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**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 Certain Waivers of Chapter) Case No. 06-1452-GA-UNC
4901:1-12, Ohio Administrative Code.)

In the Matter of the Application of the East)
Ohio Gas Company d/b/a Dominion East)
Ohio for Approval of Tariffs to Recover) Case No. 06-1453-GA-UNC
Certain Costs Associated with Automated)
Meter Reading Deployment Through an)
Automatic Adjustment Clause, and for)
Certain Accounting Treatment.)

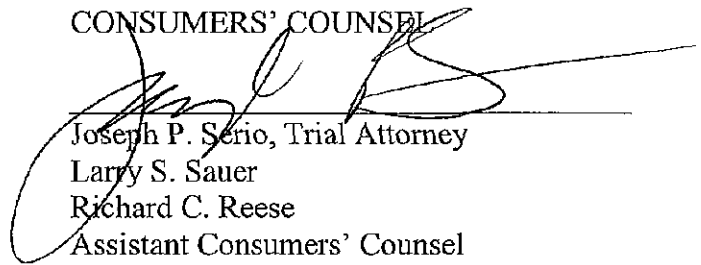
**MOTION TO INTERVENE AND COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Pursuant to R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11, the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers of Dominion East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "the Company"), moves the Public Utilities Commission of Ohio ("Commission" or "PUCO") to grant OCC's intervention in the above-captioned proceedings. OCC also provides comments in opposition to the Company's Application for Certain Waivers of Chapter 4901:1-13 Ohio Adm. Code ("Waiver Application") and Application for Approval of Tariffs to Recover Certain Costs Associated with Automated Meter Reading Deployment Through an Automatic Adjustment Clause and for Certain Accounting Treatment ("Cost Recovery Application") filed on December 13, 2006 (together "Applications"). The reasons for granting OCC's intervention and for rejecting DEO's request are further set forth in the attached Memorandum in Support.

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Respectfully submitted,

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MEMORANDUM IN SUPPORT AND COMMENTS

I. INTRODUCTION

On December 13, 2006 DEO filed its Waiver Application and Cost Recovery Application with the Commission in the above-captioned proceedings. In the Waiver Application, Case No. 06-1452-GA-UNC, DEO requested waiver of certain rules in the recently enacted Minimum Gas Service Standards ("MGSS").¹ In the Cost Recovery Application, Case No. 06-1453-GA-UNC, DEO requested authority for tariffs to recover the costs associated with the deployment of automatic meter reading ("AMR") equipment through an automatic adjustment mechanism, and for the authority to defer those costs for

¹ *In the Matter of the Application of the East Ohio Gas Company d/b/a Dominion East Ohio for Certain Waivers of Chapter 4901:1-12, Ohio Administrative Code*, Case No. 06-1452-GA-UNC, Application, (December 13, 2006) ("Waiver Application") at 1.

subsequent recovery.² Through these comments, the OCC expresses opposition to some of those requests and no opposition to others as noted below.

II. MOTION TO INTERVENE

Pursuant to R.C. Chapter 4911, the OCC moves to intervene under its legislative authority to represent the interests of the approximately 1.1 million residential natural gas distribution customers of DEO.³ Pursuant to the intervention standard in R.C. 4903.221, the interests of residential gas customers in areas served by DEO may be “adversely affected” by this proceeding. OCC also meets the Commission’s required showing for a party that has a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2), and should therefore be permitted to intervene in this case.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor’s interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; and

² *In the Matter of the Application of the East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Recover Certain Costs Associated with Automated Meter Reading Deployment Through an Automatic Adjustment Clause, and for Certain Accounting Treatment*, Case No. 06-1453-GA-UNC, Application, (December 13, 2006) (“Cost Recovery Application”) at 1.

³ For example, R.C. 4911.15 provides:

The consumers’ counsel * * * may represent those [residential] customers or [municipal] corporations whenever an application is made to the public utilities commission by any public utility desiring to establish, modify, amend, charge, increase, or reduce any rate, joint rate, toll, fare, classification, charge, or rental.

- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

The nature and extent of the OCC's interest lies in preventing excessive, unjustified, unreasonable, unlawful or completely unsupported or unproven rates and charges for residential gas service and in the provision of services that will safely, reliably, effectively and efficiently serve the energy needs of residential customers. OCC's legal position will advance the interest of residential customers and, as such, is directly related to the merits of the case. As evidenced by OCC's past and present involvement in the subject matter of this case, OCC's intervention should provide insights that will expedite the Commission's treatment of the Application and will not unduly prolong or delay this proceeding. OCC will significantly contribute to the full development and equitable resolution of the issues in this proceeding. OCC brings its statewide, residential consumer perspective to this proceeding that is different than that of DEO or any other intervenor in this proceeding. OCC's interest in the case is consistent with its statutory role as the representative of residential consumers of public utility service.

For the reasons expressed above regarding the criteria contained in R.C. 4903.221, OCC also meets the Commission's required showing for a party that has a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2), and should therefore be permitted to intervene in these proceedings. Ohio Adm. Code 4901-1-11(B) states that the Commission may consider: (1) the "nature of the person's interest," (2) the "extent to which the person's interest is represented," (3) the person's "potential contribution to a just and expeditious resolution of the issues," and (4) whether the intervention "would unduly delay the proceeding."

In particular, the OCC brings its statewide, residential consumer perspective to this case that is different than and not represented by any other entity in Ohio. The OCC's interest in this case is consistent with its statutory role as the representative of residential consumers of public utility service.

The OCC meets the criteria set forth in the R.C. 4903.221, the Commission's rules and recent precedent of the Supreme Court of Ohio.⁴ On behalf of DEO's approximately 1.1 million Ohio residential customers of natural gas service, the Commission should grant OCC's Motion to Intervene.

III. COMMENTS

A. Waiver Application (Case No. 06-1452-GA-UNC)

Rule 4901:1-13-04(G)(1) (meter reading):

Rule 4901:1-13-04(G)(1) requires that a natural gas Local Distribution Company ("LDC") obtain an actual meter reading for each customer at least once every twelve months, and make reasonable attempts to obtain actual readings every other month. DEO applied for a temporary waiver of this rule because it has 556,000 inside meters of which 373,000 are equipped with remote meter index ("RMI") devices.⁵ An RMI is located outside the premises and, being connected to the inside meter, allows for a reading without access to the actual meter that is inside the premises. DEO's waiver request asks that the RMI reading be counted as an actual reading from the effective date of the MGSS until such time that DEO completes its planned deployment of AMR devices throughout

⁴ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 2006 – Ohio – 5853 at ¶ 18-23.

⁵ Waiver Application at 1.

its entire service territory.⁶

As part of its deployment plan, DEO has indicated that it can accelerate deployment and complete deployment in a five-year period only if permitted to recover the costs associated with deployment of AMR's through an automatic adjustment mechanism.⁷ If cost recovery is not permitted through the automatic adjustment mechanism, then the Company estimates that deployment funded through its normal capital budgeting process will take 15-20 years.⁸

On its face, the DEO request for an RMI reading to be counted as an actual meter reading during the accelerated deployment of AMR's could seem to be not unreasonable because it would address a concern that could impact almost half of its customers, and it would do so on a significantly accelerated manner. However, further review indicates that the alleged problem of not obtaining at least one actual meter reading per year from inside meters is not nearly as significant as the Company has portrayed it to be. In response to an OCC inquiry, DEO has informed the OCC that for the most recent twelve month period only 5,090 inside meters had not had at least one actual meter reading. This number is a far cry from the expressed concerns over 556,000 inside meters or 373,000 inside meters with RMI devices. Accordingly, the OCC opposes this waiver request and the Commission should deny it.

⁶ Id. at 1-2.

⁷ Waiver Application at 2; Cost Recovery Application at 1-2.

⁸ Cost Recovery Application at 4.

Rule 4901:1-13-05(A)(3) (pressure test requirement):

The OCC does not oppose this waiver request.

Rule 4901:1-13-09(C) (disconnect notice for fraudulent practices):

The OCC does not oppose this waiver request.

Rule 4901:1-13-04(D) (notification of meter test results):

The OCC does not oppose this waiver request.

Rule 4901:1-13-05(A) (new service installation):

It is the OCC's understanding, based on discussions with DEO that the Company's request for waiver of this rule, is limited to the reporting requirement and not to the underlying rule regarding new service installations. With that understanding, the OCC does not oppose this waiver request. Rule 4901:1-13-05(A) requires timely installation (i.e. within five business days for residential customers) for new service lines. If the Commission understands otherwise, then the Commission should deny the waiver because new service installation is one of the most important and basic rules in the MGSS, that residential consumers rely on.

Rule 4901:1-13-05(C) (notification of unmet appointments):

It is the OCC's understanding, based on discussions with DEO the Company's request for waiver of this rule, is limited to the reporting requirement and not to the underlying rule regarding unmet appointments. With that understanding, the OCC does not oppose this waiver request. Rule 4901:1-13-05(C) requires that the Local

Distribution Company provide customers with an estimated arrival time of four hours or less for all appointments that require the customer to be present. If the Commission understands otherwise, then the Commission should deny the waiver because, the notification of unmet appointments is another significant basic rule in the MGSS, that residential consumers rely on.

Rule 4901:1-13-04(G)(3) and Rule 4901:1-13-11(B)(26) (notification of payment plans for small commercial customers):

The OCC takes no position on the waiver request because it does not relate to residential customers.

B. Cost Recovery Application (Case No. 06-1453-GA-UNC)

In its Application, DEO has proposed to replace its remote meter index (“RMI”) devices and install AMR devices on the remainder of its meters over the next five years.⁹ DEO notes that 43%, or 556,000 of its meters are located inside and that 373,000 of these meters are RMI-equipped.¹⁰ Readings of meters obtained through RMI are not considered “actual” reads for purposes of the MGSS,¹¹ while readings obtained through AMR are considered actual reads. DEO maintains that the installation of AMR is the only “cost-effective” way for it to comply with the actual reading requirements of the MGSS.¹² The Commission should note, however, that the annual actual read requirement

⁹ Cost Recovery Application at 2. DEO states that that it has a total of 1.3 million meters.

¹⁰ Id.

¹¹ Ohio Adm. Code 4901:1-13-04(G).

¹² Cost Recovery Application at 4.

does not appear to place an undue burden on DEO.¹³ The new MGSS rule requires that the Company attempt to make actual meter readings annually and document its attempts to conduct the annual readings. The rule does not pressure the Company to disconnect the service of customers whose meters it is unable to access.

As part of this filing the Company noted that the cost for installing AMR's for all of its customers is approximately \$100-110 million. The Company is seeking to collect from consumers its costs for accelerated installation of AMR's through implementation of an automatic adjustment rider.¹⁴ The Company stated that without this rider it would not be economical to expedite the AMR installation and that if funded through the Company's regular capital budgeting, the process would take 15 to 20 years. The Company has provided little or no cost benefit analysis to justify accelerated deployment of AMR meters to all of its customers. A plan to replace remote RMI equipment with AMR's in a timely manner seems a more reasonable alternative for the Company to pursue. Moreover, cost recovery should be pursued through a rate case and not through a rider.

A system-wide deployment of AMR could benefit DEO and residential ratepayers. However, an accelerated deployment of AMR, paid for by an additional rider on customers' bills is an unnecessary cost unwarranted by the adoption of the new MGSS.

¹³ Based on information received from DEO, OCC learned that the Company failed to obtain actual meter readings from only 5,090 of its inside meters in the previous twelve months.

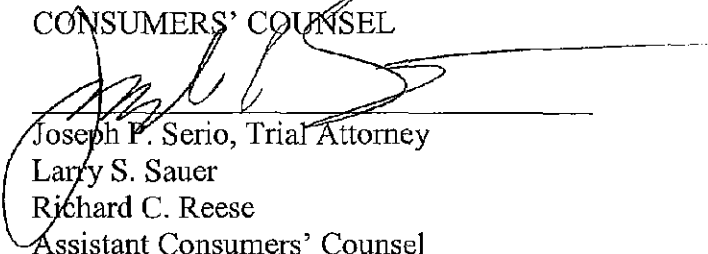
¹⁴ Id. at 1.

IV. CONCLUSION

These Applications would impact residential customers, *inter alia*, through future increases in gas distribution rates, as the Commission tends to allow utilities to collect deferrals from customers once the deferrals are booked. As set forth herein, OCC satisfies the criteria set forth in R.C. 4903.221 and the Commission's rules, for intervention. Therefore, on behalf of DEO's approximately 1.1 million residential gas customers, who clearly have an interest in the outcome of these cases, OCC respectfully requests that the Commission grant OCC's Motion to Intervene. Furthermore, for the reasons explained above, the PUCO should deny DEO's requests in Case No. 06-1452-GA-UNC for an RMI reading to be counted as an actual meter reading and deny the Company's request for approval of an automatic adjustment clause related to recovery of AMR deployment and accounting authority for deferral of related costs.

Respectfully submitted,

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CONSUMERS' COUNSEL

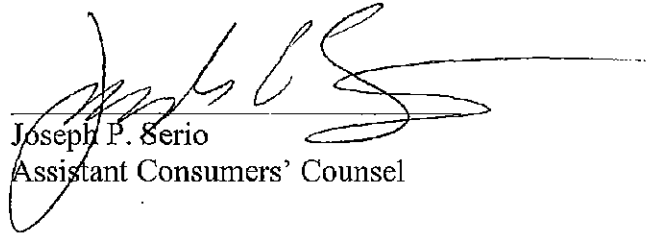


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's Motion to Intervene and Comments has been served upon the following parties via first class U.S. mail, postage prepaid, this 23rd day of March 2007.


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