

**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 Authority to Modify its)
Accounting Procedures to Provide for the)
Deferral of Expenses Related to the)
Commission's Investigation of Gas Service)
Riders.)

Case No. 07-125-GA-AAM

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**OHIO PARTNERS FOR AFFORDABLE ENERGY'S
REPLY TO THE
MEMORANDUM CONTRA MOTION TO INTERVENE**

The East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion") has submitted a memorandum contra Ohio Partners for Affordable Energy's ("OPAE") motion to intervene in this matter, which concerns an application for authority to modify accounting procedures to provide for the deferral of expenses Dominion claims to have incurred pursuant to the Public Utilities Commission of Ohio's ("Commission") investigation of natural gas service risers. According to Dominion, OPAE's intervention should be denied because an application for accounting authority to defer expenses does not in itself increase rates and because OPAE's interest in this proceeding is already represented by the Office of the Ohio Consumers' Counsel ("OCC").

Dominion is wrong on both counts. First, the purpose of the deferral is to allow for future recovery of these expenses in base rates. In spite of Dominion's protest to the contrary, the Commission does not typically grant authority for deferrals and then disallow those deferrals in the subsequent base rate case. As OPAE stated in its motion to intervene, the deferral authority should not be granted in this case. Dominion may not recover non-test year ordinary expenses in base rate proceedings; therefore, Dominion should not be allowed to defer

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such expenses for future recovery when such recovery is unlawful pursuant to R.C. §§4909.18 and 4909.19. If, as Dominion claims, its 1994 base rates do not account for the expenses that are the subject of this application, Dominion's remedy is to submit a base rate application pursuant to R.C. §§4909.18 and 4909.19. Dominion's test-year expenses would be properly considered pursuant to such an application. The Commission should not allow deferrals of ordinary expenses when the proper lawful remedy for inadequate rates is an application for an increase in rates pursuant to R.C. §§4909.18 and 4909.19.

Second, OCC does not represent OPAE's interest in this or any other proceeding before the Commission. OPAE is an Ohio corporation with a stated purpose of advocating for affordable energy policies for low- and moderate-income Ohioans. OPAE is a unique organization that represents the interests of low- and moderate-income Ohioans, provides essential utility services in the form of bill payment assistance programs and weatherization and energy efficiency services to low-income customers, and OPAE's members are ratepayers of Dominion. Moreover, many of OPAE's members are community action agencies. Under the federal legislation authorizing the creation and funding of these agencies, originally known as the Economic Opportunity Act of 1964, community action is charged with advocating for low-income residents of their communities,¹

¹ See 42 U.S.C. 672:

The purposes of this subtitle are--

(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(2) to accomplish the goals described in paragraph (1) through--

(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

OCC is the statutory representative of all residential customers of Dominion; its interests are distinct from OPAE's. The Commission has recognized the distinct interests of OPAE and OCC in countless proceedings before it. There is overwhelming Commission precedent that OCC and OPAE do not have the same interests, and there is no support for the contention that OCC may represent OPAE's interests before the Commission. Dominion's argument that OCC may stand in for OPAE in this proceeding is contrary to Commission precedent and should be rejected.

In determining whether to permit intervention, the following criteria are to be considered: the nature of the person's interest; the extent to which that interest is represented by existing parties; the person's potential contribution to a just and expeditious resolution of the proceeding; and, whether granting intervention will unduly delay or unjustly prejudice any existing party. As OPAE explained in its motion to intervene, OPAE meets all four criteria for intervention in this proceeding; therefore, OPAE's motion for intervention should be granted.

(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

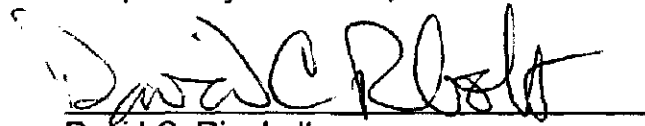
(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to *empower such residents and members to respond to the unique problems and needs within their communities*; [emphasis added] and

(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for--

(i) private, religious, charitable, and neighborhood-based organizations; and

(ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

David C. Rinebolt

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply to the Memorandum
Contra Motion to Intervene was served by regular U.S. Mail upon the parties of
record identified below in this case on this 29th day of March, 2007.



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