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 to Implement a Capital Expenditure Program.	:	Case No. 11-6024-GA-UNC
In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Change Accounting Methods.	:	Case No. 11-6025-GA-AAM

SUR-REPLY COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

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I. INTRODUCTION

On December 23, 2011, The East Ohio Gas Company d/b/a Dominion East Ohio (DEO or Company) filed an Application for Authority to Implement a Capital Expenditure Program and for Approval to Change Accounting Methods (Application) in the dockets listed above. DEO is seeking the Commission's approval to create a capital expenditure (CAPEX) program for the period from October 1, 2011, through December 31, 2012, and associated deferral authority covering the same time period.

On January 23, 2012, the Office of the Ohio Consumers' Counsel (OCC) filed a motion for intervention, and on March 2, 2012, the Commission Staff and OCC filed initial Comments on DEO's Application. On March 22, 2012, the OCC and DEO filed reply Comments. On August 3, 2012, DEO filed Supplemental Reply Comments.

DEO states that it filed the Supplemental Reply Comments "[U]pon further consideration of the comments of Staff and OCC, as well as consideration of Supplemental Reply Comments filed by Columbia Gas of Ohio, Inc., in Case No. 11-5351-GA-UNC"[1]and to "clarify its position."[2] In the Supplemental Comments, DEO indicates that it is willing to accede to various proposals and positions contained in the Staff Comments filed in this case in order to resolve the case and move forward on its proposed CAPEX program. DEO also proposes several specific formulas for calculating the incremental revenue, post in-service carrying costs (PISCC), deferred depreciation expense and deferred property tax expense associated with its CAPEX program. The Staff reviewed DEO's Supplemental Reply Comments and proposed formulas in light of the Commission's recent Finding and Order in Case No. 11-5351-GA-UNC (Columbia CEP Order) where the Commission adopted specific formulas for calculating the incremental revenue, PISCC, deferred depreciation expense and deferred property tax expense associated with Columbia Gas of Ohio, Inc.'s (Columbia) very similar proposed capital expenditure program as well as the Staff's position on the various topics and proposed formulas. The Staff's comments and recommendations by topic area are set forth below.

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1 *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Implement a Capital Expenditure Program*, Case Nos. 11-6024-GA-UNC, *et al*. (Supplemental Reply Comments of The East Ohio Gas Company d/b/a Dominion East Ohio at 1) (August 3, 2012) (*DEO Supplemental Reply Comments*).

2 *Id.*

II. STAFF'S SUR-REPLY COMMENTS

A. DEO agrees that the total monthly deferred regulatory asset should be net of any incremental revenue and, to avoid ambiguity, the determination of incremental revenue should be clearly defined in this proceeding.

In its Supplemental Reply Comments responding to the Staff's initial Comments, DEO states that it "continues to agree with Staff that 'revenue that is incremental to the revenue provided by the rates that were set in its last base rate case' may be recognized".[3] However, some clarification is needed regarding the calculation of incremental revenues. As Staff noted in its initial Comments, "DEO has multiple sources of revenue that may or may not be related to or impacted by CAPEX Program investments"[4] The Staff believes that the Commission should state as a principle that any revenue directly associated with CEP investments under a CEP should be used to offset the requested CEP deferrals. Towards this end, the Staff has categorized potential incremental revenue sources as straight fixed-variable rate (SFV) customers, non-SFV customers, and other revenues and addresses each category below.

In the Columbia CEP Order, the Commission adopted Staff's formula for calculating incremental revenues generated from SFV customers for the purposes of offsetting the total monthly deferral. This is done by taking the number of customer bills for a spe-

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[3] *DEO Supplemental Reply Comments* at 1.

[4] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Implement a Capital Expenditure Program,* Case Nos. 11-6024-GA-UNC, *et al*. (Staff Initial Comments at 8) (March 12, 2012) (*Staff Initial Comments*).

cific class of customers included in the baseline (from the most recent base rate case) and subtracting it from the actual number of customer bills, then multiplying that number by the cost portion of the SFV rate for that class. Revenue generated in this manner would then be subtracted from the deferral amounts. If the number of current customer bills is less than the baseline, no adjustment is made. Likewise, if the revenue calculation exceeds the PISCC, property tax expense, and depreciation expense to be deferred for that period, DEO simply would not record a deferral rather than recording a negative amount. Staff would like to make it clear that the actual number of customer bills is not adjusted to reflect only those customer bills identified by the Company as directly attributable to the CAPEX program. As pointed out in its comments in Columbia's proceeding, if a company's "customer count increases or it obtains other sources of revenue that were not considered in the [last base rate case]…, then the company would realize earnings above its allowable rate of return."[5] DEO, however, raises a valid point regarding the calculation of the revenues in this manner on a monthly basis. Staff agrees with DEO that a "calendar year calculation of incremental revenues"[6] is appropriate given a calendar year baseline and recognizes that calculating this number annually still produces the desired result.

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[5] *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Case Nos. 11-5351-GA-UNC, *et al.* (Staff Comments at 9) (February 17, 2012).

[6] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Implement a Capital Expenditure Program*, Case Nos. 11-6024-GA-UNC, *et al.* (DEO Reply Comments at 2) (March 22, 2012).

The Commission also adopted Staff's methodology for calculating incremental revenues for non-SFV customers in Columbia's CEP Order. For non-SFV customers directly attributable to program investment, the Company should calculate incremental revenue by multiplying total usage by the cost portion of that customer's rate and subtracting it from the deferral for that period. The Commission found this method to be reasonable and consistent with the calculation of incremental revenue for SFV customers.

Staff acknowledges that, given the complexity of DEO's operations along with the ever-changing environment in which it operates, it would be difficult (if not impossible) to account for every conceivable current and future revenue stream at any particular moment in time. Therefore, Staff recommends that any other revenues generated by CAPEX Program investments also be deducted from the deferral. In addition, Staff recommends that the Commission direct DEO to maintain sufficient records to enable the Staff to verify that all revenue generated from CEP investments can be accurately excluded from the total monthly deferral.

In sum, the Staff's initial proposal did not provide methodologies for the calculation of incremental revenues. The Staff believes that the methodologies set forth herein should be adopted and has provided a specific calculation below.

B. DEO agrees that the monthly deferred PISCC should be based on net plant. In addition, DEO's proposed formula for calculating the PISCC is consistent with the formula adopted by the Commission in the Columbia CEP Order.

In its Supplemental Reply Comments, DEO states that in an effort to resolve this case it no longer opposes the Staff's recommendations to calculate PISCC net of accumulated depreciation, retirements, and cost of removal.[7] As a result, DEO proposes to use the following formula to calculate PISCC on its CAPEX Program investments:

> [(Previous Month's Cumulative Gross Plant Additions – (Previous Month's Cumulative Cost of Removal) – (Previous Month's Cumulative Retirements) – (Previous Month's Accumulated Depreciation)] x [Long-term Debt Rate/12].[8]

In addition, like Columbia in its CEP Order case, DEO emphasizes that only retirements associated with the CAPEX Program investments (not all retirements) should be included in the PISCC calculation. The Staff agrees that only retirements associated with CAPEX investments should included in the PISCC calculation. Other retirements will be accounted for elsewhere.

The Staff believes that DEO's proposed formula for calculating PISCC on the CAPEX Program investments is consistent with the PISCC formula that the Commission adopted for Columbia in the Columbia CEP Order, except that DEO's proposed formula adds a step to subtract the cumulative cost of removal of existing plant in-service items replaced by CAPEX Program investments and does not specify that DEO will use the

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[7] *DEO Supplemental Reply Comments* at 3.

[8] *Id*. at 4.

one-month lag method for computing PISCC. The step regarding netting out the cost of removal of existing plant items was unnecessary in Columbia's case because Columbia does not traditionally include the cost of removal in its plant addition balance, whereas DEO does. As to utilizing the one-month lag method, DEO traditionally uses this method to compute PISCC, but its proposed formula does not say so directly. The Staff recommends that the Commission approve DEO's proposed PISCC formula with the proviso that it continue to utilize the one-month lag method. The specific PISCC formula that the Staff is recommending for DEO is set forth below.

C. The Staff agrees with DEO's proposed formulas for calculating the monthly deferral of depreciation and property tax expenses.

In its Supplemental Reply Comments, DEO proposes specific formulas to calculate monthly deferrals for the depreciation expense and property tax expense associated with its CAPEX investments. These formulas (detailed below in the summary of CAPEX deferral calculations), are not identical to the formulas that the Commission adopted in the Columbia CEP Order for the depreciation and property tax expense deferrals, but they are very similar to what was adopted in the Columbia case and are consistent with the formulas that DEO uses in its annual pipeline infrastructure replacement rider cases. For purposes of this case, the Staff does not object to the formulas and recommends that the Commission adopt DEO's proposed formulas for calculating the monthly depreciation and property tax expenses associated with the CAPEX investments as set forth below in the summary of Staff-recommended calculations.

D. DEO and the Staff agree that DEO should make annual informational filings.

In its initial Comments, Staff proposed that DEO should be required to make annual informational filings for its CAPEX Program on March 15 of each year covering the previous calendar year and that this filing "should provide a breakdown of investments, PISCC, depreciation expense, property tax expense, and incremental revenue."[9] In addition, the Staff recommended that the annual filing should include a capital budget for the year succeeding the year covered in the filing.[10] In its Supplemental Reply Comments, DEO agrees to submit annual information filings that DEO states will include the following: (1) the CAPEX program regulatory asset balance as of December 31; and, (2) monthly and total deferrals to the regulatory asset for the year ended December 31 based on CAPEX investments for PISCC, depreciation expense, property tax expense, and reductions for net incremental revenue. The Staff recommends that information that DEO proposes to include in its annual information filing should modified to also include a breakdown of CAPEX investments by budget class, a capital budget for the year succeeding the year covered in the information filing, a schedule showing the potential impact on GSS customer rates if the deferrals were included in rates, and schedules showing the calculations and inputs for the deferrals. The Staff believes that these additions are necessary and will make DEO's annual information filing consistent with the information filing requirements that the Commission adopted for Columbia in the

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9 *Staff Initial Comments* at 12.

10 *Id*.

Columbia CEP Order. The Staff also recommends that the Commission set the filing date for DEO's annual information filings as April 30 of each year. This date is consistent with the filing date that the Commission established in the Columbia CEP Order in recognition of the fact that both Columbia and Staff's resources are stretched thin around the March 15 date originally proposed by Staff. Like Columbia, DEO's staff will also be engaged in closing the Company's books and preparing documents for annual rider filings around the March 15 date. Therefore, the Staff believes that the April 30 date is better for DEO as well as for the Staff.

E. DEO and Staff agree on a cap on CAPEX deferrals.

In the Columbia CEP Order, the Commission established that:

> Columbia may accrue CEP deferrals up until the point where the accrued deferrals, if included in rates, would cause the rates charged to the SGS class of customers to increase by more than $1.50/month. Accrual of all future CEP-related deferrals should cease once the $1.50/month threshold is surpassed, until such time as Columbia files to recover the existing accrued deferrals and establish a recovery mechanism under Section 4909.18, 4929.05, or 4929.11, Revised Code.[11]

Columbia proposed the $1.50/month cap on accrued CEP deferrals in the CEP Order case to address the Staff's concern that, without a limit, CEP deferrals could grow to unreasonable levels and potentially cause rate shock for customers once the deferrals were placed into rates while still allowing the deferrals to accrue for a sufficient time to pre-

[11] *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Case Nos. 11-5351-GA-UNC, *et al*. (Finding and Order at 12-13) (August 29, 2012).

vent frequent recovery cases. In its Supplemental Reply Comments, DEO states that it agrees to a $1.50/month cap on accrual of CAPEX Program deferrals as proposed by Columbia. Given that agreement, the Staff recommends that the Commission order that DEO can accrue CAPEX deferrals up until the point where the accrued deferrals, if included in rates, would cause the rates charged to the General Sales Service or "GSS" class of customers (which is comparable to Columbia's SGS class of customers) to increase by more than $1.50/month. Accrual of all future CAPEX-related deferrals would cease once the $1.50/month threshold is surpassed until such time as DEO files to recover the existing accrued deferrals under one of the recovery mechanisms specified in Revised Code.

F. The Commission should establish the specific formulas that should be used to calculate DEO's total monthly CAPEX deferrals.

As the preceding discussion above demonstrates, there is now a substantial amount of agreement between DEO and the Staff on DEO's proposal for creation of a CAPEX Program and calculation of associated deferrals. Similarly, the formulas for calculating DEO's CAPEX deferrals that the Staff and DEO are recommending are consistent with similar formulas that the Commission adopted for Columbia in the Columbia CEP Order. As a result, the Staff recommends that the Commission adopt the following specific formulas for calculating DEO's monthly CAPEX deferrals:

Total Monthly Deferral	=	(PISCC) + (Depreciation Expense) + (Property Tax Expense) – (Incremental Revenues)

Where:

PISCC	=	[(Previous Month's Cumulative Gross Plant Additions) – (Previous Month’s Cumulative Cost of Removal) – (Previous Month's Cumulative Retirements) – (Previous Month's Accumulated Depreciation] x [(Long Term Debt Rate) / (12 Months)]

Depreciation Expense	=	[(Current Month’s Cumulative Gross Plant Additions) – (Current Month’s Cumulative Cost of Removal) – (Current Month’s Cumulative Retirements)] x [(Depreciation Rate) / (12 Months)]

Property Tax Expense	=	[(Prior Year-end Cumulative Gross Plant Additions) - (Prior Year-End Cumulative Cost of Removal) – (Prior Year-End Cumulative Retirements] x [(Effective Property Tax Rate) / (12 Months)]

Incremental Revenue	=	[(Current Month's Customers - Baseline Customers) x (Cost Portion of Rate)] + [(Consumption by non-SFV customers directly attributable to program investment) x (Cost Portion of Rate)] + (Other revenues directly attributable to program investment).

The Staff believes that Commission adoption of the above formulas for calculating DEO's monthly CAPEX deferrals as well as the other Staff recommendations made herein should go a long way towards avoiding future misunderstandings and arguments over the CAPEX deferrals. Notwithstanding Commission adoption of the Staff-recommended formulas, however, the Staff reiterates the statement that it made in its initial Comments that the Staff is taking no position on the level or prudence of the capital spending proposed for DEO's CAPEX Program in this proceeding. Further, the Staff's lack of comment or objection to the proposed CEP investments should in no way be construed as the Staff's lack of objection or support for future recovery of the investments or related deferred amounts. In fact, the Staff will investigate and make any necessary adjustments to the deferrals when DEO applies to recover the deferred assets.

III. CONCLUSION

With the adoption of the Staff's unmodified recommendations included in these Sur-Reply Comments, the Staff would respectfully recommend that the Commission approve DEO's Application and the Staff recommendations in these cases.

Respectfully Submitted,

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IV. CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Sur-Reply Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio was served by electronic mail upon the following parties of record, this 20th day of September, 2012.

/s/ Stephen A. Reilly

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Summary: Comments Sur-Reply Comments submitted by Assistant Attorney General Stephen A. Reilly on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio