**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In The Matter of the Audit of the Transportation Migration Rider – Part B of The East Ohio Gas Company D/B/A Dominion East Ohio.  In The Matter of The Audit of The Uncollectible Expense Rider of The East Ohio Gas Company D/B/A Dominion East Ohio.  In The Matter of The Audit of The Percentage of Income Payment Plan Rider of The East Ohio Gas Company D/B/A Dominion East Ohio. | )  )  )  )  )  )  )  )  ) | Case No. 17-219-GA-EXR  Case No. 17-319-GA-UEX  Case No. 17-419-GA-PIP |

**MEMORANDUM CONTRA**

**DOMINION’S MOTION FOR INDEFINITE STAY OF DISCOVERY**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# INTRODUCTION

It is the statutory duty of the Office of the Ohio Consumers’ Counsel (“OCC’) to advocate on behalf of the Dominion East Ohio Gas Company’s (“Dominion”) 1.1 million residential utility consumers.[[1]](#footnote-2) Through its motion to stay discovery, Dominion is attempting to impede Ohio’s residential consumer advocate and restrict intervenors’ discovery rights. OCC files this memorandum contra Dominion’s motion to protect those rights.

The issue before the Public Utilities Commission of Ohio (“PUCO” or “Commission”) is whether an intervening party should be allowed to file discovery in an audit proceeding before an evidentiary hearing has been scheduled. The PUCO should deny Dominion’s motion and protect the due process rights of industry stakeholders by affirming that discovery rights in this proceeding are important, ample, and well-protected under PUCO rules, Ohio law, and PUCO precedent.

# BACKGROUND

This case involves the Transportation Migration Rider – Part B, Uncollectable Expense Rider, and the Percentage of Income Payment Plan Rider of Dominion. Residential customers pay charges through these riders as part of their natural gas utility service. On April 19, 2017, the PUCO issued an Entry ordering that an audit of each rider be conducted by an independent auditor and that comments from impacted parties be submitted.[[2]](#footnote-3)

On June 13, 2017, the OCC filed a motion to intervene in this case in order to represent the interests of Dominion’s residential consumers. Dominion did not oppose OCC’s motion to intervene and, in fact, later conceded OCC’s right to participate in this proceeding.[[3]](#footnote-4) Consistent with the rights of a party who has filed a Motion to Intervene,[[4]](#footnote-5) OCC served discovery on Dominion, on June 29, 2017. Rather than respond to OCC’s discovery, Dominion filed a Motion for an Indefinite Stay of Discovery on July 14, 2017.

# RECOMMENDATIONS

Dominion argues that all parties’ discovery rights should be stayed “unless later permitted by the Commission following the conclusion of the review and comment period….”[[5]](#footnote-6) Dominion is presumably arguing that discovery should not be permitted until and unless the PUCO orders an evidentiary hearing in this proceeding. Dominion additionally asserts that any discovery at this point would: (1) unreasonably duplicate the independent audit already ordered; (2) be inconsistent with the role of the parties and the scope of the proceedings defined by the PUCO; and (3) be premature.[[6]](#footnote-7) That is, Dominion believes discovery would either be unnecessary and burdensome because it duplicates the independent review already underway. Or, the discovery would be outside the scope of the proceedings because it is seeking information the auditor did not.

Dominion’s Motion would unreasonably and unlawfully limit OCC’s and all other intervenors’ rights to participate in this proceeding. It would place barriers to discovery that are not included in the PUCO’s administrative rules and contradict prior PUCO and Supreme Court of Ohio (“court”) precedent. Moreover, contrary to Dominion’s assertions, discovery is neither irrelevant nor premature at the current stage of this or any other similar PUCO proceeding. Such an argument is clearly aimed at establishing precedent that would eliminate an intervenor’s right to discovery in an audit proceeding and, consequently, limit the adverse arguments that may be presented in comments. This would establish a dangerous legal precedent that serves no purpose, inflicts rather than prevents harm, and is against the interests of the public.

Ohio law, PUCO rules, and precedent from the PUCO and the Supreme Court of Ohio authorize and protect a party’s right to ample and immediate discovery rights in this proceeding. The Ohio Supreme Court has held that the PUCO should “respect its own precedents in its decisions to assure the predictability which is essential in all areas of the law, including administrative law.”[[7]](#footnote-8) Further, the Ohio Supreme Court has instructed that if the PUCO does reverse past precedent it must explain why it is doing so[[8]](#footnote-9) and the new course must be reasonable and lawful.[[9]](#footnote-10) As explained more fully below, prohibiting discovery at this stage of an audit proceeding is neither reasonable nor lawful. Accordingly, the PUCO should not diverge from the well-established law and precedent which require parties to have ample and immediate rights to discovery.

Therefore, Dominion’s Motion should be denied and Dominion should be ordered to respond to OCC’s pending discovery requests immediately.

## A party’s right to discovery, even in PUCO proceedings in which an evidentiary hearing has not been noticed, is authorized and protected by Ohio law, PUCO rules, and legal precedent.

It is well-established that Ohio law, PUCO rules, and precedent from the PUCO and the Ohio Supreme Court authorize and protect a party’s right to ample and immediate discovery rights. The Ohio Revised Code requires that a party be granted “ample rights of discovery.”[[10]](#footnote-11) Ohio Admin. Code 4909:1-17(A) provides that “discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible.”[[11]](#footnote-12) And, Ohio Admin. Code 4909:1-16(B) provides that “any party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceedings.”[[12]](#footnote-13) These rules have generally been upheld and confirmed by the Ohio Supreme Court. The court has opined that the PUCO’s discovery rule is similar to Civ. R. 26(B)(1), which governs the scope of discovery matters and has been liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding.[[13]](#footnote-14)

Further, the PUCO has made clear that a parties' right to ample and timely discovery exists whether a proceeding is set for comments or an evidentiary hearing. For example, in a 2012 Entry in PUCO Case No. 11-5351-GA-UNC, the PUCO denied Columbia Gas of Ohio, Inc.’s (“Columbia”) Motion to Stay OCC’s discovery rights.[[14]](#footnote-15) Columbia argued that discovery was improper and premature, given that the PUCO had not set a procedural schedule in the case. Columbia claimed that without a procedural schedule it is impossible to know whether OCC’s discovery requests are relevant or likely to lead to the discovery of admissible evidence and that if a hearing was not scheduled then discovery should be permanently stayed. Finally, Columbia argued that the mere filing of an application does not trigger a party's discovery rights.

The PUCO summarily denied Columbia’s Motion, noting that the discovery process is required under the law and PUCO rule, may begin immediately after a proceeding commences, and is beneficial because it assists the PUCO in being better informed in its review of utility applications:

Upon consideration of Columbia's motion to stay discovery, the attorney examiner finds that, although the Commission will determine what further process may be necessary following the receipt of the comments and reply comments, the parties should be permitted to continue the discovery process. Section 4903.082, Revised Code, requires the Commission to ensure ample rights of discovery, while Rule 4901-1-17(A), O.A.C, generally provides that discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible. The discovery process will aid the parties in the preparation of their comments and reply comments in these cases and, ultimately, better inform the Commission's review of the application.[[15]](#footnote-16)

Dominion’s position, therefore, that discovery at this stage of the proceeding is improper, is in direct conflict with this PUCO precedent.

In addition, in a 2014 review of the PUCO rules in PUCO Case No. 11-776-AU-ORD, the PUCO again confirmed that discovery is not just for proceedings in which a hearing is scheduled.[[16]](#footnote-17) In that case, several stakeholders offered comments on Ohio Admin. Code 4909:1-16(B) that advocated for limiting discovery to those proceedings in which a hearing had been scheduled, or, in the alternative, requiring a party to obtain PUCO approval to conduct discovery in those proceedings in which there was no hearing. The PUCO denied such recommendations stating, in part: “The Commission also notes that not all proceedings result in a hearing. Thus, discovery is sometimes necessary to obtain sufficient information regarding an application or other pleading in order to provide substantive comments.”[[17]](#footnote-18) This is the exact situation in this proceeding. The PUCO should affirm its rationale and decision in Case No. 11-776-AU-ORD.

As contemplated by law, PUCO rule, and court precedent, parties are afforded ample rights of discovery regardless of the stage of the proceeding. The fundamental basis for these discovery rights is so that parties in PUCO cases are able to present recommendations and positions that are based on information and data obtained through the discovery process. To ensure the PUCO has full and accurate information on the issues, the PUCO should guarantee that parties and intervenors have the ample rights of discovery that the Ohio General Assembly decided they should have via R.C. 4903.082. Dominion’s motion should be denied.

## Dominion’s motion should be denied because it is not in compliance with the Ohio Administrative code.

Even if Dominion’s motion had merit (which OCC is not conceding) it should be denied because it is not in compliance with PUCO rules. Under Ohio Admin. Code 4901-1-24(A), any party that receives a discovery request may file a motion requesting a PUCO order to protect the person from annoyance, embarrassment, oppression, or undue burden or expense.[[18]](#footnote-19) A protective order under O.A.C. 4901-1-24(A) may provide, among other things, that “discovery not be had” or that discovery be conducted under other specific terms or conditions. In its motion, Dominion argues that discovery should not be had because it will duplicate the costs and burden of the annual review process.[[19]](#footnote-20) Therefore, Dominion’s motion is a motion for a protective order under a different name.

A motion for a protective order must include certain items and comply with certain conditions precedent. First, no motion for a protective order can be filed until the party seeking the order “has exhausted all other reasonable means of resolving any differences with the party seeking discovery.”[[20]](#footnote-21) The motion for protective order must then include an affidavit of counsel setting forth these efforts.”[[21]](#footnote-22) Here, Dominion made no attempt to resolve the discovery issue with OCC. In fact, OCC first learned of the issue when it was served with Dominion’s motion on July 14, 2017. Even then, it was OCC’s counsel that contacted Dominion in hopes of resolving the dispute. However, Dominion made clear that it wished to pursue its motion, not attempt to resolve the differences. Therefore, Dominion failed to comply with this provision of the PUCO rules.

Second, a motion for protective order must be accompanied by a “memorandum in support, setting forth the specific basis of the motion and citations of any authorities relied upon.”[[22]](#footnote-23) Here, Dominion did not format its motion with a memorandum in support. Dominion also did not cite any law, statutes, or other legal authority to support its argument. Therefore, Dominion failed to comply with this provision of the PUCO rules.

Third, a motion for protective order must include “[c]opies of any specific discovery requests that are the subject of the request for a protective order.”[[23]](#footnote-24) Here, Dominion did not include any discovery requests with its motion. Without inclusion of the specific discovery requests in question there is no way to determine if the discovery would indeed cause undue burden or expense. Therefore, Dominion’s motion should be denied because it fails to comply with PUCO rules and regulations.

## Contrary to Dominion’s assertion, discovery in an audit proceeding should not be treated differently than discovery in other PUCO proceedings.

Dominion now asks the PUCO to set aside the well-reasoned and well-established discovery-related law, rules, and precedent, even though the PUCO discovery rules were intended minimize PUCO involvement.[[24]](#footnote-25)And, Dominion does so without citing any legal authority (or even attempting to work with the OCC to resolve the dispute). Instead, Dominion’s motion seems to rest entirely on the notion that the discovery process for an audit proceeding should be treated differently than any other legal proceeding. Specifically, as stated earlier, Dominion alleges that discovery is inappropriate at this stage of an audit proceeding because any discovery would be either: (1) duplicative of the independent accountant’s review; or (2) inconsistent with the role of the parties and the scope of the proceeding.[[25]](#footnote-26)

Dominion fundamentally misunderstands the purpose and process of an audit proceeding. The purpose of the proceeding is to verify and investigate Dominion’s implementation of certain riders.[[26]](#footnote-27) OCC is not performing the audit. It is representing the interests of Dominion’s residential consumers who are being charged the rates that are the subject of the audit. The independent auditor is tasked with performing the audit. The interests of the auditor and the OCC, as well as every other party, are different. Accordingly, the independent auditor will request information from Dominion in order to complete the audit process. OCC will also request information from Dominion in order to formulate substantive comments on Dominion’s charging of the rider’s costs to consumers[[27]](#footnote-28) and the conclusions, results, and recommendations expressed by the auditor.[[28]](#footnote-29) OCC’s comments were invited by the PUCO.[[29]](#footnote-30) And, as noted earlier, “discovery is sometimes necessary to obtain sufficient information regarding an application or other pleading in order to provide substantive comments.” OCC has deemed it necessary in this proceeding so that it can determine, among other things, whether the audit was performed properly and whether Dominion is charging residential consumers properly. OCC is acting well within its rights, protected by Ohio law and PUCO rules, when seeking discovery here.

Second, Dominion’s logic that discovery at this time would only be duplicative of the auditor’s work or outside the scope is both flawed and contradicted by the PUCO’s request for comments. As noted above, the OCC’s discovery will aid it in determining whether, among other things, the audit was performed properly and whether Dominion is charging residential consumers properly. This is not duplicative or outside the scope of the proceeding or the parties’ roles. Indeed, these are the reasons OCC intervened in the proceeding, as was explained in OCC’s unopposed motion to intervene. Further, the lack of discovery would essentially leave the proceeding short of any additional constructive analysis beyond the four corners of the auditor’s report. That is, there would be no additional evidence in the record, if, admittedly, any exists, because only discovery would uncover such evidence. Intervenor’s comments would then essentially be a useless exercise of verifying the auditor’s report. This is surely not the process or result the law requires, or the PUCO intends. Just as discovery is welcomed prior to a Staff Report, discovery should be welcome prior to an auditor’s report. Without this discovery, a parties' substantive review of the auditor’s report would not be possible.

Furthermore, if the PUCO had wanted to prohibit discovery in this proceeding, it could have done so in its April 19 Entry that explained the proceeding’s purpose and process. It did not. Likewise, if Dominion had an issue with the April 19 Entry it could and should have filed an interlocutory appeal. It chose not to do so. If Dominion had an objection to OCC’s discovery it could and should have (1) attempted to resolve the discovery dispute without PUCO intervention, (2) provided responses and objections to OCC’s discovery, or (3) filed a proper motion for a protective order regarding OCC’s discovery. It chose not to do any of these things. Dominion’s attempt to stay all discovery now has no merit and should be denied.

## Approving Dominion’s motion would serve no legitimate purpose, will inflict rather than prevent harm, and is not in the public interest.

The PUCO has adopted a four-factor test to determine whether a stay should be granted in PUCO proceedings. While the test is generally used in non-discovery circumstances, the factors are still relevant, informative, and useful here. Specifically, the PUCO will consider: (1) whether there has been a strong showing that the party seeking the stay is likely to prevail on the merits;[[30]](#footnote-31) (2) whether the party seeking the stay has shown that it would suffer irreparable harm absent the stay; (3) whether the stay would cause substantial harm to other parties; and (4) where lies the public interest.[[31]](#footnote-32)

In reverse order, Dominion cannot satisfy the fourth or third factors. A stay of discovery would harm the intervenors and the public interest. If OCC and other intervenors are prohibited from serving discovery requests it will not be possible to obtain sufficient information to prepare comments in this proceeding. This lack of information could also hamper the PUCO’s decision-making. Replete information is key for PUCO decision-making, as the PUCO recently stated in a decision in an electric case:

In the Opinion and Order, the Commission recognized that these rate impacts may be significant, based upon evidence indicating that total bill impacts may, in some cases, approach 30 percent. However, the evidence in the record inadvertently failed to present a full and accurate portrayal of the actual bill impacts to be felt by customers, particularly with respect to low load factor customers who have low usage but high demand.[[32]](#footnote-33)

To ensure the PUCO has a full and accurate portrayal of the issues presented in a particular case, the PUCO should guarantee that parties and intervenors have the ample rights of discovery that they are entitled to under R.C. 4903.082.

In addition, a PUCO Order granting Dominion’s motion to stay discovery would indeed harm the public interest because it would serve as dangerous legal precedent that could be used to further reduce both the adverse evidence available in a proceeding and the participation level of intervening parties. As explained above, it would leave intervenors in all audit proceedings as mere spectators. Such a gag order on due process and rights to discovery should not be tolerated.

Dominion also fails the second factor that no party will be harmed absent a stay. Dominion is not being harmed by OCC’s discovery.[[33]](#footnote-34) The independent auditor is not being harmed by OCC’s discovery. No other intervening party is being harmed by OCC’s discovery. And, the PUCO is not being harmed by OCC’s discovery. In fact, as stated earlier, OCC’s discovery will help the PUCO as it will bring more information to light, which will aid the PUCO in reaching a decision in the proceeding.[[34]](#footnote-35) Moreover, as stated in its unopposed motion to intervene, OCC’s discovery will not unduly prolong or delay the proceedings.[[35]](#footnote-36)

# CONCLUSION

OCC is properly conducting discovery in accordance with Ohio law, PUCO rules, and court precedent. Discovery in PUCO proceedings is meant to be ample and with minimal PUCO involvement.[[36]](#footnote-37) Without citing any legal authority or first attempting to resolve the discovery dispute without PUCO intervention, Dominion has asked the PUCO to restrict the discovery rights that OCC is exercising on behalf of Ohio’s residential consumers. OCC requests that the PUCO affirm and enforce its discovery rules by denying Dominion’s Motion and by ordering Dominion to respond to OCC’s pending discovery requests immediately.

Respectfully submitted,

BRUCE WESTON (0016973)

OHIO CONSUMERS’ COUNSEL

*/s/ Kevin F. Moore\_\_\_\_\_\_\_*

Ajay Kumar (0092208)

Counsel of Record

Kevin F. Moore (0089228)

Assistant Consumers’ Counsel

**Office of the Ohio Consumers’ Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: [Kumar] 614-466-1292

Telephone: [Moore] 614-387-2965

Ajay.kumar@occ.ohio.gov

Kevin.moore@occ.ohio.gov

(will accept service via email)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 31st day of July 2017.

*/s/ Kevin F. Moore\_\_\_\_*

Kevin Moore

Assistant Consumers’ Counsel

**SERVICE LIST**

|  |  |
| --- | --- |
| William.wright@ohioattorneygeneral.gov  Attorney Examiner:  James.lynn@puc.state.oh.us | whitt@whitt-sturtevant.com  campbell@whitt-sturtevant.com  glover@whitt-sturtevant.com |

1. R.C. 4911.02(B)(2)(c). [↑](#footnote-ref-2)
2. See *In the Matter of the Audit of the Audit of the Transportation Migration Rider – Part B of the East Ohio Gas Company d/b/a Dominion Energy Ohio,* Case No. 17-0219-GA-EXR, et al., Entry (April 19, 2017) (“April 19 Entry”). [↑](#footnote-ref-3)
3. See Dominion Motion to Stay at 2. [↑](#footnote-ref-4)
4. Ohio Admin. Code 4901-1-17(A) and 4901-1-16(H). [↑](#footnote-ref-5)
5. Dominion Motion to Stay at 3. [↑](#footnote-ref-6)
6. See Dominion Motion to Stay at 3-5. [↑](#footnote-ref-7)
7. *In re Columbus Southern Power Co.,* 128 Ohio St. 3d 512, 667 (2011) citing *Cleveland Elec. Illum. Co. v. Pub. Util. Comm.* 42 Ohio St. 403, 431 (1975), superseded on other grounds by statute as recognized in *Babbit v. Pub. Util. Comm.* (1979), 59 Ohio St. 2d 81, 89, (1979). [↑](#footnote-ref-8)
8. Id. citing See, e.g., *Util. Serv. Partners, Inc. v. Pub. Util. Comm.*, 124 Ohio St.3d 284, 2009 Ohio 6764, 921 N.E.2d 1038, ¶ 18; *Office of Consumers' Counsel v. Pub. Util. Comm.*, 16 Ohio St. 3d 21, 21-22 (1985) (“’A few simple sentences in the commission's order in this case would have sufficed' to explain why a previous order had been overruled”). [↑](#footnote-ref-9)
9. *In re Columbus Southern Power Co.,* 128 Ohio St. at 667. [↑](#footnote-ref-10)
10. R.C. 4903.082. [↑](#footnote-ref-11)
11. Ohio Admin. Code 4901-1-17(A). [↑](#footnote-ref-12)
12. Ohio Admin. Code 4901-1-1-16(B). [↑](#footnote-ref-13)
13. See *Ohio Consumers’ Counsel v. Public Util. Comm.,* 111 Ohio St.3d 300 (2006); See also *Moskovitz v. Mt. Sinai Med. Ctr.*, 69 Ohio St.3d 638, 661 (1994) (“The purpose of Civ. R. 26 is to provide a party with the right to discover all relevant matters, not privileged, that are pertinent to the subject matter of the pending proceeding.”). [↑](#footnote-ref-14)
14. See *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Case No. 11-5351-GA-UNC, et al., Entry at 2-4 (Jan. 27, 2012). [↑](#footnote-ref-15)
15. Id at 3; See also e.g., *In the Matter of the Application of The Dayton Power and Light Company for Authority to Modify and Amend its Existing Electric Rates to Phase in Rates Reflecting the Costs of Zimmer Station,* Case No. 88-1047-EL-UNC, Entry at 4 (Sept. 7, 1988) (“The Commission finds it necessary to remind the parties, that the purpose of the Commission's discovery rules is "to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings . . . [and the] rules are also intended to minimize commission intervention in the discovery process". Rule 4901-1-16(A), O.A.C. The parties are expected to comply with those worthy intentions of the Commission’s discovery rules.”); *In the Matter of the Complaint of the Ohio Bell Telephone Company d/b/a AT&T Ohio, Complainant, v. City of Springfield, Ohio, Resident*, Case No. 17-291-AU-PWC, Entry at 3-4 (March 30, 2017) (“In addition, the parties are reminded that, pursuant to Ohio Adm. Code 4901-1-17, discovery may begin immediately after a  [\*4] proceeding is commenced and should be completed as expeditiously as possible.”); *In the Matter of the Application of MFS Intelenet of Ohio, Inc. for a Certificate of Public Convenience and Necessity to Operate as a Local Exchange Company in Certain Specified Areas,* Case No. 94-2019-TP-ACE, Entry at 4 (March 9, 1995) (“Pursuant to Rule 4901-1-17, Ohio Administrative Code (O.A.C.), discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible.”). [↑](#footnote-ref-16)
16. *In the Matter of the Commission's Review of Chapters 4901-1, Rules of Practice and Procedure; 4901-3, Commission Meetings; 4901-9, Complaint Proceedings; and 4901:1- 1, Utility Tariffs and Underground Protection, of the Ohio Administrative Code,* Case No. 11-776-AU-ORD, Finding and Order at 22-24 (Jan. 22, 2014). [↑](#footnote-ref-17)
17. Case No. 11-776-AU-ORD, Finding and Order at 23 (Jan. 22, 2014). [↑](#footnote-ref-18)
18. OAC 4901-1-24(A). [↑](#footnote-ref-19)
19. Dominion Motion to Stay at 3 (“Requiring DEO to answer discovery from OCC (or any other third party) will duplicate the costs and burden of the annual review process already in place, which are borne solely by DEO.”) [↑](#footnote-ref-20)
20. OAC 4901-1-24(B). [↑](#footnote-ref-21)
21. OAC 4901-1-24(B)(3). [↑](#footnote-ref-22)
22. OAC 4901-1-24(B)(1). [↑](#footnote-ref-23)
23. OAC 4901-1-24(B)(2). [↑](#footnote-ref-24)
24. Ohio Admin. Code 4901-1-16(A) provides that: “These rules are also intended to minimize commission intervention in the discovery process.” [↑](#footnote-ref-25)
25. See Dominion Motion to Stay at 3-4. [↑](#footnote-ref-26)
26. See PUCO Entry at 3-6 (April 19, 2017). [↑](#footnote-ref-27)
27. See April 19 Entry at 6. [↑](#footnote-ref-28)
28. See April 19 Entry at 4, 6. [↑](#footnote-ref-29)
29. See April 19 Entry at 6. [↑](#footnote-ref-30)
30. This factor is not relevant given that this is a discovery dispute. [↑](#footnote-ref-31)
31. See *In re Investigation into Modification of Intrastate Access Charges,* Case No. 00-127-TP-COl, Entry on Rehearing, (February 20, 2003) at 5*;* See also *In re Columbus Southern Power Company and Ohio Power Company*, Case No. 08-917-EL-SSO, Entry at 3 (March 30, 2009). [↑](#footnote-ref-32)
32. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan,* Case No. 11-346-EL-SSO, et al, Entry on Rehearing at 11 (February 23, 2012). [↑](#footnote-ref-33)
33. Dominion does argue that responding to OCC’s 25 discovery requests (the only discovery requests served to date in the proceeding) is unduly burdensome. Such an argument seems disingenuous at best. [↑](#footnote-ref-34)
34. See OCC Motion to Intervene at 2 (“OCC’s intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.”) [↑](#footnote-ref-35)
35. See OCC Motion to Intervene at 2. [↑](#footnote-ref-36)
36. Ohio Admin. Code 4901-1-16(A) provides that: “These rules are also intended to minimize commission intervention in the discovery process.” [↑](#footnote-ref-37)