

**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 for Approval of Tariffs to)	
Recover Certain Costs Associated with its)	Case No. 11-5843-GA-RDR
Automated Meter Reading Deployment)	
Through an Automatic Adjustment Clause,)	
and for Certain Accounting Treatment)	

**MEMORANDUM CONTRA
THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO
MOTION TO STRIKE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
AND OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") and Ohio Partners for Affordable Energy ("OPAE"), separately intervenors in the above-referenced proceeding, filed joint comments ("Comments") on April 6, 2012 regarding the Application filed by East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion" or "the Company"). On April 10, 2012, Dominion filed a Motion to Strike ("Motion") certain OCC and OPAE Comments.

The Attorney Examiner established a procedural schedule by Entry that among other things expedited the timing for the filing of Memorandum Contra to filed Motions.¹

¹ Entry at 3 (March 5, 2012). ("In light of the time frame for this proceeding, the attorney examiner requires that, in the event that any motion is made in this proceeding, any memorandum contra shall be filed within three business days after the service of such motion * * *.")

OCC and OPAE hereby file this Memorandum Contra within the expedited three day period established by the Attorney Examiner.

II. ARGUMENT

A. OCC and OPAE's Comments are well within the scope of this proceeding.

OCC and OPAE filed Comments that stated their expectation for the level of meter reading operation and maintenance ("O&M") cost savings ("Cost Savings") that Dominion could and should achieve as part of its automated meter reading ("AMR") filing in 2013 for the recovery of costs and savings in 2012.² It was these Comments that Dominion attempts to have stricken because the Company believes they are outside the scope of this proceeding.³ However, it was a Company response to an OCC discovery request in this case that brought this issue to the forefront.⁴

It cannot be denied that in prior AMR cases the level of Cost Savings has been a contentious issue.⁵ Cost Savings were a claimed benefit for consumers in exchange for allowing Dominion's accelerated collection of AMR-related costs. The Cost Savings were to be derived by the installation of the AMR devices that would reduce the costs to be collected from consumers as a result of reading the meters electronically rather than manually (since a lower cost wireless signal reading from the meter would be used instead of the costly manual reading of each individual meter). OCC and OPAE anticipated in their Comments that this may indeed be an issue in Dominion's 2013 AMR

² Comments at 3-6 (April 6, 2012).

³ Motion at 1.

⁴ Comments at Attachment 2.

⁵ *In re 2008 Dominion AMR Case*, Case No. 09-1875-GA-RDR, OCC Comments at , 2-6 (April 10, 2009), See also *In re 2009 Dominion AMR Case*, Case No. 09-1875-GA-RDR, OCC Comments at 5 (March 29, 2010), See also *In re Dominion 2010 AMR Case*, Case No. 10-2853-GA-RDR, OCC Comments at 5-8 (March 30, 2011).

case for the recovery of costs and realized savings in 2012. Rather than strike the Comments, the Commission should take the opportunity to rule on this important issue.

The Comments are not outside the scope of this proceeding. In fact, in previous infrastructure replacement cases involving all four of Ohio's large Local Distribution Companies the PUCO has not limited the comments of any party in the manner proposed by Dominion in this case. Moreover, the Commission has from time to time issued an order that instructs the utility on actions it is to take in a future proceeding. In particular, the Commission has issued such an order in the 2010 Dominion AMR case for the recovery of 2009 costs and realized savings. The Commission stated:

While the evidence in this case supports DEO's calculation, the Commission finds that DEO should be installing the AMR devices such that savings will be maximized and rerouting will be made possible in all of the communities at the earliest possible time. **Therefore, the Commission expects that DEO's filing in 2011, for recovery of 2010 costs, will reflect a substantially greater number of communities rerouted.** The Commission anticipates that, by the end of 2011, it will be possible to reroute nearly all of DEO's communities. To that end, the Commission finds that, in its 2011 filing, **DEO should demonstrate how it will achieve the installation of the devices on the remainder of its meters by the end of 2011, while deploying the devices in a manner that will maximize savings by allowing rerouting at the earliest possible time.**⁶

The Commission's 2010 AMR Order for 2009 cost recovery and realized savings recognized the interrelationship of Dominion's planned AMR deployment and the achievement of Cost Savings and included the above language in its 2010 AMR Order in direct response to issues raised by OCC's Comments.⁷

⁶ *In re 2009 Dominion AMR Case*, Case No. 09-1875-GA-UNC, Opinion and Order ("2009 AMR Order") at 7 (May 5, 2010) (Emphasis added).

⁷ *In re 2009 Dominion AMR Case*, Case No. 09-1875-GA-UNC, OCC Comments at 3-5 (March 29, 2010).

To that end the Commission in the 2010 AMR Case issued a directive to the Company for its AMR 2011 case.⁸ Similarly, in this case, in response to the issue raised in OCC and OPAE's Comments, the Commission may issue an opinion and order that will provide the parties with greater understanding of the PUCO's expectations for Dominion's 2012 AMR cost recovery and realized savings.⁹ In light of the PUCO's precedent in these types of cases, OCC and OPAE submitted the Comments in question in order to provide an opportunity for the PUCO to provide guidance for the 2012 cost recovery and realized savings to be examined in the 2013 AMR case. The PUCO should have the information in order to make a determination on the merits.¹⁰ Therefore, Dominion's Motion should be denied and the Comments should not be stricken.

B. OCC and OPAE's Comments are not wrong.

Dominion's contention that OCC and OPAE's Comments are wrong is incorrect.¹¹ The facts in this case do not bear out Dominion's argument. And because the dispute involves these fundamental facts, the PUCO should address the Comments filed by OCC and OPAE instead of striking them. Dominion has deployed in excess of 99 percent of the AMR devices as of December 31, 2011.¹² During 2012 all meter reading routes will be re-routed to take full advantage of the AMR automation.¹³ That

⁸ *In re 2009 Dominion AMR Case*, Case No. 09-1875-GA-UNC, Opinion and Order ("2009 AMR Order") at 7 (May 5, 2010).

⁹ Comments at 6 (April 6, 2012).

¹⁰ See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al, Entry on Rehearing at 11 (February 23, 2012).

¹¹ Motion at 3 (April 10, 2012).

¹² Comments at Attachment 2 Page 1.

¹³ Comments at Attachment 2 page 4.

translates to Cost Savings that should lead to a maximization of Cost Savings by the end of 2012 (in Dominion's 2013 AMR filing). However, the parties disagree on the fundamental basis for determining what level of Cost Savings should be expected.

The basis of OCC and OPAE's expectation regarding the level of Cost Savings relates to the Company response to a Staff Data Request from the 2007 rate case.¹⁴ OCC and OPAE interpret the Staff inquiry and Company response to have been provided in annual amounts of Cost Savings between 2009 and 2012. The Company, now after the fact, interprets that same data to be on a cumulative basis.¹⁵ It is also noteworthy that the Company witness disputing the annual savings interpretation is NOT the same person who answered the actual Staff Data Request. Moreover, a cursory review of the Staff data request and the Company's response will show that the Staff did not ask for the information on a "cumulative" basis.¹⁶ In fact, the data request specifically requested an estimate of "annual meter-reading O&M savings."¹⁷ Furthermore, there is no basis to believe that Dominion's response to Staff's data request provided "cumulative" data either.

Despite the documented evidence to the contrary, Dominion holds firm to its interpretation that the Company provided cumulative data in its response to the data request. The Company quotes from testimony of Company witness Friscic that it was her understanding that the Company's estimates were cumulative.¹⁸ However, that interpretation does not pass muster. First, assuming *arguendo* that the estimates are

¹⁴ See Comments at Attachment 1.

¹⁵ Motion at 5, see also Comments at Attachment 2.

¹⁶ See Comments at Attachment 1.

¹⁷ *Id.*

¹⁸ Motion at 5.

cumulative, then the increment between 2009 (\$900,000)¹⁹ and 2010 (\$1,300,000)²⁰ is \$400,000 or less than ½ of the first years' savings despite there being more AMR's deployed and more meter routes automated in 2010 compared to 2009. Such scrutiny of the Dominion interpretation demonstrates the illogic of the Company's interpretation.

Furthermore, a review of the Cost Savings in this case further demonstrates flaws in Dominion's interpretation. In this proceeding Dominion reported annual O&M meter reading cost savings in the amount of \$3,511,695.32.²¹ That compares favorably to the annual O&M meter reading cost savings estimated by Dominion of \$2,950,000 according to OCC and OPAE's interpretation.²² But the actual Cost Savings for year 2011 (\$3,511,695.32) would be more than double the annual Cost Savings for this year (\$1,650,000) if one applies Dominion's cumulative savings interpretation.²³ Even more unrealistic, the actual Cost Savings for year 2011 would exceed Dominion's cumulative savings claim for year 2012 (\$3,050,000)²⁴ -- a point in time when all AMR devices are assumed deployed and all meter reading routes are assumed automated, again pointing to the lack of logic behind Dominion's interpretation.

The chart below depicts the difference between OCC and OPAE's interpretation and Dominion's interpretation:

¹⁹ Comments at Attachment 1.

²⁰ Comments at Attachment 1.

²¹ Application at Exhibit A Schedule 1.

²² Comments at Attachment 1.

²³ Comments at Attachment 1 (\$2,950,000 (2011 estimate) – \$1,300,000 (2010 estimate) = \$1,650,000).

²⁴ Comments at Attachment 1 (\$6,000,000 (2012 estimate) – \$2,950,000 (2011 estimate) = \$3,050,000).

DOMINION RESPONSE TO STAFF DATA REQUEST²⁵

<u>Year</u>	<u>Dominion Interpretation</u>		<u>OCC/OPAE Interpretation</u>	
	<u>Annual</u>	<u>Cumulative</u>	<u>Annual</u>	<u>Cumulative</u>
2009	\$900,000	\$900,000	\$900,000	\$900,000
2010	\$400,000	\$1,300,000	\$1,300,000	\$2,200,000
2011	\$1,650,000	\$2,950,000	\$2,950,000	\$5,150,000
2012	\$3,050,000	\$6,000,000	\$6,000,000	\$11,150,000

There is a significant difference in the expected Cost Savings level depending upon the interpretation of Dominion's response to the Staff data request. It is OCC and OPAE's contention that the \$6,000,000 estimated Cost Savings for year 2012 is eminently reasonable, and Dominion's \$3,050,000 estimated Cost Savings for 2012 is eminently unreasonable. The Commission should find the issue compelling enough to issue a ruling on OCC and OPAE's Comments and deny Dominion's Motion to Strike.

III. CONCLUSION

The Comments filed by OCC and OPAE are well within the scope of this proceeding. Furthermore, the Cost Savings issue raised by OCC and OPAE is not wrong, but rather illuminates the potential controversy in Dominion's next annual AMR filing in the event that the actual Cost Savings experienced in 2012 fall significantly short of the estimated level. Therefore, for the reasons discussed above, the Commission should deny Dominion's Motion to Strike.

²⁵ Comments at Attachment 1.

Respectfully submitted,

BRUCE J. WESTON

/s/ Joseph P. Serio

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing *Memorandum contra Dominion Motion to Strike* has been served upon the below-named counsel by electronic service this 13th day of April 2012.

/s/ Joseph P. Serio

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/13/2012 4:00:24 PM

in

Case No(s). 11-5843-GA-RDR

Summary: Memorandum Memorandum Contra the East Ohio Gas Company d/b/a Dominion East Ohio Motion to Strike by the Office of the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.