

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The :
East Ohio Gas Company d/b/a/ : Case No. 12-3279-GA-UNC
Dominion East Ohio to Implement a :
Capital Expenditure Program. :

In the Matter of the Application of The :
East Ohio Gas Company d/b/a/ : Case No. 12-3280-GA-AAM
Dominion East Ohio for Authority to :
Change Accounting Methods. :

**COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Date Submitted: August 12, 2013

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I. INTRODUCTION AND BACKGROUND

On December 20, 2012, the Dominion East Ohio Gas Company d/b/a Dominion East Ohio (DEO or Company) filed an application (Application) in the above captioned cases seeking authority from the Public Utilities Commission of Ohio (Commission) for a capital expenditure program (CAPEX Program) for the period January 1, 2013 through December 31, 2013 and to modify its accounting procedures to provide for: (1) capitalization of post-in-service carrying costs (PISCC) on those assets of the CAPEX Program that are placed into service but not reflected in the Company's rates as plant in service; (2) deferral of depreciation expense and property taxes directly attributable to the CAPEX Program assets that are placed into service; and, (3) creation of a regulatory asset

to defer the PISCC, depreciation expense, and property tax expense for recovery in a future proceeding.¹

DEO filed its Application pursuant to sections 4909.18 and 4929.111 of the Ohio Revised Code. Specifically, R.C. 4929.111(A) provides that a natural gas company may file an application with the Commission under R.C. 4909.18, 4929.05, or 4929.11 to implement a CAPEX Program for any of the following:

1. Any infrastructure expansion, infrastructure improvement, or infrastructure replacement program;
2. Any program to install, upgrade, or replace information technology systems;
3. Any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction.

R.C. 4929.111(C) provides that the Commission shall approve a natural gas company's application for a CAPEX Program if the Commission finds that the CAPEX Program is consistent with the natural gas company's obligation to furnish necessary and adequate services and facilities under R.C. 4905.22 and that the services and facilities are just and reasonable. Further, R.C. 4929.111(D) provides that, in approving an application for a CAPEX Program under Division (C), the Commission shall authorize the natural gas company to create regulatory assets for PISCC on that portion of the CAPEX Pro-

¹ *In the Matter of the Application of The East Ohio Gas Company d/b/a/ Dominion East Ohio to Implement a Capital Expenditure Program and for Authority to Change Accounting Methods*, Case No. 12-3279-GA-UNC, *et al.* (Application at 1) (December 20, 2012) (DEO Application).

gram assets that are placed into service but not reflected in base rates as plant in-service and for incremental depreciation and property tax expense directly attributable to the CAPEX Program for recovery or deferral for future recovery in an application pursuant to R.C. 4909.18, 4905.05, or 4929.11. R.C. 4929.111(F) authorizes the natural gas company to make any accounting accruals necessary to establish the regulatory assets authorized under R.C. 4929.111(D) in addition to any allowance for funds used during construction (AFUDC). And, lastly, R.C. 4929.111(G) provides that any accrual for deferral or recovery under R.C. 4929.111(D) shall be calculated in accordance with the system of accounts established by the Commission under R.C. 4905.13.

DEO's Application in these cases seeks authority to implement the Company's second CAPEX Program and related deferral authority. Last year in Case No. 11-6024-GA-UNC, *et al*, the Commission approved DEO's initial CAPEX Program and deferrals covering the period October 1, 2011 through December 31, 2012.² The Commission's Finding and Order in that case also established the following requirements:

- DEO should calculate the total monthly deferral, PISCC, depreciation expense, property tax expense, and incremental revenue by using the specific formulas set forth in Staff's sur-reply comments.
- DEO should offset the monthly regulatory asset amount charged to the CAPEX by those revenues generated from the assets included in the CAPEX for SFV customers, non-SFV customers, and any other revenue sources directly attributable to CAPEX investments.

²

In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Implement a Capital Expenditure Program, Case Nos. 11-6024-GA-UNC, *et al*. (Finding and Order) (December 12, 2012).

- DEO should maintain sufficient records to enable Staff to verify that all revenue generated from CAPEX investments is accurately excluded from the total monthly deferral.
- DEO should docket an annual informational filing by April 30 of each year that details the monthly CAPEX investments and the calculations used to determine the associated deferrals, as recommended by Staff.
- DEO may accrue CAPEX deferrals up until the point where the accrued deferrals, if included in rates, would cause the rates charged to the GSS class of customers to increase more than \$1.50 per month. Accrual of all future CAPEX-related deferrals should cease once the \$1.50 per month threshold is surpassed, until such time as DEO files to recover the existing accrued deferrals.

In its Application in these cases, DEO acknowledges the Commission requirements set forth in the Finding and Order in the 11-6024-GA-UNC case and it agrees to adhere to the requirements for its 2013 CAPEX Program and deferrals.³

On June 12, 2013, the Attorney Examiner assigned to these cases issued an Entry setting a procedural schedule for comments on DEO's Application as follows:

- August 5, 2013 – Deadline for filing of motions to intervene;
- August 12, 2013 – Deadline for the filing of comments on the Application by Staff and interveners; and,
- August 26, 2013 – Deadline for all parties to file reply comments.

³

DEO Application at 5-6.

II. DEO’S APPLICATION AND PROPOSED DEFERRALS

In its Application, DEO seeks authorization to implement a CAPEX Program for calendar year 2013 with an estimated budget totaling \$93 million. DEO states that the capital spending under the CAPEX Program specifically excludes capital expenditures associated with non-jurisdictional services.⁴ The CAPEX Program expenditures are segregated into three broad categories: (1) “Infrastructure Expansion, Improvement or Replacement;” (2) “Installation, Upgrade or Replacement of Information Technology”; and (3) “Programs Reasonably Necessary to Comply with Commission Rules, Regulations and Orders.”⁵ The three categories and their estimated annual amounts are shown below in Table 1.

Table 1 – DEO’s Estimate of Annual CAPEX Program Spending by Category⁶
(\$Millions)

CAPEX Program Category	1/1 – 12/31/2013 Est.
Infrastructure Expansion, Improvement or Replacement	62.0
Installation, Upgrade or Replacement of Information Technology	11.0
Programs Reasonably Necessary to Comply with Commission Rules, Regulations and Orders	20.0
Total CAPEX Program Capital Spending	93.0

⁴ *DEO Application* at 2.

⁵ *Id.* at 2-3.

⁶ *Id.* at Exhibit A

DEO notes that the actual amounts of assets placed in-service under the program may have a slight variance from the budgeted estimates listed in Table 1 due to a timing difference between the date cash expenditures are made and the date plant is placed in-service.⁷ In addition, DEO indicates that it may reallocate its CAPEX Program investments among the Program categories as it deems necessary to meet the needs of its customers and gas delivery system.⁸ In doing so, however, DEO indicates that it will be “mindful that substantial and frequent modifications that impair Staff’s ability to monitor DEO’s CAPEX Program may cause the Commission to reexamine the Company’s deferrals” in accordance with similar authority to reallocate CAPEX investments and cautionary language regarding impairing the Staff’s ability to monitor the Program that the Commission approved in its Finding and Order in Case No. 12-530-GA-UNC authorizing Vectren Energy Delivery of Ohio (Vectren) to implement a capital expenditure program.⁹

⁷ *DEO Application* at 3.

⁸ *Id.*

⁹ *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Case Nos. 12-530-GA-UNC, *et al.* (Finding and Order at 4, 21) (December 12, 2012).

The Company further describes the three CAPEX Program categories as follows:

- **Infrastructure Expansion, Improvement or Replacement** – includes capital expenditures for distribution system betterments; pipeline, regulating station, or other improvements or replacements, including non-billable pipeline relocations, associated with DEO’s distribution, transmission, storage, and production/gathering systems that are not covered by DEO’s Automated Meter Reading Device (AMRD) and Pipeline Infrastructure Replacement (PIR) programs; storage well and compression station improvements or replacements; and new customer main line extensions, main-to-curb and curb-to-meter service line and meter installations.¹⁰
- **Installation, Upgrade or Replacement of Information Technology** – includes capital expenditures for upgrades to or replacement of computer systems utilized for accounting, billing, and utility operations, as well as communication systems which may include costs for hardware, software purchases or development, installation, and associated licenses or other costs.¹¹

¹⁰ *DEO Application* at 2.

¹¹ *Id.* at 2-3.

- **Programs Reasonably Necessary to Comply with Commission Rules, Regulations and Orders** – includes capital expenditures for required pipeline integrity, environmental compliance, metering, facilities, fleet, and other general plant associated with providing DEO’s regulated services.¹²

The Company states that the CAPEX Program costs include applicable supervisory, engineering, general and administrative overheads and Allowance for Funds Used During Construction (AFUDC) and are net of any contributions, deposits, or other aid to construction.¹³ In addition, it maintains that the CAPEX Program is consistent with its obligation to furnish necessary and adequate service and facilities pursuant to R.C. 4905.22.¹⁴

III. STAFF’S REVIEW

The Staff has reviewed DEO’s Application, proposed CAPEX Program, and request to create a regulatory asset to defer for future recovery PISCC, depreciation expense, and property tax expense directly attributable to the CAPEX Program investments. The purpose of the Staff’s review was to determine if, in the Staff’s opinion, the proposed CAPEX Program and associated deferrals meet the just and reasonable standards established in R.C. 4929.111 and generally comport with sound ratemaking principles regarding deferring costs for potential future recovery by regulated utilities. The

¹² *DEO Application* at 4.

¹³ *Id.*

¹⁴ *Id.*

Staff also reviewed DEO's Application in light of the Annual Informational Filing that was filed on April 30, 2012 in accordance with the Commission's Finding and Order in the 11-6024-UNC case. Reviewing DEO's Application in this case in conjunction with the Annual Informational Filing from last year's CAPEX case is important because of DEO's commitment to adhere to the Commission's requirements and formulas adopted in that case. Given that commitment, any concerns that the Staff may have regarding DEO's annual informational filing in the 11-6024-GA-UNC case would show up in the April 30, 2014 annual informational filing that will be made pursuant to this case. Lastly, the Staff notes that, in these Comments, it is taking no position on the level or ultimate recoverability of the capital spending proposed in the CAPEX Program. As a result, the Staff's lack of comments or objection to the proposed CAPEX Program investments should in no way be construed as the Staff's lack of objection or support for future recovery of the investments or related deferred amounts. In fact, the Staff will investigate and recommend any necessary adjustments to the deferral when DEO applies to recover the deferred assets.

IV. STAFF'S COMMENTS AND RECOMMENDATIONS

Based on its review, the Staff makes the following comments and recommendations to DEO's proposed CAPEX Program and regulatory asset for deferral of the PISCC depreciation, and property taxes associated with the CAPEX Program. The Staff's comments and recommendations are set forth below.

A. With the Company's agreement to adhere to the requirements and formulas that were approved in Case No. 11-6024-GA-UNC and subject to adoption of the Staff's other recommendation, DEO's Application should be approved.

As noted above, in its Application DEO states that it accepts continuation of the requirements established in the Commission's Finding and Order in Case 11-6024-GA-UNC and indicates that it will utilize the formulas approved by the Commission in that case to calculate its 2013 deferrals. DEO also indicates that it will be mindful to not impair the Staff's ongoing monitoring of the CAPEX Program if it becomes necessary to reallocate CAPEX investments in response to customer or system needs. Lastly, the Company's Application properly recognizes that recovery of deferrals created under the CAPEX Program will be considered in a future proceeding. In the Application, the Company states that, "In this application, DEO is only requesting approval of the implementation of the program and the authority for the accounting treatment described above. Recovery of any amounts deferred in accordance with this application will be addressed in a separate proceeding."¹⁵ The Staff recommends that the Commission acknowledge DEO's commitments and indicate its approval of DEO's Application in this case is conditioned on those commitments. Similarly, the Commission should indicate that, in accordance with *Elyria Foundry*,¹⁶ recovery of the deferrals is not guaranteed and will be considered in a future proceeding.

¹⁵ *DEO Application* at 5.

¹⁶ *Elyria Foundry Co. v. Pub. Util. Comm.*, 114 Ohio St.3d 305, 2007-Ohio-4164, 871 N.E.2d 1176.

B. The Commission should direct that DEO's April 30, 2014 and future annual informational filings should include revenue data from all potential sources of revenue delineated in the incremental revenue formula adopted in Case No. 11-6024-GA-UNC.

In its Application, DEO states that it will comply with the Commission requirements for implementing a CAPEX Program and for calculating deferrals related to the Program that were established in Case No. 11-6024-GA-UNC. The Company specifically states that “[it] will offset the monthly regulatory asset amount charged to the CAPEX Program by those revenues generated from the assets included in the CAPEX Program for SFV customers, non-SFV customers, and any other revenue sources directly attributable to CAPEX Program investments.”¹⁷ In addition, it states that “DEO will docket an annual informational filing by April 30th of each year that provides the information required by the Commission” [in the Case No. 11-6024-GA-UNC Finding and Order]. As noted above, on April 30, 2013 DEO filed an informational filing in accordance with the Commission’s Finding and Order in the 11-6024-GA-UNC case. However, the data that the Company provided pertaining to the computation of any incremental revenue is incomplete. The incremental revenue formula that the Commission adopted in the 11-6024-GA-UNC case provided that DEO’s incremental revenue would be determined utilizing the formula provided below, as modified to recognize that DEO’s base-line for number of customers is an annual number and, therefore, the incremental number of customers should also be determined on an annual basis.

¹⁷

DEO Application at 5-6.

Incremental Revenue	=	$ \begin{aligned} & [(\text{Current Month's Customers} - \\ & \text{Baseline Customers}) \times (\text{Cost Portion of} \\ & \text{Rate})] + [(\text{Consumption by non-SFV} \\ & \text{customers directly attributable to} \\ & \text{program investment}) \times (\text{Cost Portion of} \\ & \text{Rate})] + (\text{Other revenues directly} \\ & \text{attributable to program investment}). \end{aligned} $
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Consistent with the modified formula, the Company provided data regarding its annual number of customers in 2012 relative to its annual customer baseline. However, the Company did not provide any data concerning revenue (if any) attributable to consumption changes for non SFV customers resulting from CAPEX Program investments or revenue data from other potential revenue sources directly attributable to Program investments. Without this data, the Staff cannot adequately monitor DEO's CAPEX Program or verify the total monthly deferrals created thereunder. The Commission approved formula for computing the total monthly deferrals is:

Total Monthly Deferral	=	$ \begin{aligned} & (\text{PISCC}) + (\text{Depreciation Expense}) + \\ & (\text{Property Tax Expense}) - (\text{Incremental} \\ & \text{Revenues}) \end{aligned} $
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Without complete data for determining any incremental revenue, then the total monthly deferrals cannot be verified. As a result, the Staff recommends that the Commission direct that DEO's April 30, 2014 and future annual informational filings should include

revenue data from all potential sources of revenue delineated in the incremental revenue formula adopted in Case No. 11-6024-GA-UNC.

V. CONCLUSION

With adoption of the Staff's recommendations described above, the Staff would respectfully recommend that the Commission approve DEO's Application.

Respectfully Submitted,

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/s/ Stephen A. Reilly _____

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VI. CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio was served by electronic mail upon the following parties of record, this 12th day of August, 2013.

/s/ Stephen A. Reilly

Stephen A. Reilly
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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/12/2013 4:04:34 PM

in

Case No(s). 12-3279-GA-UNC, 12-3280-GA-AAM

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