**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of The Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of an Alternative Form of Regulation.  | )))) | Case No. 15-0362-GA-ALT |

**INITIAL BRIEF**

**BY**

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# Introduction

Dominion East Ohio (“Dominion” or “Utility”) has filed an application seeking to raise rates to residential customers, where rates could soar from $6.70[[1]](#footnote-1) today to $17.20[[2]](#footnote-2) per month by 2021, for pipeline replacement. That is a lot of money for 1.1 million Dominion consumers to pay. Instead of imposing these high rate increases on consumers now, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) should first review Dominion’s operations to ensure that customers will not be charged for excessive profits.

The increase sought from customers pertains to the Utility’s Pipeline Infrastructure Replacement (“PIR”) cost recovery charge.[[3]](#footnote-3) The PIR program was initiated in 2008. Since its inception, consumers have paid over $1 billion[[4]](#footnote-4) for the program.

And, if this increase is approved, the total investment paid for by Dominion’s customers will be over $2 billion dollars.[[5]](#footnote-5)

The Office of the Ohio Consumers’ Counsel (“OCC”), representing Dominion’s 1.1 million residential gas customers, opposes the Utility's application. OCC recommends that the PUCO freeze the current PIR Rider cap ($1.40) for the next five-year PIR period. Additionally, customers should receive the full value of maintenance savings derived from fewer leak repairs. The PUCO should order a third-party audit of Dominion’s PIR program to determine what has caused such drastic cost increases in the PIR program.[[6]](#footnote-6) Prior to increasing the dollars collected from customers, the PUCO should undertake a holistic review of Dominion's operations (including profits).

# Background

Dominion’s PIR program was first approved by the PUCO in October of 2008. Under the program, Dominion sought to replace 4,122 miles of bare steel, cast iron and other pipeline types over a 25-year period.[[7]](#footnote-7) Its program allowed for the accelerated replacement of aging pipe and ineffectively coated pipe to prevent corrosion and reduce leak rates.[[8]](#footnote-8) The PUCO allowed Dominion to implement the PIR program “for an initial five-year period or until the effective date of new base rates resulting from the filing of an application to increase base rates resulting from the filing of an application to increase base rates, whichever comes first. At that time DEO may request continuation of the PIR program beyond the initial term.”[[9]](#footnote-9)

But Dominion did not wait to file a base rate case. Nor did it wait until the end of the initial five-year program to ask for more money. On March 31, 2011, Dominion filed a Motion to Modify the PUCO’s order approving the PIR program, under R.C. 4929.08.[[10]](#footnote-10) In its 2011 Application, Dominion explained that since the beginning of the PIR program, it found additional pipe that needed to be replaced on an accelerated basis. Because of this, Dominion asked the PUCO to increase the annual amount the utility could charge customers.[[11]](#footnote-11) The PUCO relented and allowed annual adjustments to the PIR charge. But it ruled that the annual increases in charges were not to exceed the most recently authorized level by more than $1.40 per year[[12]](#footnote-12) These incremental increases have been capped at $1.40 (the current rate cap).[[13]](#footnote-13)

|  |  |  |
| --- | --- | --- |
| **Effective Date** | **Residential Increase** (per customer) | **Total Residential Charge for PIR** (per customer) |
| Jan. 4, 2010 | ---- | $0.72/month[[14]](#footnote-14) |
| Nov. 5, 2010 | $0.86/month | $1.58/month[[15]](#footnote-15) |
| May 4, 2012 | $1.22/month | $2.80/month[[16]](#footnote-16) |
| May 7, 2013 | $1.26/month | $4.06/month[[17]](#footnote-17) |
| May 6, 2014 | $1.38/month | $5.44/month[[18]](#footnote-18) |
| May 6, 2015 | $1.33/month | $6.70/month[[19]](#footnote-19) |

The current total charge per residential customer for the PIR program is $6.70/month.[[20]](#footnote-20) However, Dominion has already filed, in a separate filing, to increase this charge under existing rate caps to $8.12/month.[[21]](#footnote-21) This $8.12 charge per month is part of

Dominion’s reauthorization approved in 2011. With PUCO approval, residential customers will begin paying $8.12 per month beginning in May 2016.[[22]](#footnote-22)

Dominion now claims that in the last 5 years, there has been a dramatic increase in costs that requires more investment and more customer funding. Dominion filed this case in February of 2015, seeking a reauthorization of the PIR program (as part of the five year reauthorization required by the PUCO).[[23]](#footnote-23) Dominion proposes to increasing the rates to residential consumers (by increasing the residential rate caps) in order to increase the its investment in the PIR program and meet the 25-year goal..[[24]](#footnote-24) Therefore, Dominion proposes the following cost increases:[[25]](#footnote-25)

|  |  |  |  |
| --- | --- | --- | --- |
| **Investment Year** | **Estimated Capital Investment[[26]](#footnote-26)** | **Proposed Residential Rate Cap Increase** (per customer) | **Total Residential Charge for PIR** (per customer)**[[27]](#footnote-27)** |
| 2017 | $180 million | $1.75/month | $9.86/month |
| 2018 | $200 million | $1.82/month | $11.68/month |
| 2019 | $206 million | $1.83/month | $13.51/month |
| 2020 | $212 million | $1.84/month | $15.35/month |
| 2021 | $219 million | $1.85/month | $17.20/month |

The chart above shows the proposed increases in investment and the corresponding increases that customers would pay on their monthly bills under the program as proposed. Note that in 2021, Dominion will be collecting $17.20 per month from its customers, a far cry from the .72 cents per month paid by customers in 2010.

OCC intervened and filed comments and testimony opposing this very significant rate increase to residential customers.[[28]](#footnote-28) In August of 2015, the staff of the PUCO filed a report recommending “that the Commission approve DEO’s proposals to increase PIR Program investments and raise the rate caps as the Company recommends.”[[29]](#footnote-29) Subsequently Staff signed a stipulation with Dominion consistent with that recommendation. [[30]](#footnote-30) The Stipulation differs only slightly from Dominion’s application because it flows back all O&M savings to customers. Dominion's application had proposed sharing these savings between the Utility and consumers.[[31]](#footnote-31)

# Standard of Review

Dominion seeks approval for its rate increase under Ohio law that allows natural gas distribution utilities to increase rates by filing an alternative rate plan.[[32]](#footnote-32) When an alternative rate plan is filed, the utility bears the burden of proof to show,[[33]](#footnote-33) inter alia, that the rate increase is just and reasonable.[[34]](#footnote-34) Under Ohio’s laws governing alternative rate plans for gas companies, natural gas must be available to consumers at a reasonable price. Further, the stipulation is reviewed under the standards that the Ohio Supreme Court stated in *Duff v. Pub. Util. Comm.*: that a stipulation is merely a recommendation that is not legally binding upon the PUCO.[[35]](#footnote-35) The PUCO “may take the stipulation into consideration, but must determine what is just and reasonable from the evidence presented at the hearing.”[[36]](#footnote-36)The PUCO has also adopted the following three-part test that it uses to evaluate settlements:[[37]](#footnote-37)

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties, where there is diversity of interests among the stipulating parties?
2. Does the settlement, as a package, benefit ratepayers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?

In reviewing settlement agreements, the PUCO has noted that its “primary concern is that the stipulation is in the public interest.”[[38]](#footnote-38)

# RECOMMENDATIONS

OCC recommends that the PUCO reject the stipulation that was filed between Dominion and the PUCO staff because it has fails the PUCO's three-part test. The stipulation is not the product of serious bargaining among parties with diverse interests -- only the staff of the PUCO and Dominion signed the stipulation. These cost increases are not necessary. And thus, not in the public interest. Adding $17.20 to residential consumers’ monthly bills is unjust and unreasonable and will not contribute to reasonable prices for customers. [[39]](#footnote-39) As such, they violate regulatory principles and practices. The PUCO should reject this stipulation and reject Dominion’s application to substantially increase rates to customers.

OCC further recommends that the PUCO instead modify the Utility’s proposal. The PUCO should freeze the current PIR Rider cap for the next five-year PIR period. A freeze on the amount of money collected from customers is just and reasonable because the target to complete the program in 25 years is arbitrary. It is also not justified because leak rates are down. In addition, customers should receive the full value of maintenance savings derived from fewer leak repairs. This means that all savings should be used to offset the cost of the program. Additionally, the PUCO should order a third-party audit of Dominion’s PIR program to determine what has caused such drastic cost increases in the PIR program.[[40]](#footnote-40) Finally, the PUCO should commit to a review of Dominion's rates (including profits) prior to charging customers for any more pipeline investment.

## The Stipulation that was signed by Dominion and the PUCO Staff was not the product of serious bargaining among parties with diverse interests.

 The stipulation was signed by only the PUCO Staff and the Utility. But there were five parties participating in this proceeding.[[41]](#footnote-41) The other non-signatory intervenors in this case, besides OCC, are the Industrial Energy Users-Ohio (“IEU”) and Ohio Partners for Affordable Energy (“OPAE”).

A stipulation must be shown to be the “product of serious bargaining among capable, knowledgeable parties” with diverse interests. But in this proceeding, only the PUCO staff and Dominion have signed this stipulation.[[42]](#footnote-42) No classes of customers (residential, industrial or commercial) were represented by the signatories. Indeed, no party that would pay the increased rates agreed to by the PUCO Staff and the Utility signed the stipulation. The Staff and the Utility do not have diverse interests as required by the PUCO.[[43]](#footnote-43) Therefore, the stipulation fails this prong of the test. The stipulation should be rejected by the PUCO.

## The Stipulation represents a drastic increase in costs for consumers and is not in the public interest.

The drastic increase in costs raises questions about Dominion’s management policies. Consider that in January 2010, customers were paying .72 cents per month, or $8.64 per year. Five years later, customers began to pay $6.70 per month, or $80.40 per year, a ten-fold increase in rates. By the end of 2021, if the Stipulation is approved, customers could pay a whopping $17.20 per month, or $206.40 per year. All without a review of Dominion's other expenses and revenues.

OCC Witness O'Neill testified that the factors that Dominion claims are causing the increase are short-lived and not likely to see a reversal.[[44]](#footnote-44) If these costs are likely to decrease (instead of increase), then it would be premature to set customers rates at such an inflated level. If left as proposed in the Stipulation, the rates for the PIR will not be representative of actual costs in effect when customers are paying future rates. This is another basis for the PUCO to find this stipulation is not in the public

For instance, Dominion claims that the growth in shale development in Ohio has increased demand for the contractors who construct and work on these types of infrastructure programs.[[45]](#footnote-45) But OCC Witness O'Neill testified that labor costs are likely to see drop at the same time as the price of oil and gas drops.[[46]](#footnote-46) The drop in the oil price has caused a drop in rig count, which will increase the availability of labor and construction resources and drop the cost of these resources.[[47]](#footnote-47)

The resulting drop in production may prevent construction resources from being strained in the future.[[48]](#footnote-48) Duke’s Accelerated Mains Replacement Program has also been concluded, thereby freeing up more labor resources as well.[[49]](#footnote-49) But Dominion did not take these recent events into account and is relying on old forecasts from before the crash in oil prices.[[50]](#footnote-50)

Furthermore OCC witness O’Neill questioned the prudence of Dominion charging forward with an accelerated program, when labor resources are scarce, driving up the ultimate costs to customers. OCC Witness O'Neill testified:

…Dominion is fully aware that the scale of its program is a factor in driving up its costs and rates to consumers. It certainly makes no sense at all to accelerate a program that is already facing cost pressures because it employed scarce labor resources…a solution to the problem caused by an accelerated program is not to accelerate it some more.[[51]](#footnote-51)

A program that is facing increasing costs that may be due to constrained construction resources should not be further constraining those resources by increasing investment and accelerating its program.

Additionally, Dominion's logic in piling extra costs onto customers' bills now when the price of natural gas is low is flawed. This logic has been described by OCC witness O’Neill as “odious and misguided.”[[52]](#footnote-52) He goes on to explain:

The timing of asset renewal should be based on the need, and accelerating the renewal just wastes money by spending it before it is needed. With the declining leak rates under the current program, it is clear that there is no need to ‘double down’ now in the hopes that consumers will not notice the upcharge in the face of lower commodity costs.[[53]](#footnote-53)

Customers should be allowed to benefit from the lower gas prices produced by the competitive market. They should not be forced to endure another rate hike, simply because natural gas prices are low. The PUCO should reject the stipulation and not allow Dominion to raise its PIR rate cap for residential customers.

## The stipulation violates regulatory principles and policy and should be rejected to protect consumers.

Under the standard of review articulated in Ohio law, this alternative ratemaking increase must be just and reasonable, and the burden is on the utility to prove that it is just and reasonable.[[54]](#footnote-54) Dominion has not met that burden, and this filing has revealed some serious issues with the program. In particular, Dominion has insisted on meeting an arbitrary 25-year standard and has not justified the doubling of the costs of its pipeline program.[[55]](#footnote-55)

### The 25-year target for the program is unnecessarily arbitrary and will costs customers too much.

The main driver of the price increase for residential consumers is the increased investment necessary to meet the 25-year goal that Dominion insists on meeting[[56]](#footnote-56) However, neither Dominion nor the PUCO staff have thoroughly articulated exactly why it must meet the 25-year goal. As stated by OCC witness O’Neill:

The selection of a 25-year target should never have been construed as a strict deadline, but rather a reasonable goal that would lead to a reasonable level of funding, e.g. pipeline replacement equal to approximately four percent per year. However, now that the costs of achieving that goal have increased considerably, maintaining that level of replacement for the next five years would be harmful to Dominion’s customers. Given that the reason for these cost increases is potentially due to a tight labor market the goal itself deserves reconsideration. Yet I am not aware of evidence from the Staff or Dominion that demonstrates that the 25-year goal was preferred over another timeframe.[[57]](#footnote-57)

Dominion has provided no evidence to support a 25-year timeframe. Nor have they conducted any modeling to show what are alternative replacement scenarios that would require less investment by customers (three or four percent, instead of five percent).[[58]](#footnote-58) Dominion has provided no support to their assertion that it is necessary to impose a 25-year timeframe and significantly increase costs for consumers.

The original 25-year timeframe was based on the “shortest manageable time-frame” as recommended by a Black and Veatch report that was filed in 2008, in Dominion’s last rate case.[[59]](#footnote-59) That report urged that if the rate of corrosion leaks per mile increased, then the program might need to be accelerated.[[60]](#footnote-60)

However, the opposite has turned out to be true. The corrosion leak rate has declined from 0.87 leaks per mile (2009) to 0.51 leaks per mile (2014).[[61]](#footnote-61) It is not necessary to maintain the vigorous pace of this program as the leak rate continues to decline. This is especially so when it causes customers rates to soar to over $200 per year.[[62]](#footnote-62)

Furthermore, OCC witness O’Neill asserts that it is likely that a less aggressive replacement schedule would not appreciably harm the program:

[B]ased on models that I have previously developed for use elsewhere and also models developed by others, that even under a three percent replacement program, leaks in the 25th year would decrease substantially, and, assuming the prioritization of pipe replacement would be based mainly on the “worst first” criterion (and somewhat based on street openings, etc.), the pipe left in year 25 of such a program would be expected to be some of the best pipe of that type in the system. Therefore, delaying a few years to replace the last 10-15 percent of the original inventory would not affect leak rates or risk appreciably, and would be consistent with the regulatory principle of gradualism.[[63]](#footnote-63)

In fact, other utilities have extended their replacement programs. For instance, Duke Energy Ohio extended the duration of its pipeline replacement program without raising the rates for consumers.[[64]](#footnote-64) Columbia Gas in Kentucky[[65]](#footnote-65), and the Atlanta Gas Light Company[[66]](#footnote-66) have also been required to extend their pipeline replacement programs. Dominion has provided no justification for why their program must stay at 25-years, and the associated cost increase has not shown to be prudent or just and reasonable.

### Dominion’s costs have nearly doubled, raising concerns about whether the program is being managed improperly, to the detriment of customers who must pay for the program.

Of course, the other driver for Dominion’s requested increase has been the drastic increase in costs. Regulatory policy requires that investments be used, useful and prudent.[[67]](#footnote-67) Dominion’s drastic increase in costs calls into question the prudency of the costs that have been incurred in this PIR program. There have been instances in other pipeline replacement programs where a drastic increase in costs resulted in an investigation that found deficiencies in the utility’s cost management practices.[[68]](#footnote-68) Approving an increase in residential rate caps when there has been such a drastic increase in costs is a violation of regulatory policy[[69]](#footnote-69) and the PUCO should reject the stipulation. At the very least, if the PUCO is considering allowing an increase, it must order a comprehensive in-depth audit to closely examine the reasons for this unusually large increase request. It should conduct such an investigation in the context of a holistic review of Dominion's expenses and revenues.

Dominion has no explanation or rationale to explain why its costs have nearly doubled since the program began.[[70]](#footnote-70) Discovery responses to OCC demonstrate this.[[71]](#footnote-71) This is deeply troubling because the burden of proof lies squarely with the Utility. If it is unable to prove what is causing its increase in costs, it should not be allowed to increase the rates it charges customers. As OCC witness O’Neill stated, “a good rule of thumb might be: not proven, not granted.”[[72]](#footnote-72)

Dominion contends that their cost management practices are effective because it bids out its work to contractors. However, this “argument substitutes good procurement for good cost management.”[[73]](#footnote-73) Cost management requires more than just a good bidding process. Proper control of contractors is needed to ensure that there is effective cost management throughout the process.[[74]](#footnote-74) In fact Dominion states that “[g]iven the volume of PIR work, individual cost elements cannot be broken out and precisely quantified.”[[75]](#footnote-75) OCC witness O’Neill testified that this was a “surprising admission of lack of proper documentation” and “symptomatic of poor control.”[[76]](#footnote-76)

Dominion has failed to reasonably determine why its costs are increasing. Consequently, it would violate regulatory policy to approve this Stipulation and allow Dominion to increase rates for customers for such costs. Such an increase would be unjust and unreasonable and violation of the policy goals and requirements set out by Ohio law.[[77]](#footnote-77)

Dominion has failed to provide detailed evidence on cost management,[[78]](#footnote-78) The PUCO should order that a third-party audit the costs of the program and determine the cause of the drastic increase in costs.

### To protect customers, the PUCO should order a review of Dominion's expenses and revenues, including profits that customers pay.

Dominion's application constitutes a request for single issue ratemaking. But single issue ratemaking, coupled with base distribution rates that have not been reviewed in eight years, does not make for good public policy. This is especially so when a utility is seeking further rate increases to customers during the next six years (through 2021) without committing to a thorough review of its expenses, revenues, and earnings.

While an application like Dominion's looks at one particular category of expenses, it fails to assess any counterbalancing reductions in expenses. Some costs of providing distribution gas service may have decreased since the last Dominion base rate case. But because those lower costs are not a part of the PIR, customers are stuck paying the higher rate resulting from the single issue ratemaking.

The PUCO require a review of Dominion prior to increasing the PIR funds collected from customers.

# Conclusion

The Stipulation that Dominion and Staff filed in this case fails to meet the standard for approval that has been set by the PUCO. It should be rejected. Since only the PUCO staff and Dominion have signed the stipulation, there is no diversity of interests. It fails the first part of the test. It also violates regulatory policy because Dominion has failed to show that it is a just and reasonable increase for the PIR program. Such a drastic unjustified increase in rates is simply not in the public interest.

OCC recommends that the PUCO maintain the current capped PIR rates. Further, the PUCO should investigate the increased costs of the PIR program. The PUCO should also require a holistic review of Dominion's rates prior to increasing the PIR funds collected from customers.

 Respectfully submitted,

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**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of this *Initial Brief* has been served on the persons stated below via electronic transmission, this 15th day of March, 2016.

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1. East Ohio Gas Company Tariff, Tariff Sheet PIR-1 (Eighth Revised Tariff sheet, in effect on May 6, 2015). [↑](#footnote-ref-1)
2. *See,* *infra* page 5 for the full calculation of the impact on rates of Dominion’s PIR proposed application. [↑](#footnote-ref-2)
3. DEO Ex. 1 at 7 (Frisic Direct). [↑](#footnote-ref-3)
4. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Cost Recovery Charge and Related Matters, Case No. 15-1987-GA-RDR*, Application at Att. A, Schedule 1 (Feb. 29, 2016). [↑](#footnote-ref-4)
5. *See* Staff Ex. 2 at 5 (totaling the Estimated Capital Investment at $1.017 billion and adding the $1 billion already invested); *See* *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement. Cost Recovery Charge and Related Matters*, Case No. 15-1987-GA-RDR, Application at Att. A, Schedule 1 (Feb. 29, 2016)(Showing roughly $1 billion already invested in the program). [↑](#footnote-ref-5)
6. OCC Ex. 3 at 30 (O’Neill Direct). [↑](#footnote-ref-6)
7. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service,* Case No. 07-829-GA-AIR, Opinion and Order at 9-10 (Oct. 15, 2007). [↑](#footnote-ref-7)
8. DEO Ex. 1 at 3 (Frisic Direct). [↑](#footnote-ref-8)
9. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service,* Case No. 07-829-GA-AIR, Opinion and Order at 9 (Oct. 15, 2007). [↑](#footnote-ref-9)
10. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Modify and Further Accelerate its Pipeline Infrastructure Replacement Program and to Recover the Associated Costs*, Case No. 11-2401-GA-ALT. Opinion and Order at 2 (Aug. 3, 2011). [↑](#footnote-ref-10)
11. *Id*, at 3. [↑](#footnote-ref-11)
12. *Id*. at 6. [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge*, Case No. 09-458-GA-RDR, Final Pipeline Infrastructure Replacement ("PIR") Cost Recovery Charge tariff (Dec. 21, 2009). [↑](#footnote-ref-14)
15. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge*, Case No. 10-733-GA-RDR, Opinion and Order at 4 (Nov. 3, 2010). [↑](#footnote-ref-15)
16. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge*, Case No. 12-812-GA-RDR, Opinion and Order at 4 (April 25, 2012). [↑](#footnote-ref-16)
17. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge*, Case No. 12-3125-GA-RDR, Opinion and Order at 4 (April 24, 2013). [↑](#footnote-ref-17)
18. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge*, Case No. 13-2320-GA-RDR, Opinion and Order at 2 (April 23, 2014). [↑](#footnote-ref-18)
19. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge*, Case No. 14-2134-GA-RDR, Opinion and Order at 2 (April 22, 2015). [↑](#footnote-ref-19)
20. East Ohio Gas Company Tariff, Tariff Sheet PIR-1 (Eighth Revised Tariff sheet, in effect on May 6, 2015). [↑](#footnote-ref-20)
21. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Cost Recovery Charge*, Case No. 15-1987-GA-RDR, Application at Attachment B (February 29, 2016). [↑](#footnote-ref-21)
22. *See In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Modify and Further Accelerate its Pipeline Infrastructure Replacement Program and to Recover the Associated Costs*, Case No. 11-2401-GA-ALT, Stipulation and Recommendation at 4 (July 15, 2011). [↑](#footnote-ref-22)
23. *See* *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service,* Case No. 07-829-GA-AIR, Opinion and Order at 9-10 (Oct. 15, 2008). [↑](#footnote-ref-23)
24. DEO Ex. 5 at 6 (Application filed March 31, 2015). [↑](#footnote-ref-24)
25. Staff Ex. 2 at 5 (Staff Report). [↑](#footnote-ref-25)
26. *See* Staff Ex. 2 at 5 (Staff Report). [↑](#footnote-ref-26)
27. These numbers are calculated by showing the cumulative increase based on the caps indicated in Staff Ex. 1 at 5 added to the proposed charge of $8.12 ( e.g. $8.12+$1.75=$9.87, $9.87+$1.82=$11.68). These numbers also assume approval of Dominion’s increase as applied in for in Case No. 15-1987-GA-RDR. [↑](#footnote-ref-27)
28. *See* OCC Ex. 1 (Comments by the OCC); OCC Ex. 2 (Objections to the Staff Report by the OCC). [↑](#footnote-ref-28)
29. Staff Ex. 2 at 8 (Staff Report). [↑](#footnote-ref-29)
30. Joint Ex. 1 (Stipulation and Recommendation). [↑](#footnote-ref-30)
31. *See Id.* at 2 (Stipulation and Recommendation). The stipulation states that the O&M savings will be calculated in accordance with the PUCO opinion and order in the 09-458-GA-RDR which allows for all savings to be flowed back to the consumer. *See* *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge and Related Matters*, Case No. 09-458-GA-RDR, Opinion and Order at 11 (Dec. 16, 2009). [↑](#footnote-ref-31)
32. R.C. §4929.05. [↑](#footnote-ref-32)
33. The Utility must also show compliance with R.C. §4905.35 (regarding the prohibition on discrimination); R.C. §4929.02 (compliance with state policy regarding natural gas utilities); *See* R.C. §4929.05. [↑](#footnote-ref-33)
34. *See* R.C. §4929.05(3)(C). [↑](#footnote-ref-34)
35. *Duff v. Pub. Util. Comm*., 56 Ohio St.2d 367 (1978); *see also* Ohio Adm. Code 4901-1-30(E). [↑](#footnote-ref-35)
36. *See id.* [↑](#footnote-ref-36)
37. *Consumers’ Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126 (1992). The Commission also often takes into account the “diversity of interests” as part of the first part of the stipulation assessment. *See* *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer, Case No. 10-388-EL-SSO*, Opinion and Order at 48 (August 25, 2010). [↑](#footnote-ref-37)
38. *In the Matter of the Application of The Cincinnati Gas & Electric Company for an Increase in Electric Rates in its Service Areas*, Case No. 91-410-EL-AIR, Order at 3 (April 14, 1994). [↑](#footnote-ref-38)
39. R.C. §4929.02(A)(2). [↑](#footnote-ref-39)
40. OCC Ex. 3 at 30 (O’Neill Direct). [↑](#footnote-ref-40)
41. *See* Joint Ex. 1 at 5 (Recommendation and Stipulation). [↑](#footnote-ref-41)
42. Joint Ex. 1 at 5 (Stipulation and Recommendation). [↑](#footnote-ref-42)
43. *See* *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer, Case No. 10-388-EL-SSO*, Opinion and Order at 48 (August 25, 2010). [↑](#footnote-ref-43)
44. *See* OCC Ex. 3 at 18 (O’Neill Direct). [↑](#footnote-ref-44)
45. DEO Ex. 2 at 5 (Reed Direct). [↑](#footnote-ref-45)
46. OCC Ex. 3 at 19 (O’Neill Direct). [↑](#footnote-ref-46)
47. *Id.* at 20. [↑](#footnote-ref-47)
48. *Id.* at 21. [↑](#footnote-ref-48)
49. *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates to Recover Costs Incurred in 2010*, Case No. 10-2788-GA-RDR, Opinion and Order at 8 (May 4, 2011). [↑](#footnote-ref-49)
50. OCC Ex. 3 at 21 (O’Neill Direct). [↑](#footnote-ref-50)
51. OCC Ex. 3 at 22 (O’Neill Direct). [↑](#footnote-ref-51)
52. *Id.* at 28. [↑](#footnote-ref-52)
53. *Id.* at 28-29. [↑](#footnote-ref-53)
54. R.C. §4928.05. [↑](#footnote-ref-54)
55. OCC Ex. 4 at 3 (O’Neill Supplemental). [↑](#footnote-ref-55)
56. DEO Ex. 1 at 7 (Frisic Direct). [↑](#footnote-ref-56)
57. OCC Ex. 4 at 5 (O’Neill Supplemental). [↑](#footnote-ref-57)
58. *Id.* at 5-6. [↑](#footnote-ref-58)
59. OCC Ex. 4 at 7-8 (O’Neill Supplemental). [↑](#footnote-ref-59)
60. *Id.* at 8. [↑](#footnote-ref-60)
61. *Id.* at 9. [↑](#footnote-ref-61)
62. *Id*. [↑](#footnote-ref-62)
63. *Id.* at 6. [↑](#footnote-ref-63)
64. OCC Ex. 4 at 6 (O’Neill Supplemental). [↑](#footnote-ref-64)
65. *Id.* at 10, citing *In The Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, Kentucky Public Service Commission, Case No. 2009-00141, Volume 7, Direct Testimony of Steven Vitale. [↑](#footnote-ref-65)
66. *Id.* at 6, citing *In the Matter of Atlanta Gas Light Company*, GA PSC docket 8516-U, Order (July 21, 1998). [↑](#footnote-ref-66)
67. *See* R.C. §4909.154 (Requiring that “In fixing the just, reasonable, and compensatory rates…the public utilities commission shall not allow such operating and maintenance expenses of a public utility as are incurred by the utility through management policies or administrative practices that the commission considers imprudent.”). [↑](#footnote-ref-67)
68. An explosion in costs in Peoples Gas Light & Coke of Chicago for their accelerated main replacement program was seen to be so alarming that a third-party audit was conducted. This audit found that the utility was deficient in its cost management, and allowed contractors too much control over the program. *See* OCC Ex. 3 at 23 (O’Neill Direct). [↑](#footnote-ref-68)
69. Such an action would not be in compliance with the promotion of “adequate, reliable and reasonably priced gas service,” or be a “just and reasonable” increase. *See* R.C. §4929.02(A)(1); R.C. §4929.05 (A)(3). [↑](#footnote-ref-69)
70. *See* OCC Ex. 3 at 26-27 (O’Neill Direct). [↑](#footnote-ref-70)
71. *Id.* [↑](#footnote-ref-71)
72. *See* OCC Ex. 3 at 26-27 (O’Neill Direct). [↑](#footnote-ref-72)
73. *Id.* at 29. [↑](#footnote-ref-73)
74. *See* *Id.* [↑](#footnote-ref-74)
75. DEO Ex. 4 at 4 (Reed Supplemental). [↑](#footnote-ref-75)
76. OCC Ex. 3 at 29 (O’Neill Direct). [↑](#footnote-ref-76)
77. *See* R.C. §4929.05 (requiring the alternative rate plan be “just and reasonable.”). [↑](#footnote-ref-77)
78. OCC Ex. 3 at 26-27 (O’Neill Direct). [↑](#footnote-ref-78)