

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) Case No. 11-5843-GA-RDR
Automated Meter Reading Cost Recovery)
Charge to Recover Costs Incurred in 2011.)

ENTRY

The Commission finds:

- (1) The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) is a natural gas company as defined in Section 4905.03, Revised Code, and a public utility as defined by Section 4905.02, Revised Code. As such, DEO is subject to the jurisdiction of the Commission, pursuant to Sections 4905.04, 4905.05, and 4905.06, Revised Code.
- (2) In an opinion and order issued on October 15, 2008, in *In the Matter of the Application of East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service*, Case No. 07-829-GA-AIR, et al. the Commission approved a stipulation that allowed accumulated costs for the installation of automated meter reading (AMR) technology by DEO to be recovered through a separate charge (AMR cost recovery charge). The opinion and order contemplated periodic filings of applications and adjustments of the rate under the AMR cost recovery charge.
- (3) On February 28, 2012, DEO filed an application requesting a rate adjustment for the AMR cost recovery charge to recover costs incurred during 2011.
- (4) By opinion and order issued on October 3, 2012, the Commission approved, with certain modifications, DEO's application to adjust the AMR cost recovery charge. Specifically, the Commission found that DEO was to have installed all AMR devices by the end of 2011, leading to the disallowance of recovery for 9,350 AMR devices in DEO's inventory that had not yet been installed. The Commission also concluded that DEO should have installed AMR devices in

a manner that would have allowed all shops to be fully rerouted by the end of 2011, to achieve maximum consumer savings. Because DEO did not complete the AMR program, both installation and rerouting, by the end of 2011, and DEO's operation and maintenance (O&M) savings contained in its application did not reflect an effort by DEO to maximize savings by the end of 2011, the Commission adopted Staff's recommended calculation of O&M savings based on what DEO should have achieved. As adopted, Staff's calculations increased DEO's proposed O&M savings of \$3,511,695, by \$1,628,276, to \$5,139,971. This recalculation reduced DEO's proposed monthly AMR cost recovery charge from \$0.54 to \$0.42.

- (5) On December 12, 2012, the Commission denied applications for rehearing filed by DEO and the Ohio Consumers' Counsel, and denied DEO's motion to stay implementation of our October 3, 2012, order.
- (6) On December 18, 2012, DEO filed a notice of appeal to the Supreme Court of Ohio. On January 11, 2013, DEO moved the Court to stay implementation of our October 3, 2012, order.
- (7) On March 13, 2013, the Court granted DEO's motion stay, conditioning it upon DEO posting a bond with its clerk of court. The Court ordered the stay to remain in effect during the pendency of the appeal, and ordered that the interim rate be the rate in effect prior to our October 3, 2012, order.
- (8) On March 14, 2013, the Court issued an entry stating that DEO had posted the required bond and ordering that the interim rate go into effect upon DEO filing a revised tariff and the Commission accepting the tariff.
- (9) On March 14, 2013, DEO filed its revised tariff indicating that the interim tariff increases DEO's charge from \$0.42 to \$0.57 per customer per month. DEO further stated that its tariff would be effective on bills issued on or after March 18, 2013. According to DEO, it will track the difference between the presently filed charge and the charge the Commission ordered, will calculate interest on this amount at the rate of three percent

per annum, and will refund the difference with interest in the event the Commission's order is upheld.

- (10) On March 20, 2013, the Commission approved and accepted DEO's proposed tariff filed on March 14, 2013. Further, the Commission found that the new rates should be implemented for bills issued on or after the date of the March 20, 2013, entry.
- (11) On March 22, 2013, DEO filed a motion for clarification, requesting that the effective date of the tariff be March 18, 2013. In its motion, DEO states that it intended for its tariff to become effective on March 18, 2013, and indicated such in the tariff itself, the cover letter to the tariff, and the email serving the tariff. DEO further explains that it believed, because the docketing division received its filing and it did not hear from the Commission, its tariff was approved; therefore, DEO began charging its interim rate on bills issued on March 18, 2013. DEO now argues that it was not clear what was ordered in the March 20, 2013, entry because the entry acknowledged that DEO intended its tariff to be effective on March 18, 2013, but the entry stated that the tariff would not be effective until the date of the entry, March 20, 2013. Therefore, DEO requests that the Commission clarify that the effective date of the tariff is March 18, 2013, as the language authorizing the March 20, 2013, effective date was not necessary in this case because the tariff had already been authorized.
- (12) In considering DEO's motion to clarify, the Commission is surprised by DEO's position. First, the Commission wishes to emphasize the language of the March 14, 2013, Court entry stating that the interim rate would go into effect upon DEO filing a revised tariff and the Commission accepting the tariff. The Commission's docketing division is responsible for the filing and maintenance of case documents. The docketing division's acknowledgement of receipt of a filing is by no means a proxy for Commission approval or acceptance. Further, if the Court intended the filing of the revised tariff with the docketing division to be sufficient, it would not have specified that the tariff would become effective upon Commission acceptance. The Commission can only speak through its entries and orders. When DEO filed its tariff, it was well aware of the fact that the Commission's next scheduled

meeting was March 20, 2013, at which time it would be considering proposed entries and orders. Therefore, DEO's assertion that the Commission had ample time between the filing of its tariff in the afternoon on Thursday, March 14, and the close of business on Friday, March 15, less than a day and a half, to notify DEO via Commission entry if its tariff was noncompliant is both unreasonable and untenable. In keeping with the Court's directive, the Commission expedited its entry accepting DEO's tariff by issuing an agenda addition on March 18, 2013, for the next available agenda, which was March 20, 2013. The agenda addition, which was served upon all utilities, including DEO, clearly stated that the Commission would be considering DEO's proposed tariffs at the March 20, 2013, Commission meeting. For DEO to claim confusion and proceed to implement the rate increase on March 18, 2013, reflects DEO's disregard of the process required for the Commission's consideration of such filings. DEO is also well aware that the Commission cannot approve a tariff, especially one requiring a rate increase, retroactively. Therefore, the Commission finds that DEO's request for clarification should be denied as our original entry in this case clearly communicated that tariff approval would be effective March 20, 2013. Moreover, the Commission finds that DEO should not have implemented an unapproved tariff and should remedy any incorrect billing based on its early implementation of the unapproved tariff at its own expense and not at the expense of ratepayers.

It is, therefore,

ORDERED, That DEO's request for clarification is denied and the effective date of the tariff is March 20, 2013, as previously ordered by the Commission. It is, further,

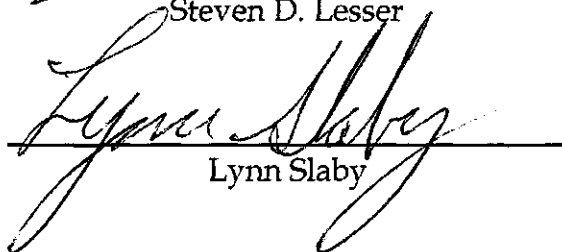
ORDERED, That a copy of this entry be served all parties of record.

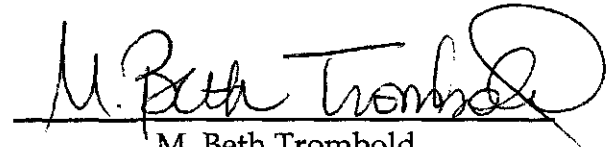
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Andre T. Porter



Lynn Slaby


M. Beth Trombold

KLS/CMTF/vrm

Entered in the Journal

MAR 27 2013


Barcy F. McNeal

Barcy F. McNeal
Secretary