

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Operations of The East)	
Ohio Gas Company d/b/a Dominion Energy)	Case No. 20-0600-GA-UNC
Ohio During the Declared State of Emergency)	
and Related Matters.)	

**MEMORANDUM CONTRA THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL APPLICATION FOR REHEARING
OF THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

Pursuant to Ohio Adm.Code 4901-1-35, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) hereby files its memorandum contra to the application for rehearing of The Office of the Ohio Consumers' Counsel (OCC) concerning the Commission's June 3, 2020 Order (the June 3 Order), which directed DEO to file a plan for the safe resumption of activities that DEO had temporarily suspended in response to the 2019 novel coronavirus (COVID-19). OCC's application for rehearing sets forth four assignments of error that were raised in connection with Columbia Gas of Ohio's (Columbia) COVID-19 proceeding and that were rejected by the Commission. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020). As in the *Columbia* proceeding, OCC's assignments of error fail to demonstrate that the June 3 Order is unreasonable or unlawful, and OCC's application for rehearing should be denied.

I. BACKGROUND

The Commission previously directed all utilities to seek any necessary approval, for the duration of the state of emergency in Ohio as a result of COVID-19, to suspend otherwise applicable requirements that may impose a service continuity or service restoration hardship on residential and non-residential customers or create unnecessary risks associated with social contact. Case No. 20-591-AU-UNC, Entry (Mar. 12, 2020) ¶ 7(b); *id.*, Entry (Mar. 13, 2020) ¶ 6(b). On March 17, DEO filed a motion requesting an order authorizing DEO to suspend or

modify certain policies and practices and granting any waiver of applicable rules, tariff provisions, or other regulatory requirements. The June 3 Order granted DEO's Motion, subject to Staff's recommendations and other conditions in the Order, and directed DEO to work with Staff to develop a single, comprehensive plan that would allow the Company to safely resume suspended activities. On June 18, DEO filed its COVID-19 Transition Plan setting forth its timeline and conditions for resuming operations. On July 15, 2020, the Commission approved DEO's Plan. Case No. 20-600-GA-UNC, Supplemental Finding and Order (July 15, 2020).

II. DISCUSSION

OCC raises four assignments of error concerning the June 3 Order. The Commission, however, recently rejected each of these assignments of error with respect to Columbia's COVID-19 transition plan. Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020). As explained below, the Commission should do the same here.

A. **The Commission reasonably and lawfully found that OCC's 30-day look-back period for disconnections was unnecessary.**

OCC first argues that the Commission "erred by failing to require reconnections" of consumers disconnected in the 30 days prior to the Governor's declaration of the state of emergency. (OCC Reh'g App. at 3.) OCC claims the Commission "summarily rejected" OCC's proposal "without explanation." (*Id.*) But that assertion is not true. In the June 3 Order, the Commission provided an explanation: it found that OCC's 30-day look-back period was "unnecessary" and "overly strict." Case No. 20-0600-GA-UNC, Finding and Order (June 3, 2020) ¶ 30. And the reason that it was unnecessary was because residential customers previously disconnected due to non-payment could contact DEO for assistance reconnecting service, regardless of when the disconnection occurred. *Id.* ¶ 22. The June 3 Order made clear that this practice should continue: DEO was encouraged "to work with its customers to agree on terms to

reconnect service, *regardless of when disconnection occurred*, and to temporarily forego the collection of deposits and fees, where it is reasonable to do so under the circumstances.” *Id.* ¶ 30 (emphasis added). And indeed, as made clear in its COVID-19 Transition Plan, which the Commission has now approved, DEO is implementing the Commission’s guidance.

It was not unreasonable for the Commission to reject OCC’s recommendation, and its rationale for doing so was adequately supported. OCC has not offered anything new to justify the Commission reconsidering its prior determination. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 28.

B. The Commission reasonably and lawfully instructed utilities to propose plans gradually resuming standard credit practices while continuing to require additional customer protections.

OCC’s second assignment of error is that the Commission erred in not suspending disconnections “for a reasonable period of time after its declared emergency has ended.” (OCC Reh’g App. at 4.) As with OCC’s first assignment of error, the Commission considered but ultimately rejected OCC’s proposal. And again the Commission provided an explanation: “The Commission recognizes that, even in light of the emergency, service disconnections for non-payment cannot be suspended indefinitely.” Case No. 20-0600-GA-UNC, Finding and Order (June 3, 2020) ¶ 29. To determine when it would be suitable for DEO to resume disconnections, the June 3 Order directed DEO “to work with Staff to develop a plan for the resumption of meter reading and of service disconnections, including timelines and provisions for extended payment plans for both residential and non-residential customers impacted by this emergency.” *Id.* The COVID-19 Transition Plan filed on June 18 provides that timeline: DEO intends to resume disconnections for non-payment on or around August 3, 2020. (*Id.* at 2.) That advance notice, the expanded payment plan terms and flexible down payments provided for in the Transition Plan, the added customer outreach, the availability of assistance programs, and DEO’s efforts to enter

into reasonable payment arrangements with any customer facing disconnection—all of these safeguards allow DEO to appropriately resume disconnections. Without such a plan in place, unpaid balances may continue to grow for customers that are simply not taking action (i.e., assistance, PIPP applications, etc.), becoming a larger, less manageable problem over time.

Given the requirement that DEO work with Staff to develop the conditions in the COVID-19 Transition Plan, it was not unreasonable for the Commission to reject OCC's proposal for an indefinite suspension. OCC's application repeats its prior recommendation that the Commission already rejected and does not offer any basis for the Commission to change course. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 35.

C. Contrary to OCC's assertions, the Commission's June 3 Order did not terminate the use of its emergency powers under R.C. 4909.16 related to COVID-19.

OCC's next argument is that the Commission erred "by failing to order that its declared emergency will continue indefinitely" given the ongoing risks associated with COVID-19. (OCC Reh'g App. at 5.) But nowhere in the June 3 Order does the Commission indicate that it is discontinuing the use of its emergency powers under R.C. 4909.16 in response to COVID-19. And nowhere in the June 3 Order does the Commission declare that the COVID-19 state of emergency is over. Contrary to OCC's assertions, the June 3 Order is not an abdication by the Commission of its duties to protect consumers. The evident purpose of the June 3 Order was to encourage DEO to develop additional protocols and practices that would allow the Company to safely resume suspended activities. The COVID-19 Transition Plan, which now has been approved by the Commission and remains under the Commission's oversight, sets forth those additional protocols and practices.

OCC's argument that the Commission is not doing enough to address COVID-19 has already been considered and rejected. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July

15, 2020) ¶ 35. OCC offers no support for its suggestion that the Commission has ceased taking any necessary actions in response to COVID-19. The Commission did not end the declared emergency; criticizing the Commission for not expressly continuing it is simply unfair.

D. The Commission’s decision not to adopt in full the National Consumer Law Center recommendations in this proceeding was neither unreasonable nor unlawful

Finally, OCC asks the Commission again to adopt the recommendations of the National Consumer Law Center (NCLC) that OCC attached to its earlier comments and apply them uniformly to all utilities. (OCC Reh’g App. at 6-7.) OCC claims that the Commission did not provide the reasons for its decision to reject the NCLC recommendations. But again OCC is incorrect. The June 3 Order states: “The Commission finds that, with the Emergency Case and each utility company’s emergency plan or motion for waiver, the issues of service continuity, social distancing, consumer protections, and payment arrangements, including fees and charges, are being and will continue to be adequately addressed.” Case No. 20-0600-GA-UNC, Finding and Order (June 3, 2020) ¶ 46. In short, the Commission found that the uniform adoption in full of all of the NCLC recommendations in Attachment B to OCC’s earlier comments was unnecessary, given the actions already being taken by the Commission and each utility. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 39 (“It is not necessary, as OCC asserts, that all utilities under the Commission’s jurisdiction follow a uniform set of guidelines as presented by NCLC.”). OCC raises nothing new to justify the Commission to revisit that determination.

III. CONCLUSION

For the reasons mentioned herein, the Commission should deny OCC’s application for rehearing. OCC’s assignments of error fail to demonstrate that the June 3 Order is unreasonable

or unlawful. The Commission has denied OCC's application for rehearing in Case No. 20-637-GA-UNC, where OCC raised the same arguments. It should reject the arguments here as well.

Dated: July 16, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail on this 16th day of July, 2020, to the following:

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Summary: Memorandum Memorandum Contra The Office of the Ohio Consumers' Counsel
Application for Rehearing electronically filed by Christopher T Kennedy on behalf of The East
Ohio Gas Company d/b/a Dominion Energy Ohio