

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The East)
 Ohio Gas Company d/b/a Dominion East) Case No. 07-829-GA-AIR
 Ohio for Authority to Increase Rates for its)
 Gas Distribution Service.)

In the Matter of the Application of The East)
 Ohio Gas Company d/b/a Dominion East) Case No. 07-830-GA-ALT
 Ohio for Approval of an Alternative Rate)
 Plan for its Gas Distribution Service.)

In the Matter of the Application of The East)
 Ohio Gas Company d/b/a Dominion East) Case No. 07-831-GA-AAM
 Ohio for Approval to Change Accounting)
 Methods.)

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) Case No. 08-169-GA-ALT
 Infrastructure Replacement Program)
 Through an Automatic Adjustment Clause)
 and for Certain Accounting Treatment.)

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 and for Certain Accounting)
 Treatment.)

ENTRY ON REHEARING

The Commission finds:

- (1) On August 30, 2007, The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) filed applications to increase its gas distribution rates, for authority to implement an alternative rate plan for its gas distribution services, and for approval to change accounting methods. On December 13, 2006, DEO filed

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an application for approval of tariffs to recover, through an automatic adjustment mechanism, costs associated with the deployment of automated meter reading equipment. On February 22, 2008, DEO filed an application requesting approval of tariffs to recover, through an automatic adjustment mechanism, costs associated with a pipeline infrastructure replacement program. All of these applications were consolidated by the Commission.

- (2) By opinion and order issued October 15, 2008, the Commission, *inter alia*, approved the joint stipulation and recommendation (stipulation) filed by the parties in these cases, which resolved all of the issues raised in the applications except for the issue of the rate design for DEO's General Sales Service (GSS) and Energy Choice Transportation Service (ECTS) rate schedules. With regard to the rate design, the Commission adopted the first two years of the modified straight fixed variable (SFV) levelized rate design to decouple DEO's revenue recovery from the amount of gas actually consumed, which was proposed by Staff and DEO. Prior to approval of rates for year three and beyond, the Commission directed DEO to complete the cost allocation study required in the stipulation and to provide it to the Commission for consideration. In its opinion and order, the Commission acknowledged that adoption of the SFV rate design will reduce the risk assumed by the company. The Commission, based upon this reduction in risk, the testimony heard at the local hearings, and the deteriorating economic conditions, found that the rate of return set forth in the stipulation should be altered downward by 20 basis points to 8.29 percent.
- (3) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in that proceeding, by filing an application within 30 days after the entry of the order upon the journal of the Commission.
- (4) On November 14, 2008, DEO filed an application for rehearing, asserting five grounds for rehearing. Also on November 14, 2008, the Office of the Ohio Consumers' Counsel, the city of Cleveland, Ohio Partners for Affordable Energy, the Neighborhood Environmental Coalition, the Empowerment Center of Greater Cleveland, Cleveland Housing Network, and

the Consumers For Fair Utility Rates (collectively, Consumer Groups) filed an application for rehearing, asserting eight grounds for rehearing.

- (5) On November 24, 2008, DEO filed a memorandum in opposition to the Consumer Groups' application for rehearing.
- (6) The underlying basis for all of DEO's assignments of error in its application for rehearing are based on the Commission's decision to reduce the rate of return from 8.49 percent, as recommended in the stipulation, to 8.29 percent. The following paragraphs set forth DEO's specific grounds for rehearing, together with a brief description of its rationale for each ground:
 - (a) The Commission denied DEO due process by not permitting DEO to brief or argue the rate-of-return issue and then by reducing the rate of return.

DEO asserts that it was denied the opportunity to present arguments on the issue of rate of return and then the rate of return was reduced. It points out that due process requires a fair hearing and an opportunity to be heard. Given the explicit instructions that the sole issue was the rate design and the lack of opposition on any other issue, DEO explains that it had no reason to seek to argue the rate of return issue or otherwise to protest the Commission's limitations on briefing or directives at oral argument. (DEO application for rehearing at 3-5.)

- (b) The portion of the order reducing DEO's rate of return was unlawful because it lacked record support.

DEO argues that the rate of return reduction is unsupported by the record. The Commission's basis for the cost of capital reduction, according to DEO, was a purported reduction in risk assumed by the company as a result of SFV rate design; however, there was no evidence in the record to support this statement. To the extent the SFV rate design purportedly reduces risk, DEO asserts that such risk assessment was already reflected in the stipulation's

recommended rate of return. The Commission's claim that the testimony heard at public hearings was a basis to reduce DEO's rate of return is unsupported, claims DEO, because the Commission cannot specify any witness at any public hearing who recommended or justified a rate of return reduction. Rather, DEO suggests that the testimony at the public hearings was directed at rate design and particular customers' circumstances as a result of a change in rate design and not rate of return. DEO also contends that there was no testimony in the record recommending or justifying a reduction in rate of return based on deteriorating economic conditions, which was another factor justifying the Commission's rate of return reduction. (DEO application for rehearing at 5-10.)

- (c) The portion of the order reducing DEO's rate of return was unreasonable on its face, because it relied on a factor of increased risk to reduce the rate of return.

DEO asserts that reducing the rate of return is facially unreasonable and self-contradictory. The most important factor relied upon by the Commission in reducing the rate of return—deteriorating economic conditions—in fact, demonstrates increasing risk and, thus, justifies an increase. Therefore, according to DEO, the order contradicts itself. In addition, DEO claims that the Commission's reduction only exacerbates the true cost of capital for DEO. Furthermore, DEO points out that the Commission's adjustment of the rate of return contradicts other portions of the order and that the order already contained numerous approvals and adjustments that addressed low-income customer's needs, such as the SFV rate design, a pilot program to credit bills directly, an increase in demand-side management (DSM) spending, and shareholder funding to assist low-income customers in payment assistance and conservation education. (DEO application for rehearing at 10-14.)

- (d) The order violated Section 4909.15(D)(2)(a), Revised Code, by authorizing a cost of debt lower than DEO's actual embedded cost of debt.

DEO argues that, by reducing the rate of return, the order reduced the revenue attributable to DEO's embedded cost of debt and denied DEO recovery of that embedded cost, in violation of Section 4909.15(D)(2)(a), Revised Code. DEO alternatively suggests that, because the embedded cost of debt comprises almost half of its capital structure, the order can be seen as reducing the return on equity by approximately twice as much as the 20 basis points that were identified by the Commission. It asserts that there is nothing in the record to support such a reduction. (DEO application for rehearing at 14.)

- (7) The Commission notes that our decision to reduce the rate of return was primarily based on the determination that the risk assumed by the company would be reduced as a result of the SFV rate design approved by the Commission. Upon review, we find that the stipulation approved by the parties had, in fact, already incorporated a lower rate of return due to the agreement by the parties in the stipulation to move to either a decoupling rider or an SFV rate design. It appears that the lower rate of return in the stipulation was based on a recalculation of the return on equity range to reflect a 25 basis point reduction to account for the lower risk to DEO. (Jt. Ex. 1 at 4; Tr. at 84; Staff Ex. 1 at 34.) As the stipulation already incorporated a reduced rate of return to DEO, the Commission's concern regarding the reduced risk to the company presented by the SFV rate design was addressed. Therefore, we find that DEO's application for rehearing should be granted and the rate of return agreed to in the stipulation should be reestablished at 8.49 percent. Accordingly, having reestablished the rate of return agreed to by the stipulating parties, the Commission finds that the stipulation filed in these cases should now be approved in its entirety.
- (8) In their first ground for rehearing, the Consumer Groups assert that the Commission erred when it failed to comply with the requirements of Section 4903.09, Revised Code, and provide specific findings of fact and written opinions that were

supported by record evidence. The Consumer Groups specify three different ways in which the Commission allegedly so erred. Each will be discussed individually.

- (a) First, they argue that the order acknowledges that there is insufficient evidence to support the decision inasmuch as the Commission ordered future studies that are intended to establish findings, on a prospective basis, to warrant the Commission's current decision. The Consumer Groups state that it is unclear why the Commission ordered DEO to perform a study within 90 days but was willing to wait for two years before addressing the study's results. They contend that the GSS class cannot be considered homogeneous relative to the residential consumers' usage because the average residential GSS customer uses 99.1 Mcf per year, while the average nonresidential GSS customer uses 390 Mcf per year, with some nonresidential customers using up to 3,000 Mcf per year. The Consumer Groups maintain that, absent actual homogeneous membership in the GSS customer class, there will be misallocations among customers within the GSS class and that the current shortcomings of the class cost-of-service study will do little to assist the low-use residential consumers who will be most harmed by the SFV rate design during years 1 and 2. (Consumer Groups' application for rehearing at 9--12.)

With regard to the additional studies ordered by the Commission, DEO maintains that the order should not be vacated just because there may be new facts that are yet to be discovered. DEO suggests that the Consumer Groups' understanding of the purpose of the studies, as well as the pilot program, is flawed. According to DEO, the purpose for the cost-of-service study is to determine whether the GSS/ECTS classes should be split, the answer to which would not contradict the Commission's decision to move to an SFV rate design. DEO contends that this study would address the Commission's possible order to transition to a full SFV rate design. As DEO summarizes, "that the Commission has the foresight to address that

issue in a proactive manner does not in any way suggest that the record evidence supporting the current Order is somehow inadequate." (Memorandum contra at 5-8.)

We find no merit to the Consumer Groups' argument. As we noted in the order, the modified SFV rate design is a move toward correcting the traditional design inequities, while at the same time, mitigating the impact of the new rates on customers. DEO is correct that the additional information we will obtain through this study is not intended to address any issues relevant to the determination in these proceedings to move to a modified SFV rate design. Rather, the additional cost allocation information will provide us the opportunity to reassess whether it is appropriate to separate the residential and nonresidential consumers in these classes, for future consideration. After the cost allocation study is completed, we will establish a process that will be followed to determine the appropriate rates in year three and beyond.

- (b) The Consumer Groups next argue that the Commission erred by approving a low-income pilot program without an adequate record to support the order. They contend that the Commission's statement that low-use customers have not been paying the entirety of their fixed costs is made without any basis to conclude that high-usage customers were overpaying fixed costs under the previous rate design. The Consumer Groups contend that the record in these cases does not answer the question of how the SFV rate design impacts the low-income customers and it is bad public policy to approve such a change in policy without a full and complete understanding of the harm that it may cause. They argue that it is unclear why the low-use, low-income customer program evaporates after one year when the SFV will be in place for a longer period of time. Furthermore, they state that the Commission failed to explain how DEO, which has almost 1.2 million residential customers, almost three times the number

of gas customers of Duke Energy Ohio, Inc. (Duke), should have a program that is one-half the size of the program the Commission approved for Duke. Case No. 07-589-GA-AIR et al. (Opinion and Order, May 28, 2008; Entry on Rehearing, July 23, 2008). (Consumer Groups' application for rehearing at 12-18.)

DEO counters the Consumer Groups' argument concerning the pilot program, pointing out that its adoption does not reflect a defect in the approval of the SFV rate design but, rather, merely reflects the reality that the rate design change will have a negative effect on some customers. DEO also emphasizes that adoption of the pilot program is not a "concession" that SFV will harm low-income customers, as SFV is expected to help low-income customers. DEO also points out that the Consumer Groups are in error in focusing on the distribution component of bills, as distribution costs are a very small component of total bills. (Memorandum contra at 8-11.)

As we stated in our order, the Commission recognizes that the change in rate design will leave some customers better off and some customers worse off, as compared with the existing rate design. We noted that we are concerned with the impact that the change will have on some DEO customers who are low-income, low-use customers. That formed, in part, the basis for ordering the pilot program. It is ironic that the Consumer Groups would advocate against our attempt to mitigate the impact.

- (c) In the third part of their first ground for rehearing, the Consumer Groups claim that the Commission erred by ordering an evaluation of DEO's DSM energy efficiency programs without looking at the impacts that the SFV rate design has on these programs. They contend that the Commission should order an independent DSM program. (Consumer Groups' application for rehearing at 18-20.)

DEO argues that the DSM programs it supports are worthwhile and that nothing prevents the parties from undertaking significant DSM programs within the SFV rate design. DEO also states that the DSM collaborative and related programs have nothing to do with the rate design decision by the Commission. (Memorandum contra at 11-12.)

We find no merit to the Consumer Groups' argument. While the change in rate design will have impacts on customers, it will also have impacts on the company and, in all likelihood, on the DSM programs. It would not be in the best interests of consumers or the company for those impacts not to be studied. We would note that, historically, we have approved DSM programs without having full knowledge of the results those programs will have and without having made any prior independent analysis of those programs, because we recognize the beneficial impacts such programs have on customers.

As we find no argument made under the first assignment of error to be supportable, the Consumer Groups' application for rehearing on this ground will be denied.

- (9) In their second assignment of error, the Consumer Groups argue that the Commission should not have approved a rate design for a two-year transition period without establishing that Sections 4909.18 and 4909.19, Revised Code, govern the process for determining the rate design that will be implemented after the two-year transition period. They contend that the Commission failed to discuss what will be used to determine appropriate rates beginning in year three and merely noted that it will be establishing a process. They also claim that it is unclear if the process that the Commission will develop will be limited to DEO and the Commission or whether there will be an opportunity to challenge the study. (Consumer Groups' application for rehearing at 20-22.)
- (10) We clarify that the process that will be established for determining the appropriate rates in year three and beyond will provide for input from interested stakeholders and will

ensure that all parties have the opportunity to participate. This ground for rehearing will be denied.

- (11) In their third assignment of error, the Consumer Groups claim that the Commission erred by approving a rate design that includes an increase to the monthly residential customer charge without providing consumers adequate notice of the SFV rate design pursuant to Sections 4909.18, 4909.19, and 4909.43, Revised Code. The Consumer Groups claim that both of the notices to consumers failed to mention the proposed rate design and its impact and implications for customers. According to the Consumer Groups, "a decision by the Company to change its rate design position from its application to align with the rate design position in the staff report does not relieve the Company of its statutory requirement to provide its customers with notice of the substance of its application and at the time such notice is required - with its application - not after the staff report is issued." (Consumer Groups' application for rehearing at 22-23.) The Consumer Groups believe that the change in rate design was a material change that required disclosure. With regard to the notice of the public hearings, the Consumer Groups contend that the language only mentioned the SFV rate design in general terms and failed to disclose the potential magnitude of the increase in the customer charge. (Consumer Groups' application for rehearing at 22-30.)
- (12) In its memorandum contra, DEO argues that this assignment of error has previously been addressed by the Commission and rejected. DEO states that it is required to provide two notices: a notice of the application in accordance with Section 4909.19, Revised Code, and notice of the public hearings in compliance with Section 4903.083, Revised Code. DEO points out that it could not include an SFV rate design with its notice of the application, as the application did not include an SFV proposal. Eight months later, it explains, when the staff report was issued, was the first appearance of this issue. Thus, DEO contends that the notice of its application was accurate. With regard to notice of the public hearings, DEO notes that the governing statute requires a brief summary of the then known major issues in contention. As the hearing notice disclosed issues including "[t]he level of the monthly customer charge that customers will pay" and "[r]ate design, including consideration of decoupling and straight fixed variable

mechanisms," DEO believes that the notice complied with the statute. DEO also argues that Section 4903.083, Revised Code, saves the notice from invalidation based on defects in its content.

- (13) We find the Consumer Groups' argument on this point to be without merit. We note, at the outset, that the arguments raised by the Consumer Groups on rehearing were previously denied by the Commission on page 27 of our Opinion and Order. Sections 4909.18, 4909.19, and 4909.43, Revised Code, direct the utility to notify customers, mayors, and legislative authorities in the company's service area of the application and the rates proposed therein. DEO served upon mayors and legislative authorities and published in newspapers throughout its affected service area notices that met the requirements of Section 4909.18, 4909.19, and 4909.43, Revised Code, as approved by the Commission. The notice specifically set forth the rates and percentage increase, by rate schedule, proposed by DEO in the application, including a reference to and explanation of the proposed sales decoupling rider. Although the Commission did not adopt the decoupling mechanism proposed by DEO, the notice was sufficient to inform customers of such proposal and to allow customers to register an objection to a decoupling mechanism and the increase in rates and the straight fixed variable rate design. In addition, as noted in the order, the SFV rate design was not proposed in the application, but was recommended by the staff in the staff report that was issued eight months after the application was filed. Therefore, the statute did not require that the notice of the application reference the SFV. Further, Section 4909.18, Revised Code, requires that the substance of DEO's initial application be disclosed in the publication, which it was. Furthermore, the notice for public hearing did appropriately state that one of the issues in the case was rate design and SFV.
- (14) In their fourth assignment of error, the Consumer Groups claim that the Commission erred by approving a rate design that discourages customer conservation efforts, in violation of Sections 4929.05 and 4905.70, Revised Code. They claim that the SFV rate design serves only the company's limited cost recovery interest. However, they contend, SFV fails to promote conservation because it sends the wrong price signals to customers by decreasing the volumetric rate while significantly

increasing the fixed portion. Thus, according to the Consumer Groups, SFV fails to encourage conservation. Further, the Consumer Groups say that SFV removes customers' incentive to invest in energy efficiency because it extends the payback period for those customers' energy efficiency investments. (Customer Groups' application for rehearing at 31-35.)

- (15) DEO argues that the Consumer Groups wrongly conclude that SFV penalizes conservation and encourages consumption. Although it is true the transition to SFV will result in an increase in the fixed charge and a decrease in the volumetric charge and that, therefore, low-use customers will pay more than they previously paid and high-use customers will pay less than they previously did, nevertheless, DEO argues, transition-related change has nothing to do with conservation. DEO emphasizes that the largest portion of the bill, approximately 80 percent, is the commodity charge and that the commodity charge is the "biggest driver" of usage decisions. DEO also stresses that the SFV rate design corrects the subsidy of fixed distribution costs from high-use to low-use customers. (Memorandum contra at 18-20.)
- (16) The Commission finds that the Consumer Groups' argument regarding conservation was fully considered and rejected in the order. There is no dispute that both the modified SFV rate design and the previously proposed decoupling rider reduce or eliminate any disincentive for conservation programs that might be promoted or sponsored by the utility. There is also no dispute that, under both of the proposed rate designs, a customer who makes conservation efforts to reduce gas consumption will equally enjoy the full benefit of those efforts for the commodity portion of their gas bill, which typically represents 75 to 80 percent of their total gas bill. While under the SFV rate design, a low-use customer who conserves may not reduce his distribution charges as much as he would under the decoupling rider method, it is also true that all potential customer savings are not guaranteed under the decoupling rider method favored by the Consumer Groups, due to the attendant uncertainty caused by periodic reviews and adjustments necessary with the decoupling rider. Moreover, a decoupling rider would have the effect of preserving the inequities within the existing rate design that have caused high-use customers to subsidize the fixed costs of low-use

customers. As discussed in the Commission's opinion, we opted to match costs and revenues more closely, such that customers pay their fair share of distribution costs. Finally, this argument for rehearing disregards the fact that a fundamental reason for our adoption of the new rate design is to foster conservation efforts in accordance with Sections 4929.02 and 4905.70, Revised Code. The only question at issue in these proceedings is whether an SFV rate design or a decoupling rider better achieves all competing public policy goals. As discussed at length in our opinion, we believe the SFV rate design is the better choice. This ground for rehearing is denied.

- (17) The Consumer Groups' fifth assignment of error is that the Commission erred by approving a rate design that unreasonably violates prior Commission precedent and policy. The Consumer Groups argue that the Commission has identified gradualism as one of the regulatory principles to be incorporated in its decision-making process and, for gradualism to have any legitimacy as a regulatory principle, it must be applied with a certain level of consistency and transparency. They claim that this principle has been relied upon in prior cases and that the Commission should not ignore the consumer opposition voiced against the proposed SFV rate design at the public hearings. (Consumer Groups' application for rehearing at 35-41.)
- (18) DEO asserts that, although gradualism is an important consideration, the SFV rate design approved by the Commission does reflect this policy in at least three ways. First, DEO explains that only 84 percent of the fixed costs will be recovered through the fixed charges. Second, DEO points out that the SFV rates will be phased in over two years. Finally, it notes that DEO has agreed to a "nearly three-fold increase in DSM spending," as well as additional funding for support of low-income customers. DEO stresses that the principle of gradualism should not be used to block the transition to the SFV rate design and notes that gradualism is only one of many important regulatory principles. (Memorandum contra at 20-21.)
- (19) In examining these claims, we first observe that this Commission is not bound by any statutory requirement relating to the regulatory principle of gradualism and that this

is only one of many important regulatory principles. However, consistent with the principle of gradualism, we noted in the order that the new levelized rate design best corrects the traditional rate design inequities, while mitigating the impact of the new rates on residential customers by maintaining a volumetric component to the rates, by phasing in the increase over a two-year period, and by not reflecting the full extent of DEO's fixed costs in the proposed fixed charge. We also emphasized that the low-income pilot program, aimed at helping low-income, low-use customers pay their bills, was crucial to our decision. Furthermore, we note that the Consumer Groups continue to compare the new flat monthly fee with the customer charge under the previous distribution rate structure. Such comparisons can be misleading and distort the impact on customers, since any analysis of the impact of the new levelized rate structure should consider the total customer charges. We note that, in association with the adoption of the SFV rate design, the volumetric charge reflected on the bills of residential customers will be reduced as the customer charge is phased-in to reflect the elimination of the majority of the company's fixed costs from the volumetric charge. Moreover, as noted in our order, the new rate design also achieves the important regulatory principle of matching costs and revenues to ensure that customers pay their fair share of distribution costs. Accordingly, the Commission finds that the Consumer Groups' request for rehearing on this issue should be denied.

- (20) Having determined that the rate of return agreed to in the stipulation should be reestablished and that the stipulation should be approved in its entirety, the Commission finds it necessary to update the rate determinants set forth in the October 15, 2008, opinion and order. Therefore, applying a rate of return of 8.49 percent to the value of the used and useful property as of the date certain results in required operating income of \$119,192,570. Under the stipulation, the parties agreed that the adjusted operating income of DEO during the test year was \$93,250,390. This results in an income deficiency of \$25,942,180 which, when adjusted for uncollectibles and taxes, results in a revenue increase of \$41,901,368. Therefore, we find that a revenue increase of \$40,500,000 stipulated by the parties is reasonable and should be approved.

- (21) By entry issued November 5, 2008, the Commission approved a revised bill format which incorporated the notice to all affected customers of the Commission's October 15, 2008, order in these cases, including the approved revenue increase for DEO which was based on an 8.29 percent rate of return. In light of our reestablishment of the stipulated rate of return of 8.49 percent, the Commission finds that DEO must notify customers of this change and that such notice should be provided to all affected customers via a bill message or via a bill insert in the next practicable billing cycle, but no later than 60 days from the date of this entry on rehearing. Furthermore, a copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers.
- (22) On October 8, 2008, DEO filed proposed tariffs which reflect the agreement of the parties to the stipulation, including the 8.49 percent rate of return. In our October 15, 2008, order in these cases, we found that the proposed tariffs filed by DEO correctly incorporated the provisions of the stipulation and the approved rate design; therefore, we approved the proposed tariffs filed on October 8, 2008, subject to modification to reflect the revised rate of return of 8.29 percent as approved in the order. Subsequently, by entry issued October 22, 2008, the Commission approved DEO's revised proposed tariffs, with one modification addressing the low income program, finding that the tariffs were consistent with our October 15, 2008, order, including the revised 8.29 percent rate of return.

In light of our reestablishment of the stipulated rate of return of 8.49 percent and our approval of the stipulation in its entirety, the Commission finds that the proposed tariffs filed on October 8, 2008, that reflect the agreement of the stipulating parties, including the reestablished rate of return of 8.49 percent should be approved with the following modification. In paragraph four of Original Sheet No. F-ECTS-LI1 and paragraph three of Original Sheet No. GSS-LI, the language should be modified to read, "The following charges for this one-year pilot program, limited to 5,000 customers, are effective for bills rendered on or after _____, 2008.". Therefore, DEO's proposed tariffs filed on October 8, 2008, are approved with this modification.

It is, therefore,

ORDERED, That the application for rehearing filed by DEO be granted, to the extent set forth in this entry on rehearing, that the rate of return agreed to in the stipulation be reestablished, and that the stipulation be approved in its entirety. It is, further,

ORDERED, That the Consumer Groups' application for rehearing be denied. It is, further,

ORDERED, That DEO revise the customer notice, in accordance with finding (21) and that such notice be provided to all affected customers via a bill message or via a bill insert in the next practicable billing cycle, but no later than 60 days from the date of this order. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

ORDERED, That DEO's proposed tariffs filed on October 8, 2008, as modified in finding (22), be approved. It is, further,

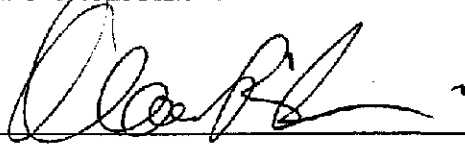
ORDERED, That DEO be authorized to file in final form four complete, printed copies of tariffs consistent with the findings of this entry on rehearing. DEO shall file one copy in its TRF docket number (or may make such filing electronically as directed in Case No. 06-900-AU-WVR), and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the effective date of the new tariffs shall be the date upon which four complete, printed copies of final tariffs are filed with the Commission. The new tariffs shall be effective for bills rendered on or after such effective date. It is, further,

ORDERED, That nothing in this entry on rehearing shall be deemed to be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

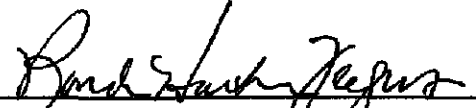
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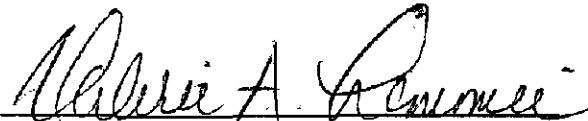
Alan R. Schriber, Chairman



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Renee J. Jenkins
Secretary