

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO

In the Matter of the Audit of the)	
Transportation Migration Rider – Part B of)	
The East Ohio Gas Company d/b/a)	Case No. 08-219-GA-EXR
Dominion East Ohio and Related Matters.)	
In the Matter of the Application of The East)	
Ohio Gas Company d/b/a Dominion East)	
Ohio for Approval of a General Exemption)	Case No. 07-1224-GA-EXM
of Certain Natural Gas Commodity Sales)	
Services or Ancillary Services.)	
In the Matter of the Restructured)	
Commodity Service Function of The East)	Case No. 05-474-GA-ATA
Ohio Gas Company d/b/a Dominion East)	
Ohio.)	
In the Matter of the Application of The East)	
Ohio Gas Company d/b/a Dominion East)	
Ohio for Approval of an Adjustment to its)	Case No. 07-659-GA-UEx
Uncollectible Expense Rider Rate)	

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

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all the approximately 1.1 million residential utility consumers of The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "the Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in the above-captioned proceedings where the Transportation Migration Rider – Part B (or "TMR"), a cost recovery tracker related to DEO's exit from the merchant function, and the Uncollectible Expense Rider (or "UEX"), a bad debt recovery mechanism, are both

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under review by an independent auditor. Pursuant to R.C. Chapter 4911; R.C. 4903.221;
Ohio Adm. Code 4901-1-11, OCC's Motion should be granted because OCC meets the
legal standards for intervention, as explained in detail in the attached Memorandum in
Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Audit of the)	
Transportation Migration Rider – Part B)	
of The East Ohio Gas Company d/b/a)	Case No. 08-219-GA-EXR
Dominion East Ohio and Related Matters.)	
In the Matter of the Application of The)	
East Ohio Gas Company d/b/a Dominion)	
East Ohio for Approval of a General)	Case No. 07-1224-GA-EXM
Exemption of Certain Natural Gas)	
Commodity Sales Services or Ancillary)	
Services.)	
In the Matter of the Restructured)	
Commodity Service Function of The East)	Case No. 05-474-GA-ATA
Ohio Gas Company d/b/a Dominion East)	
Ohio.)	
In the Matter of the Application of The)	
East Ohio Gas Company d/b/a Dominion)	
East Ohio for Approval of an Adjustment)	Case No. 07-659-GA-UEx
to its Uncollectible Expense Rider Rate)	

MEMORANDUM IN SUPPORT

As a result of its recent Standard Service Offer Auctions, DEO has established the price for gas to be paid by non-Choice residential customers (meaning customers of DEO that have not chosen to obtain natural gas from a competitor of DEO) in the DEO service territory. Regarding Choice customers -- customers that are obtaining natural gas from a competitor, DEO has collected certain costs from them through the Transportation Migration Rider – Part B (TMR). In addition, DEO collects the cost of uncollectibles from customers through a Commission-approved rider (“UEx Rider”). Each of the four above-captioned cases relates to costs recovered through the TMR or the UEx rider.

Part of the process in these cases includes an annual financial audit to be conducted by an outside auditor, with regard to the cost components that make up the two different riders. This proceeding will focus on those audits to ensure all costs that were collected from customers through the TMR and UEX riders were accurate, prudent and reasonable.¹ Because the riders are paid by residential customers of DEO, the Commission should grant OCC's Motion to Intervene in this proceeding so that OCC can fully participate in this proceeding and protect the interests of those residential customers.

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, under R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding may seek intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially if the consumers are unrepresented in a proceeding to review the components of the TMR and the UEX Rider. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

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

¹ See e.g. R.C. 4905.302(E).

First, the nature and extent of OCC's interest is representing **all of** the residential consumers of DEO. This interest is different than that of any other party and especially different than that of the utility that advocates for the financial interest of stockholders.

Second, OCC will advocate that DEO's Transportation Migration Rider – Part B, and the UEX Rider should include only the costs that are reasonable and permissible under Ohio law, for service that is adequate under Ohio law. OCC's position is therefore directly related to the merits of this case pending before the PUCO that regulates public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC has longstanding expertise and experience in PUCO proceedings. OCC has been a participant in the development of auction process which includes many of the costs included in the Transportation Migration Rider – Part B and participated in both of the previous auctions, and has been a participant in previous TMR and UEX audits and thus will contribute to the process of the case.

Fourth, 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 deciding whether or not DEO's costs are reasonable and lawful for collection from customers.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case where the components of the TMR and the UEX rate

that DEO's residential customers paid will be reviewed.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC has addressed above, and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion because it has been uniquely designated as the state representative of the interests of Ohio's residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio recently confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.²

OCC meets the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Additionally, granting OCC intervention is consistent with the intervention standards explained by the Supreme Court of Ohio. On behalf of DEO's residential consumers, the Commission should grant OCC's Motion to Intervene.

² *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

Respectfully submitted,

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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* was provided to the persons listed below via first class U.S. Mail, postage prepaid, on this 16th day of December 2008.



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