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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 Authority to Increase Rates for its Gas Distribution Service.	)	Case No. 07-829-GA-AIR
In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of an Alternative Rate Plan for its Gas Distribution Service.	)	Case No. 07-830-GA-ALT
In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Change Accounting Methods.	)	Case No. 07-831-GA-AAM
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 a Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause, And for Certain Accounting Treatment.	)	Case No. 08-169-GA-ALT
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.	)	Case No. 06-1453-GA-UNC

OBJECTIONS TO THE JUNE 12, 2008 STAFF REPORT OF INVESTIGATION AND SUMMARY OF MAJOR ISSUES BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Larry S. Sauer
Gregory J. Poulos
Assistant Consumers' Counsel

Office Of The Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-8574 (Telephone)
serio@occ.state.oh.us
sauer@occ.state.oh.us
poulos@occ.state.oh.us

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OBJECTIONS TO THE STAFF REPORT
OF INVESTIGATION
AND SUMMARY OF MAJOR ISSUES
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC"), a party to the above-captioned cases, hereby submits these objections[1] to the Staff Report of Investigation ("PIR Staff Report") which was filed on June 12, 2008 concerning the Application of Dominion East Ohio ("DEO" or "the Company"), for approval of tariffs to collect from customers--through an automatic adjustment clause--certain costs associated with a pipeline infrastructure replacement program.[2] The costs that DEO seeks to collect from customers are approximately $2.6 billion over 25 years. OCC is the statutory representative of approximately 1.1 million DEO residential natural gas utility customers in this proceeding before the Public Utilities Commission of Ohio ("PUCO" or "Commission").

OCC submits that these objections meet the specificity requirement of Ohio Adm. Code 4901-1-28. OCC's objections point to matters in the PIR Staff Report where DEO's PIR proposal would exceed or contravene what is reasonable and lawful for residential consumers.

OCC reserves the right to amend and/or supplement its objections in the event that the PUCO Staff changes, modifies, or withdraws its position, at any time prior to the closing of the record, on any issue contained in the Staff Report. Additionally, where PUCO Staff has indicated that its position on a particular issue is not known at the date of the Staff Report, OCC reserves the right to later supplement its objections once the PUCO Staff's position is made known. OCC also reserves the right to file additional expert

[1] The objections are filed pursuant to R.C. 4909.19 and Ohio Adm. Code 4901-1-28(B).

[2] DEO's Pipeline Infrastructure Replacement Program Application ("PIR Application") in this proceeding was filed on February 22, 2008.

testimony, produce fact witnesses and introduce additional evidence. OCC also submits that the lack of an objection in this pleading to any aspect of the Staff Report does not preclude OCC from cross-examination or introduction of evidence or argument in regard to issues on which the PUCO Staff changes, modifies, newly raises or withdraws its position on any issue between the issuance of the Staff Report and the close of the record. Moreover, the OCC reserves the right to contest other aspects of DEO's Application not specifically addressed by the Staff Report.

Pursuant to R.C. 4903.083, OCC submits a "Summary of Major Issues" that outlines the major issues to be determined in this proceeding. OCC respectfully requests that these issues be included in the notices to be sent to customers to inform them of the local public hearings that will be scheduled in accordance with R.C. 4903.083.

II. OBJECTIONS TO THE PIR STAFF REPORT

1. OCC objects to the PIR Staff Report's support for DEO's twenty-five year, \$2.6 billion Pipeline Infrastructure Replacement Program that fails to include for analysis (but should) specific yearly information regarding the need for the program, prioritization schedule for pipeline replacements, type, location, schedule and capital budget for the gas mains and connected facilities that are planned to be replaced.[3]

2. OCC objects to the PIR Staff Report's support for DEO's proposal to replace the ineffectively coated mainlines. The Staff support is based on an

[3] *In the Mater 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 A Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause, And for Certain Accounting Treatment*, Case No. 08-169-GA-UNC, Motion to Consolidate, Staff Report (June 12, 2008) at 1. ("PIR Staff Report").

"understanding that tests are complete to ensure that the current requirements to replace the pipe are essentially the same as bare pipe"[4] The PIR Staff Report does not identify what these tests are, and there is no indication in the record that the tests have been completed as assumed in the Staff's position. Both the PIR Staff Report and the Company proposal fail to include any discussion or analysis of the type of tests necessary to ensure that the program would be cost effective.

3. OCC objects to the PIR Staff Report's conclusion that the implementation of the PIR program "will drastically reduce the amount of leaks that are discovered through leak surveys."[5] DEO has conducted only one study of the leak records of bare steel pipelines, which is an inadequate analysis. The study is done for an area that is too limited (9 percent of DEO's service territory), without needed information on the grades of leaks, and without needed information on the association of leak incidents and pipeline vintage. Moreover that the Company has failed to demonstrate that its current leak prevention efforts are not effectively reducing leaks, and there has been no cost benefit analysis submitted that supports the proposed spending level.

4. OCC objects to the PIR Staff Report's assertion that the PIR program will contribute to significant savings in DEO's Operations and Maintenance ("O&M") costs through reduced incidence in leak repair expenses and

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[4] *Id.*

[5] *PIR Staff Report* at 2.

reduction of frequency of leak survey.[6] There are no specific cost figures provided anywhere in the DEO application or the corresponding testimony to support such a claim.

5. OCC objects to the PIR Staff Report's citation of the approximately $8.5 million in O&M savings achieved through Duke Energy Ohio's Accelerated Main Replacement Program ("AMRP") without mentioning the total investment of $255 million made by Duke on the AMRP to date.[7] Any DEO PIR program O&M savings must be compared with the investment involved in achieving such a saving. Moreover, it is inappropriate to assume that any level of alleged savings from one Local Distribution Company ("LDC") in Ohio will necessarily result in same or similar alleged savings for another. This is especially true in light of DEO's failure to include all potential O&M savings as part of any corresponding credit to O&M costs.

6. OCC objects to the PIR Staff Report's support of the DEO's PIR program without: (1) a cost-benefit analysis of the PIR; (2) a conclusion that DEO is not currently providing safe and reliable service inasmuch as DEO's application specifically states that it is providing safe and reliable service (the Company's current leak prevention efforts seem adequate inasmuch as

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[6] *PIR Staff Report* at 2.

[7] *PIR Staff Report* at 2.

the leak rate has decreased in recent years),[8] or (3) a state or federal regulation that specifically requires the replacement of bare-steel, cast-iron, wrought-iron, and copper pipelines within a specific period of time.

7. OCC objects to the Staff Report's acceptance of the cost estimates of various components of the PIR program.[9] DEO's proposed cost estimates are a current estimation of future costs over an extended period of 25 years. These cost figures are at best speculative and unreliable. It should be noted that DEO chooses not to provide any estimate for the costs for the repair and replacement of existing service lines unrelated to the infrastructure replacement program or for installation of new service lines. Clearly, DEO has extensive experience in doing these tasks and may have more than one adequate method in estimating these cost figures. It chooses not to do so. There is no evidence that DEO has more reliable data, experience, or expertise in estimating the PIR costs than in estimating the repair and replacement costs associated with non-PIR service lines. Before being forced to take on a 25-year PIR program, customers should be provided complete and reasonable costs and benefits estimates.

8. OCC objects to the PIR Staff Report's acceptance of the 25-year schedule for the PIR program.[10] DEO's proposed schedule is not supported by any

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[8] *In the Mater 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 A Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause, And for Certain Accounting Treatment*, Case No. 08-169-GA-UNC, Motion to Consolidate, Application (February 22, 2008) at 2. ("PIR Application").

[9] *PIR Staff Report* at 3.

[10] *PIR Staff Report* at 3.

presentation of the cost and revenue requirement associated with other alternative schedules shorter or longer (than 25 years) periods for gas mains replacement. DEO has provided no evidence in its Application or through testimony that the 89-year gas mains replacement schedule (assuming an annual 40-miles gas mains replacement supported through current base rates), in the absence of the PIR program, is detrimental to the safety and reliability of DEO's pipeline system. Moreover, there is no documentation that supports the alleged 89-year alternative time frame as future pipeline replacement rates will not necessarily match the pipeline replacement rate from the past few years.

9. OCC objects to the Staff Report's acceptance of the 25-year schedule for the PIR program because DEO has not demonstrated that it can obtain the necessary financing, man-power, permit and support resources to complete the PIR on time (and not result in cost over-runs). Furthermore, there is no mechanism in place or proposed to hold DEO accountable for any unreasonable delay or cost overrun.

10. OCC objects to the PIR Staff Report's approval of DEO's proposed annual increase of the PIR Cost Recovery Charge for residential customers -- subject to an initial cap and annual limitations.[11] Any ongoing infrastructure repair and replacement investment should be considered part of running a utility business, and is best recovered through regular rate case proceeding. OCC's position is supported by the treatment of DEO's

[11] *PIR Staff Report* at 3.

Automated Meter Reading ("AMR") proposal in the Rate Case Staff Report

> Staff believes the cost replacing these obsolete meters should be recovered through the normal rate-case cost-recovery mechanism, and therefore recommends that they be excluded from the AMR Cost Recovery Charge[12]
>
> Staff believes these routine maintenance and replacement activities should be recovered through normal rate-case cost-recovery mechanisms. Staff therefore recommends these costs be excluded from the calculation of the AMR Cost Recovery Charge.[13]

There is no justification to treat the ongoing pipeline infrastructure costs and investments any different from the ongoing AMR costs and investments.

11. OCC objects to the PIR Staff Report's acceptance of the DEO assertion that the inclusion of ongoing pipeline infrastructure investment into the PIR program will defer the need for more frequent and expensive base rate proceedings.[14] There is no evidence that such a deferral will happen with the approval of PIR. The DEO makes no such commitment and DEO is not prevented from filing a new rate case whenever it wants to do so. There are many other factors besides the PIR that may affect DEO's revenue requirement in meeting the approved rate of return. The other factors

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[12] *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, Staff Report (May 23, 2008) at 43. ("Rate Case").

[13] *Id.*

[14] *PIR Staff Report* at 5.

include the general level of inflation, the cost of debt, labor cost, and new environmental regulations if any, etc. Any talk of deferring a rate case filing as a result of the approval of PIR Cost Recovery Charge is unsubstantiated and probably unrealistic.

12. OCC objects to the PIR Staff Report's support for including the meter relocation plan ("MRP") costs in the PIR Cost Recovery Charge.[15] Once again, there are no cost estimate, no schedule, and no cost-benefit analysis provided by DEO and reviewed by the Staff regarding this plan. Furthermore, this MRP should be considered as part of DEO's regular, ongoing activities. Reasonable costs associated with the MRP should be recovered through regular rate case proceedings. Finally, the replacement of all meters is unnecessary and would result in hundreds of thousands of properly functioning meters being replaced long before the expiration of their projected service life, at the expense of Ohio consumers.

13. OCC objects to the PIR Staff Report's support of DEO's proposed rate design for the PIR Cost Recovery Charge.[16] As proposed by DEO, the PIR expenses will be collected through a fixed monthly charge for the (1) General Sales/Energy Choice Transportation Service, (2) Large Volume General Sales/Energy Choice Transportation Service, and (3) General Transportation Service/Transportation Service for Schools. For the Daily Transportation Service customers, it will be collected through a volumetric

[15] *PIR Staff Report* at 4.

[16] *PIR Staff Report* at 4.

charge capped at $1,000 per month.[17] This Straight Fixed Variable ("SFV")-type rate design is not economically efficient, discourages energy conservation, is an inappropriate guarantee of utility revenues at the expense of customers, and puts an unfair burden on low-use residential customers.

14. OCC objects to the PIR Staff Report's recommendation of including incremental O&M expenses in the PIR Cost Recovery Charge subject to certain limitations.[18] The PIR Staff Report does not specify the basis for determining the incremental O&M expenses for the PIR program and the DEO's proposal is vague.

15. OCC objects to the PIR Staff Report's recommendation regarding the reduction of future O&M expenses as a result of the elimination of existing leaks and reduction of future leaks.[19] The Staff does not specify the base year for calculating such a reduction in O&M expenses. OCC believes that 2007 (or the test year figure determined in the DEO rate case) should be specified as the base year of comparison (similar to the Staff Report's recommendation for DEO's proposed AMR program in the Rate Case[20]). Furthermore, the reduction in O&M expenses should be treated as a direct credit to the PIR Cost Recovery Charge rather than as a reduction of fiscal year-end regulatory asset.

[17] *PIR Application* at 13.

[18] *PIR Staff Report* at 5.

[19] *PIR Staff Report* at 5.

[20] *Rate Case Staff Report* (May 23, 2008) at 43.

16. OCC objects to the PIR Staff Report's recommendation that supports DEO's proposal to create the necessary regulatory assets to capture the Post-in-Service Carrying Charges ("PISCC") associated with the PIR program for inclusion in the subsequent year's PIR rider because the Company has failed to demonstrate the need for or the cost benefit associated with the underlying PIR program .

17. OCC objects to the PIR Staff Report's failure to conclude DEO violated the public notice requirements of R.C. 4909.18(E) and R.C. 4909.19 and the governmental entity notice requirements of R.C. 4909.43(B) when the Company requested consolidation of the PIR Application into the Rate Case. OCC further objects to the Staff's failure to recommend consequences for these violations of the law.

18. OCC objects to the PIR Staff Report's failure conclude DEO violated the public notice requirements of R.C. 4909.18(E) and R.C. 4909.19 and the governmental entity notice requirements of R.C. 4909.43(B) when the Company filed the PIR Application. OCC further objects to the Staff's failure to recommend consequences for these violations of the law.

III. STATEMENT OF MAJOR ISSUES

R.C. 4903.083 requires that, with regard to the scheduling of local public hearings, the Commission must list in the notice to customers "a brief summary of the then known major issues in contention..." by the parties. For this notice the Commission should include the major issues in a form that is understandable and accurate for customers. To accomplish the General Assembly's objective to notify customers of their opportunity to participate in hearings, the Commission should include the following in the notice, with reference as well to the differing positions of parties:

1. Does DEO's current program of regular maintenance, including the replacement of approximately 40 miles of gas mains per year, cause any detriment to the safety and reliability of DEO's pipeline system and, if not, then why is DEO proposing a $2.6 billion PIR plan that will charge customers hundreds of millions of dollars in future higher rates;

2. Does DEO's decision to consolidate the Pipeline Infrastructure Replacement Program into the Rate Case at such a late date violate the Company's statutory obligations to provide the public notice requirements pursuant to R.C. 4909.18(E) and R.C. 4909.19 and the governmental entity notice requirements of R.C. 4909.43(B), or violate the statutory rights of the general public to receive reasonable notice of the proposed rate case increase and associated rate impacts from the PIR plan;

3. Has the Company provided specific yearly information to the PUCO Staff and the other parties about the type, location, schedule and capital budget of the Pipeline Infrastructure Replacement Program sufficient to prove that

DEO's request should be granted to implement the$2.6 billion 25-year program;

4. Did the Company's one study of only 9 percent of DEO's service territory provide sufficient information to the Staff and the other parties about the type, location, schedule and capital to prove DEO's claim that implementation of the Pipeline Infrastructure Replacement Program "will drastically reduce the amount of leaks that are discovered through leak surveys;"

5. Has DEO provided sufficient information to prove its claim that reduced incidence in leak repair expenses and reduction of frequency of leak surveys will contribute to significant savings in DEO's Operations and Maintenance costs;

6. Should DEO's Pipeline Infrastructure Replacement Program permit collection from customers of costs associated with assuming responsibility for the installation of all customer service lines and maintenance, repair and replacement of all unsafe or leaking customer-owned service lines when all these tasks are the regular responsibility of the DEO;

7. Has DEO provided enough support for its calculation of the cost estimates and cost benefits for the $2.6 billion Pipeline Infrastructure Replacement Program;

8. Has DEO provided enough support to prove that it can obtain the necessary financing, man-power, permit and support resources to complete the Pipeline Infrastructure Replacement Program on time;

9. Has DEO provided adequate justification for the PUCO to adopt the DEO position that ongoing infrastructure repair and replacement investment should not be collected from customers through the regular rate case proceeding but should be collected through alternative regulation;

10. Has DEO provided sufficient demonstration for its request to include the meter relocation plan costs in the Pipeline Infrastructure Replacement Cost Recovery Charge that DEO proposes to charge consumers;

11. Has DEO provided the required legal notice of the Pipeline Infrastructure Replacement Program Application to the public and affected governmental entities.

Respectfully submitted,
JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Larry S. Sauer
Gregory J. Poulos
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-8574 (Telephone)
serio@occ.state.oh.us
sauer@occ.state.oh.us
poulos@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that copies of the *Objections to the PIR Staff Report and Summary of Major Issues by the Office of the Ohio Consumers' Counsel's* have been served by first class mail, postage prepaid to the following parties of record this 25th day of July, 2008.

Joseph P. Serio
Assistant Consumers' Counsel

Stephen Reilly
Anne Hammerstein
Attorney General's Office
Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, Ohio 43215

David A. Kutik
Dominion East Ohio
Jones Day
North Point, 901 Lakeside Ave.
Cleveland, Ohio 44114-1190

Barth E. Royer
Dominion Retail, Inc.
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3900

Mark A. Whitt
Andrew J. Campbell
Dominion East Ohio
Jones Day
P.O Box 165017
Columbus, Ohio 43216-5017

John W. Bentine
Mark S. Yurick
Interstate Gas Supply
Chester, Willcox & Saxbe LLP
65 East State St., Ste. 1000
Columbus, Ohio 43215-4213

M. Howard Petricoff
Stephen Howard
Integrys Energy Services, Inc.
Vorys, Sater, Seymour &Pease LLP
52 East Gay St., P.O. Box 1008
Columbus, Ohio 43216-1008

Joseph P. Meissner
Legal Aid Society of Cleveland
1223 West Sixth Street
Cleveland, Ohio 44113

David Rinebolt
Colleen Mooney
Ohio Partners for Affordable Energy
P.O. Box 1793
Findlay, Ohio 45839-1793

John M. Dosker
General Counsel
Stand Energy Corporation
1077 Celestial St., Ste. 110
Cincinnati, Ohio 45202-1629

Stephen M. Howard
Ohio Gas Marketers Group
Vorys, Sater, Seymour &Pease LLP
52 East Gay St., P.O. Box 1008
Columbus, Ohio 43216-1008

Todd M. Smith
Utility Workers Union Of America
Local G555
Schwarzwald & McNAir LLP
616 Penton Media Building
1300 East Ninth Street
Cleveland, Ohio 44114

David F. Boehm
Michael L. Kurtz
Ohio Energy Group
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

W. Jonathan Airey
Gregory D. Russell
Ohio Oil & Gas Association
Vorys, Sater, Seymour &Pease LLP
52 East Gay St., P.O. Box 1008
Columbus, Ohio 43216-1008

Samuel C. Randazzo
Daniel J. Neilsen
Joseph M. Clark
Industrial Energy Users-Ohio
McNees, Wallace & Nurick
21 East State St., Ste. 1700
Columbus, Ohio 43215

Steve Beeler
City of Cleveland
Cleveland City Hall
601 Lakeside Avenue, Room 206
Cleveland, Ohio 44114-1077