

In the Matter of the Application of The)
East Ohio Gas Company d/b/a Dominion) Case No. 11-6024-GA-UNC
East Ohio to Implement a Capital)
Expenditure Program.)

In the Matter of the Application of The)
East Ohio Gas Company d/b/a Dominion) Case No. 11-6025-GA-AAM
East Ohio for Authority to Change)
Accounting Methods.)

I. INTRODUCTION

On October 3, 2011, East Ohio Gas Company d/b/a Dominion East Ohio (“Dominion” or “the Company”) filed an Application for an estimated \$95 million Capital Expenditure Program (“CAPEX”), a program that could ultimately result in rate increases for Ohio customers.¹ The Application was the second CAPEX Application filed by a Local Distribution Company (“LDC”) pursuant to R.C. 4909.18 and 4929.111.² The CAPEX Application was for an Alternative Regulation case not for an increase in rates for the period October 1, 2011 through December 31, 2012.³ A CAPEX represents an opportunity for a gas utility to seek recovery of Post in Service Carrying Charges (“PISCC”) on assets that are placed in service but not yet

¹ Dominion Application at Exhibit A.

² *In the Matter of the Application of Columbia Gas of Ohio, Inc. to Implement a Capital Expenditure Program*, Case No. 11-5351-GA-UNC, and *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Change Accounting Methods*, Case No. 11-5352-GA-AAM.

³ Dominion Application at 1.

included in the Company's rates as plant in service, deferral of depreciation expenses on those facilities, and deferral of property taxes associated with those facilities.

On January 23, 2012, the Office of the Ohio Consumers' Counsel ("OCC") filed a Motion to Intervene in these cases. On January 27, 2012, the Attorney Examiner issued an Entry that established a procedural schedule for Initial Comments (March 12, 2012) and Reply Comments (March 22, 2012). On March 12, 2012, Staff, and OCC filed Comments. OCC is submitting these Reply Comments to the Comments filed by Staff pursuant to that schedule.

II. COMMENTS

Reply to PUCO Staff Comments

1. The PUCO Staff recommended that total monthly deferred regulatory assets should be net of any incremental revenue.

The Staff recommended that the total monthly deferred regulatory assets should be net of any incremental revenues.⁴ OCC also recommended in its initial comments that Dominion should be required to credit revenues received from assets related to new customer growth to the regulatory asset accounts that are established for PISCC, deferred depreciation and deferred property taxes.⁵ OCC supports Staff's recommendations because by allowing these incremental revenues to be recognized, customers will also be receiving a benefit as these revenues would be netted against the deferred costs that customers will pay. Staff noted that the Company's Application did not include any recognition of potential incremental revenues.⁶ Staff recommended that Dominion net out incremental revenues from the monthly calculation of

⁴ Staff Comments at 7-8.

⁵ OCC Initial Comments at 7.

⁶ Staff Comments at 7-8.

regulatory assets that will be created to defer PISCC, depreciation expense, and property taxes related to the CAPEX Program.⁷

In order to net incremental revenues from regulatory assets, Staff recommended that Dominion, the Staff and intervening parties (OCC) meet to attempt to agree to a formula for calculating the incremental revenue that would be subtracted from the CAPEX program deferrals.⁸ OCC supports the Staff recommendation as a reasonable approach to addressing this complicated issue. However, OCC also recommends that the PUCO make it clear in an Order that the Company is required to net incremental revenues out of its calculation of deferrals arising from the CAPEX so that there is no misunderstanding as to the purpose of the meeting. OCC also recommends that Dominion be directed to provide any and all data requested by Staff or the OCC in order to best determine a formula for netting incremental revenues against regulatory assets.

Staff also suggested that the PUCO set a procedural schedule for the filing of such a formula for Commission review, including a default date by which parties would submit their own proposals for a calculation if one is not agreed upon.⁹ Again, OCC supports the Staff recommendation. However, OCC would also request that the PUCO include appropriate discovery rights and sufficient time for discovery in the event that a formula is not agreed to by all parties.

⁷ Staff Comments at 8.

⁸ Staff Comments at 8.

⁹ Staff Comments at 8.

2. The PUCO Staff recommended that monthly depreciation expense be calculated on plant net of retirements.

The Staff recommended that DEO calculate CAPEX program depreciation expense on a net of retirements and cost of removal basis.¹⁰ OCC endorses the Staff recommendation because it would prevent Dominion from double- recovering depreciation expense from customers. OCC's Initial Comments noted the same concern with regard to the way PISCC should be calculated -- on a net of retirement basis.¹¹ As Staff points out, Dominion's current rates already include recovery of depreciation expense on the retired plant. Thus, in order to prevent double recovery, OCC recommends the Commission adopt Staff's recommendation to calculate depreciation expense to be deferred under the CAPEX net of retirements and cost of removal. This would result in fewer deferrals that would be collected from customers in the future.

3. The PUCO Staff recommendation that Dominion be required to make annual informational filings.

The Staff recommended that Dominion be required to make annual informational filings detailing the CAPEX investment deferrals.¹² OCC agrees with the need for such information to be maintained and provided to the parties in this proceeding through an annual filing, as noted in OCC's Initial Comments.¹³ Such filings are appropriate because it would make any future regulatory review more complete. The information Staff recommends be filed annually will provide details as to the CAPEX capital investments and calculation of deferrals during the deferral period. This will make the Company more accountable and provide for an easier audit trail at the time of the Company's next rate case when collection of the deferrals will be requested from customers in base rates.

¹⁰ Staff Comments at 10.

¹¹ OCC Initial Comments at 8.

¹² Staff Comments at 12.

¹³ OCC Initial Comments at 5-6.

However, OCC recommends that any such filings should include the calculations of the PISCC, detailed explanation of the methodology used in calculating the PISCC, and an explanation of why those calculations were performed. Such additional information will make it much easier for all interested parties to monitor the CAPEX deferral calculations. OCC would also recommend that the deferrals shown in these annual informational filings be broken down by the budget classes shown on Exhibit A of the Company's Application in this case in order to provide additional clarity to any future regulatory review.¹⁴

Further, OCC recommends that Dominion should be required to explain in the annual filings how CAPEX spending for that period **"is consistent with the natural gas company's obligation under section 4905.22** of the Revised Code to furnish **necessary and adequate services and facilities, * * *,**" as required by R.C. 4929.111. Such additional information and explanation will ultimately aid the parties and the Commission in determining if the spending was just and reasonable in all respects as required by R.C. 4905.22.

III. CONCLUSION

Dominion's Application was made pursuant to R.C. 4929.111 and R.C. 4909.18.¹⁵ R.C. 4909.18 clearly puts the burden of proof on Dominion. R.C. 4929.111 specifically requires that:

the capital expenditure program is consistent with the natural gas company's obligation under section 4905.22 of the Revised Code to furnish **necessary and adequate services and facilities,** which services and facilities the commission finds to **be just and reasonable,** the commission shall approve the application.¹⁶

R.C. 4905.22 states that:

¹⁴ OCC Initial Comments at 5-6.

¹⁵ Dominion Application at 1.

¹⁶ R.C. 4929.111(C). (Emphasis added).

Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate **and in all respects just and reasonable**.¹⁷

Because Dominion's Application is lacking in sufficient detail to enable a finding that the Capital Expenditure Program spending is needed to provide necessary and adequate services and facilities to the public, the PUCO should reject the Application. However, if the PUCO determines that the Application is reasonable, then OCC recommends the PUCO make the modifications discussed in OCC's Initial Comments and in the above Reply Comments.

Respectfully submitted,

BRUCE J. WESTON

/s/ Joseph P. Serio

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¹⁷ R.C. 4905.22. (Emphasis added).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Comments* was served via electronic service to the persons listed below on this 22nd day of March 2012.

/s/ Joseph P. Serio

Joseph P. Serio

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Summary: Comments Reply Comments by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.