

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ENTRY ON REHEARING

The Commission finds:

- (1) The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) is a natural gas company as defined by Section 4905.03(5), Revised Code, and a public utility as defined by Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of the Commission, pursuant to Sections 4905.04, 4905.05, and 4905.06, Revised Code.
- (2) On April 8, 2005, DEO filed an application requesting an exemption, pursuant to Section 4929.04, Revised Code, and seeking approval of phase one of its plan to exit the merchant function. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a Plan to Restructure Its Commodity Service Function*, Case No. 05-474-GA-ATA (05-474). By opinion and order issued on May 26, 2006, in 05-474, the Commission approved DEO's application, as modified by the stipulation filed in that case, to undertake phase one of its proposal to test alternative, market-based pricing of commodity sales.
- (3) On June 18, 2008, in *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 07-1224-GA-EXM (07-1224), the Commission authorized DEO to implement phase two of its plan to exit the merchant function, in which

DEO implemented a standard choice offer (SCO), wherein suppliers bid for the right to supply gas in tranches to choice-eligible customers at a retail level.

- (4) On June 15, 2012, a joint motion to modify the order issued on June 18, 2008, in 07-1224 (07-1224 order), pursuant to Section 4929.08, Revised Code, was filed by DEO and the Ohio Gas Marketers Group (OGMG). A stipulation and recommendation (Stipulation) signed by DEO, the Ohio Consumers' Counsel (OCC), and OGMG was also filed on June 15, 2012.
- (5) Motions to intervene filed by Ohio Partners for Affordable Energy (OPAE), OCC, and the Retail Energy Supply Association (RESA) were granted by attorney examiner entry.
- (6) On January 9, 2013, the Commission issued its opinion and order approving DEO's motion to modify the exemption order granted on June 18, 2008, in 07-1224. In addition, the Commission adopted and approved the Stipulation entered into between DEO, OCC, and OGMG. The Stipulation provides, *inter alia*, that, beginning in April 2013, a choice-eligible nonresidential customer may no longer default into, or have an option to receive, SCO commodity service; rather, a nonresidential customer who has not selected a new supplier will be served by the next available supplier registered to provide default service using the supplier's monthly variable rate, subject to the limitations set forth in the commodity service portion of DEO's tariff on a rotating basis or the customer may enter into an agreement with a supplier or governmental aggregator. In accordance with the Stipulation, at this time, residential customers, as well as certain nonresidential customers (e.g., nonchoice-eligible), continue to receive commodity service pursuant to the standard service offer and SCO auctions. Furthermore, the Commission directed DEO to provide to Staff, the information recommended by Staff, OCC, and OGMG and RESA, so that all parties, and the Commission, can become better informed

regarding the effect of DEO's exit on competition and customers.

- (7) Section 4903.10, Revised Code, provides that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days after the entry of the order upon the journal of the Commission.
- (8) OPAE and DEO filed applications for rehearing of the Commission's January 9, 2013, order, on January 25, 2013, and February 5, 2013, respectively.
- (9) On February 4, 2013, responses to OPAE's application for rehearing were filed by DEO and jointly by OGMG and RESA. On February 15, 2013, OCC filed a response to DEO's application for rehearing.
- (10) On February 20, 2013, the Commission granted the applications filed by DEO and OPAE for the purpose of providing the Commission more time to consider the applications.
- (11) On March 6, 2013, the Commission issued an entry denying the January 25, 2013, application for rehearing filed by OPAE and granting the February 5, 2013, application for rehearing filed by DEO. In its entry on rehearing, the Commission clarified the obligations of both DEO and suppliers providing competitive retail natural gas service in DEO's service territory. Specifically, the Commission found that both DEO and suppliers will bear the responsibility of providing the necessary information to Staff so that a full study of DEO's nonresidential exit can occur. Further, the Commission explained its expectation that DEO work with Staff and other stakeholders to determine what information needs to be provided on a continued basis and to provide any requested information to Staff. The Commission also expressed its expectation that it receive the same cooperation from

suppliers, as it does from DEO regarding the collection of information by Staff. However, the Commission recognized that some of the information provided may be confidential and proprietary and, therefore, the Commission stated that the information would be given appropriate treatment.

- (12) On April 5, 2013, OGMG/RESA filed an application for rehearing of the Commission's March 6, 2013, entry on rehearing. No responses were filed.
- (13) In its first assignment of error, OGMG/RESA assert that the Commission erred in not finding that all information sought by Staff outside the scope of the Stipulation must be afforded confidential treatment as it constitutes trade secret information. In support of its first assignment of error, OGMG/RESA assert that Staff has requested disaggregated information from suppliers that contains information that is specific to each supplier. OGMG/RESA argue that this information is extremely proprietary and explain that this information is not known outside of a supplier's business and is not widely known within a supplier's business. Moreover, OGMG/RESA assert that the requested information is of enormous value to individual suppliers, inasmuch as the data shows state-specific investment as well as which products and services are the most successful. All of this information guides supplier business decisions. Accordingly, OGMG/RESA request that the Commission determine that all information provided to Staff should be afforded confidential treatment in perpetuity, similar to the treatment afforded the market monitoring information received by the Staff pursuant to Rule 4901:1-25-02(A)(5)(b), Ohio Administrative Code.
- (14) In considering the argument made by OGMG/RESA, the Commission acknowledged that, based upon the described nature of the information to be provided to Staff, upon receipt of the information, Staff should treat such information as if it were confidential and under a protective order. However, at this time, the Commission will not issue a protective order in

advance of receiving the information. In the event the information provided to Staff is requested by another entity, a process will be established for the evaluation of that information. Specifically, Staff will notify the attorney examiner who will issue an entry establishing such a process, including setting forth when a motion for protective order should be filed. Accordingly, OGMG/RESA's first assignment of error is without merit and should be denied.

- (15) In its second assignment of error, OGMG/RESA argue that the Commission erred by not explicitly clarifying, in the March 6, 2013, entry on rehearing, that it was not modifying, amending, or changing the Stipulation filed in this proceeding. Specifically, OGMG/RESA request that the Commission clarify that it did not intend for the disaggregated information requested by Staff to be provided to OCC when it indicated that OCC would receive the information provided by suppliers. Instead, OGMG/RESA point to the Stipulation, which specifies that OCC is to be provided with readily available, aggregated non-supplier specific rate, usage, and customer account information.
- (16) In considering OGMG/RESA's argument regarding the provision of information to OCC, the Commission did not intend to modify the bargained for provision of the Stipulation regarding the information provided to OCC. The Commission was merely acknowledging that OCC would be receiving the information required in accordance with the Stipulation. Because the Commission did not modify the Stipulation in its entry on rehearing, OGMG/RESA's second assignment of error is without merit and should be denied.

It is, therefore,

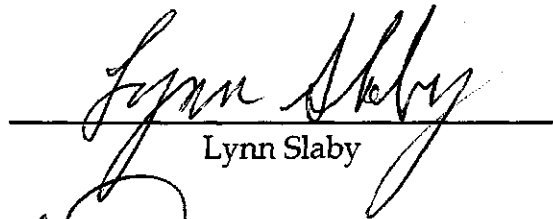
ORDERED, That OGMG/RESA's application for rehearing be denied. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Lynn Slaby


M. Beth Trombold

KLS/sc

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Barcy F. McNeal

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Secretary