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PUCO

FILE

March 21, 2011

Renee Jenkins
Chief of Docketing
The Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, Ohio 43215

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

Dear Ms. Jenkins:

Attached is the original Affidavit of Michael J. Cutter. Please insert the original affidavit and remove the copy of Mr. Cutter's Affidavit attached as Exhibit B to Cutter Exploration, Inc.'s Motion to Compel and For Expedited Ruling, filed March 2, 2011, in the above-referenced case. Also, attached is the original Affidavit of Counsel. Please insert the original affidavit and remove the copy of Affidavit of Counsel attached as Exhibit AFF to Cutter Exploration, Inc.'s Motion to Compel Discovery on Issue of Lost and Unaccounted for Gas, filed March 15, 2011, in the above-referenced case. Do not hesitate to contact me with any questions.

Very truly yours,

John W. Bentine

cc: Parties of Record

4813-1401-8313, v. 1

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**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 November 26, 2010, Cutter Exploration served its Fifth Set of Interrogatories and Document Requests to Respondent The East Ohio Gas Company ("East Ohio"). Included in this written discovery are Interrogatory Nos. 59, 60 and Document Requests No. 66. A true and accurate copy of the foregoing written discovery is attached hereto as Exhibit "1."

4. On December 23, 2010, East Ohio served responses to Cutter Exploration's Fifth Set of Interrogatories and Document Requests. East Ohio objected to Interrogatory Nos. 59 and 60 and East Ohio objected to Document Request No. 66. A true and accurate copy of East Ohio's Responses to the Fifth Set of Interrogatories and Document Requests are attached hereto as Exhibit "2."

5. On January 14, 2011, I sent correspondence on behalf of Cutter Exploration to counsel for East Ohio requesting complete responses to Interrogatory Nos. 59 and 60 and further requesting that East Ohio produce all the document responsive to Document Request No. 66. A true and accurate copy of this letter is attached hereto as Exhibit "3."

6. On February 9, 2011, counsel for East Ohio sent written correspondence to me indicating that East Ohio would not provide responses to Interrogatory Nos. 59 and 60, nor would East Ohio produce any of the documents responsive to Document Request No. 66. A true and accurate copy of this letter is attached hereto as Exhibit "4."

7. On or around February 9, 2011, I also had a telephone conference with counsel for DEO to discuss various outstanding discovery issues, including East Ohio's Responses to the foregoing Interrogatories and Document Requests. East Ohio's counsel indicated that East Ohio would be maintaining its objections and will not provide any information responsive to Interrogatory Nos. 59 and 60, nor would it produce any documents responsive to Document Request No. 66.

8. By e-mail on February 22, 2011, I notified East Ohio's counsel that Cutter Exploration would be filing a Motion to Compel concerning these Interrogatories and Document Requests relating to the issue of lost and unaccounted for gas. I further indicated that Cutter

Exploration would be seeking an expedited ruling pursuant to Rule 4901-1-12. Counsel for East Ohio indicated they would object to the issuance of an expedited ruling.

FURTHER AFFIANT SAYETH NAUGHT.



CLAY K. KELLER

SWORN TO and subscribed in my presence this 14th day of March, 2011



NOTARY PUBLIC

«CT2:674909_1»



SARAH E. EADES
Notary Public, State of Ohio
My Commission Expires 04-02-2011

**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.

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 March 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

FL DL C360-550-50-226-0

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


NOTARY PUBLIC

«CT2:675108_1»

