) third-party R.L. Laughlin would install and set-up the meters and collect the measurement data which will be able to both parties simultaneously. Despite the fact that this proposal will cost East Ohio nothing to implement and that orifice measurement has been utilized for decades in Ohio to measure production gas, East Ohio again refuses to allow Cutter Exploration to utilize orifice meters. Beyond refusing the proposal for the six meter stations (Exhibit A), East Ohio has previously refused to allow Cutter Exploration to use orifice meters at any meter stations even though orifice measurement is recognized in the Tariff as one of the measurement methods that shall be used.

II. LAW AND ARGUMENT

A. Applicable Tariff Provisions

Despite East Ohio's assertion otherwise, the controlling document before the Commission is East Ohio's Commission approved Tariff not some purported "agreement" that was allegedly entered into with OOGA. Nonetheless, in order to get around the Tariff, East Ohio insists that there is an agreement apparently approved by this Commission it entered into with OOGA (not Cutter Exploration) which requires the use of rotary meters at all meter stations associated with Cutter Exploration wells. It is a curious position which is contradicted by the Tariff.

Pursuant to the Tariff, the Customer (i.e., Cutter Exploration) or Supplier has the ability to designate production receipt points and the physical meters which will be used at the production receipt points. Upon selection of a meter by the Customer or Supplier, it must be installed and operated in accordance with East Ohio's requirements for such facilities. Section 10 of the Tariff provides in pertinent part:

All gas delivered to East Ohio by the Customer or its Supplier **shall be measured by orifice, rotary or other measurement facilities** constructed, installed and operated in accordance with standard industry practices and East Ohio's requirements for such facilities, except where superceded by Measurement Operating Agreement.

Tariff Section 10.1 (Emphasis added) In accordance with the directive that all gas delivered shall be measured by orifice, rotary or other measurement facilities, the Tariff gives the Customer or its Supplier the right to specify which meter will be used:

The Production Receipt Points for Production Volumes from **physical meters specified by the Customer or its Supplier** and accepted by East Ohio shall be at measuring stations constructed to East Ohio's standards, where the measurement and regulation equipment will be operated and maintained by East Ohio, except where superceded by a Measurement Operating Agreement.

Tariff Section 10.4 (Emphasis added). Despite the plain language in Sections 10.1 and 10.4, East Ohio has conducted its business as if it has full and complete authority to specify what physical meters will be used at production receipt points regardless of what Cutter Exploration has requested. The Tariff further provides:

Unless otherwise agreed to by East Ohio and Customer or its Supplier, prior to construction of Production Receipt Point, East Ohio and the Customer or its Supplier shall enter into an agreement identifying the cost, construction and ownership responsibilities of the parties.

Tariff Section 10.7. Significantly, prior to the construction of each Production Receipt point at issue, no agreement was entered into between East Ohio and Cutter Exploration as required. Instead, East Ohio maintains a unilateral, authoritarian approach whereby it instructs the producer, i.e., Cutter Exploration on what meter will be used at each production receipt point and how the production receipt point will be constructed, paid for, maintained, etc. If Cutter Exploration does not comply with the dictates of East Ohio when a new production receipt point is constructed, East Ohio will not allow the producer to tap into its distribution lines and sell gas. Hence, Cutter Exploration has been forced to comply with East Ohio's dictates or it cannot sell

gas. The Tariff plainly does not give East Ohio the authoritarian power it has wielded to the detriment of Cutter Exploration. Quite to the contrary, East Ohio is obligated to comply with all the provisions of the Tariff which specifically provides for the use of orifice meters at production receipt points. The Tariff also requires East Ohio to take gas from Cutter Exploration on a best efforts basis:

Production Volumes received by East Ohio at Production Receipt Points specified by the Customer or its Supplier and accepted by East Ohio shall be taken by East Ohio on a best efforts basis at all times at full flow against the varying pressures maintained from time to time in East Ohio's pipelines.

Tariff 10.8 (emphasis added) As will be shown at the hearing, East Ohio's refusal to allow Cutter Exploration use of orifice meters at its meter stations amounts to a violation of Section 10.8. The rotary meters with low-side measurement East Ohio insists must be used inhibit the operation of Cutter Exploration's wells and the flow of production gas.

Regardless of the disputed issues of fact concerning the ultimate performance and operation of the rotary meters as opposed to orifice meters, in accordance with the Tariff, Cutter Exploration simply seeks to have at least six orifice meter installed at the production receipt points set forth in Exhibit A in place of the rotary meters currently be utilized.

B. East Ohio has violated the Tariff by Refusing to allow Cutter to use orifice Meters at Production Receipt Points.

Despite the express provisions in the Tariff, East Ohio refuses to allow orifice meters with high-side measurement to be utilized at production receipt points measuring gas flowing from Cutter Exploration wells. The use of orifice meters to measure production gas is nothing new or untested. Aside from the fact that orifice meters are specifically listed in Section 10.1 of the Tariff, these meters have been the standard used in Ohio for over 50 years. In fact, there are still currently hundreds of orifice meters operating as production receipt points at this time on

East Ohio's NM11 system.¹⁵ Despite this reality, East Ohio insists that only rotary meters can be utilized at the Cutter Exploration production receipt points.

Cutter Exploration has requested the use of orifice meters on multiple occasions, include without limitation, the following:

- Starting in 2007 and thereafter Michael Cutter had conversations with East Ohio representatives and sent communications to them indicating my desire to use orifice meters instead of rotary meters.
- On March 17, 2009, Cutter Exploration's counsel sent a letter to East Ohio's counsel which requested in part, that DEO allow Cutter Exploration to install electronic orifice meters to replace the rotary meters.
- On May 6, 2009, Cutter Exploration's counsel again requested that DEO immediately convert Cutter Exploration's production receipt point meters to high-side measurement with electronic orifice meters.¹⁶
- The week of February 1st, Cutter Exploration's counsel specifically raised the proposal to allow limited meter stations to be converted to orifice measurement. As set forth in a letter from East Ohio's counsel attached hereto as part of Exhibit F, East Ohio refused.

East Ohio rejected all of Cutter Exploration's requests that orifice meters be utilized. As noted above, East Ohio relies upon the assertion that an "agreement" exists between itself and OOGA which prevents Cutter Exploration from being able to specify the use of orifice meters.¹⁷ Notably, East Ohio has never produced the so called "agreement" that was entered into between East Ohio and OOGA. Regardless, even if there were some type of "agreement" between

¹⁵ In accordance with East Ohio's mandate, only meter stations constructed after September 1, 2008, must utilize rotary meters. It is undisputed that there are hundreds of orifice meters still operating at production receipt points at this time.

¹⁶ Cutter Aff. ¶13.

¹⁷ Answer to Amended Complaint ¶¶11, 16, 32 and 42.

OOGA and East Ohio, Cutter Exploration has never entered into such an agreement and it apparently has never been approved by this Commission.¹⁸

Accordingly, Cutter Exploration seeks an order from the Commission compelling East Ohio to allow R.L. Laughlin as proposed¹⁹ to install orifice meters in place of the rotary meters at the six meter stations as proposed (Exhibit A).²⁰

C. Installation of Orifice Meters at the Production Receipt Points Requested Will Also Provide Additional Evidence in Support of Cutter Exploration's Other Claims.

One fundamental issue which Cutter intends to show at the hearing is that rotary meters and the meter run design mandated by East Ohio do not work well for measurement of production gas from intermittent trip wells. The rotary meters and meter design East Ohio has mandated have had numerous problems including without limitation the following:

- the rotary meters do not accurately measure the gas flowing from the Cutter's intermittent wells through the production receipt points on a consistent basis within industry standards;
- the rotary meters are prone to stoppages and mechanical failures;
- the rotary meters and meter run design mandated by East Ohio inhibits Cutter's ability to flow gas into the NM11 system; and
- the rotary meters and meter run design mandated by East Ohio inhibits the proper operation of Cutter's intermittent trip wells.

¹⁸ Cutter Aff. ¶14.

¹⁹ R.L. Laughlin is a well established company that provides natural gas measurement services throughout Ohio. In fact, both East Ohio and Cutter Exploration utilize R.L. Laughlin's services and the company is an approved vender of East Ohio. Accordingly, R.L. Laughlin is a logical choice for the parties to utilize to implement a conversion to orifice meters as contemplated. East Ohio has made no objection to the use of R.L. Laughlin as proposed, rather it just refuses to agree with the use of orifice meters for any production receipt points associated with Cutter Exploration wells.

²⁰ In making its motion at this time that the Exhibit A proposal be implemented, Cutter Exploration reserves the right to make any and all applicable arguments under the Tariff concerning the installation, use and maintenance of production receipt point meters and which party must pay for the cost of any further installations or conversions which may occur.

By compelling East Ohio to allow for an immediate conversion of the six meter station, Cutter Exploration will be able to secure additional evidence demonstrating that the orifice meters with high side measurement is the appropriate meter and design to utilize for measurement of production gas from intermittent trip wells, not rotary meters with low-side measurement.

III. CONCLUSION


Cutter Exploration seeks an order from the Commission that it be allowed to convert the production receipt point meters at six meter stations to orifice meters with high side measurement as set forth in the proposal attached hereto as Exhibit A. As set forth in the proposal, R.L. Laughlin will install the orifice meters with electronic flow computers at no cost to East Ohio. The relief requested is based upon the express provisions of the Tariff and it will cost East Ohio nothing to allow these conversions to be immediately made. The conversion the meter stations to orifice measurement will also provide the basis for a direct comparison of the performance and suitability of orifice meters vs. rotary meters for the measurement of gas flowing from intermittent trip wells.

Pursuant to Ohio Admin. Code 4901-1-12(C), counsel for Cutter advised East Ohio that it would be filing this motion and would be seeking an expedited ruling. Counsel for East Ohio indicated that it objects to the issuance of an expedited ruling.²¹

²¹ Keller Aff. ¶¶ 7-8.

For all of the reasons discussed herein, providing the relief requested is appropriate in light of the applicable Tariff provisions.

Respectfully submitted,

By: 

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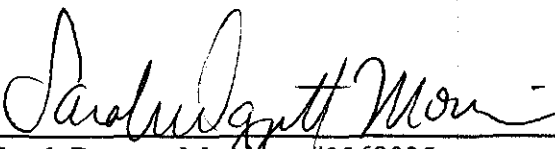
Attorneys for Cutter Exploration, Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing was served this 2nd day of March, 2011, via regular U.S. Mail and electronic mail upon the following:

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Sarah Daggett Morrison #0068035

EXHIBIT A

Orifice Meter Proposal

Cutter Exploration, Inc. ("Cutter") and The East Ohio Gas Company d/b/a Dominion East Ohio ("East Ohio"), will have third-party R.L. Laughlin & Company ("Laughlin") convert the following well stations which are currently operating on meter runs with rotary meters to orifice meters with electronic measurement:

1. Master station K974 which measures gas flowing from six Cutter wells (Christ Presbyterian Church # 1, Bremic #1, Farmer #1, Romah #1, Barrille #1 and Pilla #1);
2. Mater station K094 which measures gas flowing from four Cutter wells (Kirby/Perko #1, Kirby/Perko #2, GCC #1 and GCC #2);
3. Master station P449 which measures gas flowing from three Cutter wells (Komidar #1, Oberle #1 and Carlton #1);
4. Master station P472 which measures gas flowing from two Cutter wells (Skirbunt #1 and PC #1);
5. Master station P158 which measures gas flowing from two Cutter wells (Kokay #1 and Smithingell #1);
6. Master station P20 which measures gas flowing from two cutter wells (Kulp #1 and Wiley #1).

In conducting the conversion, R.L. Laughlin will plumb around the rotary meters so that the orifice meter runs will operate without any influence from the rotary meters currently being utilized.

Laughlin will conduct the installation of the orifice meter runs and the setting of all equipment and flow computers on the meter runs in accordance with standard industry practices for orifice measurement. The regulators on the orifice meter run will be set-up in a manner providing for high-side measurement.

For each orifice meter, Laughlin will install either an Eagle RTU or ABB Total flow computer to provide for electronic measurement. All data recorded by the flow computers will be gathered by Laughlin and posted to a secure website so that Cutter, East Ohio and PUCO personnel can access the data and measurements recorded.

The master stations converted to orifice meter measurement and managed by R.L. Laughlin will be allowed to operate and measure gas for a minimum of eight weeks.

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EXHIBIT B

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Cutter)
Exploration, Inc.)

Complainant,)

Case No. 09-1982-GA-CSS

v.)

The East Ohio Gas Company d/b/a)
Dominion East Ohio,)

Respondent.)

AFFIDAVIT OF MICHAEL J. CUTTER

STATE OF FLORIDA)

SS:

COUNTY OF SEMINOLE)

I, MICHAEL J. CUTTER, , being first duly sworn, deposes and says:

1. I am over twenty-one (21) years of age and am resident of Seminole County, Florida.

2. I have personal knowledge of the facts sworn to herein, except only those facts sworn to upon information and belief.

3. I am one of the principals of Cutter Exploration, Inc. ("Cutter Exploration") which is an Ohio corporation that has been drilling and producing oil and gas in the State of Ohio since 1981. Cutter Exploration has drilled wells in Wayne, Lake, Summit, Stark, Portage, Geauga and Washington counties.

4. I represent the fourth generation of my family to work in the oil and gas business in Ohio. I began working with my father, John B. Cutter, in the business in the late 1970s and I currently serve as the President of Cutter Exploration.

EXHIBIT

B

5. Cutter Exploration currently owns or operates in excess of 40 producing wells located in Geauga County, Ohio. Approximately thirty separate meter stations (i.e., production receipt points) have been constructed which record gas flowing from the various wells which enters either the NM11 distribution system operated by The East Ohio Gas Company d/b/a Dominion East Ohio ("East Ohio") or, in limited circumstances, the TPL14 system operated by East Ohio.

6. With one exception, all of Cutter Exploration's wells located in Geauga County operate as intermittent trip wells which are also commonly referred to as "plunger lift wells."

7. One key feature of a plunger lift well is that the plunger moves through the interior of the well bore tubing providing a number of benefits to the operation of the well including assisting in the evacuation of oil and fluid.

8. The plunger within the well bore is driven from the bottom to the top of the well by bottomhole gas pressure from the oil and gas reservoir. A typical rate for a plunger to travel through the well bore when a plunger lift well is operating properly is somewhere between 500 and 700 feet per minute.

9. Due to East Ohio's insistence upon the use of rotary meters at the production receipt points, however, Cutter Exploration's plungers are traveling through the well bore at much slower rates preventing the wells from operating properly.

10. Starting in 2006, a few rotary meters were installed at certain existing Cutter Exploration meter stations by East Ohio. At these stations, East Ohio replaced the existing orifice meter with a rotary meter.

11. In addition to the few meter stations where a rotary meter had replaced an existing orifice meter, East Ohio later mandated that all new meter stations constructed for Cutter

Exploration wells must utilize a rotary meter and meter run design specified by East Ohio. I did not agree with the continued installation and use of rotary meters and I told East Ohio that Cutter Exploration wants to use orifice meters.

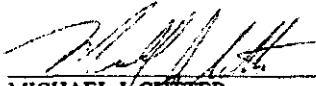
12. Cutter Exploration has never entered into any agreement with East Ohio whereby it agreed that only rotary meters can be utilized at the meter stations which measure gas flowing from its wells.

13. On multiple occasions Cutter Exploration informed East Ohio that it wants orifice meters utilizing high-side measurement and electronic flow computers installed at the meter stations. Such occasions include, without limitation, the following:

- a) Starting in 2007 and thereafter I had conversations with East Ohio representatives and sent communications to them indicating my desire to use orifice meters instead of rotary meters;
- b) On or about March 17, 2009, Cutter Exploration's counsel sent a letter to East Ohio's counsel requesting that East Ohio "simply allow Cutter Exploration to install electronic orifice meters to replace the rotary meters" a true and accurate copy of which is attached hereto as Exhibit "1"; and
- c) On or about May 6, 2009, Cutter Exploration's counsel sent another letter to East Ohio's counsel again requesting that East Ohio "immediately convert Cutter Exploration's measurement stations to high-side measurement or replace the existing rotary meters with electronic orifice meters" a true and accurate copy of which is attached hereto as Exhibit "2."

14. Despite Cutter Exploration's multiple, ongoing requests East Ohio has refused to allow orifice meters to be used at the meter stations for the measurement of gas flowing from Cutter Exploration wells.

FURTHER AFFIANT SAYETH NAUGHT.


MICHAEL J. CUTTER
TIDAL (560-450-33) - 2016-0

SWORN TO and subscribed in my presence this 2 day of March, 2011


NOTARY PUBLIC

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VORYS

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March 17, 2009

VIA OVERNIGHT CARRIER

J. Michael Zontini
Senior Counsel, Law Department
Dominion Resources Services, Inc.
1201 East 55th Street Center
Cleveland, OH 44103

Re: Cutter Exploration

Dear Mr. Zontini:

We recently received your letter of March 5, 2005 regarding the ongoing measurement and gas flow dispute between Cutter Exploration and Dominion East Ohio ("DEO"). This law firm has represented Cutter Exploration in connection with the inaccurate measurement of natural gas delivered to DEO.

It is our hope that we can continue an ongoing and productive dialogue with DEO to resolve the issues that resulted from DEO's failure to accurately measure the volumes delivered by Cutter to DEO. We are aware that a sub-committee of the Ohio Oil and Gas Association's Technical Committee is currently reviewing the measurement issues associated with rotary meters. We fully support the efforts of this sub-committee and plan to assist it as requested. For example, Cutter Exploration has installed orifice meters with electronic measurement behind certain rotary meter stations (K974, Monticello, Kirby-Perko and Petronzio/Mayfield) and will be sharing that data with the sub-committee. DEO is welcome to review that data upon request, as it is uploaded instantaneously via satellite to the meter manufacturer's website. To ensure complete transparency and assist the sub-committee, we ask in return that DEO share its measurement data with Cutter Exploration for its metering stations. If preferable, DEO can submit that data directly to me or my colleague, Mike Settineri.

Another aspect of this dispute that is very troubling is DEO's continued refusal to allow Cutter Exploration to convert its meter stations to high side measurement. Currently, all but one of the meter stations used by Cutter Exploration have pressure regulators located immediately upstream of the rotary meters, i.e., low side measurement. These regulators are intended to reduce the line pressure to 57 psi to stay under the maximum allowable operating

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VORYS

Legal Counsel

J. Michael Zontini

March 17, 2009

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pressure of 60 psi. This regulator placement has been shown to artificially restrict the amount of gas that can flow into the distribution system. Moving the regulators or sensors that control the regulators downstream of the rotary meter, i.e., high side measurement, removes this restriction. This has been proven on Cutter Exploration's Monticello well that was converted from low side measurement to high side measurement. Considering that DEO's current tariff expressly requires that gas "... shall be taken by East Ohio on a best efforts basis at all times at full flow against the varying pressures maintained from time to time in East Ohio's pipelines[.]" DEO has no basis for refusing to relocate the regulators downstream of the rotary meters. We request that DEO immediately relocate these regulators downstream of the existing rotary meters. Cutter Exploration has been requesting this for many months and has even offered to pay for the plumbing necessary and install an upstream regulator (set around 100 psi) to protect the rotary meters.

As an alternative, DEO can simply allow Cutter Exploration to install electronic orifice meters to replace the rotary meters. Cutter Exploration has worked with a number of manufacturer representatives and the general conclusion is that the rotary meters may not be the best application for high volume intermittent flows in a seasonal climate like that of northeastern Ohio. Electronic orifice meters, like the Eagle XARTU-60256 meter, are a much better application for measuring high intermittent gas flow, requiring no moving parts and providing a wider range of measurement. Given this and in place of high side measurement, we would accept DEO's conversion of the existing rotary meters on Cutter Exploration's stations to electronic orifice meters. Note, as evidenced by the attached DEO correspondence, DEO currently offers producers the option of converting existing paper charts on orifice meters to electronic orifice meters for stations producing over 25 mcf per day.

This leads to my concern that DEO appears to be singling out Cutter Exploration. We are aware that other producers feeding into the Chester distribution line are utilizing rotary meters without restrictor plates or are using orifice meters with regulators located downstream of the orifice plate. In fact, from a limited review of meters in the area, Cutter Exploration may be the only producer who currently is being forced to use meter stations consisting of rotary meters with restrictor plates and low side measurement. DEO's refusal to allow Cutter Exploration to use high side measurement (i.e., regulators downstream of the rotary meter) when that design is being used in the Chester system today and in other states is simply unreasonable and discriminatory in nature. With these concerns, on behalf of Cutter Exploration, we request that all meter stations designed and mandated for installation by DEO from January 1, 2005 to the present date be inspected. We also request that DEO preserve and maintain the records concerning its discriminatory treatment of Cutter Exploration in connection with delivery into the Chester system until they can be adequately reviewed by Cutter Exploration's representatives. The inspection should consist of a review of the type of meter installed, the location of the pressure regulators (low side or high side) and whether restrictor plates are in use with any rotary meters. We also ask that representatives from Cutter Exploration be present during the inspection.

CUTTER0047

VORYS

Legal Counsel

J. Michael Zontini

March 17, 2009

Page 3

It is Cutter Exploration's firm belief that gas should be measured accurately and allowed to flow freely, without artificial restriction that prevents efficient and full flow of gas into the DEO system. We assume that DEO shares this goal. Cutter Exploration remains ready and willing to share all measurement data on its sub-meters and would ask the same from DEO. However, Cutter Exploration cannot accept DEO's continued refusal to convert the rotary meter stations that are unsuited for this application to high side measurement or, alternatively, to switch the rotary meters to electronic orifice measurement. Your assistance in promptly resolving that issue would be greatly appreciated.

I look forward to discussing these issues further with you.

Very truly yours,


W. Jonathan Airey

WJA/dlc

cc: Michael J. Cutter
Michael J. Settineri

VORYS

Vorys, Sater, Seymour and Pease LLP
Legal Counsel

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May 6, 2009

VIA OVERNIGHT CARRIER

J. Michael Zontini
Senior Counsel, Law Department
Dominion Resources Services, Inc.
1201 East 55th Street Center
Cleveland, OH 44103

Re: Cutter Exploration

Dear Mr. Zontini:

This correspondence is in follow-up to my March 17, 2009 letter to you requesting that Dominion East Ohio ("DEO") immediately convert Cutter Exploration's measurement stations to high-side measurement or replace the existing rotary meters with electronic orifice meters. As of this date, you have not responded to my request.

DEO's continued refusal to immediately convert Cutter Exploration's measurement stations to high-side measurement or to install electronic orifice meters is very disturbing. As I stated in my March 17 letter, the existing rotary meter design restricts the full flow of gas through the stations and does not provide accurate measurement of gas produced. Data shows major discrepancies in the rotary meter measurements when gas produced exceeds approximately 40 Mcf per day. For example, the Monticello well produced 108 Mcf from September 2, 2008 to September 3, 2008 as recorded by a twenty-four hour paper chart. The rotary meter installed at the Monticello well only recorded 66.7 Mcf over the same twenty-four hour period. Likewise, the K974 station rotary meter registered 134.5 Mcf from February 23, 2009 to February 24, 2009. During that same twenty-four hour period, an Eagle XARTU-60256 meter (electronic orifice) registered 297.2 Mcf while a paper chart registered 308 Mcf. Cutter Exploration provided this data to the Sub-Committee at the April 7, 2009 meeting, a copy of which is enclosed.

The current rotary meter design is not only resulting in measurement errors, but is impacting the short-term and long-term production of Cutter Exploration's intermittent rabbit wells. The current rotary meter design is forcing Cutter Exploration to slow the rabbit lift, affecting the removal of fluids from the wells. Trip time due to the present meter run

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VORYS

Legal Counsel

J. Michael Zontini

May 6, 2009

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configuration is easily twice what would be considered standard operating procedure for wells 4,000 feet in depth. Slow trip time increases fluid drop out which over time removes primarily gas only, leaving fluids to accumulate in the reservoir. The failure to efficiently remove fluids from wells results in premature loading of the wells, affecting the wells' ability to produce gas unassisted both in the short-term and in the long-term. Given the extreme urgency of this issue, I again request that DEO immediately relocate regulators downstream of the existing rotary meters to allow for high-side measurement or replace the rotary meters with electronic orifice meters. If you disagree with this request, please provide me the legal basis for DEO's refusal and explain why DEO and its sister companies are currently allowing high-side measurement and using electronic orifice meters at other stations.

I also would like to follow-up on the data request I made to you in my April 2, 2009 letter. Cutter Exploration wanted to present a side-by-side comparison of hourly data from Eagle XARTU-60256 meters and data from the existing rotary meters at the April 7, 2009 Sub-Committee meeting. We only received data for two of the six rotary meters prior to the meeting. Mr. Breon subsequently submitted data for all six rotary meters with the exception of the 2008 data for the rotary meter at the Monticello well. Please provide the 2008 data for that rotary meter. In addition, I would like to request all hourly data collected from the NuFlow electronic orifice meters installed at the Pizzino well and the K974 well.

Although the Sub-Committee is now actively involved in reviewing the rotary meter inaccuracies, the urgency of this issue requires immediate attention. Accordingly, I ask that you respond to Cutter Exploration's request to convert the rotary meters to high-side measurement and/or switch to electronic orifice measurement no later than close of business, Friday, May 15, 2009.

Please call me or my colleague, Mike Settineri, 614-464-5462, if you have any questions.

Very truly yours,

W. Jonathan Airey

WJA/dlc

cc: Michael J. Cutter
Michael J. Settineri

CUTTER00481

EXHIBIT C

B-2. How Plunger Lift Works.

A wing valve control on the wellhead closes the flow line to the tank battery, and this stops the flow of fluids up through the tubing to the tank battery. The bumper housing and catcher on the wellhead release a free falling gas lift plunger, which drops by gravity from the wellhead downward through the tubing. An open valve in the plunger allows fluids from below to pass through it as it falls. Gravity continues to make the plunger fall all the way to the bottom of the well.

When the gas lift plunger strikes bottom, it makes contact with a footpiece spring, closing the valve. Downhole pressure continues to build up and also allows oil and water to accumulate on top of the plunger. After a specified time or tubing pressure level, the controller causes a flow line motor valve at the surface on the wellhead to open, allowing the gas and fluids accumulated in the tubing to flow toward the tank battery.

The differential pressure change across the plunger lift valve causes the plunger to travel toward the surface at a rate of 500-1,000 feet per minute, depending on adjustable choke settings, fluid loads, and bottomhole pressure. As the plunger moves upward pushed by the built-up formation pressure below it, the fluid above the plunger is lifted to the surface.

On oil wells and weak gas wells, the arrival of the plunger at the surface activates a magnetically controlled sensor that immediately closes the flow line motor valve, conserving tubing and formation gas pressure until the next cycle. The catcher in the bumper housing releases the plunger. The plunger again starts falling, and the cycle begins again, repeating itself as often as the settings and pressures allow.

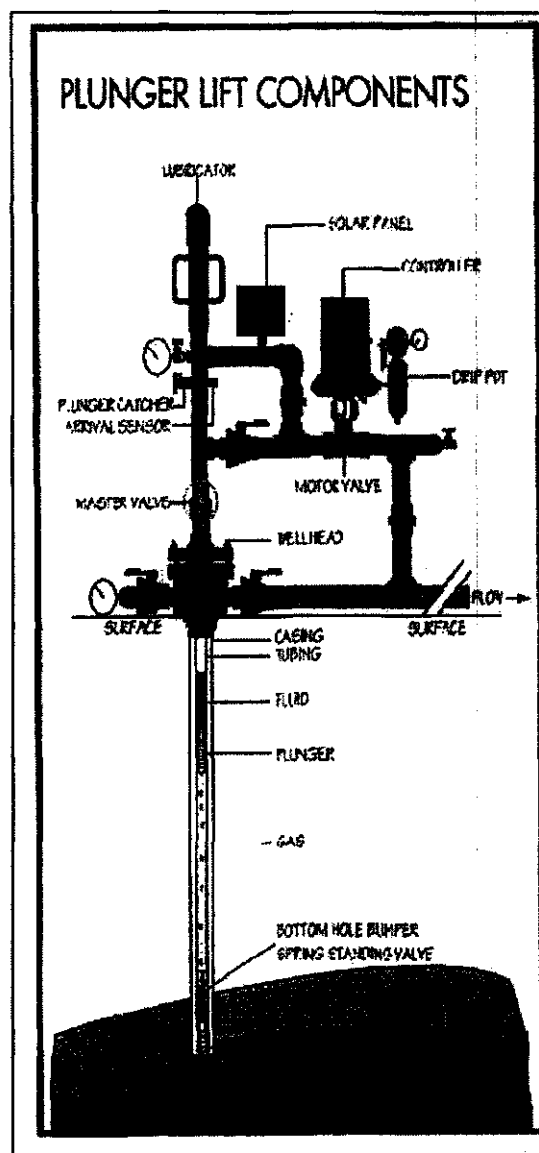


Figure 2. Plunger lift system.
(courtesy of Production Control Services, Inc.)

B-3. Benefits of Plunger Lift.

The benefits of converting a marginally producing flowing well to a lift system can be enormous in many situations. Some of



EXHIBIT D

11/2-3/10
Komidar

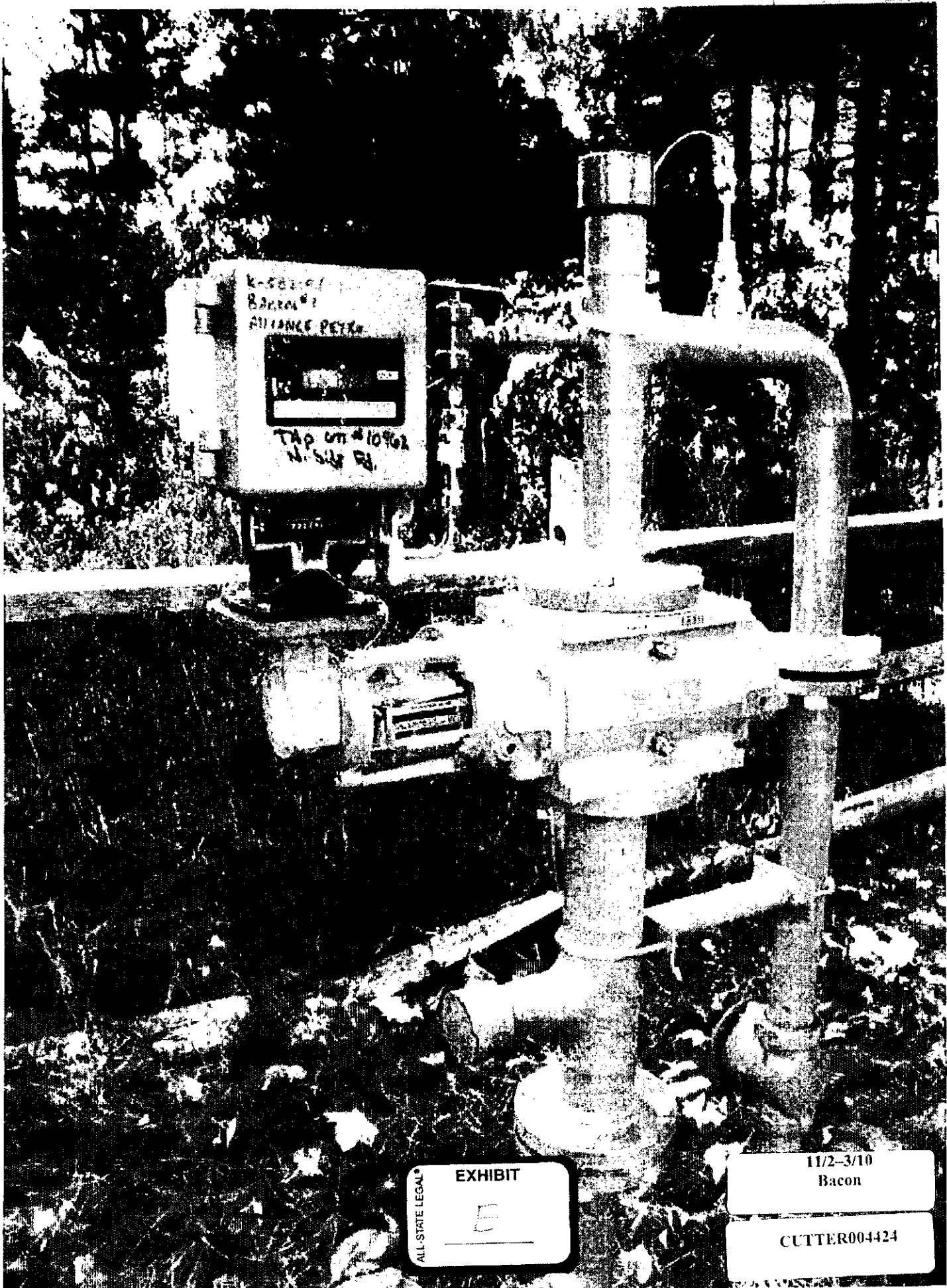
CUTTER004495

TOTAL PLOCH

ALL-STATE LEGAL®

EXHIBIT

EXHIBIT E



K-582-91
BACON #1
ALLIANCE PETRO



TAP ON #10962
N. 5th St.

ALL STATE LEGAL

EXHIBIT

E

11/2-3/10

Bacon

CUTTER004424

11/2-3/10
Skirbunt

CUTTER004499

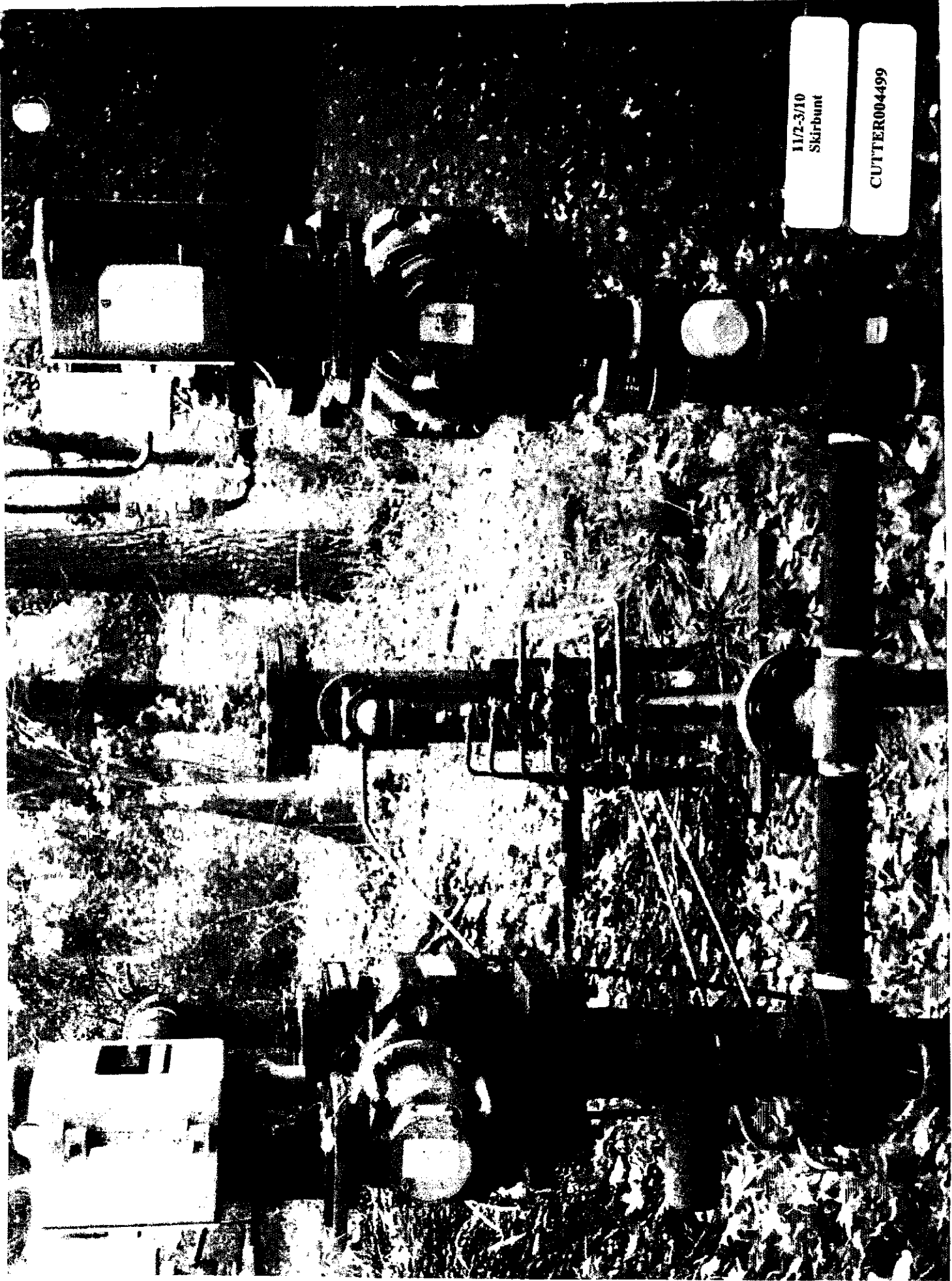


EXHIBIT F

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Cutter) Exploration, Inc.))		
Complainant,)		Case No. 09-1982-GA-CSS
)		
v.)		
)		
The East Ohio Gas Company d/b/a) Dominion East Ohio,)		
)		
Respondent.)		

AFFIDAVIT BY COUNSEL

STATE OF OHIO)		
)		SS:
COUNTY OF STARK)		

I. CLAY K. KELLER, being first duly sworn, deposes and says:

1. I am over twenty-one (21) years of age and am resident of Summit County, Ohio.
2. I am an attorney with the law firm Buckingham, Doolittle & Burroughs, LLP, I am admitted to practice in State of Ohio and I am one of the attorneys that represents Cutter Exploration, Inc. ("Cutter Exploration") in the proceeding pending before the Public Utilities Commission of Ohio ("PUCO" or "the Commission") captioned as In re: Cutter Exploration, Inc., v. The East Ohio Gas Company d/b/a Dominion East Ohio Case No. 09-1982-GA-CSS.
3. On or around February 4, 2011, I had a telephone conference with East Ohio's counsel whereby I conveyed Cutter Exploration's desire to have orifice meters installed in place



of the rotary meters on at least six meter stations measuring gas flowing from Cutter Exploration wells.

4. Pursuant to the proposal discussed, third-party R.L. Laughlin & Company would conduct the installations and the orifice meters would be installed in a manner to remove the rotary meters from the gas flow which would allow Cutter Exploration's wells to operate with true orifice measurement. It was further discussed that R.L. Laughlin would set-up the orifice meters and provide the measurement data to both parties. For purposes of the proposal, East Ohio would not have to pay any costs relating to the conversion. It was also discussed that the orifice meters could be installed in a manner to plumb around the rotary meters so that the rotary meters (although being removed from the gas flow while the orifice meters were being utilized) would not have to be physically removed from the meter stations.

5. After discussing the proposal, counsel for East Ohio indicated that he would have to get back to me regarding the same.

6. On February 9, 2011, East Ohio's counsel sent me a letter a true and accurate copy of which is attached hereto as Exhibit "1." The last paragraph on page three of this letter provided a specific response to Cutter Exploration's proposal for installation of orifice meters. As set forth in this letter, East Ohio refuses to allow Cutter to have orifice meters installed as proposed.

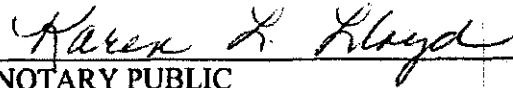
7. By e-mail on February 22, 2011, I notified East Ohio's counsel that Cutter Exploration would be filing a motion concerning its proposal to have orifice meters installed at the production receipt points for at least six meter stations and that Cutter Exploration would be seeking an expedited ruling on this issue.

8. Counsel responded via e-mail indicating that East Ohio objects the issuance of an expedited ruling.

FURTHER AFFIANT SAYETH NAUGHT.


CLAY K. KELLER

SWORN TO and subscribed in my presence this 2nd ^{MARCH} day of February, 2011


NOTARY PUBLIC

«CT2:674909_1»



KAREN L. LLOYD, Notary Public
Residence - Stark County
State Wide Jurisdiction, Ohio
My Commission Expires December 18, 2013

JONES DAY

325 JOHN H. MCCONNELL BOULEVARD, SUITE 600
COLUMBUS, OHIO 43215 2673
TELEPHONE: 614.469.3939 • FACSIMILE 614.461.4198

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COLUMBUS, OHIO 43216 5017

Direct Number: (614) 281-3658
gwgarber@jonesday.com

JP007123
276240-071238

February 9, 2011

VIA E-MAIL

Clay K. Keller, Esq.
Buckingham, Doolittle & Burroughs, LLP
4518 Fulton Drive, NW
P.O. Box 35548
Canton, Ohio 44735-5548

Re: Cutter Exploration, Inc. v. The East Ohio Gas Company d/b/a Dominion East Ohio,
PUCO No. 09-1982-GA-CSS

Dear Clay:

I write to address several outstanding issues. With respect to the items raised in your email dated January 3, 2011 and your letter dated January 11, 2011:

- Cutter may (i) inspect the meter removed from the Allyan site; (ii) take custody of a portion of the fluid samples taken from the Skirbunt and Perelman sites; and (iii) inspect the metal tags removed from the regulators at the Skirbunt and Perelman sites at DEO's Northeast Shop, which is located in Wickliffe, Ohio. We propose that those inspections take place on either February 15, 17, 21, 24 or 28. Please let me know if any of those dates are acceptable. This confirms that no alterations have been made to the meter, fluid samples or metal tags described above. Further, as I have discussed with you, DEO retained samples of the fluid removed from the meters at the Skirbunt and Perelman sites, not the entire volume of fluid removed from those meters.
- DEO is amenable to your proposal that we schedule removal of fluid from rotary meter gear boxes at Cutter's wells in conjunction with inspection of the orifice plates in Cutter's check meters. Specifically, DEO proposes that representatives of both parties witness and measure the total volume of fluid removed from those gear boxes. Following measurement of the fluid, DEO agrees that North Coast Labs may take custody of a portion of that fluid on behalf of Cutter. DEO will likely also take a portion of that fluid. We propose that these inspections begin in March. Please contact me to discuss the specific timing and logistics of those inspections.

COI-1453455v1

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JONES DAY

Clay K. Keller, Esq.
February 9, 2011
Page 2

With respect to the items raised in your letter dated January 14, 2011:

- Pursuant to the objections set forth in DEO's responses to Cutter's fifth set of discovery requests, DEO does not intend to provide responses to Cutter's discovery requests regarding lost and unaccounted for gas. Documents, calculations and analyses relating to lost and unaccounted for gas are irrelevant in this proceeding. Contrary to your assertion in your letter dated January 14, 2011, DEO has no incentive to "make up for" lost and unaccounted for gas using gas received from producers. DEO is fully compensated, at no profit to DEO, for any unaccounted for gas. In any event, the amount of lost and unaccounted for gas on DEO's system has no bearing on the reasonableness of DEO's decision to use rotary meters to measure production gas or the fact that rotary meters are demonstrably more accurate than orifice meters. Accordingly, Cutter's Interrogatory Nos. 59 and 60 and Request for Production No. 66 seek irrelevant information and documents, and DEO will not provide responses to those requests.
- All documents responsive to Cutter's Request for Production No. 68 have been produced. Specifically, those documents are labeled with bates numbers DEO 11882 through DEO 11884.

With respect to the items raised in your letter dated January 31, 2011:

- DEO is amenable to producing John Kutnar, Jeff Pavlic and Jeff Baker for deposition at Jones Day's office in Cleveland at some point during the first or second weeks of March. I am working with those individuals to identify specific dates on which they are available, and I will advise you of a proposed schedule later this week.
- Please provide Mike Cutter's and Mark Tirpak's availability for depositions during the first and second weeks of March.
- DEO is attempting to locate additional versions of maps of the TPL14 and NM11 systems. In the interim, and as we indicated in our initial response to Cutter's Request for Production No. 10, the system maps are confidential Critical Energy Infrastructure Information that we can provide only upon your execution of a protective agreement. Cutter's former counsel executed the agreement, but we have not received an executed version from you or the other new counsel. A copy of the previously executed agreement and a word version are enclosed. Please arrange for Cutter's new counsel to sign the protective agreement.
- Enclosed please find one excel file labeled "Cutter Audit Trails Oct 2010," which contains supplemental Minimax data downloaded through October 2010.

JONES DAY

Clay K. Keller, Esq.
February 9, 2011
Page 3

- We are working on supplementations to Cutter's Request for Production No. 56 and Interrogatory No. 52. I expect to have such supplemental responses to you no later than February 18, 2011.

Finally, I write to bring two additional items to your attention:

- DEO will conduct annual inspections of meter runs at the Halcik (P221), Hoenigman (P222) and Pizzino/Kaucic (P223) locations next week. DEO will begin those inspections on February 15 at 9 a.m. at the Halcik site and will continue with the inspections of the other locations throughout the day on February 15 and, if necessary, on February 16. Please advise whether Cutter will send an attorney to witness those inspections. I will advise of further inspection dates when they become available.
- Last week you and I discussed Cutter's proposal to temporarily replace rotary meters with orifice meters, or "plumb around" rotary meters so that an orifice meter is the sole measurement device, at approximately seven to eight Cutter well sites. This proposal is not acceptable to DEO. DEO installed those rotary meters pursuant to an agreement with the Ohio Oil & Gas Association and consistent with its installation of rotary meters at wells belonging to other producers. Cutter's filing of this litigation does not entitle it to an exemption from that agreement or from DEO's consistent practice of using rotary meters at production wells. Cutter is free to install check meters at its meter runs; indeed, Cutter has availed itself of this option at several locations. DEO will not, however, temporarily remove or "plumb around" the rotary meters in use at Cutter's well sites.

Very truly yours,


Grant W. Garber

cc: David Kutik, Esq.
Mark Skakun, Esq.
John Bentine, Esq.