

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application to Modify, In :
Accordance with Section :
4929.08, Revised Code, The :
Exemption Granted to the : Case No. 12-1842-GA-EXM
East Ohio Gas Company :
d/b/a Dominion East Ohio :
in Case No. 07-1224-GA-EXM. :

- - -

PROCEEDINGS

before Ms. Katie Stenman, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at 10:15
a.m. on Wednesday, October 17, 2012.

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VOLUME II

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On behalf of Dominion East Ohio.

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On behalf of the Ohio Gas Marketers
Group and the Retail Energy Supply
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On behalf of Ohio Partners for Affordable
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On behalf of the residential ratepayers
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On behalf of the staff of the Public
 Utilities Commission of Ohio.

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STATE EXHIBIT

ID'D ADMITTED

2 - 8/30/12 initial comments

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1 Wednesday Morning Session,
2 October 17, 2012.

3 - - -

4 EXAMINER STENMAN: We're going back on
5 the record in case No. 12-1842-GA-EXM, a continuation
6 from yesterday. Before we get started let's take a
7 round of appearances. It looks like we maybe lost a
8 few people and maybe gained a person.

9 Do you want to start off, Mr. Whitt?

10 MR. WHITT: On behalf of the East Ohio
11 Gas Company, Mark Whitt, Andrew Campbell, and Gregory
12 Williams from the firm of Whitt Sturtevant, 155 East
13 Broad Street, Suite 2020, Columbus, Ohio, 43215.

14 MR. HOWARD: Thank you, your Honor. On
15 behalf of the Ohio Gas Marketers Group and Retail
16 Energy Supply Association, please have the record
17 reflect the appearance of the law firm of Vorys,
18 Sater, Seymour & Pease, by M. Howard Petricoff and
19 Stephen M. Howard, 52 East Gay Street, Columbus,
20 Ohio, 43216-1008. Thank you.

21 EXAMINER STENMAN: Thank you.

22 Mr. Sauer.

23 MR. SAUER: Thank you, your Honor. On
24 behalf of the residential customers of Dominion East
25 Ohio, the office of the Ohio Consumers' Counsel,

Bruce J. Weston, Consumers' Counsel, Joseph P. Serio,
Larry S. Sauer, Assistant Consumers' Counsel, 10 West
Broad Street, Suite 1800, Columbus, Ohio, 43215.

Thank you.

MR. RINEBOLT: On behalf of Ohio Partners
for Affordable Energy, David C. Rinebolt and Colleen
L. Mooney, 231 West Lima Street, Findlay, Ohio.

EXAMINER STENMAN: Thank you.

MR. PARRAM: On behalf of staff of the
Public Utilities Commission of Ohio, Ohio Attorney
General Michael DeWine by Assistant Attorneys General
Stephen A. Reilly, Devin D. Parram, 180 East Broad
Street, 6th floor, Columbus, Ohio, 43215.

EXAMINER STENMAN: Thank you.

And, Mr. Howard, it looks like you've got
a witness ready to go.

MR. HOWARD: I do, your Honor. The Ohio
Gas Marketers Group and RESA would call Vince Parisi
to the stand, please.

EXAMINER STENMAN: Please raise your
right hand.

(Witness sworn.)

EXAMINER STENMAN: Thank you.

MR. HOWARD: Your Honor, we would ask
that a multipage document entitled Direct Prepared

1 Testimony of Vince Parisi on Behalf of The Ohio Gas
2 Marketers Group and The Retail Energy Supply
3 Association be marked as OGMG/RESA Exhibit 3 for
4 identification purposes.

5 EXAMINER STENMAN: It will be so marked.

6 MR. HOWARD: Thank you.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 - - -

9 VINCENT A. PARISI

10 being first duly sworn, as prescribed by law, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Howard:

14 Q. Good morning, Mr. Parisi.

15 A. Good morning.

16 Q. Would you please give us your name,
17 title, for whom you are employed, and your business
18 address, please.

19 A. Yes. Vincent A. Parisi, General Counsel,
20 Regulatory Affairs Officer for Interstate Gas Supply,
21 6100 Emerald Parkway, Dublin, Ohio, 43016.

22 Q. Mr. Parisi, did you cause to be prepared
23 direct testimony in this proceeding?

24 A. I did.

25 Q. I'm going to hand you what has been

1 marked as OGMG/RESA Exhibit 3 and ask you if you can
2 identify that.

3 A. I can. This is the testimony that was
4 prepared by me and under my supervision for this
5 case.

6 Q. Do you have any additions or corrections
7 to make to that testimony?

8 A. No.

9 Q. Mr. Parisi, if I were to ask you the same
10 questions today while you're under oath, would your
11 answers be the same as therein set forth?

12 A. They would.

13 MR. HOWARD: Your Honor, we would move
14 the admission of OGMG/RESA Exhibit 3 and make
15 Mr. Parisi available for cross-examination.

16 EXAMINER STENMAN: Thank you.

17 Mr. Sauer?

18 MR. SAUER: No questions, your Honor.

19 EXAMINER STENMAN: Mr. Rinebolt?

20 MR. RINEBOLT: A few questions, your
21 Honor.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Rinebolt:

25 Q. Good morning, Mr. Parisi.

1 A. Good morning, Mr. Rinebolt.

2 Q. For the purposes of this discussion can
3 we refer to competitive retail natural gas suppliers
4 as "suppliers"?

5 A. Yes.

6 Q. Would that be simpler? Thank you.

7 A. Certainly.

8 Q. Now let's start with the concept of
9 suppliers. The suppliers want to make a profit,
10 right?

11 A. I would assume most suppliers would like
12 to make a profit, yes.

13 Q. All suppliers?

14 A. I can speak for our company. Certainly
15 we'd like to make a profit.

16 Q. Okay. And would you assume that others
17 in the Ohio Gas Marketers Group and the Retail Energy
18 Supply Association for whom you are testifying would
19 like to make a profit?

20 A. I would assume that, yes.

21 Q. Okay. Would they -- do you think that
22 they want to make the biggest profit they can
23 consistent with OPAE Witness Harper's note that
24 suppliers are profit maximizers?

25 A. I think that suppliers try to make profit

1 in the market. I don't think that in every instance
2 every product that a supplier ultimately puts in
3 front of a consumer is ultimately a profitable
4 product. Profit's going to be dictated by the
5 market. Suppliers will make as much profit as they
6 can based upon what the market will ultimately bear.

7 Q. And there may be a situation for
8 marketing purposes where a supplier will accept a
9 lower profit or, in fact, no profit in order for some
10 other business purpose to be satisfied; increased
11 volumes of sales, marketing to be able to attract
12 more customers, and I'm sure there are a number, but
13 is that realistic?

14 MR. HOWARD: Could I have that question
15 reread, please.

16 (Record read.)

17 MR. HOWARD: Thank you.

18 A. There are times where the amount of
19 profit you make will increase or decrease or you
20 won't have a profit at all depending upon the product
21 that you're offering. And there's a difference
22 between an accounting profit and an economic profit.
23 For example, I think in a competitive market an
24 economic profit is really never a possibility. If it
25 is, then other competitors will come into the market

1 and push your prices down to a point where, at best,
2 you're taking those market prices and whatever the
3 market ultimately dictates is ultimately what you'll
4 receive for your price. Whether or not there's
5 profit at that price is going to depend on lots of
6 different factors.

7 Q. Thank you.

8 Now, do suppliers under the SCO, do you
9 assume that they build a profit into their SCO bids?

10 A. The SCO is a bit of a different animal I
11 think. It's a little different than, well, it's
12 different than the other products that are in the
13 market. I don't know what other suppliers do with
14 respect to their SCO pricing construct, I don't know
15 how they price it, I don't know how they ultimately
16 decide at what point they'll stop committing in those
17 auctions.

18 Q. Does IGS seek to make profit whenever it
19 participates in those auctions?

20 A. We do.

21 Q. Is it your view that the different
22 structure of the SCO auction is preventing marketers
23 from maximizing their profits?

24 A. The different structure from the --

25 Q. From the traditional, from the bilateral

1 contract approach.

2 A. There are other values that are available
3 to a supplier like IGS in the SCO auctions that go
4 beyond just the absolute amount of money that you'll
5 make from those customers: The ability to serve
6 those customers, start the relationship with the
7 customer, ultimately solicit them for other products.
8 So there are other values that are in there that are
9 a little less tangible.

10 Q. So that SCO market represents a different
11 type of competition than the competition you see in
12 the bilateral market.

13 A. I don't know that I look at the SCO as
14 competition. Competition, in my mind, is different
15 competitors in the market ultimately participating in
16 the market and the consumers in the market
17 participating in the market and ultimately coming to
18 agreement with respect to terms and conditions.

19 The SCO is a price point. I don't look
20 at it as much more than that. It's certainly created
21 through a competitive auction, but I don't look at it
22 as really a competitive product in the same sense.

23 Q. But the auction itself, that process, is
24 a competitive process.

25 A. I think it is.

1 Q. Now, at the bottom of page 2 I guess, as
2 it's marked, and the top of page 2 you quote part of
3 the statute that authorizes competition in natural
4 gas supply.

5 A. I'm sorry. Did you say bottom of page 2,
6 top of page 3?

7 Q. Top of page 3, and it's a state policy
8 piece.

9 A. That's correct.

10 Q. Okay. And you are an attorney, correct?

11 A. That's correct.

12 Q. And do you consider yourself familiar
13 with the provisions of chapter 4929?

14 A. Familiar. I can't quote them cite and
15 verse but, yes, familiar with the chapter.

16 Q. I don't expect you to quote them and I
17 appreciate I have the same problem.

18 There is a term that you have quoted at
19 the end of line 2, beginning of line 3, "effective
20 competition." How do you define "effective
21 competition"? Is it terms? Is it conditions? Is it
22 price? Or is it all of those?

23 A. I think effective competition, one of the
24 most critical components is barriers in the market.
25 Barriers to entry. Barriers to exit. Barriers to

1 provide competitive products. I think effective
2 competition is created in markets where willing
3 buyers and sellers can get together in the market and
4 ultimately achieve whatever the goals are of those
5 parties. And with barriers in the market it creates
6 disconnects in markets.

7 Q. Do you view government aggregation, which
8 is authorized and sanctioned in chapter 4929, as a
9 barrier to effective competition?

10 A. I think government aggregation is a form
11 of competition; certainly part of the market in Ohio.

12 Q. Now, the statute further says at the end
13 of line 3, beginning of line 4, that the purpose is
14 to reduce or eliminate the need for regulation. That
15 language implies that some level of regulation by the
16 Commission is appropriate or is at least sanctioned
17 under Ohio policy. Would that be a reasonable
18 assessment of that language?

19 A. My interpretation of the language, and
20 you have to I think go back and look at the time it
21 was created when there really wasn't a fully vibrant
22 competitive market for the residential and small
23 commercial customers, I think the idea of that
24 language is that when a competitive market ultimately
25 is created or was created at the time in Ohio, that

1 the idea would be to eliminate the need for
2 regulation of the natural gas commodity pricing. Not
3 all regulation.

4 Certainly in most markets there is some
5 regulation. Certainly the competitive suppliers are
6 required to follow a significant amount of regulation
7 in Ohio.

8 Q. Do you believe that that language will
9 ultimately result in the need to eliminate SSO
10 service for Choice-ineligible customers?

11 A. I don't believe under the current
12 construct Choice-ineligible customers have,
13 effectively, alternatives available to them. So as
14 long as that's the case, then there will need to be
15 something available for ineligible customers to
16 ultimately receive commodity service, whether that's
17 an SSO or an RFP, some other type of default service,
18 something will need to be in place for those people.

19 Q. Are you familiar with the Atlantic Gas
20 Light market?

21 A. I'm familiar that there's a market there.
22 I'm familiar with it vaguely. We're not a
23 participant in that market.

24 Q. Okay. Do you view the credit
25 requirements imposed by local distribution companies

1 by natural gas utilities to be a form of regulation?

2 A. I think it's a requirement of
3 participating in those markets. I don't look at the
4 utility as a regulator of the market; that's the role
5 of the Public Utility Commission. Certainly
6 requirements we have to abide by to participate in
7 the programs.

8 Q. And those tariffs that those requirements
9 are included in, those are, in fact, approved by the
10 Commission, correct?

11 A. They are.

12 Q. And would your answer be the same for LDC
13 requirements requiring capacity or storage?

14 A. It would be. To participate in a utility
15 program we're required to enter into agreements and
16 part of the agreement's that we abide by the
17 provisions related to those programs.

18 Q. Now, if an LDC decided to, on its own, to
19 ask the Commission for approval of a tariff that
20 would allow it to hold an auction to provide a
21 product to customers, would that be consistent with
22 your reading of 4929.02(A), the provision you quoted
23 earlier?

24 A. I'm not certain I understand the
25 hypothetical. Are you suggesting the utility would

1 provide a competitive product in the market? Have an
2 auction for products? I guess I'm not certain what
3 you're asking.

4 Q. All right. Is it consistent with a
5 competitive market for a natural gas utility, for a
6 local distribution company, to provide a product to
7 the market that customers can choose just as they
8 choose products offered by suppliers?

9 A. I think it's going to depend upon the
10 market. If we're talking about one of the, you know,
11 theoretically one of the four utilities in Ohio that
12 have competitive markets and we're talking about an
13 auction in the sense of a transition from a regulated
14 GCR service to a fully open competitive market,
15 certainly there are code provisions that allow the
16 utilities to go in and ask for exemption from other
17 code provisions to ultimately request a different
18 mechanism for serving customers that haven't
19 selected.

20 Q. What about customers that are, in fact,
21 Choice eligible? And for the purposes of this
22 hypothetical let's say Dominion East Ohio chose as an
23 LDC to offer a product or a series of products in the
24 competitive natural gas market to Choice-eligible
25 customers, do you believe that that would be a

1 violation of state policy?

2 A. I don't think the intent of the state
3 policy was for the utility to engage in offering
4 competitive commodity services as the utility. I
5 think there are corporate separation requirements and
6 code of conduct requirements that, ultimately, would
7 at least require the utility to come in and ask the
8 question as to whether or not as a utility they could
9 offer a series of competitive products as the utility
10 in the market.

11 Q. So they could, in fact, under Ohio
12 statutes, ask the Commission for that permission.

13 A. Again, with proper code of conduct
14 requirements being met, certainly I think they could
15 petition the Commission and request that. I don't
16 think it's the intent of 4929.02 that the utility as
17 the utility offer competitive products. I think
18 ultimately the intent of 4929.02 is the competitive
19 market develop to a point where the utility no longer
20 has to provide commodity service.

21 Q. Well, and I appreciate that that's your
22 view of the chapter, but, nonetheless, if the
23 Commission authorized the company, it would not be a
24 violation of chapter 4929 for a local distribution
25 company, for a natural gas utility, to offer a

1 competitive product that would be available to
2 customers in the same way a product from IGS or any
3 other supplier is available.

4 A. I think under the provisions of, and I'll
5 get the code section wrong but 4929.04 I believe, it
6 requires the Commission to look at any alternative
7 programs in light of 4929.02 and, obviously, with my
8 interpretation or belief of what 4929.02 stands for,
9 ultimately I don't think the Commission would approve
10 the utility offering competitive products in the
11 market as a utility.

12 Q. I happen to have 4929.04 in front of me
13 and it indicates that the Commission may, and I'll
14 just summarize here because it's the steps, that the
15 Commission can declare various aspects of natural gas
16 service, retail ancillary service, metering, billing,
17 collection, competitive --

18 MR. RINEBOLT: Oh, thank you.

19 Q. -- if, (1), there will be effective
20 competition with respect to the service, (2), if
21 customers have reasonably available alternatives, and
22 then there's kind of a catch-all provision which is
23 (B) that the Commission can provide different
24 classifications, procedures, terms, for various
25 options. Wait a second, I'm in 4928. I'm sorry.

1 A. That's okay. I think 4929.04 is the gas
2 section.

3 Q. Yeah, so it is. It's still section
4 .04 --

5 A. It is.

6 Q. -- yeah, that I want to ask you about.
7 It's got a longer list of requirements.

8 A. It does.

9 Q. Again, 4929.04. And it looks as if the
10 natural gas company is subject to effective
11 competition with respect to commodity sales, service,
12 or ancillary service. Do you view the current
13 marketplace as providing effective competition for
14 those services?

15 A. I believe if we're speaking of the
16 Dominion East Ohio service territory, yes, we have
17 effective competition. We don't have complete
18 competition.

19 Q. Okay. We can move on.

20 I just have a clarification question on
21 the bottom of page 3 at 25. Your answer to a
22 question is that when chapter 4929 passed in '96, the
23 vast majority of residential and small commercial
24 customers received their natural gas service, and
25 then it goes over to page 4, from gas supplies from

1 East Ohio via the purchase gas adjustment clause.
 2 Could you tell me why you used the term "vast
 3 majority"? Were there customers that did not in
 4 those customer classes, residential, small
 5 commercial, that did not receive service priced under
 6 the GCR?

7 A. This was a time where the pilot programs
 8 were starting in Ohio with respect to the smaller
 9 users. I wasn't sure in '96 whether or not any
 10 residential customers were receiving service from
 11 competitive suppliers. At that point I'm not sure if
 12 they were or weren't. And for the most part it was
 13 the larger commercial and mid size commercial
 14 customers.

15 Q. What about small commercial customers, if
 16 you know?

17 A. I don't know.

18 Q. Okay. Now, if you know, in the Dominion
 19 East Ohio service territory customers were able to
 20 obtain gas, and we're talking small commercial
 21 customers, they've been able to obtain gas from
 22 marketers since 2000, sometime in 2000.

23 A. I think that's correct, yes.

24 Q. Okay. And so those retail markets were
 25 in place to serve customers well before 2005,

1 correct?

2 A. That's correct. Those markets at the
3 smaller end, the smaller user commercial and
4 residential, were growing starting -- and starting to
5 grow at the beginning of 2000. By 2005 certainly
6 there were small commercial and residential customers
7 participating.

8 Q. Now, referring to the SCO auction, are
9 you aware that the retail price adjustment has
10 declined during the past five auctions?

11 A. I can't cite exact numbers. I think at
12 one point it may have increased from one auction to
13 the next, but I think generally the trend has been
14 down, yes.

15 Q. The trend has been down. Do you think
16 the declining retail price adjustments are good for
17 consumers?

18 A. I think what's good for consumers,
19 frankly, is to be engaged in the market. I think
20 that that is probably the most critical component of
21 effective competition and ultimately having consumers
22 take the full advantage of the market.

23 The declining rates with respect to the
24 price adjustment, the adder in the auction, is
25 primarily an effect of the declining market in total,

1 but we still are in a very volatile market. We've
2 seen prices as high as \$16 in the last few years,
3 certainly we're seeing prices trend upward again
4 currently. It's a small piece of a larger puzzle.

5 Q. That SCO price tracks the market,
6 correct?

7 A. The SCO price has a component of it in
8 NYMEX.

9 Q. Now, you said that it's good for
10 customers to be engaged in the market, so are you
11 saying that, for example, if a customer needs
12 gasoline in their car, should they get on the phone
13 and call various gas stations or drive their car
14 around and look at the prices at various gas stations
15 to decide which one to buy?

16 A. They certainly could, but in the gasoline
17 market, unlike the natural gas market, for that
18 customer ultimately to be able to turn that ignition
19 and move down the road they have to buy it somewhere.
20 There is no automatic default service that comes to
21 their house and fills it up. So they have to engage
22 in a market if they ultimately want their vehicle to
23 move. That isn't the case currently with the natural
24 gas market and, from my perspective, that continues
25 to be a significant barrier.

1 Q. Do you think that customers who have
2 gas-fired furnaces need natural gas supply in the
3 winter?

4 A. If they choose to use natural gas to heat
5 their homes, certainly. They have other options.
6 They can use electricity, propane, other space heat,
7 there are other options, but certainly if they're
8 choosing natural gas as their heating source, then
9 they certainly need natural gas to fuel that furnace.

10 Q. But if you wanted to switch from natural
11 gas to electric heat, you would have to change your
12 furnace, wouldn't you?

13 A. You would.

14 Q. And if you wanted to use propane, you
15 would have to change your furnace. And if you wanted
16 to heat with wood, you would have to install a
17 wood-burning appliance.

18 A. That's correct.

19 Q. So that would be a pretty substantial
20 barrier to a customer to shift from one fuel to
21 another.

22 A. It would depend upon the specific
23 customer's circumstances. Certainly there's nothing
24 in the current application that would require anyone
25 to actually engage in the market; they could continue

1 to get default service simply by doing nothing, it's
2 just the nature of that default service would change.
3 So there's nothing in the application that suggests
4 the customer would have to go out and switch fuel
5 sources, they'll certainly continue to get natural
6 gas and continue to get the same service they get
7 today, just with a different default structure.

8 Q. But you don't -- do you view natural gas
9 service, then, as essential or do you not view it as
10 essential?

11 A. I think natural gas service, like
12 electric service and other service, are certainly
13 services that customers rely upon.

14 Q. Now, do MVR suppliers, do they compete
15 for the customers that are assigned to them?

16 A. The way I understand the MVR structure to
17 work, no, those are customers that have not elected a
18 supplier that ultimately are assigned to an MVR
19 participant.

20 Q. Would you view the SCO price which is set
21 through a competitive auction as being more
22 competitive -- is that price set competitively as
23 compared to an MVR price which is not set
24 competitively?

25 A. The problem with the SCO price is that I

1 believe it's a subsidized price, so ultimately the
2 auction itself is certainly competitive suppliers
3 coming together and coming up with a final adder to
4 the NYMEX, but the product itself is subsidized by
5 the entire system, and in that way I don't look at it
6 as a competitive product. I look at it as a
7 subsidized product.

8 Q. Can you quantify the subsidy --

9 MR. HOWARD: Excuse me.

10 MR. RINEBOLT: I'm sorry.

11 MR. HOWARD: Could he finish his answer,
12 his prior answer?

13 EXAMINER STENMAN: Were you finished?

14 THE WITNESS: I was.

15 MR. RINEBOLT: I thought he was. I
16 apologize. I certainly would not want to be abrupt.

17 Q. (By Mr. Rinebolt) Could you quantify the
18 subsidy of the SCO price?

19 A. I think they're multiple. I think
20 Ms. Ringenbach spoke about them yesterday, a number
21 of things, the cost of the auctions themselves are
22 paid for by everyone, so just that fee. Certainly
23 the time and resources and effort that is spent by
24 Dominion East Ohio in creating, maintaining,
25 defending, and then ultimately supplying the SCO, all

1 those costs are also recovered through base rates
2 and, therefore, paid by all customers.

3 And certainly there is a value to
4 customers in retaining a default service without
5 having to engage in the market and ultimately
6 selecting what best fits them; those values are not
7 captured anywhere in that default service.

8 Q. Did marketers pay for the modifications
9 to natural gas utility billing systems to accommodate
10 their ability to supply product and bill?

11 A. I don't know how the original parts of
12 the program were structured as to whether those were
13 direct billed to the suppliers, billed through
14 migration riders, or just built into the base rates.
15 I don't know the answer.

16 Q. Just to make sure I understand this
17 correctly, under the current structure, the existing
18 structure, all customers with the exception of SSO
19 customers are served by competitive retail natural
20 gas suppliers, correct?

21 A. Customers are served multiple different
22 ways, through government aggregation, opt-in or
23 opt-out, through direct relationships with
24 competitive suppliers like IGS, Direct Energy, and
25 then there are a group of customers served through

1 the SCO in a retail relationship with the suppliers.

2 Q. And the participants in governmental
3 aggregation are also served by suppliers.

4 A. That's correct.

5 Q. You indicate at line 4 on page 6 that the
6 plateauing of the SCO load reflects the recalcitrance
7 of the remaining small portion of the market that
8 simply does not respond. Could you define what you
9 mean as recalcitrance?

10 A. An obstinate refusal. Just an
11 unwillingness to ultimately engage in the market.

12 Q. Now, when we were talking with Mr. Murphy
13 yesterday, he also agreed that there are some
14 customers that have been served by a marketer and
15 have gone -- jumped through the hoops, called
16 Dominion East Ohio to get themselves returned to SCO
17 service. Is that correct?

18 A. My recollection was Mr. Murphy stated
19 that it was something like less than 1 percent a
20 month of customers, but yes, there was a small number
21 of customers that have asked to be on SCO service.

22 Q. Just out of curiosity, have you or OGM --
23 your company or OGMG or RESA conducted any surveys to
24 determine why these customers are recalcitrant?

25 A. In the Dominion East Ohio market I don't

1 believe so. Not that I'm aware.

2 Q. Okay. What do you think makes a
3 sophisticated commercial customer?

4 A. I think the customer is engaged in the
5 market and shopped and has that level of
6 sophistication. Certainly sophistication can be a
7 continuum, low levels of sophistication and higher
8 levels of sophistication.

9 Q. Say that you owned a business, this is
10 just a hypothetical, and the cost of operating your
11 business, the cost of natural gas involved in
12 operating your business was 1 percent of the cost of
13 doing business. Do you believe it would be an
14 effective use of that business owner's time to become
15 a sophisticated purchaser of natural gas?

16 A. If I owned a business, I would be
17 concerned about all the inputs, all the different
18 costs, certainly energy would be one of those,
19 especially given the volatile nature. If it's
20 1 percent today, it doesn't mean it will be 1 percent
21 tomorrow. Certainly in a lower market like we have
22 today it's going to be less of everyone's costs
23 because the market rates are lower. But as the
24 market is volatile and moving up and down, as a
25 business owner I'd want a fixed-price product and I'd

1 like to try to get that fixed-price product in a
2 market that's lower as opposed to higher.

3 Certainly one of the issues that we see
4 with the SCO is that the focus really becomes on
5 things that customers wouldn't normally focus on
6 because multiple parties say that that monthly
7 variable rate is the thing to look at.

8 Q. Well, you've said several times that a
9 fixed-price contract is desirable in a time of rising
10 market prices, correct?

11 A. I don't think I've said that. I said I
12 think having a fixed-price product for a business
13 owner is of a significant value because they can lock
14 in that cost; they know what it is. If I'm going to
15 lock in a rate, I would rather do it in a lower
16 market than a higher market. Certainly in a rising
17 market there's going to be maybe more incentive to
18 look for a fixed-price product, but often that
19 becomes the worst time to jump into buying something
20 on a fixed rate.

21 Q. Does a fixed price equate to a fixed
22 bill? If you buy natural gas at a fixed price, does
23 that mean your bill will be the same every month?

24 A. It's really going to depend upon your
25 volume. A fixed bill and a fixed price are not the

1 same thing.

2 Q. We've been talking about the volatile
3 market. Does your company know when a market is
4 rising or falling?

5 A. We watch the market daily. We're in the
6 market buying gas 365 days a year. We have a risk
7 department that their focus is almost purely on what
8 the forward market looks like and is going to look
9 like. Can they predict where it's going to go? No,
10 not at all. They certainly can look at reports, they
11 can read things, they can look at market trends, and
12 they can certainly watch the market and see various
13 things that are occurring to try to predict where
14 it's going to go, but they don't have an absolute.

15 Q. In fact, if you or I could predict that,
16 we'd be living on an island in the Caribbean,
17 wouldn't we?

18 A. I would like to think so.

19 Q. Now, will increased supply affect the
20 market price?

21 A. Certainly. Supply is a component.

22 Q. And decreased demand will also affect the
23 market price.

24 A. Increases or decreases certainly can.

25 Q. Okay. Just one last question, actually.

1 Is there any difference between the SCO and the MVR
2 in the terms and conditions? Is there any difference
3 between the terms and conditions of the SCO and the
4 MVR?

5 A. The MVR in Dominion East Ohio's service
6 territory is required to post a monthly price. If
7 you're willing to be a supplier, if you meet the
8 requirements, which is being a certified CRNGS,
9 meeting the financial, managerial, and technical
10 requirements, participate in the utility's program
11 and agree to be an MVR supplier, then part of that
12 agreement is that you have to post a monthly variable
13 rate on the PUCO's Apples to Apples and that you
14 can't charge your SCO customers anything more than
15 that monthly variable rate. You certainly can charge
16 something less.

17 The SCO is the monthly NYMEX closing
18 price plus whatever the result is in the auction.

19 Q. Right. In both cases they're
20 month-to-month contracts, correct?

21 A. Correct.

22 Q. And there is no fee to leave that
23 service.

24 A. That's correct, in both instances you can
25 move to a different product without a cancellation

1 fee.

2 Q. And both are provided by a competitive
3 retail natural gas supplier.

4 A. That's correct.

5 MR. RINEBOLT: I have no questions beyond
6 that. Thank you.

7 EXAMINER STENMAN: Thank you,
8 Mr. Rinebolt.

9 Mr. Whitt, any questions?

10 MR. WHITT: No questions, your Honor.

11 EXAMINER STENMAN: Mr. Parram?

12 MR. PARRAM: No questions.

13 EXAMINER STENMAN: Redirect?

14 MR. HOWARD: Can you give me just one
15 minute?

16 EXAMINER STENMAN: Absolutely.

17 MR. HOWARD: Your Honor, we have no
18 redirect. Thank you.

19 EXAMINER STENMAN: All right. Thank you,
20 Mr. Parisi.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 MR. HOWARD: Your Honor, we would renew
24 our motion to move into evidence OGMG/RESA Exhibit 3
25 at this time.

1 EXAMINER STENMAN: Any objections?

2 MR. SAUER: No objection.

3 MR. PARRAM: No, your Honor.

4 EXAMINER STENMAN: OGMG/RESA Exhibit 3
5 will be admitted.

6 MR. HOWARD: Thank you.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 EXAMINER STENMAN: Mr. Sauer, are you
9 next?

10 MR. SAUER: I believe so. We're out of
11 witnesses otherwise. OCC would call Bruce Hayes to
12 the stand. And, your Honor, we'd like to have the
13 direct testimony of Bruce M. Hayes revised October
14 16th, 2012, marked as OCC Exhibit No. 2.

15 EXAMINER STENMAN: It will be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 EXAMINER STENMAN: Please raise your
18 right hand.

19 (Witness sworn.)

20 EXAMINER STENMAN: Thank you.

21 MR. SAUER: I do have extra copies if
22 anybody -- I don't have a redline, I just have --

23 MR. HOWARD: I printed it out this
24 morning, thank you.

25 EXAMINER STENMAN: And this is the

1 revised testimony from October 16th?

2 MR. SAUER: Revised October 16th, yes.

3 EXAMINER STENMAN: Thank you.

4 MR. SAUER: Thank you, your Honor.

5 - - -

6 BRUCE M. HAYES

7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Sauer:

11 Q. Can the witness please state your full
12 name and business address for the record.

13 A. The name is Bruce M. Hayes. I work for
14 the office of the Ohio Consumers' Counsel. The
15 address is 10 West Broad Street, Floor 18, Columbus,
16 Ohio, 43215.

17 Q. Are you the same Bruce M. Hayes whose
18 direct testimony has been filed in this case?

19 A. Yes, it is. Yes, I am.

20 Q. On whose behalf do you appear?

21 A. I'm sorry?

22 Q. On whose behalf do you appear?

23 A. The office of the Ohio Consumers'
24 Counsel.

25 Q. Do you have your prepared testimony

1 revised on October 16th with you on the stand?

2 A. Yes, I do.

3 Q. And did you prepare the testimony or have
4 it prepared at your direction?

5 A. Yes.

6 Q. And can you explain the revisions to your
7 direct testimony that was originally -- from what was
8 originally filed to the revised October 16th
9 version that has been marked as OCC Exhibit 2?

10 A. Yes. I will make an attempt. Former
11 questions and answers 21, 22, and 23 have been
12 withdrawn and are not part of my testimony,
13 therefore, the questions and answers that followed
14 have been renumbered. For example, former question
15 and answer 24 becomes question and answer 21, and so
16 forth through former Q and A 37 that now becomes Q
17 and A 34.

18 Q. Do you have any other changes that you
19 made to your testimony?

20 A. Yes. On October 15th, 2012, OGMG and
21 RESA filed a motion to strike a portion of my
22 testimony. OCC and the marketers reached an
23 agreement whereby BMH Attachment 4 has been withdrawn
24 and I have made changes to remove references to the
25 attachment in former question and answers 38 through

1 40.

2 Q. And can you walk us through those changes
3 as best you can?

4 A. Yes. On the table of contents page, BMH
5 Attachment 4 has been removed. Former question and
6 answers 34 through 40 have been rewritten into what
7 is now Q and A 35. Former footnotes 35, 36, 37, 39,
8 40, 41, and 42 citing to BMH Attachment 4 have been
9 withdrawn, and the portion of former footnote 38
10 citing to BMH Attachment 4 has been withdrawn.

11 What remains of the former footnote 38 is
12 now footnote 35. The former Q and As 41 and 42 are
13 now 36 and 37.

14 Q. Are those all the changes to your
15 original testimony that was filed on October 4th
16 and reflected in your direct testimony revised
17 October 16th, 2012?

18 A. Yes.

19 Q. Mr. Hayes, if you would turn to page 24
20 of your testimony, what was formerly marked footnote
21 38 is -- what remains of what was formerly footnote
22 38, is that now footnote 32?

23 A. Yes.

24 Q. All right. And if I asked you today the
25 same questions found in your direct testimony revised

1 October 16th, 2012, in what has been marked OCC
2 Exhibit No. 2, would your answers be the same today?

3 A. Yes.

4 Q. And, Mr. Hayes, if I may, your testimony
5 contains some recommendations regarding studies and
6 investigations and concerns that the Commission
7 should consider if it were to approve the stipulation
8 in this case. Is it your testimony that the
9 Commission is required to adopt these recommendations
10 by the terms of the stipulation?

11 A. No.

12 Q. And is it your testimony that OCC's
13 support of the stipulation is conditional on the
14 adoption of your recommendations?

15 A. No.

16 MR. SAUER: The OCC moves for the
17 admission of OCC Exhibit No. 2 and tenders the
18 witness for cross-examination.

19 EXAMINER STENMAN: Thank you.

20 Mr. Howard.

21 MR. HOWARD: Yes, your Honor, thank you.
22 I have a few questions.

23 - - -

24 CROSS-EXAMINATION

25 By Mr. Howard:

1 Q. Good morning, Mr. Hayes.

2 A. Good morning.

3 Q. Would you turn to page 16 of OCC Exhibit
4 No. 2 and I want to direct your attention to the
5 answer to question 26.

6 A. Okay.

7 Q. In this answer you're proposing that the
8 Commission conduct investigations using independent
9 surveys or a series of surveys; are you not?

10 A. Yes.

11 Q. And you're proposing that these surveys
12 would gather information in about seven categories
13 that you list there on page 16; is that correct?

14 A. Yes. And in other places I also mention
15 some other things as well, so there's a lot thrown
16 out there.

17 Q. With respect to these surveys that you're
18 recommending the Commission direct or undertake, do
19 you have an estimate of the cost of such surveys?

20 A. No, I do not.

21 Q. Do you have a recommendation as to who
22 would pay for the cost of such surveys assuming there
23 was a cost?

24 A. Just as consumer education and auctions
25 are paid by Choice-eligible customers, I would expect

1 the same here.

2 Q. And since you have not -- strike that.

3 Because you do not have an estimate of
4 the cost of such surveys, is it fair to say that you
5 have not done a cost-benefit analysis of such surveys
6 to determine whether the cost incurred in conducting
7 those surveys would exceed the benefits to be reaped
8 from such surveys?

9 A. That is correct. As -- I don't know
10 exactly what the Commission is going to accept,
11 therefore, I don't really know what the costs are
12 going to be.

13 MR. HOWARD: Thank you. I have no
14 further questions.

15 Thank you, your Honor.

16 EXAMINER STENMAN: Thank you.

17 Mr. Rinebolt?

18 MR. RINEBOLT: Actually, Ms. Mooney.

19 EXAMINER STENMAN: Ms. Mooney.

20 - - -

21 CROSS-EXAMINATION

22 By Ms. Mooney:

23 Q. Do you have any idea of the cost, an
24 estimate of the cost of the surveys?

25 A. No, I don't.

1 MR. HOWARD: Objection. He's already
2 answered that.

3 EXAMINER STENMAN: The objection will be
4 overruled, the answer's already come out, so let's
5 just ask the next question.

6 Q. You wouldn't expect it to be any --
7 something like \$500 million or anything like that.

8 A. I would think the Commission, if they
9 ordered it, would have some kind of reasonable
10 expectation of cost.

11 Q. Now, OCC is a representative of
12 residential customers; isn't that correct?

13 A. That's correct.

14 Q. Does OCC have any authority to represent
15 nonresidential customers?

16 A. Not that I'm aware of.

17 Q. And is OCC making any recommendations
18 about what happens to nonresidential customers in
19 this case?

20 A. The recommendations are being made to the
21 Commission.

22 Q. But is OCC making any recommendations in
23 this case about the outcome with respect to
24 nonresidential customers?

25 A. Only to survey, not an outcome, but to

1 record what happens and analyze what happens in
2 order, once there is a potential residential exit, to
3 use that information.

4 Q. You say what happens and that assumes
5 that the joint motion prevails and that the
6 nonresidential customers do lose the SCO service. So
7 is OCC saying or recommending, then, that
8 nonresidential customers lose SCO service?

9 A. The OCC takes no position on whether
10 nonresidential customers exit or not.

11 Q. You mean on whether nonresidential
12 customers lose SCO service.

13 A. Yes.

14 MS. MOONEY: That's all I have. Thank
15 you.

16 EXAMINER STENMAN: Thank you.

17 Mr. Whitt?

18 MR. WHITT: No questions, your Honor.

19 EXAMINER STENMAN: Mr. Parram?

20 MR. PARRAM: No questions, your Honor.

21 EXAMINER STENMAN: Mr. Sauer, any
22 redirect?

23 MR. SAUER: No redirect, your Honor.

24 EXAMINER STENMAN: All right. Thank you,
25 Mr. Hayes.

1 (Witness excused.)

2 EXAMINER STENMAN: I believe we have a
3 pending motion to admit OCC Exhibit No. 2.

4 MR. SAUER: Yes.

5 EXAMINER STENMAN: Are there any
6 objections?

7 MR. HOWARD: No objection, your Honor.

8 MR. PARRAM: No objection.

9 EXAMINER STENMAN: OCC Exhibit 2 will be
10 admitted.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 EXAMINER STENMAN: Let's go off the
13 record.

14 (Discussion off the record.)

15 EXAMINER STENMAN: Let's go back on the
16 record. I believe we have a few housekeeping matters
17 with respect to exhibits.

18 MR. WHITT: Yes, your Honor. The company
19 would move for, well, we would mark the Joint Motion
20 to Modify Order Granting Exemption as DEO Exhibit 2
21 and proof of publication of notice as DEO Exhibit 3,
22 and move for the admission of those items into
23 evidence.

24 (EXHIBITS MARKED FOR IDENTIFICATION.)

25 EXAMINER STENMAN: Any objections?

1 MR. HOWARD: No objections.

2 MR. SAUER: No objections.

3 EXAMINER STENMAN: They will be admitted,
4 DEO 2 and 3.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 EXAMINER STENMAN: Mr. Whitt, I believe
7 you also have reply comments filed on September
8 13th?

9 MR. WHITT: Yes, your Honor, we would
10 have those marked as DEO Exhibit 4 and seek their
11 admission into the record.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 EXAMINER STENMAN: Any objections?

14 MR. SAUER: No objection.

15 EXAMINER STENMAN: Hearing none, DEO
16 Exhibit 4 will be admitted.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 MR. HOWARD: May we go off the record?

19 EXAMINER STENMAN: We may.

20 (Discussion off the record.)

21 EXAMINER STENMAN: Let's go back on the
22 record.

23 MR. HOWARD: Your Honor, could we have
24 the September 13th reply comments of the OGMG and
25 RESA marked and moved into evidence as OGMG/RESA

1 Exhibit 4.

2 EXAMINER STENMAN: It will be so marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 EXAMINER STENMAN: Any objections?

5 (No response.)

6 EXAMINER STENMAN: Hearing none, it will
7 be admitted.

8 MR. HOWARD: Thank you.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 MR. PARRAM: Your Honor, staff would move
11 and, mark and move for admission into evidence
12 initial staff comments that were filed and docketed
13 on the 30th of August 2012 as Staff Exhibit 2.

14 EXAMINER STENMAN: It will be so marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 EXAMINER STENMAN: Any objections?

17 MR. SAUER: No objection.

18 MR. HOWARD: No objection.

19 EXAMINER STENMAN: Staff 2 will be
20 admitted.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 MR. SAUER: Your Honor, OCC would like to
23 have reply comments that were also filed on September
24 13th marked as OCC Exhibit No. 3.

25 EXAMINER STENMAN: It will be so marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. SAUER: And move for their admission.

3 EXAMINER STENMAN: Any objection?

4 (No response.)

5 EXAMINER STENMAN: OCC 3 will be
6 admitted.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 MS. MOONEY: Your Honor, OPAC would like
9 to have its comments marked Exhibit 5 and its reply
10 comments as OPAC Exhibit 6.

11 EXAMINER STENMAN: They'll be so marked.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 EXAMINER STENMAN: Any objections to
14 their admission?

15 MR. HOWARD: No, your Honor.

16 EXAMINER STENMAN: Hearing none, they
17 will be admitted.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 EXAMINER STENMAN: Is there anything else
20 that we need to talk about today other than briefing?
21 All right. Off the record the parties discussed a
22 briefing schedule. Initial briefs will be due on
23 November 13th because the 12th is a holiday and
24 the Commission offices I believe are closed.

25 Are they not, Mr. Parram?

1 MR. PARRAM: I don't know. That's a
2 surprise to me. I would enjoy the day off. I'm
3 sorry, I don't know.

4 EXAMINER STENMAN: I believe they will be
5 due on November 13th because I believe November
6 12th is the observation of Veterans Day, and reply
7 briefs will be due on November 21st.

8 Is there anything else we need to talk
9 about today?

10 (No response.)

11 EXAMINER STENMAN: All right. Hearing
12 nothing else, we're adjourned. Thank you.

13 (The hearing concluded at 11:15 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, October 17, 2012, and carefully compared with my original stenographic notes.

Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2016.

(MDJ-4070)

- - -

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Case No(s). 12-1842-GA-EXM

Summary: Transcript of the East Ohio Gas Company hearing held on 10/17/12 - Volume II electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.