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 Adjust its Automated Meter Reading Cost Recovery Charge and Related Matters.	)))))	Case No. 11-5843-GA-RDR

MOTION FOR STAY

In accordance Rule 4901-1-12, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") respectfully requests that the Commission issue an order staying the Opinion and Order issued in this case on October 3, 2012 ("the Order").

Reasons for granting the motion are set forth in the accompanying memorandum in support.

/s/ Mark A. Whitt

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ATTORNEYS FOR THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO

MEMORANDUM IN SUPPORT

Before explaining why DEO is entitled to a stay of the Order, it would respectfully provide a brief recap of this proceeding and of the Order itself.

I. BACKGROUND

Earlier AMR Proceedings. On October 15, 2008, the Commission approved DEO's AMR application. *See* Case 07-829-GA-AIR, Opin. & Order at 10. The application had been filed almost two years earlier, on December 13, 2006, and it requested approval of an automatic adjustment mechanism to recover costs associated with the deployment of AMR devices and of the necessary accounting authority. (06-1453 Appl. at at 1; *see also id*. at 8.) DEO had proposed installing the devices over a five-year period, "beginning in January 2008." (*Id*. at 4.)

Less than two years after granting program approval, apparently based on DEO's progress to date, the Commission instructed DEO to aim for complete installation by the end of 2011. *See* 09-1875 Order at 7.

DEO Installed AMR Devices on 99.2 Percent of Its Meters by the End of 2011. By the end of 2011—only three years and two months after the Commission approved DEO's AMR application—DEO had installed AMR devices on 99.2 percent of its active meters. (Friscic Dir. at 3–5; Fanelly Dir. at 6.) That is all but 9,530 out of 1,244,404. And *every single one* of these unconverted meters belonged to a customer who either requested that DEO delay installation or simply refused to permit DEO access. (Fanelly Dir. at 6–8.)

DEO did not overspend along the way. While the estimated cost of deployment ranged from $100 to $126.3 million, the actual total capital investment was approximately $90.3 million at 99-percent completion. The program is expected to cost less than $100 million in total. (Friscic Dir. at 3–5.)

DEO Achieved Full Staffing Reductions by the End of 2011. Because so few meters remained to be converted, and because DEO had reached "critical mass" across its *entire* system, all of the following had occurred by the first day of 2012:

- *Every* route DEO serves was receiving remote, monthly meter reading. (Fanelly Dir. at 8.)
- *All* walking routes had been eliminated. (Tr. 72; Tr. 99–100; Friscic Dir. at 11.)
- *Full* staffing reductions had been achieved. (Fanelly Dir. at 8.)

All parties agree that the critical driver of O&M savings is salaries avoided by staffing reductions. (*See* Adkins Dir. at 5.) And the undisputed evidence shows that "[b]y the first day of 2012, DEO had already moved to systemwide monthly meter reading and made full staffing reductions." (Fanelly Dir. at 8.) Thus, heading into 2012, whatever savings could be achieved through staffing reductions *were achieved*.

None of this discussion can be disregarded as DEO's biased read of an ambiguous record. Every single one of these facts are in the record and undisputed. Not one fact is clouded by contrary evidence.

DEO Suffers a 25-Percent Reduction. Somehow, despite the performance described above, the *less-than-1-percent* of meters that were unconverted generated a *nearly 25-percent reduction* in DEO's AMR charge (from $0.54 to $0.42). The reduction is substantial: it inflicts on DEO a loss in excess of $135,000 per month or a loss of over $1.6 million per year.

How did the Commission get this result? Apparently through inattention to the record and the post-hearing briefs. The Commission's Staff could not dispute that DEO had achieved full staffing reductions by the target date, that is, "the end of 2011." *See* Order at 17–18; *see* 09-1875 Order at 7. Not satisfied with DEO's attainment of its full staffing reduction by year-end, Staff moved the target date after the fact. It openly recommended that DEO should have

completed installation by "early August of 2011" and achieved full staffing reductions by "October." (Staff Br. at 15; *see* Adkins Dir. at 19 n.8.) Those months form the entire basis of the reduction; Staff openly describes the reduction as "three months of full meter reading savings for the last three months of 2011." (Staff Br. at 15.)

"[T]he last three months of 2011" obviously fall before "the end of 2011." And DEO pointed out that following Staff's lead by changing the target date would be clearly unlawful. (*See* DEO Reply Br. at 6–7.) Retroactively changing a target that a party had relied upon, and then penalizing it for missing the new target, would be a classic violation of due process and the prohibition against retroactive penalties. More than that, it would be blatantly unfair.

Faced with this evidence and these arguments, the Commission did an odd thing. It confirmed multiple times that DEO's target was "the end of 2011," Order at 17–18, and thus did *not* adopt Staff's recommendation to retroactively change the target date. But despite rejecting the essential premise of Staff's reduction—an "early August of 2011" target date—it adopted the $1.6 million reduction. *Id*.

The Commission also adopted another reduction relating to the 9,530 AMR devices held in inventory at the end of 2011. Order at 13. Staff had recommended this reduction in its direct testimony. But on cross-examination, Staff stated that it supported continued installation of these devices and that it had no opposition to cost recovery. (*See* Tr. 202–03.) And Staff made no request for this reduction in any of its briefs. Although DEO had pointed all this out in its own briefs (*see* DEO Init. Br. at 9–10; DEO Reply Br. at 27–28), the Commission once again did not acknowledge the issues raised and simply ordered the reduction.

II. ARGUMENT

For the reasons that follow, DEO requests that the Commission issue a stay of the Order. If on rehearing the Commission does not reach a reasonable, lawful result based on the record evidence, DEO will file an appeal. Because refunds of incorrect charges are not generally available, DEO will suffer irreparable financial harm if the Order is not stayed. In contrast, DEO is able to protect ratepayers from any financial harm if the stay is granted.

The only reason to deny a stay in these circumstances would be an improper desire to inflict irreparable financial harm on DEO. Accordingly, the Order should be stayed pending rehearing and, if necessary, appeal.

A. The Commission should stay the order.

Under Ohio law, courts are required to grant stays of disputed orders, so long as the party seeking the stay can provide adequate financial security. "Pursuant to [Civ.R. 62], defendants-appellants are entitled to a stay of the judgment *as a matter of right*. The lone requirement of Civ.R. 62(B) is the giving of an adequate supersedeas bond." *State ex rel. State Fire Marshal v. Curl*, 87 Ohio St.3d 568, 571 (2000) (brackets sic; emphasis added); *see also, e.g.*, *State ex rel. Geauga Cty. Bd. of Comm'rs v. Milligan*, 100 Ohio St.3d 366, 2003-Ohio-6608, ¶ 17 (same). The public utilities statutes are entirely consistent with this rule and support its application. R.C. 4903.16 permits a stay by the Ohio Supreme Court with the single requirement that "the appellant shall execute an [adequate] undertaking."

This makes abundant sense. Decision-makers sometimes get cases wrong. If the aggrieved party can secure the other parties from any harm, no worthy interest is served by forcing the aggrieved party to suffer irreparable damage while the case winds its way through further proceedings.

DEO can protect all other parties from harm. With the Commission's approval, DEO will (*1*) maintain an account tracking the difference between DEO's current charge ($0.57) and the charge the Commission ordered ($0.42) from the date that the rate would have become effective based on the Order, (*2*) apply carrying charges to the accrued amount at DEO's cost of short-term debt, and (*3*) refund this amount to customers in the event the Order is ultimately upheld. If the Commission denies the motion for stay, DEO will do the same. And should DEO prevail in approval of its proposed $0.54 rate, the difference between the currently effective rate and the approved rate will similarly be refunded to customers. Although DEO's financial wherewithal makes it unnecessary, DEO is willing and able to provide reasonable financial security in a form ordered by the Commission, including payment of the accrued amount into escrow or provision of a supersedeas bond. And if these provisions have failed to account for a particular interest or harm, DEO is willing to explore additional ways to eliminate such harm and would take any reasonable steps to do so.

The Commission can fairly rely on the representations by DEO's undersigned counsel, but to ensure that there are no questions, DEO has provided an affidavit to the same effect from its Senior Vice President and General Manager, Anne Bomar. (*See* Attachment A to this Motion.) Because DEO can and will ensure that no party suffers harm if a stay is granted, there is no reason to deny DEO's motion.

B. The Commission has applied an incorrect, unjustifiably difficult standard to motions for stay—but DEO can satisfy that test as well.

The Commission has looked to a different, four-factor test to determine whether a stay should be granted:

1) "whether there has been a strong showing that the party seeking the stay is likely to prevail on the merits";

2) "whether the party seeking the stay has shown that it would suffer irreparable harm absent the stay";

3) "whether the stay would cause substantial harm to other parties"; and

4) "where lies the public interest."

In re Complaint of the Northeast Ohio Public Energy Council v. Ohio Edison Co., Case No. 09-423-EL-CSS, 2009 Ohio PUC LEXIS 481, at *2–3 (July 8, 2009). The only authority that DEO is aware of in support of this test is a one-justice dissent in *MCI Telecom. Corp. v. Pub. Util. Comm.*, 31 Ohio St.3d 604, 605 (1987) (Douglas, J., dissenting), that to DEO's knowledge has never been cited by a single court.

This test is primarily used to determine whether a trial court should grant a preliminary injunction. *See, e.g.*, *Battelle Mem. Inst. v. Big Darby Creek Shooting Range*, 192 Ohio App.3d 287, 2011-Ohio-793, ¶ 21; *Ulliman v. Ohio High Sch. Athletic Assn.*, 184 Ohio App.3d 52, 2009-Ohio-3756, ¶ 35–36; *see also Int'l Diamond Exch. Jewelers, Inc. v. U.S. Diamond & Gold Jewelers, Inc.*, 70 Ohio App.3d 667, 674 (1991) (applying test to motion to dissolve preliminary injunction before adjudication of the merits). This is the wrong test. A preliminary injunction applies the law's compulsive force before there is a full merits determination, so the test is understandably stringent on the merits question. It is not the test for granting a stay—as noted above, stays are available to would-be appellants *as a matter of right*.

To see how ill-fitting the Commission's inquiry is, consider the first factor—whether the moving party is likely to prevail on the merits. The would-be appellant seeking a stay of an order will usually have lost on the merits. Yet to gain a stay (and thus protect itself from irreparable harm), the losing party must convince the same tribunal that just ruled against it on the merits that it was wrong on the merits. The effect of this rule is that a stay, available as a matter of right in the courts, will virtually never be granted by the Commission.

The Commission should apply the correct standard, as set forth in Section A above. Nevertheless, even applying the incorrect standard, the Commission should still stay the Order. DEO will address each factor in the order given above, and it would note at the outset that Ohio law provides that "[n]o one factor in the analysis is dispositive" and that all "four factors must be balanced." *Great Plains Exploration v. Willoughby*, 2006-Ohio-7009, ¶ 11 (Ohio Ct. App. Dec. 29, 2006).

1. DEO can make a strong showing that it is likely to prevail on the merits.

First, DEO can make a strong showing that it is likely to prevail on the merits. The Order is unreasonable, failing at the level of basic logic. Moreover, several essential findings not only lack record support but are affirmatively contradicted by the record.

And regardless of whether the Commission agrees with DEO's position, it should not deny a stay on the basis of the first factor. At a minimum, DEO has *bona fide* reasons to challenge the Order, and a fair-minded observer would grant that there are reasonable grounds for dispute. And again, as a matter of law, the Commission is to balance *all four* factors, and no single factor is determinative. *See, e.g.*, *Great Plains Exploration v. Willoughby*, 2006-Ohio-7009, ¶ 11 (Ohio Ct. App. Dec. 29, 2006). Regardless of the first factor, the remaining three factors strongly favor granting a stay, so the Commission should stay the order.

a. The Order is unreasonable.

Commission orders must be reasonable, and unreasonable orders are to be reversed. *See* R.C. 4903.13. This Order, however, simply does not make sense.

The Order clearly states that the Commission expected DEO to have completed its program by "the end of 2011." In the paragraphs justifying the $1.6 million reduction in DEO's charge, the Commission states no less than nine times that DEO was to have completed its program by that time. Order at 17–18. Thus, the Commission described its task as determining

"the appropriate level of O&M savings that should have been achieved *by the end of 2011*." Order at 18 (emphasis added).

Despite describing its task in this way, the Commission adopted a reduction premised on an *earlier* target date. Staff's recommended $1.6 million reduction was based on the assumption that DEO should have "completed installation of AMRs on all active meters in its system in early August of 2011" and achieved full program savings that "October." (Adkins Dir. at 19; Staff Ex. 9(a) ("Errata" to Adkins Dir.) at 1.) Surely DEO does not need to point out that "the end of 2011" does not fall in "early August of 2011" or "October."

This raises a fair question: does the Commission understand that Mr. Adkins *was not even trying* to estimate what DEO would or should have saved had it completed the program by the end of 2011? Had that been his goal, he would not have changed the target date to "early August" and "October" 2011. (Adkins Dir. at 19 & n.8.) That is what the $1.6 million reduction represents: "three months of full meter reading savings for the last three months of 2011." (Staff Br. at 15.) But August and October 2011 were never target dates; as the Order states nine times, the target date was "the end of 2011." *See* Order at 17–18.

At its most crucial point, the Order simply fails to connect the dots.

b. The $1.6 million reduction ordered by the Commission lacks any record support.

The Order also lacks record support. The Revised Code instructs the Supreme Court to reverse a Commission order "if, *upon consideration of the record*, such court is of the opinion that such order was unlawful or unreasonable." R.C. 4903.13 (emphasis added). Accordingly, "factual support for commission determinations must exist in the record." *Tongren v. Pub. Util. Comm.*, 85 Ohio St. 3d 87, 90 (1999). Indeed, the Commission "abuses its discretion when it renders an opinion on an issue without record support." *Id.*; *see also Canton Storage and*

Transfer Co. v. Pub. Util. Comm., 72 Ohio St. 3d 1, 26–33 (1995) (reversing Commission order in part because no record evidence supported its conclusions); *Conrail v. Pub. Util. Comm.*, 47 Ohio St. 3d 81, 84–85 (1989) (reversing Commission order where conclusions were based on speculation and "unsupported by the record").

This means that the Commission cannot reduce a charge simply because it feels like it, nor can it pull numbers out of the air in doing so. Again, the Commission ordered a reduction to reflect "the appropriate level of O&M savings that should have been achieved by the end of 2011." Order at 18. But the record must support the *fact* and *amount* of that reduction, and here, it supports neither.

As to the fact of the reduction, no witness even tried to quantify a reduction based on what DEO's O&M savings "should have been . . . at the end of 2011." Order at 18. As already discussed, Mr. Adkins estimated savings using an *earlier* completion date. And the only witness who spoke to the issue confirmed that there should be no reduction. DEO witness Carrie Fanelly explained that DEO had achieved all possible program savings by the end of 2011, including *all* savings associated with staffing reductions. (Fanelly Dir. at 8–9.) Staff concedes that salaries avoided by staffing reductions are *the* driver of meter-reading cost savings (Adkins Dir. at 5), but "[b]y the first day of 2012, DEO had already moved to systemwide monthly meter reading and made full staffing reductions." (Fanelly Dir. at 8.) *No one can dispute these facts*. No evidence in the record contradicts Ms. Fanelly's testimony on this point, which is confirmed by Mr. Adkins' need to adjust the target date.

Likewise, as to amount, the record also contains no support for the $1.6 million dollar reduction ordered by the Commission. Again, the Order and the testimony it relies upon are

expressly premised on different dates. There is no record support for the proposition that DEO should have achieved an additional $1.6 million in O&M savings by the end of 2011.

c. The $1.6 million reduction cannot be lawfully adopted.

So the Order and the relied-upon testimony do not match. The answer is to leave Mr. Adkins' ill-considered recommendation behind, not to hold to it more closely. Doing what Mr. Adkins did—changing the completion target after DEO relied on it and then penalizing DEO—would not only be intuitively unfair, it would constitute the type of retroactive action prohibited by statutory law and by the Ohio and United States Constitutions. DEO explained this point in detail in its post-hearing briefs, and it would incorporate that explanation here. (DEO Reply Br. at 6–7.)

Telling DEO to aim for completed installations "by the end of 2011," *see* Case 09-1875 Order at 7, and then penalizing it for not finishing by "early August of 2011" (*see* Adkins Dir. at 19), would be unlawfully retroactive, would deprive DEO of due process, and would be utterly unfair.

d. The Commission erred in disallowing the value of the 9,530 AMR devices held in inventory at the end of 2011.

The Commission also erred in finding that "a definitive five-year period" for installing AMR devices began on January 1, 2007—again, two weeks after DEO filed its application proposing a January 1, 2008 start date, and almost two years before the Commission approved the program. *See* Order at 13. DEO explained in detail why this finding was erroneous in its post-hearing reply brief, and it incorporates those arguments here. (*See* DEO Reply Br. at 15–22.) DEO would simply add two points.

First, the Commission did not even acknowledge that Staff essentially abandoned its recommendation of this reduction. Staff's briefs made no reference to the recommendation to

remove from the revenue requirement the cost of AMR devices held in inventory in 2011 but not yet installed. Moreover, the witness who made the recommendation (Staff witness Fadley) affirmatively supported DEO "continuing to install [AMR devices] into 2012." (Tr. 202.) And he supported recovery of the value of these devices *in this case* if the Commission either ruled that DEO's "authorization to install AMR devices had continued through 2012," or stated "in its order *in this case* . . . that DEO does have authorization to continue [through] 2012." (Tr. 203 (emphasis added).) This should have settled this issue—especially when Staff did not pursue the issue in its briefs. DEO explained all this in detail in its briefs (*see* DEO Init. Br. at 9–10; DEO Reply Br. at 27–28), yet the Order contains no explanation of why the Commission did not simply authorize the continued installation of AMR devices in 2012 and allow recovery of the costs. There is no good reason to have refused to do so.

Second, the primary reason relied on upon by the Commission for finding that the five-year AMR program ended three years and two months after it was approved is that "Staff's recommendation [originally approving the AMR program] was based on its evaluation of costs incurred through the end of 2011." Order at 13. But the Commission provides no citation to the record in support of this fact, and it is otherwise unclear what the Commission is referring to. The Staff Report does not state what the Commission says it did. On the contrary, Staff recommended using a 2007 baseline to determine O&M savings—which if anything suggests a 2008 program start date. (*See* 06-1453 Staff Report at 43.)

* * *

In short, the reduction ordered by the Commission is unreasonable, has no record support, and cannot lawfully be adopted. DEO is accordingly likely to prevail on the merits, and the first factor considered by the Commission supports staying the Order.

2. DEO would suffer irreparable harm if the order is not stayed.

The second factor considered by the Commission is whether the party seeking the stay would suffer irreparable harm absent the stay. "Irreparable harm exists where there is no plain, adequate, and complete remedy at law, and for which money damages would be impossible, difficult, or incomplete." *1st Natl. Bank v. Mountain Agency, LLC*, 12th Dist. No. CA2009-05-056, 2009-Ohio-2202, ¶ 47. This "means that the legal remedy must be as efficient as the indicated equitable remedy would be; that such legal remedy must be presently available in a single action; and that such remedy must be certain and complete." *Mid-America Tire, Inc. v. PTZ Trading Ltd.*, 95 Ohio St.3d 367, 2002-Ohio-2427, ¶ 81.

This factor cuts in DEO's favor. Because Ohio law does not generally allow refunds of charges that prove either too high or too low, DEO will suffer irreparable harm if the Commission does not grant a stay. *See, e.g.*, *Lucas County Comm'rs v. Pub. Util. Comm.*, 80 Ohio St.3d 344, 348 (1997). Indeed, the stay is the specific remedy provided by law to protect a party, like DEO, who is aggrieved by a rate order. *See, e.g.*, *In re Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788, ¶ 17. Consistent with this case law, the Commission has found that irreparable harm would occur where the affected party "may not be entitled to a refund" of the alleged incorrect charge. *NOPEC v. Ohio Edison Co.*, 2009 Ohio PUC LEXIS 481, at *8–9.

Because refunds are generally not available under Ohio law, if the Commission does not grant a stay, DEO's "legal remedy" (of an appeal and later stay by the Court) would be necessarily incomplete. Thus, the second factor also favors granting a stay.

3. No other party would suffer any harm, much less substantial harm, if the Order were stayed.

The third factor to be considered by the Commission is whether the stay would cause substantial harm to other parties. A stay would cause no harm to other parties. DEO will keep track of the difference between the charge currently in effect and (*1*) the charge proposed by DEO and (*2*) the charge the Commission ordered, will apply carrying charges to these amounts, and will refund the entire applicable amount to customers. DEO is also willing and able to provide reasonable financial security as deemed necessary by the Commission, including the payment of the agreed amount into an escrow account or the provision of a supersedeas bond. And if DEO has failed to account for any harm that would result from a stay, it is willing to explore ways of eliminating such harm and will take any reasonable step to do. (*See* Attachment A.)

4. The public interest favors granting a stay.

As for the final factor, the public interest supports granting a stay. Granting a stay will guarantee that customers pay and DEO collects no more and no less than a just and reasonable charge, as determined by law. If the Order is ultimately overturned, DEO will have received what was due. If the Order is ultimately upheld, the stay will be dissolved, and customers will get back the difference with interest. In short, granting a stay will assure that no party receives a windfall in this case, and that every party gets only what is deserved.

That the public interest will be furthered by granting a stay is confirmed by Ohio law. As discussed above, Ohio law *requires* the granting of stays, so long as the party benefiting from the stay can provide adequate financial security. *State ex rel. Geauga Cty. Bd. of Comm'rs v. Milligan*, 100 Ohio St.3d 366, 2003-Ohio-6608, ¶ 17. As set forth in Attachment A and as described above, DEO will do whatever is necessary to ensure that its customers receive a full

refund of any difference in the AMR charge (plus carrying charges) if the Order is ultimately upheld.

III. CONCLUSION

For the foregoing reasons, DEO requests that the Commission stay the Order.

Dated: October 11, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of DEO's Motion for Stay was served by electronic mail to the following persons on this 11th day of October, 2012:

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ATTACHMENT A

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 Adjust its Automated Meter Reading Cost Recovery Charge and Related Matters.	)))))	Case No. 11-5843-GA-RDR

AFFIDAVIT OF ANNE E. BOMAR

Anne E. Bomar, being first duly sworn, states:

1. My name is Anne E. Bomar. I am the Senior Vice President and General Manager of The East Ohio Gas Company d/b/a Dominion East Ohio. I am authorized to make this Affidavit on behalf of DEO and I have personal knowledge of the facts stated herein based on my review of DEO's records, my detailed knowledge of DEO's finances, and my in-depth involvement in DEO's operations and regulatory affairs.

2. The Order required DEO to reduce its AMR Cost Recovery Charge from the proposed rate of $0.54 to $0.42 per applicable customer per month. DEO estimates that this will result in a reduction to DEO's revenues of approximately $135,689.64 per month, or a total annual amount of approximately $1,628,275.68.

3. DEO is requesting a stay of the Opinion and Order issued in this case on October 3, 2012. In the event a stay is ordered, DEO is willing and able to ensure that no financial harm would result to DEO's ratepayers. In the event a stay is denied, DEO will ensure that customers get the benefit of the rate ordered by the Commission from the date that the rate would have become effective based on the Order, which is October 10, 2012, the start of DEO's billing cycle 6.

4. DEO is willing and able to maintain accounts that track the difference between the AMR Cost Recovery Charge currently in effect ($0.57) and (1) the charge proposed by DEO

($0.54) and (2) the Charge the Commission ordered ($0.42) and to track which customers incurred the Charge each month.

5. DEO is willing and able to apply carrying charges to the accrued amounts. DEO proposes calculating these charges based on its annualized cost of short-term debt applied on a monthly basis.

6. DEO is willing and able to refund all applicable accrued amounts to customers in the event that the Order is ultimately upheld, that DEO prevails on approval of its proposed rate, or that a stay is denied.

7. DEO is willing and able to provide reasonable financial security in a form ordered by the Commission. DEO is specifically willing and able to pay any amounts accrued as a result of the stay, plus carrying charges, into an escrow account. DEO is also specifically willing and able to provide a supersedeas bond or other instrument that will guarantee its payment of the deferred amounts plus carrying charges.

8. If the Commission finds that DEO has failed to account for a particular interest or harm that would be caused by a stay, DEO is willing and able to explore additional ways to eliminate such harm, and it would take any reasonable steps to do so.

FURTHER AFFIANT SAYETH NAUGHT

Anne E Bomar

Anne E. Bomar

Sworn to before me by Anne E. Bomar this 11TH day of October, 2012.

SHERRY JONES
NOTARY PUBLIC • STATE OF OHIO
Recorded in Cuyahoga County
My commission expires Jan. 22, 2013

Sherry Jones

NOTARY PUBLIC

Summary: Motion Motion for Stay electronically filed by Mr. Andrew J Campbell on behalf of The East Ohio Gas Company d/b/a Dominion East Ohio