BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of The Uniform Purchases Gas Adjustment Clause Rules in Chapter 4901:1-14 of the Ohio Administrative Code.	))))	Case No. 18-1291-GA-ORD

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

I. INTRODUCTION

In accordance with the Commission's October 10, 2018 Entry in this case, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO) offers the following reply to the comments of the Office of the Ohio Consumers' Counsel (OCC).

II. REPLY TO OCC COMMENTS

DEO no longer offers commodity service under a GCR- or PGA-type mechanism, and as such it did not expect to file comments in this case. OCC, however, has proposed rules that, if adopted, would lead to violations of law and could conceivably threaten the reliability of service. Its proposals are based almost entirely on a simplistic price comparison that overlooks critical differences between utilities. Finally, OCC appears to be using the rule review process to single out a specific company for legal compulsion and raise issues that go well beyond the scope of this rulemaking. OCC's recommendations must be rejected.

A. The rules should not be modified to require large natural gas companies to implement wholesale auctions.

OCC's first recommendation is that the rules should require all large natural gas companies to "procure and price gas supply service through a wholesale auction," with an exemption permitted for utilities who already provide a retail auction (or standard choice offer). (OCC Comments at 6.) The Commission should reject this proposal. It is unlawful and impractical, based on simplistic assumptions, and would co-opt the rights of companies to manage their businesses and protect their customers.

1. OCC's proposal ignores the legal requirements applicable to exemptions and misuses the rulemaking process.

First, there are significant legal problems with OCC's proposal. The Commission has required transitions to auction-based commodity service to be filed under the state law authorizing exemptions of commodity sales service. *See* R.C. 4929.04. To gain such an exemption, a number of company- and market-specific conditions must be satisfied. *See, e.g.*, R.C. 4929.04(A)(1), (A)(2), (B), & (D). Without such an application and findings, it is doubtful the Commission would have legal authority to grant an exemption. Whether a utility or its market satisfies these legal requirements are highly fact-specific inquiries, typically requiring an investigation and a hearing; no such process occurs in a rulemaking. For both legal and practical reasons, if a party wishes an exemption to be granted, it should occur under the laws and with the procedures applicable to such a form of relief.

Beyond that, it is improper to use a rulemaking to single out a specific company and force such a significant transition upon it and its customers. By law, rulemakings are to be used to develop standards and procedures of "general and uniform operation," R.C. 111.15(A)(1), not to focus on a specific entity and force its hand. If OCC has an issue with a specific entity, there are channels for that purpose. OCC's approach here—using the general rulemaking process to target a specific company—is a misuse of the rulemaking process.

2. OCC's comparison of commodity pricing on different systems is simplistic and unreliable.

In addition to posing serious legal problems, OCC's proposal also relies on an overly simplistic and flawed analysis. OCC bases its proposal largely on a comparison of Duke Energy Ohio's rates to the rates of other natural gas companies who have received exemptions and instituted auction-based commodity sales services. (*See* OCC Comments at 3–5.) But the realities are far more complex.

OCC's comparison of GCR rates to other companies' SSO rates does not take into consideration the many factors that lead to significant differences between utilities. Such differences include, but are not limited to:

- the availability and cost of upstream pipeline capacity;
- the access of that capacity to preferred supply basins or liquid pricing points;
- the amount of Ohio-produced gas connected to the LDC; and
- the presence or lack of on-system storage.

For DEO, these factors have supported lower prices: DEO has access to service from eight different interstate pipelines; it has access to low-cost Dominion South Point supplies; it has access to nearby shale gas production; and it enjoys substantial on-system storage resources. All of these factors have played a major role in keeping DEO's SSO price lower than other Ohio utilities. Other utilities, however, face their own mix of geographical, operational, and economic factors, all of which affect the cost of commodity and most of which are outside their control.

OCC's simplistic price comparison ignores these realities entirely. OCC also disregards the fact that the GCR rules did not stymie the development of the very alternative approaches to securing gas supplies that it now favors. Mandating a particular approach—even one that has performed well for some time for several utilities—could do just that by limiting companies' willingness and ability to consider others that could provide even better results. The success of DEO's wholesale auction process is a testament to the creativity of many stakeholders; creativity that could be bottled up if no other options for securing gas supplies could even be contemplated.

3. OCC's proposal disregards the company's role in determining the best means of safely and reliably serving customers.

OCC's proposal would also usurp the role that company management must play in determining how best to serve their customers. While DEO believes its competitive auction process has served customers well over the years, the company does not believe a mandate to secure gas supplies in that fashion is necessary or appropriate.

There is nothing objectionable *per se* in encouraging utilities to examine alternative approaches to provide default commodity service. But the selection of a particular approach should be left up to the individual utility. The local utility understands the strengths and weaknesses of its system and its markets better than anyone else, including OCC. Although suppliers have cooperated admirably on DEO's system in procuring supplies, balancing supply and demand, and helping ensure reliability, these are *critical* functions and go to the heart of the duty to serve. Forcing management to outsource such an important function may not be in the best interest of customers who rely on the expertise of their local utility to provide reliable gas service under any and all weather conditions.

Markets can and do change over time, and while the wholesale auction approach has performed well and reliably for some time, there is no guarantee that it will do so in the future. Given the importance of design day reliability, moving away from the system supply function is not a decision to be made lightly or by fiat. In DEO's case, the combination of multiple interstate pipelines, local production and on-system storage made that transition less risky, as did the proven track record of dozens of marketers reliably providing service to a large number of its Energy Choice customers. But one cannot assume that will be the case at all times and on every system.

In sum, OCC fails to address any of the legal requirements, economic complexities, or practical realities that compel rejection of its proposal. Attempting to mandate an unwilling utility to file for an exemption through the rulemaking process is not lawful, not practical, and not fair.

B. OCC's criticisms of retail auctions and other utilities' Choice programs are entirely out of place in this proceeding.

Having already gone far afield by proposing wholesale auctions in a GCR rulemaking, OCC goes even farther and trains its sights on the Choice programs administered by non-GCR utilities. OCC recommends that gas supply prices "should be established via a wholesale auction rather than a retail auction," and this recommendation in turn serves as a jumping-off point into criticisms of the Choice programs administered by DEO, Columbia Gas of Ohio, Inc., and Vectren Energy Delivery of Ohio, Inc. (OCC Comments at 6.)

Obviously, this discussion is far removed from anything to do with PGA clauses or GCR pricing and as such is entirely out of place in this rulemaking. Nor is it necessary. No one with any familiarity with Ohio natural gas regulation has any doubt that OCC at present favors auction-based commodity service over every other form. In DEO's view, lodging these views yet again in this rulemaking is (at best) an unwarranted use of the Commission's and the parties' resources. DEO and others have responded to similar points by OCC in numerous other settings, where the issues were at least arguably relevant. Rather than burden the Commission with such discussion again, DEO will merely note, for the sake of the record, that it does not support the remedies sought by OCC and would incorporate its prior comments on these and similar issues by reference here.

III. CONCLUSION

For the foregoing reasons, DEO respectfully requests that the Commission reject the rules proposed by OCC.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

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/s/ Andrew J. Campbell
One of the Attorneys for The East Ohio Gas Company d/b/a Dominion Energy Ohio