

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ENTRY

The attorney examiner finds:

- (1) The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) is a natural gas company as defined by R.C. 4905.03, and a public utility as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of the Commission, pursuant to R.C. 4905.04, 4905.05, and 4905.06.
- (2) On April 8, 2005, DEO filed an application requesting an exemption, pursuant to R.C. 4929.04, and seeking approval of phase one of its plan to exit the merchant function. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 05-474-GA-ATA (*DEO Phase 1 Case*). By Opinion and Order issued on May 26, 2006, the Commission approved DEO's application, as modified by the stipulation filed in the *DEO Phase 1 Case*, to undertake phase one of its proposal to test alternative, market-based pricing of commodity sales.
- (3) By Opinion and Order issued on June 18, 2008, the Commission authorized DEO to implement phase two of its plan to exit the merchant function, in which DEO implemented a standard choice offer, wherein suppliers bid for the right to supply gas in tranches to choice-eligible customers at a retail level. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 07-1224-GA-EXM (*DEO Phase 2 Case*).
- (4) On June 15, 2012, in the above-captioned proceeding, a joint motion to modify the Opinion and Order issued in the *DEO Phase 2 Case*, pursuant to R.C. 4929.08, 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 the attorney examiner.
- (6) On January 9, 2013, the Commission issued its Opinion and Order granting the joint motion to modify the exemption Order in the *DEO Phase 2 Case*, and adopting the Stipulation entered into between DEO, OCC, and OGMG. In its Opinion and Order, the Commission directed DEO to provide Staff certain information recommended by Staff, OCC, OGMG, and RESA, so that all parties, and the Commission, could become better informed regarding the effect of DEO's exit on competition and customers.
- (7) OPAE and DEO filed applications for rehearing of the Commission's January 9, 2013 Order, on January 25, 2013, and February 5, 2013, respectively.
- (8) On March 6, 2013, the Commission issued an Entry on Rehearing denying the January 25, 2013 application for rehearing filed by OPAE and granting the February 5, 2013 application for rehearing filed by DEO. The Commission clarified the obligations of both DEO and suppliers providing competitive retail natural gas service (CRNGS) in DEO's service territory. Specifically, the Commission found that both DEO and suppliers would be required to provide the necessary information to Staff so that a comprehensive study of DEO's nonresidential exit could 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 continual basis and to provide any requested information to Staff. The Commission also expressed its expectation that it receive the same cooperation from suppliers regarding the collection of this information. However, the Commission again 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.

- (9) On April 5, 2013, OGMG and RESA filed an application for rehearing of the Commission's March 6, 2013 Entry on Rehearing. The parties asserted that the Commission erred in not finding that all information sought by Staff must be afforded confidential treatment, noting that the disaggregated information from suppliers contained information that, given its proprietary nature, qualified as trade secrets. The parties requested the Commission determine that all information provided to Staff be afforded confidential treatment in perpetuity, similar to the treatment afforded the market monitoring information received by Staff pursuant to Ohio Adm.Code 4901:1-25-02(A)(5)(b).
- (10) By Entry on Rehearing issued May 1, 2013, the Commission denied the application for rehearing filed by OGMG and RESA. In that Entry, the Commission stated that, in the event Staff receives a request for the information, the attorney examiner would issue an entry establishing the appropriate process.
- (11) On February 18, 2015, OPAE contacted the Commission and requested all of the data collected by Staff in its study of the consequences of DEO's exit from the merchant function, pursuant to the Commission's directives in the March 6, 2013, and May 1, 2013 Entries on Rehearing. The data collected includes: spreadsheets from DEO that show the revenue performance over the past year; and responses and spreadsheets from the CRNGS suppliers relating to their customer base, their investment in the communities, and any new products or service offerings in the region. Further, the data also includes information submitted by DEO containing CRNGS suppliers' customer counts and product offerings.
- (12) Consistent with the Commission's May 1, 2013 Entry on Rehearing, the attorney examiner sets forth the following process to be followed by DEO and all CRNGS suppliers who wish to file a motion to protect this information from disclosure:
- (a) In the event DEO or CRNGS suppliers wish to review the information they submitted pursuant to the Commission's directives in the

March 6, 2013, and May 1, 2013 Entries on Rehearing, they will be provided the opportunity to review the submitted materials by contacting the attorney examiner, who will then provide an opportunity for DEO or such supplier to review its respective information.

- (b) Motions for protective order should be filed by April 8, 2015. Such motions should be submitted with a redacted version of the information in question.
 - (c) Memoranda contra motions for protective order should be filed by April 13, 2015.
 - (d) The attorney examiner will then evaluate the confidential and proprietary nature of the data through an in camera review.
 - (e) Upon determining whether the information qualifies as trade secrets, the attorney examiner will then issue an entry stating the findings of the in camera review and notifying all interested parties what, if any, information warrants protective treatment.
 - (f) Any data not granted protective treatment will be provided to OPAC.
- (13) The attorney examiner would also like to note that nothing in this Entry will prevent DEO and CRNGS suppliers from engaging in a confidentiality agreement with OPAC, or future requesting parties, for this information. Moreover, the attorney examiner would encourage companies to do so as this may lead to a more expeditious and agreeable distribution of information between the various parties involved.

It is, therefore,

ORDERED, That the process set forth in Finding (12) be observed by the parties wishing to obtain protective treatment for information submitted to Staff. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

JRJ/sc

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in

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

Summary: Attorney Examiner Entry directing the parties to observe the process set forth in Finding (12) if they wish to obtain protective treatment for information submitted to Staff. - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio