BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Motion to Modify the Exemption Granted to The East Ohio Gas Company d/b/a Dominion East Ohio.	)))	Case No. 18-1419-GA-EXM

OHIO PARTNERS FOR AFFORDABLE ENERGY'S MOTION TO MODIFY THE EXEMPTION GRANTED TO THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO BY RE-ESTABLISHING THE AVAILABILITY OF THE STANDARD CHOICE OFFER FOR ALL DOMINION EAST OHIO CUSTOMERS

Ohio Partners for Affordable Energy ("OPAE") moves the Public Utilities Commission of Ohio ("Commission") to modify the January 9, 2013 Opinion and Order ("2013 Order") in Case No. 12-1842-GA-EXM, which was opened on June 15, 2012 when Dominion East Ohio Gas Company ("Dominion" or "DEO") and the Ohio Gas Marketers Group filed a Joint Motion to modify the Commission's June 18, 2008 Opinion and Order in Case No. 07-1224-GA-EXM ("2008 Order") to allow Dominion, beginning April 2013, to discontinue the availability of standard choice offer ("SCO") service to choice-eligible non-residential customers. The Commission granted the Joint Motion in its 2013 Order. On March 9, 2018, the Office of the Ohio Consumers' Counsel ("OCC") filed a motion to protect residential consumers by re-establishing the SCO as the default service and eliminating the Monthly Variable Rates ("MVRs") for residential customers. OPAE supports the OCC motion and herein moves the Commission to modify the 2013 Order to re-establish the SCO as the default service for all Dominion's residential and non-residential customers for the reasons set forth in the Memorandum in Support of OPAE's motion attached hereto and incorporated herein.

Respectfully submitted,

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THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Motion to Modify the Exemption Granted to The East Ohio Gas Company d/b/a Dominion East Ohio.	)))	Case No. 18-1419-GA-EXM

MEMORANDUM IN SUPPORT OF MOTION TO MODIFY THE EXEMPTION GRANTED TO THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO BY RE-ESTABLISHING THE AVAILABILITY OF THE STANDARD CHOICE OFFER FOR ALL DOMINION EAST OHIO CUSTOMERS

Ohio Revised Code ("R.C.") Section 4929.08(A) provides that the Commission may modify any order granting an exemption upon its own motion or upon the motion of any person adversely affected by such exemption. The statute states that the exemption order may be modified if the "Commission determines that the findings upon which the exemption order was based are no longer valid and that the abrogation or modification of the order is in the public interest." R. C. 4929.08(A).

On March 9, 2018, the Office of the Ohio Consumers' Counsel filed a motion in Case No. 12-1842-GA-EXM requesting modification of the 2013 Order on the basis that the findings in the 2013 Order are no longer valid and that the re-establishment of the SCO as the default service for all residential customers and elimination of the MVR is in the public interest. When the Commission issued its 2013 Order modifying the 2008 Order, the Commission claimed that the 2008 Order was no longer valid because it "no longer provides any potential for further exploration of the benefits of market-based pricing for natural gas services." 2013 Order at 8. The Commission claimed that there were adverse effects to customers due to the continuance of SCO service. Id. at 16. The Commission also claimed that the continuation of SCO service is "adversely affecting DEO and is negatively affecting all Ohioans by hindering the development of a fully-competitive marketplace." Id. at 8. The Commission also claimed that allowing Dominion to exit the merchant function for non-residential customers would encourage innovation, both in how services are provided and in the variety of available products. Id. at 14-15.

OCC's motion states that the transition away from the SCO contradicts the Commission's 2013 findings. OCC Memorandum in Support of Motion ("OCC Memorandum") at 6. OCC questions whether it is feasible to reach and adequately inform Dominion's 1.1 million residential customers about the complexities of buying natural gas in the market. Ohioans have many priorities for their time that rise above trying to surmount the steep challenge of understanding and continually monitoring complicated natural gas pricing and contracts. Id. at 7. OCC notes that under the 2013 Order residential consumers are randomly assigned to MVRs. Some MVRs can be significantly higher than the SCO, to a level resulting in the price gouging of Ohioans. Id. For the period of November 10 – December 12, 2017, Dominion's SCO was $2.752 per MCF while the various MVRs ranged from $3.15 to $8.49 per MCF. For the period between December 13, 2017 and January 13, 2018, the SCO was $3.074 per MCF while the available MVRs were between $3.15 and $6.99 per MCF. Id. at 7-8. As OCC notes, there is no guarantee that a customer will be assigned the lowest available MVR. Dominion assigns MVRs to customers randomly based on a rotating list of suppliers so that a customer is just as likely to receive the highest MVR as the lowest.

The SCO saves customers money as opposed to the MVRs. Id. at 8. While customers will still have the option to enter into bilateral contracts for natural gas supplies, the default service for all residential customers in all situations should be the SCO, not the MVR. Id. The SCO as default service better serves the goal of achieving competitive markets as the SCO is competitively set using the New York Mercantile Exchange ("NYMEX") monthly settlement price to reflect current market pricing. Id. at 8-9. Suppliers offering bilateral contracts should compete with the SCO instead of the MVRs, which result in excessive charges for some consumers. Therefore, the 2013 Order needs to be modified to protect consumers. Id.

The Commission must recognize that OCC's argument applies to non-residential customers as well. The SCO price is established through an auction held by Dominion where the winning bidders receive the same price. Any competitive supplier can bid in the auction. Under the MVR, there is no auction. Dominion merely maintains a list of suppliers who choose to post an MVR. The MVR is unique to each supplier, is set by each supplier, and has a price that is not determined by an auction. Only individual suppliers know how their MVR is set, because suppliers set their MVR price.

After the Commission eliminated the SCO option for non-residential customers, non-residential customers no longer had a price established through a competitive auction. Choice-eligible non-residential customers who had not chosen to enter into a bilateral contract with a supplier or to be served through a governmental aggregation were assigned a supplier by Dominion through the MVR process at an MVR determined by the supplier participating in the MVR process.

The SCO option, set by a competitive bid process, is generally lower priced than a supplier's MVR. The MVR price is higher because it is not set by competitive forces. The SCO provides a benchmark for natural gas prices, and, if there is an SCO, there is an incentive for suppliers to compete at the SCO price in order to win customers. In addition, the SCO price, unlike the MVR, is transparent. It is the NYMEX close plus the adder determined at the SCO auction. A customer can easily know and understand the SCO price; however, a customer has no way to know how the MVR price is set. The MVR is anything a supplier wants it to be, and there is no insight into how an MVR is set. After Dominion assigns a non-residential customer to a supplier's MVR, the customer will not know the MVR price until the first bill arrives.

In addition to the SCO auction spurring price competition, the SCO is comparable to a government aggregation where suppliers are able to acquire customers without incurring significant acquisition costs. Customers without access to a government aggregation are able to obtain a similar competitive option through the SCO. Without the transparent SCO price set by an auction held by Dominion, there is a reduction in the efficiency of the competitive market.

A review of state policy as articulated by R.C. 4929.02(A) states the preference of the General Assembly to promote all types of competition in order to: “[p]romote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods”. R.C. 4929.02(A)(1). The method selected to achieve this is to: “[p]romote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs”. R.C. 4929.02(A)(2). Governmental aggregation and the SCO represent options that are consistent with the state’s policy because they provide customers with diverse competitive options. R.C. 4929.02(A)(3). The SCO is an innovative approach to providing cost-effective competitive natural gas services within the meaning of R.C. 4929.02(A)(4), which calls for the promotion of innovative supply options. The SCO promotes innovative supply options in such a way that competition is harnessed to provide customers with the lowest competitive market price.

State policy also promotes “an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation”. R.C. 4929.02(A)(7). The promotion of effective competition requires an SCO option that gives consumers a price for natural gas set by the competitive market; effective competition is not promoted by the MVR where the utility randomly selects a supplier for unwilling customers.

Non-residential customers, such as small businesses and non-profit organizations, generally cannot commit a high level of attention to natural gas markets and confront a considerable challenge to determine the offer that is right for them. The state's energy policy does not put the suppliers' interests in high prices and opaque offers ahead of the interests of consumers in low prices and transparent offers.

By eliminating the SCO service for non-residential customers, the Commission limited competition and reduced supply options available to non-residential customers. OPAE appealed the Commission's 2013 Order to the Supreme Court. *In re Application to Modify, in accordance with R.C. 4929.08, the Exemption Granted to E. Ohio Gas Co.,* 144 Ohio St.3d 265, 2015-Ohio-3627. While the Court affirmed the Commission's order, it did so explicitly relying on the Commission's stated willingness to re-establish the SCO if the Commission later determined that Dominion's exit from the merchant function was unjust or unreasonable for any customer class. In affirming the 2013 Order, the Court relied on the Commission's rationale that discontinuation of the SCO for "this small subset of customers" would allow the Commission to study the effects of the exit from the merchant function, while still protecting customers. The Court expected the Commission to continue to monitor the effects of Dominion's exit from the merchant function for non-residential customers and carefully analyze the data. Id. at ¶ 34.

The Commission must now monitor the effects of the exit on non-residential customers and analyze the data. In a period when the SCO was

$2.752 per MCF, the various MVRs ranged from $3.15 to $8.49 per MCF. OCC Memorandum at 7-8. This is price gouging that denies non-residential customers the benefits of competitive markets. The Commission must recognize that its findings in the 2013 Order are no longer valid and the abrogation of the 2013 Order is in the public interest. The MVR as a default service is negatively affecting all Ohioans by allowing the random assignment of customers to MVRs not set in the competitive market. The MVR as the default service denies customers access to the SCO, which is set in a competitively bid auction and has resulted in substantially lower prices than the non-market based MVRs.

The benefits of market-based pricing can only be achieved through the re-establishment of the SCO as the default service for all customers, residential and non-residential. Wherefore, the Commission should grant this motion to modify the 2013 Exemption Order and act to re-establish the availability of the SCO to non-residential and residential customers in Dominion's service area.

Respectfully submitted,

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SERVICE LIST

A copy of the foregoing Motion to Re-establish the Availability of the SCO for Dominion East Ohio Customers and Memorandum in Support will be served by the Commission's Docketing Division electronically upon persons who electronically subscribe to this case on this 14th day of September 2018.

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Summary: Motion to Modify the Exemption Granted to The East Ohio Gas Company and Memorandum in Support electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy