

In the Matter of the Operations of The East )  
Ohio Gas Company d/b/a Dominion Energy )  
Ohio During the Declared State of ) Case No. 20-600-GA-UNC  
Emergency and Related Matters. )  
)

## I. INTRODUCTION

Consumers need extra regulatory protections, including OCC’s proposals, to ensure affordable and continued access to their essential gas utility services throughout the coronavirus emergency and for a reasonable time afterwards.<sup>1</sup> Protections are especially needed to address the challenges of at-risk populations in Dominion’s service area. Those challenges include, but are not limited to high poverty levels,<sup>2</sup> food insecurity,<sup>3</sup> and the impacts of social disparities in our country where, for example, minorities suffer from poverty at higher levels than their percentage representation in the overall population.<sup>4</sup>

<sup>1</sup> See OCC’s Comments for Additional Consumer Protections Regarding the Temporary Plan of Dominion Energy Ohio to Address the Coronavirus Emergency (May 13, 2020) (“OCC Emergency Plan Comments”), and consumer protection guidelines recommended by the National Consumer Law Center (“NCLC”) (attached as Exhibit A), “Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services.”

<sup>2</sup> For example, the cities of Cleveland and East Cleveland served by Dominion have poverty rates in excess of 35%. <https://www.welfareinfo.org/poverty-rate/ohio/cleveland>.

<sup>3</sup> The food insecurity rate in Ohio has increased to 23% as a result of the pandemic.  
<http://ohiofoodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf>.

<sup>4</sup> For example, African Americans are 11.8% of Ohio's population, yet 32% of African Americans in Ohio live below the poverty line. <https://www.welfareinfo.org/poverty-rate/ohio/>.

The coronavirus pandemic continues to take a toll on Ohioans' health and financial well-being. There have been more than 50,300 cases of coronavirus in Ohio, over 2,800 deaths,<sup>5</sup> and over 1.36 million Ohioans have lost jobs and filed for unemployment during the last 13 weeks.<sup>6</sup> Alarming, the state Administration announced last week that the number of Ohioans contracting the coronavirus is again spiking.<sup>7</sup> The financial strain that many Ohio customers are suffering as a result of the pandemic will continue for some time, maybe years.

As utilities like Dominion seek to resume their pre-coronavirus operations, the PUCO should continue to protect consumers facing health and financial hardships.

## **II. BACKGROUND**

In Case No. 20-591-AU-UNC, the PUCO addressed issues related to the coronavirus state of emergency to make sure customers have continued access to essential utility services. The PUCO directed utilities to seek approval to suspend requirements that may “impose a service continuity hardship on residential and non-residential customers” or “create unnecessary COVID-19 risks associated with social contact.”<sup>8</sup> The PUCO also directed utilities to seek approval to suspend requirements that may “impose a service restoration hardship on customers or create unnecessary risk of social contact.”<sup>9</sup>

On March 17, 2020, in accordance with the PUCO's directives, Dominion filed its application (“Emergency Plan”) in this case seeking suspension of certain PUCO rules during the

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<sup>5</sup> <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home>.

<sup>6</sup> <https://www.crainscleveland.com/government/ohio-unemployment-claims-down-nearly-300000-april-peak>.

<sup>7</sup> <https://www.cleveland.com/datacentral/2020/06/ohios-disturbing-new-trend-of-increasing-coronavirus-cases.html>.

<sup>8</sup> See Case No. 20-591-AU-UNC, March 12, 2020 Entry, at ¶7.

<sup>9</sup> See March 13, 2020 Entry at ¶6(a).

emergency, for consumer protection. The PUCO approved Dominion's Emergency Plan in part on June 3, 2020.<sup>10</sup>

The PUCO's Emergency Plan Order directed Dominion to:

...work with Staff to develop a single, comprehensive plan for the resumption of activities and operations previously prohibited by the *Emergency Case* in furtherance of a safe return to pre-COVID-19 operations. [Dominion's] plan should include specifics as to the activities considered for resumption and include timelines and provisions for safety adaptations for both residential and non-residential customers impacted by the activities proposed for resumption. The plan should also address extended payment plans for both residential and non-residential customers impacted by the emergency.<sup>11</sup>

The PUCO instructed interested parties to file comments within ten days of Dominion's filing of its Transition Plan. This filing is OCC's response for consumer protection from Dominion's Transition Plan that it filed on June 18, 2020.

Certain aspects of Dominion's Transition Plan, such as adopting additional safety practices to protect the health and well-being of its customers and expanding customer payment plans,<sup>12</sup> are commendable and provide some protection to Dominion's customers during the current state of emergency. However, Dominion's plans to resume issuing disconnection notices on July 13, 2020 and to begin service disconnections for non-payment beginning August 3, 2020<sup>13</sup> are premature and would harm customers who continue to suffer financially from the pandemic.

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<sup>10</sup> Finding and Order (June 3, 2020) ("Dominion Emergency Plan Order").

<sup>11</sup> Dominion Emergency Plan Order, ¶49.

<sup>12</sup> Transition Plan, at 3-4, 5.

<sup>13</sup> Transition Plan, at 1-2.

Dominion’s proposal to resume in-home energy audits and low-income weatherization in mid-August 2020<sup>14</sup> is also premature, is not essential for consumers’ gas service, and would create an unnecessary risk of transmitting the virus to Ohioans. Suspending these programs until a reasonable time after the state of emergency ends is necessary to protect the health and safety of Ohio consumers. The PUCO should issue an order on Dominion’s Transition Plan consistent with OCC’s recommendations set forth below.

### III. RECOMMENDATIONS

- A. For consumer protection, Dominion’s disconnections of natural gas service and its strict compliance with the Percentage of Income Payment Plan (“PIPP”) eligibility requirements should be suspended and not resumed until a reasonable period after the coronavirus emergency has ended.**

It will take time (maybe a long time) for many consumers to recover financially from the crisis. And the coronavirus state of emergency is far from over. Indeed, the Governor’s office announced last week that the number of new cases is again spiking.<sup>15</sup>

Yet Dominion proposes to begin terminating customers’ service for nonpayment beginning on August 3, 2020,<sup>16</sup> even before the official end of the state emergency. Dominion plans to resume issuing ten-day disconnection notices to customers beginning on July 13, 2020.<sup>17</sup> There are limited (if any) bill payment assistance resources available to help customers pay their past-due gas bills. This will cause problems for at-risk Dominion customers who need to prioritize how their limited available dollars will be used to feed their families, purchase

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<sup>14</sup> Transition Plan, at 3.

<sup>15</sup> <https://www.cleveland.com/datacentral/2020/06/ohios-disturbing-new-trend-of-increasing-coronavirus-cases.html>.

<sup>16</sup> Transition Plan, at 1-2.

<sup>17</sup> Transition Plan, at 2.

medications, secure shelter, or pay their Dominion bills to maintain access to hot water.

Dominion's proposal is unreasonable and should be rejected.

The PUCO has not established a set time for utilities' emergency measures to remain in place, other than to state that measures should be taken for the "duration of the emergency."<sup>18</sup> The PUCO did say in the Dominion Emergency Plan Order that the issue of extending the duration of the suspension of disconnections needed to be considered, and directed Dominion to file a proposal as part of its Transition Plan for how long measures should stay in place.<sup>19</sup>

Dominion did not provide any information on the number of customers who are currently delinquent in their payments, the past due amounts for the delinquencies, the projected financial and social impact that their transition plan will have on consumers, or any financial impact assessments on Dominion for continuing the current suspension. Dominion has just proposed in its Transition Plan to resume disconnections beginning August 3, 2020 with no supporting rationale, and during a time when the state of emergency is far from over.

Dominion also provides no substantive details for how it will be communicating with customers about the impact of its Transition Plan. Dominion will merely inform customers about the Coronavirus Aid, Relief, and Economic Security Act ("CARES") "as well as commodity-sales shopping resources."<sup>20</sup> There is no information on Dominion's website about the availability of CARES Act financial assistance to help consumers. And a review of the Energy Choices Ohio website showed that there are very few competitive offers lower than the Dominion Standard Choice Offer ("SCO").

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<sup>18</sup> See Case No. 20-591-AU-UNC, March 12, 2020 Entry, at ¶7.

<sup>19</sup> Dominion Emergency Plan Order, at ¶29.

<sup>20</sup> Transition Plan, at 4-5.

Dominion also proposes to resume enforcement of the PIPP program's strict requirements on or around August 3, 2020.<sup>21</sup> The PUCO's rules governing establishing and maintaining PIPP eligibility are stringent.<sup>22</sup> The PUCO correctly found in the Dominion Emergency Plan Order that during the emergency customers should not be dropped from PIPP programs for failure to comply with the PUCO's eligibility rules:

The Commission finds that, during the emergency, or until otherwise specified by the Commission, PIPP participants and graduate PIPP participants, shall not be removed or dropped from the programs or prohibited from enrolling in the programs for not being current, for failure to comply with program requirements as of the customers anniversary date, or for failure to timely reverify eligibility.<sup>23</sup>

The coronavirus state of emergency is still in effect. There is not a cure nor an effective vaccine nor immunity in the population. Customers will continue to be struggling with unemployment and lost wages, and they may have difficulty meeting the payment obligations that allow them to keep from being disconnected. Therefore, the PUCO should deny Dominion's proposal for customers to make payments strictly in accordance with PIPP guidelines or be shut off. Dominion's approach is too harsh and will exacerbate people's suffering.

**B. Dominion should suspend the collection from customers of late fees, reconnection fees, and deposits until a reasonable time after the state of emergency has ended.**

In its Transition Plan, Dominion proposes to resume the collection of late fees, reconnection fees and deposits in mid-October, coinciding with the PUCO's Winter Reconnect Order.<sup>24</sup> The PUCO should reject this proposal as well. OCC supports continuing a waiver of these charges, but on an indefinite basis.

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<sup>21</sup> Transition Plan, at 5.

<sup>22</sup> See Ohio Adm. Code 4901:1-18-12(C) and (D), 4901:1-18-16(D), 4901:1-18-17(A) and (B).

<sup>23</sup> Dominion Emergency Plan Order, ¶32.

<sup>24</sup> Transition Plan, at 4-5.

As part of its emergency plan, Dominion waived late fees and other payments to make sure customers maintained their essential natural gas utility service.<sup>25</sup> In the Dominion Emergency Plan Order, the PUCO directed Dominion to extend that policy “to customers facing disconnection or requesting reconnection during this emergency.”<sup>26</sup> The PUCO further directed Dominion to advise customers that delinquent charges, deposits and fees may be deferred to a later bill.<sup>27</sup> The PUCO found that this would allow customers to have “immediate bill relief” and provide Dominion the ability to enter into more liberal payment plans with customers providing them longer terms to repay delinquent charges and fees.<sup>28</sup>

The PUCO should require Dominion to continue this practice throughout the duration of the emergency and for a reasonable time afterwards. Payment of late fees or deposits should not be a pre-condition to service reconnection or to maintaining existing service in these difficult times. If Dominion does not waive these fees entirely, customers at least should be permitted to defer payment in accordance with the PUCO’s directive in the Dominion Emergency Plan Order, to help consumers stay connected to their vital utility services.

In addition, the PUCO should through its order prohibit Dominion from reporting customers who defer late fees and delinquent charges to credit reporting agencies. This practice can result in customers being financially harmed long after the pandemic ends.

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<sup>25</sup> See Dominion Emergency Plan Order, ¶31.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

**C. The PUCO should protect consumers by rejecting Dominion’s proposal to resume its energy efficiency programs in August 2020. The programs create an unnecessary risk of spreading the coronavirus to customers. And the in-home energy audits and weatherization programs are not essential to the provision of natural gas service.**

Dominion states in its Transition Plan that it will resume its energy efficiency programs in August 2020, including in-home energy efficiency audits and weatherization programs.<sup>29</sup>

Dominion’s proposal is premature and presents an unnecessary risk to customers’ health and safety, especially with the state’s recent announcement that new coronavirus cases are spiking in Ohio.<sup>30</sup> The PUCO should reject Dominion’s proposal now and revisit it when facts come in that the coronavirus is subsiding.

On March 20, 2020, the PUCO issued an Entry in Case No. 20-591-AU-UNC directing utilities “to suspend, for the duration of the emergency, any non-essential functions that would require or cause in-person contact that may create unnecessary COVID-19 spread risks, unless otherwise directed by the Commission.”<sup>31</sup> According to the PUCO, “non-essential functions include, but are not limited to, in-home energy efficiency audits, weatherization programs, in premises inspections not prompted by an identified safety-related concern, and other similar initiatives.”<sup>32</sup>

Dominion’s plan is premature. Dominion’s in-home energy efficiency audits and weatherization programs require social contact with customers in their homes and could create an unnecessary risk of spreading the coronavirus. Further, while the PUCO found in the Dominion Emergency Plan Order that non-essential functions could continue “to remedy a

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<sup>29</sup> Transition Plan, at 3.

<sup>30</sup> <https://fox8.com/news/coronavirus/ohio-officials-reports-troubling-spike-in-coronavirus-cases-among-younger-people/>.

<sup>31</sup> Case No. 20-591-AU-UNC, March 20, 2020 Entry, at ¶10.

<sup>32</sup> *Id.*



safety-related concern,”<sup>33</sup> energy efficiency audits and weatherization programs are not necessary to the provision of safe utility service. Indeed, they are not necessary to the provision of essential utility services at all. Accordingly, there is no legitimate reason (and Dominion cites no reason in the Transition Plan) for Dominion to resume these non-essential functions before the emergency is over (and the actual emergency for consumers may extend long after the formal emergency has ended). No one in Ohio should be at risk for contracting the coronavirus, suffering from the illness and potentially dying so that a utility can provide energy audits and weatherization.

**D. Dominion’s premature and unreasonable proposals in the Transition Plan demonstrate the need for a uniform set of consumer protection guidelines like those proposed by the National Consumer Law Center (“NCLC”).**

In OCC’s Comments on Dominion’s Emergency Plan, OCC recommended that the PUCO adopt the consumer protection guidelines developed by the National Consumer Law Center (“NCLC”), titled “Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services.”<sup>34</sup> The NCLC guidelines are attached as Exhibit A. But the PUCO declined OCC’s recommendation, stating that these consumer protection issues are already “adequately addressed” through Dominion’s Emergency Plan.<sup>35</sup>

Dominion’s premature and unreasonable proposals in its Transition Plan highlight the need for a uniform set of consumer protection guidelines applicable to all Ohio gas utilities. The guidelines of NCLC are appropriate.

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<sup>33</sup> See Dominion Emergency Plan Order, ¶37.

<sup>34</sup> See OCC Emergency Plan Comments, at 16.

<sup>35</sup> Dominion Emergency Plan Order, at ¶46.

#### IV. CONCLUSION

The coronavirus continues to be a danger to the health and financial well-being of Ohio consumers, and will continue to threaten Ohioans' health and finances for a long time. The PUCO should not permit utilities to rush a return to pre-coronavirus operations, to the jeopardy of Ohioans' health safety and welfare. The PUCO should issue an order regarding Dominion's proposed Transition Plan consistent with OCC's recommendations.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Comments have been served via electronic transmission upon the following parties of record this 29<sup>th</sup> day of June 2020.

/s/ Angela D. O'Brien  
Angela D. O'Brien  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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National  
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Center

# Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services

March 2020

## KEEP RESIDENTIAL UTILITY SERVICE ON DURING THE CRISIS

Access to affordable electric, gas, water, sewer, and telecommunications (including internet) services is essential at all times, but especially during a worldwide pandemic and shelter-at-home orders. Throughout the COVID-19 emergency, states should take the following steps to ensure that consumers stay connected to essential utility networks and reduce the need for public interaction:

- Issue an emergency declaration through gubernatorial action banning all regulated and unregulated utility service shut offs, including electric, gas, water/sewer, and telecommunications services, due to inability to pay, during the crisis;
- Order all regulated and unregulated utilities to reconnect customers who were previously disconnected due to inability to pay;
- Ban all in-person marketing and sales of alternative energy supply and distributed energy products during the length of the emergency declaration;
- Encourage low-income households to apply for the federal Lifeline phone and broadband program for free or discounted voice and data service;
- Adjust state Low Income Home Energy Assistance Program (LIHEAP) application deadlines, enrollment access and eligibility certification processes; and

## ENSURING THAT UTILITY SERVICE IS AFFORDABLE FOR ALL

After emergency orders have been lifted, states should ensure that utility arrearages incurred during the crisis do not trigger disconnections. States should require all utility service providers, both regulated and unregulated, to adopt more flexible credit and collections practices than currently required by state regulations and unregulated utility policies. Such protections should:

- Eliminate any customer deposit requirements;
- Eliminate down payment requirements on deferred payment arrangements (DPAs);
- Allow flexible, reasonable DPAs that are based on the customer's ability to pay;
- Eliminate any requirement that disconnected customers pay the full arrearage in order to reconnect, thereby permitting reconnection upon issuance of an affordable DPA;
- Eliminate minimum balance requirements for prepaid utility service customers;
- Require utilities to write off debt for consumers who certify that they are eligible for LIHEAP, but are unable to receive LIHEAP due to insufficient LIHEAP funds; and
- Prohibit utilities from imposing late fees and engaging in negative credit reporting

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