

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	:	
The East Ohio Gas Company d/b/a	:	Case No. 15-0362-GA-ALT
Dominion East Ohio for Approval	:	
of an Alternative Form of Regulation	:	

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**REPLY BRIEF  
SUBMITTED ON BEHALF OF THE STAFF  
OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**INTRODUCTION**

The Stipulation presented in this case enhances the benefits to rate payers identified in the East Ohio Gas Company d/b/a Dominion East Ohio's (DEO or the Company) Application and addresses the concerns raised by the Staff of the Public Utilities Commission of Ohio (Staff) in this proceeding. The Staff reviewed the Company's application, conducted an extensive and thorough review of DEO's administration of the Pipeline Infrastructure Replacement (PIR) Program, and filed a Staff Report.<sup>1</sup> Staff recommended approving DEO's application with one specified modification – a flow through to customers all operation and maintenance (O&M) expense savings realized in the four cost categories established by the Commission in a prior PIR case, Case No. 09-458-GA-

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<sup>1</sup> DEO Ex. 6.0 (*In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of an Alternative Form of Regulation*, Case No. 15-0362-GA-ALT (2015 PIR Case) (Second Supplemental Direct Testimony of Vicki H. Friscic) (Feb. 11, 2016)) at 2.

ALT, effective with the start of the reauthorization period as of January 1, 2017.<sup>2</sup> The Stipulation effectively adopts the conclusions reached in the Staff Report.<sup>3</sup>

The Stipulation represents compromises by DEO and the Staff and provides for a balanced outcome for DEO customers. The signatory parties recommend that the Commission approve the Stipulation.

## **DISCUSSION**

### **I. The Stipulation meets the Three-Part Test for reasonableness.**

In considering the reasonableness of a stipulation, the Commission has used the following criteria;

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

DEO and the Staff respectfully submit that the Stipulation here satisfies the reasonableness criteria, and that the evidence of record supports and justifies a finding that its terms are just and reasonable.

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<sup>2</sup> Staff Ex. 2 (Staff Report) at 6.

<sup>3</sup> Joint Ex. 1 (Stipulation and Recommendation) at 2.

### **A. Serious Bargaining**

The Stipulation is the product of serious negotiations among knowledgeable parties and an open review process, in which all parties were represented by able, experienced counsel and had access to technical experts.<sup>4</sup> The meeting process that led to the Stipulation was open and available to all parties. No party was excluded from negotiations and all parties had opportunity to review settlement proposals and participate in discussions. The parties involved in these negotiations were capable and knowledgeable about the issues raised in this case. The Stipulation is the outcome of a lengthy process of investigation, discovery, discussion, and negotiation. In sum, the Stipulation represents a comprehensive, reasonable resolution of the issues in this case by informed parties with diverse interests.

### **B. Public Interest**

The benefits of the proposed Stipulation to the public are large and broad. The Stipulation provides cost recovery for DEO's accelerated replacement of bare-steel mains and services, among other target infrastructure, which provides customers and the public with significant benefits in terms of safety and reliability.<sup>5</sup> The Stipulation continues the PIR Program and will help it stay on track to be completed in the originally approved timeframe.<sup>6</sup> The current O&M-expense-savings sharing mechanism is eliminated under

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<sup>4</sup> DEO Ex. 6 (Fiscic Second Supplemental Direct) at 3.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.*

the Stipulation, meaning that customers will receive as a credit the full benefit of whatever O&M expense savings DEO realizes in a given year.<sup>7</sup> Customers will enjoy a greater benefit from O&M expense savings whenever those savings exceed \$1 million.<sup>8</sup>

With the elimination of the O&M sharing mechanism, customers will get the full benefit of avoided costs as a result of PIR Program implementation because they are paying for new pipeline infrastructure via the PIR Rider while continuing to pay for the expenses that are no longer incurred since base rates are not adjusted downward to reflect the avoided costs.<sup>9</sup>

Staff asks that the Commission exercise its discretion to find that the Stipulation, as a whole, benefits the public interest. The opposing intervenors were part of the settlement discussions and now have an opportunity to challenge them in this case through the hearing process. Again, the Stipulation is to be evaluated as a package. The package, in this case, provides significant benefits to customers as mentioned above.

**C. The Stipulation does not violate any important regulatory principle or practice, rather it promotes public policy.**

The final prong of the Commission's three-part test is passed, as the Stipulation does not violate any important regulatory principle or practice. The terms of the Stipulation represent a compromise of the Signatory Parties. None of the individual provisions

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<sup>7</sup> DEO Ex. 6 (Fiscic Second Supplemental Direct) at 2-3.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.*

of the Stipulation is inconsistent with or violates any important Commission principle or practice.

## **II. OCC Objections**

The Ohio Consumers' Counsel (OCC) has challenged aspects of the Stipulation. These objections have no merit.

### **A. The 25-year target for the program is reasonable**

OCC argues that the 25-year target for the PIR Program is arbitrary. Again, Staff is not aware of any differences or changes to the factors and information that the Commission relied on when it originally approved the PIR in the 2007 Rate Case<sup>10</sup> and subsequently reauthorized the PIR in 2011 in Case No. 11-2401-GA-ALT. Therefore, the Stipulation recommends that the Commission keep the 25-year time period it originally adopted for completing the PIR Program and direct DEO to continue to use its best efforts to replace all target pipe under the Program by the end of 2033.<sup>11</sup>

### **B. The proposed PIR Program cost increases and rate cap increases are reasonable.**

DEO cites several reasons why PIR Program costs have continued to rise since inception of the Program in 2008.<sup>12</sup> OCC disagrees. DEO maintains that this upward

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<sup>10</sup> DEO Ex. 6 (Fiscic Second Supplemental Direct) at 3.

<sup>11</sup> Joint Ex. 1 (Stipulation and Recommendation) at 2.

<sup>12</sup> Staff Ex. 2 (Staff Report) at 7.

trend in costs is likely to continue, thus making it impossible for it to complete the Program within the original 25-year schedule with current investment levels.<sup>13</sup> The Company also maintains that increases to the residential rate cap on PIR Rider increases are necessary to enable it to get back on and stay on schedule to complete the program as originally planned.<sup>14</sup>

DEO cites the following cost drivers behind the Program cost increases: (1) a switch from pipeline replacements primarily in rural areas in the Program's early years to more urban replacements in recent years, (2) increased environmental compliance costs and the need to add additional resources in response to increased environmental requirements, (3) general inflation, and (4) increased costs for contractors that actually perform PIR pipeline replacements.<sup>15</sup> In its report, Staff investigated each of these cost drivers to confirm their existence and determine if DEO is effectively managing Program costs. DEO and Staff agree that the Company should stay on track to complete the PIR Program within the 25-year period originally approved in the 2007 Rate Case.<sup>16</sup> Staff was able to verify that the Company is indeed experiencing cost increases that are likely to continue into the proposed reauthorization period.<sup>17</sup> The cost increases will adversely affect the

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<sup>13</sup> Staff Ex. 2 (Staff Report) at 7.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*



Company's ability to stay on schedule to complete the Program as scheduled.<sup>18</sup> As a result, Staff recommends that the Commission approve DEO's proposals to increase PIR Program investments and raise the residential rate caps as the Company recommends.<sup>19</sup>

In its brief, OCC claims that permitting DEO to raise the residential rate caps is unreasonable and will result in unreasonable rates being imposed on customers.<sup>20</sup> OCC points out that if DEO's proposed rate caps are adopted then residential PIR Rider rates will increase from the present \$6.70 per customer per month to \$17.20 per customer per month in 2021, the final year of the renewed Program.<sup>21</sup> What OCC fails point out, however, is that under its proposal to keep the current \$1.40 annual cap on residential rate increases, residential PIR Rider rates will nevertheless increase such that the difference between OCC's recommended approach and DEO's proposed cap increases is only \$2.08 per customer per month in 2021. This point is illustrated in the table below, where OCC's approach is contrasted to DEO's recommendations utilizing the same methodology OCC used in its initial brief.<sup>22</sup>

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<sup>18</sup> Staff Ex. 2 (Staff Report) at 7.

<sup>19</sup> *Id.*

<sup>20</sup> OCC Initial Brief at 3-5, 9-11, 14-16.

<sup>21</sup> *Id.* at 3-5.

<sup>22</sup> *Id.* at 5 (Footnote 27).

<b>Investment Year</b> <b>(A)</b>	<b>DEO's Proposed Residential Rate Cap</b> <b>(B)</b>	<b>DEO's Calculated Residential PIR Charge</b> <b>(C)</b>	<b>OCC's Proposed Residential Rate Cap</b> <b>(D)</b>	<b>OCC's Calculated Residential PIR Charge</b> <b>(E)</b>	<b>Annual Difference Between OCC and DEO</b> <b>(F) = (C) – (E)</b>
2017	\$1.75/month	\$9.86/month	\$1.40/month	\$9.52/month	\$0.34/month
2018	\$1.82/month	\$11.68/month	\$1.40/month	\$10.92/month	\$0.76/month
2019	\$1.83/month	\$13.51/month	\$1.40/month	\$12.32/month	\$1.19/month
2020	\$1.84/month	\$15.35/month	\$1.40/month	\$13.72/month	\$1.63/month
2021	\$1.85/month	\$17.20/month	\$1.40/month	\$15.12/month	\$2.08/month

This difference is not nearly as dramatic as OCC portrays, nor does it rise to the level of being unreasonable. OCC also neglects to note that customers are getting something in return for the annual cost increases to the PIR rider rate. Customers will get the benefit of new and safer natural gas mains and service lines to the tune of \$1.017 billion in new upgrades that DEO plans to invest during the proposed PIR renewal period.

## **CONCLUSION**

The Stipulation meets all prongs of the three-part test for determining the reasonableness of the Stipulation. The Commission should adopt the Stipulation as its order in this case.

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## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Reply Brief submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, hand-delivered, and/or electronic mail upon the following parties of record, this 29<sup>th</sup> day of March, 2016.

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