

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 Waivers of Certain Provisions) Case No. 06-1452-GA-WVR
Contained in Chapter 4901:1-13, Ohio)
Administrative Code.)

ENTRY

The Commission finds:

- (1) On January 18, 2006, the Commission issued its Finding and Order in Case No. 05-602-GA-ORD, adopting rules to amend Chapter 4901:1-13, Ohio Administrative Code (O.A.C.), and establishing Minimum Gas Service Standards (MGSS). The Commission revised its Finding and Order and MGSS by entries on rehearing issued on May 16, 2006, July 12, 2006, and August 23, 2006.
- (2) On December 13, 2006, The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) filed this application (06-1452) requesting waivers for eight paragraphs in Chapter 4901:1-13, O.A.C., namely paragraphs (D), (G)(1), and (G)(3) of Rule 4901:1-13-04, O.A.C.; paragraphs (A), (A)(3), and (C) of Rule 4901:1-13-05, O.A.C.; paragraph (C) of Rule 4901:1-13-09, O.A.C.; and paragraph (B)(26) of Rule 4901:1-13-11, O.A.C.

In addition, DEO requests a temporary waiver until March 31, 2007, of any rules applicable to small commercial customers as defined in paragraph (V) of Rule 4901:1-13-01, O.A.C. The Commission finds, however, that, in light of the fact that this requested waiver period has passed, a ruling on this waiver request is unnecessary.

- (3) Initially, the Commission would note that, in light of the fact that DEO is requesting waivers of the Commission's rules, this case should be coded as a "WVR" case. Accordingly, the Commission's Docketing Division should change the case code for 06-1452 from "UNC" to "WVR," and all future filings regarding this case should utilize the "WVR" case code.

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- (4) On March 23, 2007, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and comments in this case. No memorandum contra was filed in response to OCC's motion to intervene. The Commission finds that OCC's motion to intervene in this case should be granted.
- (5) On April 16, 2007, Ohio Partners for Affordable Energy (OPAE) filed a motion to intervene and memorandum in support of its motion in both this case and Case No. 06-1453-GA-UNC, *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 and for Certain Accounting Treatment* (06-1453). OPAE asserts that it has a real and substantial interest in the proceedings by virtue of the direct impact of the requested deferrals on those of its members who are located in DEO's service territory. Further, OPAE indicates that its participation will not cause undue delay, will not prejudice any existing party, and will contribute to an expeditious resolution. It notes that no existing party adequately represents its interests. Along with its motion to intervene, OPAE filed a motion for admission *pro hac vice* to admit David C. Rinebolt to practice before the Commission in these proceedings for OPAE. The Commission finds that the motion for admission *pro hac vice* should be granted.
- (6) On April 27, 2007, as amended on May 1, 2007, DEO filed a memorandum contra OPAE's request for intervention. DEO argues that OPAE's motion to intervene should be denied because OPAE has not set forth a legal position as required by Section 4903.221(B)(2), Revised Code, and because OPAE's constituency of low and moderate-income households is already represented by OCC.
- (7) On May 3, 2007, OPAE filed a reply to DEO's memorandum contra stating that DEO is wrong in its assertion that OPAE must present its legal arguments before it may be granted intervention and clarifying that OCC does not represent OPAE's interest.
- (8) In considering the filings pertaining to OPAE's motion to intervene, the Commission notes that, pursuant to our procedural rules, paragraph (A)(2) of Rule 4901-1-11, O.A.C., a

person shall be permitted to intervene, if the motion is timely filed and the person has a real and substantial interest in the proceeding that is not adequately represented by existing parties. DEO apparently believes that Section 4903.221(B)(2), Revised Code, should be read to require a potential intervenor to present its legal position with regard to the issues in a proceeding, in its motion to intervene. We do not read the statute to be as restrictive as DEO suggests. Rather, while we would consider positions taken on issues in the proceeding, if they are specified in a motion to intervene, we do not require such specification at this early stage in the proceeding. Our rules clarify that the "legal position" of a movant is its showing of a real and substantial interest in the subject at hand, where the proceeding may impair or impede his ability to protect that interest, unless the interest is already represented by other parties.

Specifically, with regard to OPAE's motion to intervene in both this case and 06-1453, OPAE submits that it has a real and substantial interest "by virtue of the direct impact of the requested deferral on their members." The Commission notes that the issue of a deferral is only present in 06-1453, and the issues in 06-1452 are limited to DEO's requests for waivers of certain requirements of the MGSS. Therefore, the Commission finds that OPAE has not established that it has an interest in 06-1452 and OPAE's motion to intervene in this case should be denied. The Commission notes, however, that this ruling in no way affects our consideration and ultimate ruling on OPAE's motion to intervene in 06-1453.

- (9) **Paragraph (G)(1) of Rule 4901:1-13-04, O.A.C., Meter Reading**
– This paragraph requires companies to obtain actual readings of customers' meters at least every twelve months and to make reasonable attempts to obtain actual readings every other month. Electronic meter readings taken by AMR equipment are considered actual readings under this paragraph; however, readings taken by remote meter index (RMI) equipment do not qualify as actual readings.

According to DEO, it is challenged to comply with the actual reading requirement because, of the 556,000 inside meters installed on its system, 373,000 are equipped with RMI devices.

DEO requests a temporary waiver of paragraph (G)(1) permitting it to treat RMI equipment readings as actual readings for purposes of complying with this paragraph until DEO completes deployment of AMR devices throughout its system. DEO states that, if the Commission grants its application in 06-1453 for authority to file tariffs to recover the costs associated with the deployment of the AMR devices, it will take an estimated five years to complete deployment of the AMR equipment. However, if its cost recovery is denied in 06-1453, it will take 15 to 20 years to deploy the AMR devices. DEO states that, in order to address any concerns regarding the potential for back billing resulting from the use of RMI devices, it will hold customers harmless for discrepancies between an actual meter reading and an RMI reading.

In its comments, OCC points out that, in response to an inquiry from OCC, DEO provided information that showed that, for the most recent twelve month period, only 5,090 inside meters had not had at least one actual meter reading. OCC states that this number is a "far cry" from the concerns expressed by DEO regarding the 373,000 inside meters with RMI devices. Therefore, OCC opposes this waiver request.

DEO filed a response to OCC's comments on April 9, 2007, stating that OCC misunderstood the data provided. DEO emphasizes that, absent a waiver, DEO must attempt to read another 373,000 inside meters equipped with RMI devices and many of those would go unread despite DEO's best efforts.

OCC replied to DEO's response on April 19, 2007, stating that the MGSS are not as onerous as DEO implies. OCC points out that, as long as DEO makes a good faith effort to read a customer's meter every other month and every year, DEO will be in compliance with the MGSS. Furthermore, OCC advocates that RMI devices should not be considered actual reads because of the defect rates for the RMI devices utilized by DEO.

Upon consideration of DEO's request for a temporary waiver of this paragraph and OCC's comments, the Commission finds that DEO's request is reasonable. The Commission acknowledges DEO's rationale and is supportive of DEO's proposal to replace its RMI devices with AMR devices. The

Commission recognizes that RMI device readings are not always accurate. However, one of the key factors we took into consideration in granting DEO's temporary waiver request in this matter is the fact that the company has agreed to hold the customers harmless for discrepancies between an actual meter reading and a reading from an RMI device. Furthermore, the Commission notes that the granting of this waiver in no way relieves DEO from its responsibility of complying with the gas pipeline safety regulations in accordance with Chapter 4905, Revised Code. With these caveats in mind, the Commission concludes that DEO's request for a temporary waiver of paragraph (G)(1) of Rule 4901:1-13-04, O.A.C., allowing DEO to treat RMI equipment readings as actual readings, should be granted for a period of five years. We further note that our determination to grant DEO's waiver of paragraph (G)(1) in this case in no way binds us with regard to our consideration of DEO's cost recovery request in 06-1453.

- (10) **Paragraph (A)(3) of Rule 4901:1-13-05, O.A.C., Minimum Customer Service Levels, Pressure Testing** - This paragraph requires companies to test gas piping downstream of the meter with a service drop installed for a gas appliance prior to initial operation or prior to reestablishing service. Pursuant to this paragraph, in the case of new house lines or existing house lines where gas service has been off for 30 or more days, a pressure test is to be used. When gas service has been off for less than 30 days, a dial test may be used.

DEO requests a permanent waiver of the pressure test requirement for new and existing house lines. According to DEO, in the case of new construction, a house line pressure test should be performed on the entire house not just a portion up to a service drop for an appliance. DEO avers that the company's responsibility should be limited to performing a leakage test prior to a DEO representative turning on the gas and then, prior to occupancy, a certified inspector should verify that the entire line has been properly installed and pressure tested in accordance with the applicable code requirements. DEO submits that this process will ensure that the whole house line is pressure tested and not just a portion. OCC does not oppose this waiver request.

The Commission's concern in these situations is that the gas lines be tested. Therefore, the Commission will clarify that DEO may comply with the requirement in paragraph (A)(3) of Rule 4901:1-13-05, O.A.C., by doing the testing itself or by verifying that a third party appropriately tests the gas piping downstream of the meter as outlined in that rule, prior to initial operation of gas service at the location. See *In the Matter of the Application of Columbia Gas of Ohio, Inc. for a Temporary Waiver of Rule 4901:1-13-05(A)(3), Ohio Administrative Code*, Case No. 06-1232-GA-UNC, Finding and Order (December 20, 2006). Accordingly, the Commission finds that DEO's request for a waiver of this paragraph is unnecessary and should be denied.

- (11) Technology-Related Waiver Requests: paragraphs (D) and (G)(3) of Rule 4901:1-13-04, O.A.C.; paragraphs (A) and (C) of Rule 4901:1-13-05, O.A.C.; paragraph (C) of Rule 4901:1-13-09, O.A.C.; and (B)(26) of Rule 4901:1-13-11, O.A.C. - DEO requests temporary waivers for these paragraphs in order to allow it time to complete the computer programming changes that are necessary in order to comply with the MGSS and to automate the reporting needed to verify compliance. DEO estimates that over 10,000 more hours of programming will be required to make the remaining changes that are needed. Furthermore, DEO promises to provide staff with quarterly reports on the progress of its reprogramming efforts until they are completed. According to DEO, the following paragraphs require reprogramming of its computer system:

- (a) Paragraph (D) of Rule 4901:1-13-04, O.A.C. - Notification of Meter Test Results - This paragraph requires companies to notify customers of applicable charges prior to a meter test and to provide a written explanation of the results within ten business days of completion. DEO requests a temporary waiver of this paragraph until September 30, 2007, or such time as it completes the necessary programming changes, whichever occurs earlier. OCC does not oppose this waiver request.

The Commission points out that this paragraph requires the company to notify the customer

verbally of the meter test charges, and then to provide the customer with a written explanation of the test results. We conclude that DEO's request for a waiver of this paragraph until September 30, 2007, or such earlier time as it completes programming changes, to automate the written explanation is reasonable and should be granted. However, customers have a need to know the charges for meter testing prior to the charges being incurred and the Commission believes that DEO's customer service representatives should be trained to provide that information now. Therefore, DEO's request for a waiver of paragraph (D) of Rule 4901:1-13-04, O.A.C., pertaining to the verbal communication of the meter test charges should be denied.

- (b) Paragraph (A) of Rule 4901:1-13-05, O.A.C. - New Service Installations - This paragraph requires 90 percent of residential and small commercial new service requests requiring no installation of gas pipelines to be completed within five business days after the company is notified that the location is ready or by the requested installation date, whichever is later. New service requests requiring installation of a service line and a meter are to be completed within 20 business days from the date the location is ready or by the requested completion date, whichever is later. In addition, the paragraph requires the company to provide written notification if there is a delay. According to DEO, its meter set orders and service line orders are currently scheduled and tracked in two separate computer systems. DEO explains that the two systems will need to be integrated in order to track and report performance in compliance with paragraph (A). Therefore, DEO requests a temporary waiver of this paragraph until September 30, 2007. OCC does not oppose this waiver request as long as it is limited to the

reporting requirement and not the underlying rule regarding new service installation.

The Commission finds that DEO's request for waiver of paragraph (A) of Rule 4901:1-13-05, O.A.C., until September 30, 2007, with regard to reporting requirement contained in this paragraph, is reasonable and should be granted. Furthermore, the Commission notes that DEO must still comply with the required installation intervals set forth in this paragraph and the customer notification, if the intervals can not be met.

- (c) Paragraph (C) of Rule 4901:1-13-05, O.A.C. - Notification of Unmet Appointments - This paragraph requires companies to attempt to notify a customer in advance when they are unable to meet a scheduled appointment. DEO requests a temporary waiver of the notification requirement until May 31, 2007, to complete the necessary reprogramming. OCC does not oppose this waiver request as long as it is limited to the requirement under paragraph (D) of Rule 4901:1-13-05, O.A.C., that failure to comply with paragraph (C) be reported to the Commission, and not the underlying rule regarding unmet appointments.

We find that it is essential that DEO attempt to notify the customer in advance if it is unable to meet the appointment and arrange a new appointment date. If it is necessary for DEO to provide this notification manually until the system is updated to notify automatically the customer and to reschedule the appointment, then the company will have to do so manually. Therefore, we conclude that DEO's request for waiver of paragraph (C) of Rule 4901:1-13-05, O.A.C, should be denied.

- (d) Paragraph (C) of Rule 4901:1-13-09, O.A.C. – Disconnect Notices for Fraudulent Practices – This paragraph requires companies to deliver a written notice to the customer prior to disconnecting service for a fraudulent practice. DEO explains that it will take time to develop the business process and programming changes needed to create these notices, to generate a new service order type, and to provide and to track the proper notification. Therefore, DEO requests a temporary waiver of this paragraph until September 30, 2007, or such time as it completes the necessary programming changes, whichever occurs earlier. OCC does not oppose this waiver request.

The Commission finds that DEO's request for waiver of paragraph (C) of Rule 4901:1-13-09, O.A.C., until September 30, 2007, or such earlier time as it completes programming changes, with regard to delivering a written notice to the customer prior to disconnecting service for a fraudulent practice, is reasonable and should be granted.

- (e) Paragraph (G)(3) of Rule 4901:1-13-04, O.A.C., and Paragraph (B)(26) of Rule 4901:1-13-11 O.A.C. – These paragraphs require companies, in cases where they have undercharged a small commercial customer as a result of a metering issue or other factor under the control of the company, to provide a statement of the payment arrangement agreed upon either on the bill, in a bill insert, or as a separate mailing. DEO stated that it will need to implement system changes to allow accounts to be set up on an automatic payment arrangement and referenced on the bill. Therefore, DEO requests a temporary waiver of the requirement to establish payment plans for small commercial customers until September 30, 2007, or such time as it completes the necessary programming changes, whichever occurs earlier.

OCC takes no position on this waiver request because it does not affect residential customers.

The Commission finds that DEO's request for waiver of paragraph (G)(3) of Rule 4901:1-13-04, O.A.C., and paragraph (B)(26) of Rule 4901:1-13-11 O.A.C., until September 30, 2007, or such earlier time as it completes programming changes, with regard to providing specified payment plans and delivering notice of agreed to payment arrangements to small commercial customers, is reasonable and should be granted. However, the Commission finds that, if DEO is contacted by a small commercial customer concerning a large back bill, DEO should offer a payment plan.

It is, therefore,

ORDERED, That, in accordance with Finding (3), the Commission's Docketing Division change the case code in 06-1452 from "UNC" to "WVR" and that all future filings regarding this case use the "WVR" case code. It is, further,

ORDERED, That the motion to intervene in 06-1452 filed by OCC be granted. It is, further,

ORDERED, That OPAE's motion for admission *pro hac vice* to admit David C. Rinebolt be granted. It is, further,

ORDERED, That OPAE's motion to intervene in 06-1452 be denied. It is, further,

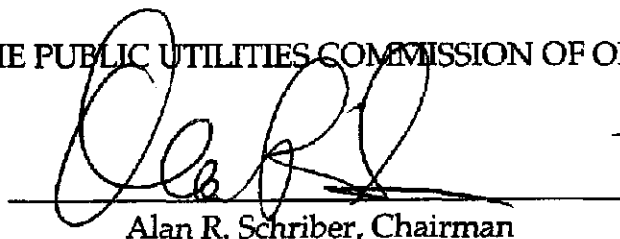
ORDERED, That, in accordance with Findings (9), (11)(b), (11)(d), and (11)(e), the application for a waiver filed by DEO in 06-1452 for paragraphs (G)(1) and (G)(3) of Rule 4901:1-13-04, O.A.C.; paragraph (A) of Rule 4901:1-13-05, O.A.C.; paragraph (C) of Rule 4901:1-13-09, O.A.C.; and paragraph (B)(26) of Rule 4901:1-13-11, O.A.C., be granted. It is, further,

ORDERED, That, in accordance with Findings (10) and (11)(c), the application for a waiver filed by DEO in 06-1452 for paragraphs (A)(3) and (C) of Rule 4901:1-13-05, O.A.C., be denied. It is, further,

ORDERED, That, in accordance with Finding (11)(a), the application for a waiver filed by DEO in 06-1452 for paragraph (D), of Rule 4901:1-13-04, O.A.C., be granted, in part, and denied, in part. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

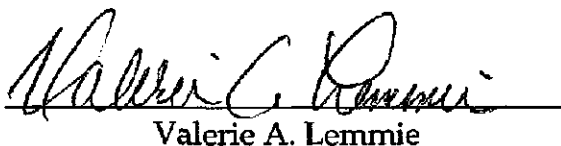
THE PUBLIC UTILITIES COMMISSION OF OHIO



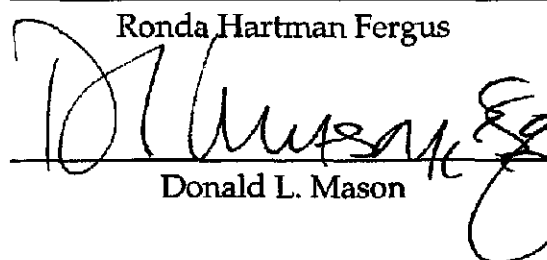
Alan R. Schiber, Chairman



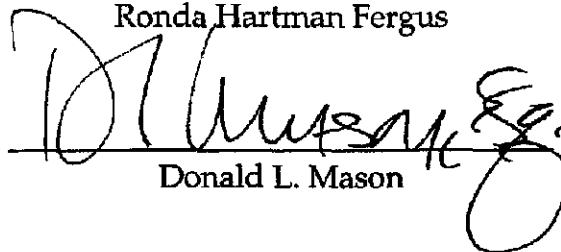
Paul A. Centolella



Valerie A. Lemmie



Ronda Hartman Fergus

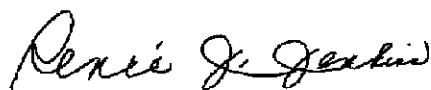


Donald L. Mason

CMTP/vrm

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Renee J. Jenkins
Secretary