**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval to Increase Natural Gas RatesIn the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of Alternative Rate Plan.In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval to Change Accounting Methods.In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of Tariff Revisions.  | )))))))))))))))) | Case No. 23-894-GA-AIRCase No. 23-895-GA-ALTCase No. 23-896-GA-AAMCase No. 23-897-GA-ATA |

**REPLY TO DOMINION’S MEMORANDUM CONTRA MOTION TO SCHEDULE A VIRTUAL LOCAL PUBLIC HEARING**

**BY**

**LEGAL AID SOCIETY OF SOUTHWEST OHIO, LLC**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

**AND**

**OHIO POVERTY LAW CENTER**

# I. INTRODUCTION

Dominion seeks to increase the charges for natural gas distribution service for all of its 1.2 million customers by over *30 percent* from $43.30 to $56.34. And this doesn’t even include the additional charges Dominion wants consumers to pay (increasing to as much as $29.69 per month by 2032) through additional riders. Consumers deserve to be heard regarding Dominion’s applications to increase rates and for an alternative rate plan. The PUCO should grant the motion for a virtual local public hearing in this case.

Dominion opposes the motion to give consumers an additional option to testify on the record regarding the massive rate increases Dominion proposes in this case. That’s no surprise given its proposals to charge consumers. However, there is little merit to Dominion’s arguments against the PUCO conducting a virtual local public hearing. The PUCO has held virtual public hearings in the past,[[1]](#footnote-2) and it can (and should) do so here.

# II. ARGUMENT

## A. DEO misconstrues the statutory requirements of R.C. 4903.083 requiring local public hearings.

While DEO correctly identifies R.C. 4903.083 as establishing requirements for in-person public hearings,[[2]](#footnote-3) it misinterprets its scope. The statute mandates minimum standards, not an exhaustive list of options within the PUCO authority. Significantly, it is silent on the PUCO’s authority to expand public participation through additional avenues like virtual hearings. Therefore, granting our motion wouldn’t be a change to the statute but an exercise of the PUCO’s existing general authority under R.C. 4905.05 and R.C. 4905.06 to enhance accessibility and consumer engagement.

Furthermore, DEO overlooks the significant technological advancements since the enactment of R.C. 4903.083 in 2009. These advancements make virtual hearings a viable, efficient, and increasingly preferred method for public participation in legal proceedings. While legislative revisions may eventually codify these changes, the PUCO need not wait for such amendments to utilize readily available tools to benefit consumers.

## B. Previous rulings by the PUCO regarding virtual local public hearings are not, and should not be, controlling in this case.

DEO mischaracterizes the PUCO’s previous denials of virtual hearing requests as binding precedent. As explicitly stated in Case Nos. 22-1094-WW-AIR and 22-1096-ST-AIR, such rulings are case-specific.[[3]](#footnote-4) Therefore, the PUCO retains the flexibility to consider the unique circumstances of each case and grant virtual hearings where warranted.

Our request here significantly differs from the Aqua Ohio matter cited by DEO. Unlike Aqua, which filed for a relatively modest base rate increase for certain service areas,[[4]](#footnote-5) DEO proposes a whopping 30% increase in base charges after going sixteen years without a rate case. Moreover, DEO proposes additional monthly charges through its alternative rate plan that drastically increase the amount DEO is asking consumers to pay.[[5]](#footnote-6)

This substantial financial impact on consumers underscores the critical need for robust public participation opportunities, which virtual hearings can effectively provide. Additionally, our early request allows for seamless integration of a virtual hearing date within the future public hearing schedule, minimizing logistical burdens.

## C. DEO’s cost concerns regarding a virtual public hearing are baseless and should be rejected.

DEO raises concerns about the cost of a virtual hearing. However, these costs are negligible compared to the significant rate increase DEO seeks from Ohio consumers. Furthermore, established channels exist for utilities to recover reasonable costs through future rate filings, if deemed appropriate by the PUCO. Because of the pandemic, the PUCO has the technology available to efficiently conduct a virtual public hearing. In the past, the PUCO has been able to quickly switch from in-person to remote hearing formats when needed to accommodate parties’ witnesses when they cannot appear in person.[[6]](#footnote-7) Similarly, libraries also have the technology resources to allow consumers to testify virtually. After the pandemic, many consumers are well-acquainted with conducting business virtually and can do so easily from their own smartphone or computer without having to travel.

Ultimately, complying with a PUCO order for a virtual hearing represents a minimal expense for a public utility that enjoys substantial profit margins. As a privileged entity entrusted with serving the public good, DEO should embrace reasonable measures to facilitate consumer participation in proceedings significantly impacting their lives.

## D. The opportunity to provide live testimony on the record at a virtual local public hearing is a powerful tool for consumers to voice their concerns.

DEO claims that a virtual local public hearing is unnecessary because consumers may voice their concerns by providing written comments on-line or calls the PUCO. While online comments and phone calls are helpful ways for consumers to participate in rate case proceedings, they are no substitute for providing live testimony on the record during a local public hearing. Benefits of a virtual local public hearing include:

1. Interactive Engagement: Unlike written comments or phone calls, virtual hearings offer real-time interaction and exchange of ideas among participants. Consumers can not only share their own concerns but also hear and respond to the perspectives of others in real-time, fostering a more informed and nuanced public record. Attorneys may also choose to ask consumers or other witnesses questions about their positions. This dynamic interplay can often reveal critical considerations that might otherwise be missed.
2. Accessibility and Comfort: Written comments may present a barrier for individuals less comfortable expressing themselves in writing or unfamiliar with formal dockets. A virtual hearing provides a more accessible platform for diverse voices to be heard, potentially amplifying the concerns of those who might hesitate to engage through traditional avenues.
3. Transparency and Public Scrutiny: Public hearings inherently bring increased transparency and public scrutiny to the proceedings. DEO's proposed rate increase significantly impacts Ohio consumers, and a virtual hearing would allow the public to witness firsthand the justifications and potential consequences of the rate increase. This visibility enhances accountability and strengthens public trust in the regulatory process.

Finally, DEO claims that no consumers have complained about the need for a virtual hearing. However, that is no (legitimate) reason to deny consumers an additional way to voice their views about DEO’s proposed rate hike. If consumers do not know that a virtual local public hearing is an option in the first place, they cannot possibly complain about not having one. The PUCO should be proactive to benefit consumers. The PUCO has the ability and technology to conduct a virtual local public hearing, and it should use it. The motion for virtual local public hearing should be granted.

# III. CONCLUSION

A virtual public hearing would significantly enhance access, engagement, and transparency in this critical proceeding where DEO is seeking massive rate increases from its consumers. DEO's arguments fail to demonstrate any substantial legal, practical, or cost-based obstacles to implementing a virtual hearing, and instead seem primarily focused on preserving the outdated status quo that excludes and disenfranchises many consumers. We urge the PUCO to recognize the inherent benefits of virtual hearings for consumer participation and exercise its broad authority under R.C. 4905.05 and R.C. 4905.06 to grant our motion in the best interests of the people of Ohio.

Respectfully submitted,

|  |  |
| --- | --- |
| Maureen R. Willis (0020847)Ohio Consumers’ Counsel */s/ Robert Eubanks*Robert Eubanks (0073386)Counsel of RecordDonald J. Kral (0042091)Thomas Brodbeck (0093920)Assistant Consumers’ Counsel**Office of the Ohio Consumers’ Counsel**65 East State Street, Suite 700Columbus, Ohio 43215Telephone [Eubanks]: (614) 466-1292Telephone: [Kral] (614) 466-9571Telephone: [Brodbeck] (614) 466-9565 robert.eubanks@occ.ohio.govdonald.kral@occ.ohio.govthomas.brodbeck@occ.ohio.gov (willing to accept service by e-mail)  | */s/ Stephanie Moes* Stephanie Moes (0077136)**Legal Aid Society of Southwest Ohio, LLC** 215 East Ninth Street, Suite 500 Cincinnati, Ohio 45202 (513) 362-2807 (direct dial) (513) 259-7309 (cell) smoes@lascinti.org (will accept service via e-mail) */s/ Susan Jagers*Susan Jagers (0061678)**Ohio Poverty Law Center**1108 City Park Ave. Suite 200Columbus, OH 43206614-824-2501sjagers@ohiopovertylaw.org(willing to accept service by e-mail) |

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Reply to Dominion’s Memorandum Contra Motion to Schedule a Virtual Local Public Hearing was served upon the persons listed below via electronic transmission this 29th day of December 2023.

 */s/ Robert Eubanks*

 Robert Eubanks

 Assistant Consumers’ Counsel

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

**SERVICE LIST**

|  |  |
| --- | --- |
| ashley.wnek@ohioAGO.govamy.botschnerobrien@ohioAGO.govBojko@carpenterlipps.comEasley@carpenterlipps.comAttorney Examiners:Gregory.price@puco.ohio.govclint.white@puco.ohio.gov | kennedy@whitt-sturtevant.comAndrew.j.campbell@dominionenergy.comdemonte@whitt-sturtevant.commbarbara@calfee.comtgallagher@fgplaborlaw.commichael.nugent@igs.comstacie.cathcart@igs.comjlang@calfee.comdproano@bakerlaw.compwillison@bakerlaw.comwhitt@whitt-sturtevant.commcurrie@ablelaw.org  |

1. Case Nos. 20-585-EL-AIR, 20-586-EL-ATA, and 20-587-EL-AAM, Attorney Examiner Entry (January 14, 2021) at ¶ 9. [↑](#footnote-ref-2)
2. R.C. 4903.083 states, in part, “…at least one public hearing shall be held in each affected service area…” [↑](#footnote-ref-3)
3. Case Nos. 22-1094-WW-AIR and 22-1096-ST-AIR, Entry (Aug. 11, 2023) ¶ 9. The PUCO stated that “OCC’s motion should be denied at this time.” Accordingly, motions for virtual hearing are handled by the PUCO on a case-by-case basis. [↑](#footnote-ref-4)
4. *See* Case Nos. 22-1094-WW-AIR and 22-1096-ST-AIR, PUCO Staff Reports (July 13, 2023). [↑](#footnote-ref-5)
5. *See* DEO Notice of Intent to File an Application (September 29, 2023) at pp. 10 and 19. [↑](#footnote-ref-6)
6. Case No. 20-167-EL-RDR, Entry (November 4, 2021) at¶ 14. [↑](#footnote-ref-7)