

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The )	
East Ohio Gas Company d/b/a Dominion )	Case No. 17-0820-GA-ATA
Energy Ohio for Approval of Changes in )	
Rules and Regulations )	

**REPLY COMMENTS  
OF THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

In accordance with the Commission’s July 13, 2017 Entry in this case, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) hereby submits its reply to the comments filed by the Retail Energy Supply Association (RESA) and the Office of the Ohio Consumers’ Counsel (OCC).

**I. REPLY COMMENTS**

**A. Reply to RESA Comments**

Many of RESA’s comments point towards questions about implementing the proposed tariff provisions. In its supplemental application, DEO committed to scheduling a meeting with suppliers to discuss these kinds of issues. DEO has reached out to suppliers to schedule such a meeting, but that meeting has not yet been held. In these reply comments, DEO is setting forth its proposal to address many of RESA’s comments, and it is willing to further discuss and refine those proposals through discussions with suppliers. If the applications are approved, there will be ample time before the Risberg Line is placed in service to work through implementation issues.

**1. The proposed tariffs suitably define the “Ashtabula Area,” but DEO will provide additional information to help suppliers identify affected customers.**

RESA’s first comment is that “DEO should submit revised tariff sheets with a precise definition for the Ashtabula Area so there is no confusion over which customer locations may be subject to the Risberg Line tariff provisions.” (RESA Comments at 4.) For ease of reference,

throughout these reply comments, DEO will refer to such customers—those required to accept capacity on the Risberg Line—as “incremental load customers.”

DEO appreciates RESA’s concern that there be “no confusion” over the identification of incremental load customers. DEO does not, however, believe that tariff revisions are the answer to this concern, as it would not be feasible to provide the needed information in a general tariff. DEO currently envisions assisting Energy Choice suppliers to identify potential incremental load customers by (1) providing suppliers with a list of zip codes in which incremental customers may reside; (2) adding a code in customer lists to identify incremental customer accounts; and (3) providing a web-based portal in which suppliers may enter an account number to determine whether they may be required to accept a release of Risberg Line capacity. As an additional backstop, DEO will also contact suppliers submitting an enrollment for an incremental load customer if the enrollment would result in a capacity release to the customer (or the supplier on its behalf) and inform them of the associated capacity release volume.

With such procedures (and others discussed in these reply comments), there will be no confusion over which customers may require capacity releases.

**2. DEO is willing to adopt a minimum threshold to exclude “de minimis” load additions.**

RESA next recommends that “DEO should propose a threshold for new or incremental load which will be subject to the Risberg Line tariff revisions,” to avoid issues related to “de minimis increase[s].” (RESA Comments at 5.)

DEO agrees with this recommendation and intends to adopt the following threshold. For any customer located within the Ashtabula area that is initiating or increasing service, DEO will initially estimate incremental peak day usage. This will be done on an account-by-account basis using hydraulic modeling and the usage information provided by the requesting customer in the

applicable service-request forms. If the customer's incremental peak day usage is less than 5 Mcf/day, and provided sufficient existing capacity is available, DEO will not require the customer or supplier to accept a release of capacity or utilize the Risberg Line to serve the load. DEO believes that this would effectively remove most individual new residential or small commercial customers from those requiring a capacity release.

Nevertheless, individual additions can have a cumulative effect. For that reason, DEO would reserve the right to modify that threshold if the cumulative effect of waiving the capacity-release requirement may have a material effect on DEO's ability to maintain reliability in the Ashtabula area. Likewise, if an individual customer is among a group of other potential incremental load customers—for example, a new housing development or an industrial or commercial park—DEO will assess the *aggregate* incremental peak-day load to determine whether a proportionate release of Risberg Line capacity is required.

DEO believes that these proposals should address any concerns about “de minimis” incremental load. DEO would be willing to acknowledge the exemption for individual “de minimis” loads through the following addition to proposed Section 4.3 of the General Terms and Conditions of Energy Choice Pooling Service:

Notwithstanding any other provision of these General Terms and Conditions, Suppliers serving any Customer in the Ashtabula Area that initiates or increases consumption after Upstream Pipeline facilities of R.H. energytrans, LLC or its successor companies (“the Risberg Line”) are placed into service are required to accept a release of firm transportation capacity on the Risberg Line based on East Ohio's estimate of their incremental peak day usage. In the event Supplier does not accept such capacity and utilize it to serve Customers' incremental load in the Ashtabula Area, East Ohio shall have no obligation to serve such load and may remove the Customers from Supplier's Pool. Service to individual Customers with an incremental peak-day load of less than 5 Mcf/day shall be exempt from this provision, so long as sufficient capacity is available from other sources and unless the cumulative impact of

such exemptions materially affects the reliability of service to the Ashtabula Area or unless the individual Customer is among a group of such Customers (e.g., a housing development or commercial park) that together exceed the threshold for exemption.

**3. Although the tariffs specify that suppliers must accept a release of capacity from DEO, additional edits would be acceptable to avoid any doubt.**

RESA's third comment is that "DEO should also clarify in the tariff whether customers and Suppliers are taking capacity from DEO or directly from the Risberg Line operator." (RESA Comments at 5.)

As noted in Section 8.4 of the proposed General Terms and Conditions of Transportation Service and Section 4.3 of the proposed General Terms and Conditions of Energy Choice Pooling Service, customers and Suppliers will "accept" capacity on the Risberg Line via "a release of firm transportation capacity on the Risberg Line." Since capacity is released by the holders of capacity rather than the pipeline itself, this language can only refer to a release of DEO's capacity, not an acquisition of capacity directly from the Risberg Line operator. For the avoidance of doubt, however, DEO would be willing to clarify that intent by adding "held by East Ohio" after "firm transportation capacity" in the aforementioned sections. Any such releases would be made pursuant to the relevant provisions of the R.H. energytrans LLC FERC Gas Tariff and applicable FERC rules and policy governing capacity releases.

**4. DEO must have authority to require the utilization of capacity.**

Fourth, RESA asserts that DEO should not be permitted to impose consequences on "customers and Suppliers for failure to utilize released capacity." (RESA Comments at 6.) Although DEO does not agree with this recommendation as stated, RESA's concern will be addressed by clearly identifying when and to what extent Risberg Line capacity must be utilized, as already occurs at other receipt points on DEO's system.

The proposed tariffs require the utilization of Risberg Line capacity because, outside of small additions, there is presently no other capacity available to serve new and increased loads under peak-day conditions. If suppliers cannot be required to utilize capacity on the Risberg Line, DEO will not be able to maintain the reliability of service to the Ashtabula area. This requirement is no different in principle than existing tariff provisions and operating procedures under which DEO may order supply to specific receipt points and require deliveries to isolated areas to be made using certain pipelines. *See, e.g.*, ECPS Gen. Terms & Conds. § 8.4 (“In order to support system operations, maintain system integrity, and minimize Positive or Negative Imbalance Volumes, East Ohio may request Supplier to nominate and deliver Transportation Volumes to designated Transportation Receipt Points.”); *id.* § 21.1 (“East Ohio may also issue OFOs which direct Supplier to deliver specific quantities of gas to specific Transportation Receipt Points.”).

Nevertheless, DEO recognizes that RESA’s comment may reflect a concern over identifying how much capacity must be used, and on which lines, on a given day. To this end, DEO will provide Risberg Line capacity release and daily delivery requirements directly to incremental load customers and their suppliers on request. DEO will also post a point-specific daily target volume using its Dekaflex EBB system as it currently does with other isolated receipt points. DEO will assess the need for customers and suppliers to deliver volumes through the Risberg Line based on operating conditions across its system and in the Ashtabula area and may permit customers and suppliers to deliver those volumes at other receipt points, if DEO determines that is feasible based on operating conditions.

DEO will not be able to operate its system if suppliers cannot be directed to use particular capacity in constrained areas. The proposed tariffs do not represent any departure from how DEO already provides service to other constrained or isolated areas of its system.

**5. DEO will annually review capacity requirements, and suppliers may request additional reviews if circumstances warrant.**

RESA next recommends that DEO should revise its tariffs to permit revisions to supplier capacity subscription on a monthly basis. (RESA Comments at 7.)

DEO appreciates the need to periodically review capacity requirements, but it does not believe that a monthly review is necessary. DEO intends to review the peak-day usage of incremental load customers at least annually and to revise the prospective amount of capacity released, if needed, after informing the customer or supplier of the revised amount of capacity to be released and the basis for that revision. This would not prohibit additional review, however, and if an individual supplier or customer believed that an additional capacity review were necessary based on particular circumstances, it could request and DEO could perform such a review at that time.

**6. DEO does not believe that clarifying edits to the suspension and rescission provisions are necessary.**

RESA also recommends certain revisions to the tariffs to clarify that DEO does not have the power to suspend or rescind a supplier's certificate and to clarify which party may assert that a material default has occurred under supply agreements. (RESA Comments at 7–8.) RESA describes these revisions as “minor” and not “controversial.” (*Id.*)

DEO does not believe that these revisions are necessary. The provision in question merely cross references other Commission rules, and nothing in the proposed language suggests any inconsistency with the cross-referenced rules. Additionally, these provisions only apply to competitive suppliers, sophisticated business entities with the aid of counsel, who will be well

equipped to understand the tariffs and rules. In these circumstances, DEO does not believe that additional clarifying edits are needed.

**7. The supplier-default provisions should be maintained in the tariffs.**

RESA's next recommendation is that "DEO should not be allowed to declare a Supplier default if a Supplier fails to accept or utilize released capacity." (*Id.* at 8.) DEO disagrees with this recommendation for the reasons stated above (*see* § I.A.4).

These provisions are needed for operational reasons and to maintain system reliability, and if DEO cannot enforce such requirements, it cannot operate its system. The reasons given by RESA in support of this recommendation do not compel a different conclusion. RESA notes that "[c]ustomer volumes and pool volumes can and do shift, and a Supplier may not utilize firm capacity for reasons outside its control." (RESA Comments at 9.) Again, DEO will provide suppliers with specific targets based on current operating conditions—if the capacity is not needed in a given circumstance, the supplier will not be required to use it. But if it is needed, then suppliers must be obliged to utilize it. RESA also notes that declaring a supplier in default "could be an unreasonably harsh outcome" if capacity is not utilized for "a small incremental increase in customer consumption." (*Id.*) This concern is addressed by DEO's proposal to adopt a de minimis threshold below which these provisions would not apply.

**8. DEO recommends that the tariffs should be implemented as recommended in the initial application.**

Finally, RESA recommends that DEO, rather than filing compliance tariffs approximately a year before the in-service date of the Risberg Line, should do so "concurrently with written notice to this Commission that the pipeline has completed commissioning and is available for service." (RESA Comments at 9.) In the same vein, RESA asks that DEO be required to file "quarterly progress reports in this docket on the construction of the pipeline and

the expected in-service date,” along with “any changes in existing demand and pressure limitations to the Ashtabula Area that may impact the need for and use of the Risberg Line.” (*Id.* at 9–10.)

DEO does not believe that it would be advisable to wait until the Risberg Line is actually in service to file these tariff provisions. Although some suppliers may be aware of the possibility of future changes to service in the Ashtabula area, other suppliers, customers, and market participants may not be. If such persons were seeking to acclimate themselves to the DEO Energy Choice market, they would be much more likely to review DEO’s Energy Choice tariffs than they would be to search for a Commission docket affecting those tariffs. Nor does DEO see any harm that would come from an earlier filing: it goes without saying that DEO will not direct customers or suppliers to take any actions with respect to Risberg Line capacity until that capacity has actually become available for whatever time periods are in question.

Given that the quarterly reports recommended by RESA would only be necessary if the tariffs were not filed until the in-service date, DEO does not agree that quarterly reports are necessary. DEO, however, does intend at the time it files its tariffs (approximately 9 to 12 months prior to the in-service date) to advise the Commission and interested parties of the status and expected in-service date of the project. DEO is also willing to file and serve an additional notice when the Risberg Line is placed in service. These actions will provide ample notice to interested parties.

#### **B. Reply to OCC Comments**

Some of OCC’s comments reflected the fact that DEO had not yet filed the supplemental application seeking approval of the commitment to reserve capacity under the price, terms, and conditions of the precedent agreement. OCC has now had an opportunity to review the



agreement, and DEO recognizes that some of OCC's initial comments may have become moot. Nevertheless, for sake of completeness, DEO will address them.

**1. The Commission has authority to approve DEO's initial and supplemental applications.**

OCC's first comment is that the Commission should "not pre-approve DEO's capacity contract charges to customers." (OCC Comments at 2.) Instead, OCC recommends that "DEO should seek approval of costs after they are known and the pipeline is complete and is being used to provide service to DEO customers." (*Id.* at 3)

DEO disagrees with OCC's comment. The Commission has general jurisdiction over DEO as a public utility, and it surely has the authority to determine whether DEO's capacity arrangements are prudent or otherwise. Although OCC is correct that many costs and investments are reviewed after the fact, it is also true that Ohio law requires many kinds of agreements to be approved before they are entered. And while some contracts may be entered without Commission approval, there are other situations where the circumstances, including the level of expense, the length of commitment, or the impossibility of unwinding, make transparent disclosure and prior review the most reasonable course. DEO is aware of no law or regulation that prohibits such review, and such a course is reasonable here.

The proposed arrangement would solve long-standing capacity limitations to the northeastern corner of DEO's service area, at far less a price than DEO could achieve building lines itself, with the overall ratepayer impact modest at most and potentially non-existent. DEO has seen firsthand how industrial development in the Ashtabula area is hindered by the lack of pipeline capacity, as DEO has been required to turn down multiple requests for new or expanded service. DEO believes that the Risberg Line provides an effective remedy to a knotty problem at a reasonable cost.

Nevertheless, DEO recognizes that this decision is one entrusted to the Commission. If the Commission believes that the costs of such an arrangement exceed the potential benefits, or that the arrangement is otherwise imprudent, DEO should know before it makes a 15-year commitment. That is why it filed the supplemental application.

**2. DEO's application clearly committed to providing revenue crediting under appropriate conditions.**

OCC also asserts that "the application is . . . faulty in that it asks the PUCO to approve DEO's intent to provide credits to customers" (OCC Comments at 3.)

By expressing its "intent" in writing and representing it to the Commission in a publicly filed application, DEO made abundantly clear that it is committed to crediting incremental revenues, as defined in the application. That same application states that "DEO will maintain records necessary to permit Staff, auditors, and other interested parties to verify that incremental revenue has been appropriately determined and credited." (Appl., Ex. C-2 & C-3 at 2.) DEO fails to see how there can be any doubt that DEO will be bound by the representations in the application and supplemental application.

**3. DEO has provided sufficient and compelling information for the Commission to approve the applications.**

OCC also argues that the application should not be approved unless DEO explains the following factors: "(1) the current capacity shortfall in the Ashtabula area, supported by data on number of operational flow orders in the past five year and other data, (2) the amount of capacity that DEO plans to acquire on the Risberg Line, (3) the estimated or actual cost of the capacity to be acquired, both in total dollars and in dollars per Mcf, (4) the estimated incremental load, both in the Ashtabula area and the remainder of DEO's service territory, and (5) the estimated in service date of the pipeline." (OCC Comments at 3–4.) DEO will address each of these points in turn, all of which will show that the facts of this case support approval.

**a. The facts show that significant capacity constraints affect the Ashtabula area.**

First, as for the “current capacity shortfall,” DEO has supported that there are significant capacity constraints in the Ashtabula area. In particular, the supplemental application explained that “the pipelines serving the Ashtabula area are fully utilized under design-day conditions, such as those experienced in early 2015 when overnight temperatures in Ashtabula fell to approximately 30 degrees below zero.” (Supp. Appl. at 3.) DEO explained that, “[t]o ensure continued reliability, DEO has been repeatedly required to turn down requests for new or increased service from such potential customers as a gas-to-liquids plant, other industrial companies, and industrial parks.” (*Id.* at 3–4.) DEO also explained that the “lack of natural gas pipeline capacity has limited economic development in an area that otherwise appears well-suited for industrial growth, given the access to a major body of water and interstate highways, the availability of undeveloped tracts of land, and other natural resources, including abundant natural gas reserves that cannot be readily accessed via existing midstream or interstate pipelines.” (*Id.* at 4.) This information abundantly supports bringing on more capacity to the Ashtabula area.

Although DEO disagrees that “operational flow orders” are the only or most appropriate measure of whether a given area is subject to capacity limitations, DEO has also been required to take special actions to maintain reliability to the Ashtabula area. The Ashtabula area has been subject to system-wide operational flow orders, and is generally considered to be an isolated point and as such suppliers are subject to special ongoing capacity restrictions applicable to that area under DEO’s Energy Choice program. *See* Case No. 07-1224-GA-EXM (tariffs filed July 18, 2008) and Case No. 17-1459-GA-ATA (application and tariffs filed June 27, 2017). Additionally, during cold winter weather in January 2014, it was necessary to work with a large

industrial customer in the Ashtabula area to achieve voluntary usage reductions to help ensure that DEO could maintain service and delivery pressures to that plant and the surrounding area. At other times, the same customer has had to temporarily increase compression to receive service through the lower-pressure Lakeshore line at times when the Cochran line has been down for service or testing. Capacity is clearly limited in the Ashtabula area.

**b. DEO has provided information regarding the particulars of the transaction.**

Second and third, OCC asserts that DEO should identify “the amount of capacity that DEO plans to acquire on the Risberg Line” and “the estimated or actual cost of the capacity to be acquired, both in total dollars and in dollars per Mcf.” (OCC Comments at 3–4.) DEO has provided all of this information in the supplemental application. Although some of the information has been filed subject to protective treatment, it has been provided to the Commission, and to OCC under a non-disclosure agreement.

**c. The facts show that additional capacity is needed to permit economic development in the Ashtabula area.**

Fourth, OCC recommends that DEO should provide “the estimated incremental load, both in the Ashtabula area and the remainder of DEO’s service territory.” (OCC Comments at 4.) DEO cannot see the future, and thus cannot predict how much incremental load will be served as a result of the acquisition of Risberg Line capacity. But as explained above, DEO has had to turn down requests to initiate service or expand existing service—requests that together far exceed the amount of capacity being reserved—and there have been long-standing discussions with local business and government leaders to attempt to solve the capacity issue. As also explained above, the Ashtabula area has many features that would otherwise suit it for economic development, industrial development in particular.

A multitude of factors besides the availability of natural gas capacity affect whether and to what extent a given site is developed or a given economy grows. But there can be no doubt that a lack of natural gas capacity has hindered economic development in the Ashtabula area. Approving the supplemental application will eliminate that obstacle.

**d. DEO has provided the estimated in-service date of the Risberg Line.**

Finally, OCC recommends that DEO should provide “the estimated in service date of the pipeline.” (OCC Comments at 4.) This information was provided in the original application, so this provides no reason not to approve the applications.

## **II. CONCLUSION**

For the foregoing reasons, DEO respectfully requests that the Commission consider these reply comments and grant all relief requested in the initial and supplemental applications.

Dated: July 28, 2017

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served by electronic mail to the following persons this 28th day of July, 2017:

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