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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18 and Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, 4901:1-15-17, 4901:1-21-14, and 4901:1-29-12 of the Ohio Administrative Code.	**Case No. 08-723-AU-ORD**

APPLICATION FOR REHEARING OF THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO

Pursuant to R.C. § 4903.10 and Rule 4901-1-35, Ohio Administrative Code, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") hereby applies for rehearing of the Finding and Order issued in the above-captioned case on December 17, 2008 ("Order"). As explained in more detail in the attached Memorandum in Support, the Order in this case is unreasonable and unlawful on the following grounds:

1. The Order Is Unreasonable in that It Does Not Provide Sufficient Time to Allow the Company to Comply with the Order's Requirements.

2. The Order Is Unreasonable in that It Does Not Make Clear the Options Available to Utilities Should Customers Default on the One-Third Payment Plan.

3. The Order Is Unreasonable in that It Does Not Provide Customers with Notice of Upcoming Reverification Deadlines

4. The Order Is Unreasonable in that It Reduced the Monthly PIPP Payment from 10% of Income to 6%.

5. The Order Is Unreasonable in that It Does Not Permit Utilities to Apply a Previously Collected Deposit to a Customer's Existing Account Balance.

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6. The Order Is Unreasonable in that It Does Not Make Clear Whether Certain Rules Apply to PIPP Graduates.

7. The Order Is Unreasonable in that It Does Not Clarify that Utilities Must Receive Notice from the Ohio Department of Development ("ODOD") before Terminating a Customer from PIPP.

For these reasons, as demonstrated in the attached Memorandum in Support, the Commission should grant this Application for Rehearing and appropriately modify the Order.

Respectfully submitted,

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ATTORNEYS FOR THE EAST OHIO GAS COMPANY d/b/a DOMINION EAST OHIO

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18 and Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, 4901:1-15-17, 4901:1-21-14, and 4901:1-29-12 of the Ohio Administrative Code.	**Case No. 08-723-AU-ORD**

MEMORANDUM IN SUPPORT

I. INTRODUCTION

In the Order, the Commission adopted revisions to the rules contained in Chapters 4901:1-17 and -18, Ohio Administrative Code, regarding the termination of residential service, the most significant of which govern the Percentage of Income Payment Program ("PIPP") and extended payment plans. A number of provisions of the final rules are unreasonable and hence unlawful for a number of reasons. *See* R.C. 4903.13 (providing that orders "shall be reversed, vacated, or modified" if the order is "unreasonable"). In particular, the Commission failed to delay the effective date of the rules to give utilities sufficient time to achieve the significant programming and implementation tasks necessary to comply. Further, the Order reduced PIPP payments from 10% to 6% of income, without any evidence that such a reduction will increase payment frequencies enough to prevent an explosion in accumulated PIPP arrearages. And in many other respects, the rules were simply unclear in their application. For these reasons, discussed in further detail below, DEO respectfully requests the Commission grant rehearing and modify the rules accordingly.

II. ARGUMENT

A. The Order Is Unreasonable in that It Does Not Provide Sufficient Time to Allow the Company to Comply with the Order's Requirements.

The Order does not set forth an effective date for the rule changes. The rules therefore are likely to become effective roughly two-and-a-half months following final Commission approval of the rules. *See* JCARR Procedures Manual, Appx. II, JCARR Timeline.[1] DEO's information-technology ("IT") department roughly estimates that 4,600 hours will be needed to make the programming changes required to comply with the Commission's modifications to the PIPP and extended-payment-plan rules—and implementing such modifications is not the Company's only IT responsibility. Taking into consideration other programming efforts currently underway and planned for the coming year, it is clear that even with the most heroic of efforts, DEO (and surely other utilities as well) will need additional time to achieve compliance with the dramatically revised rules.

The Commission has granted delayed effective dates or implementation dates in similar circumstances. *E.g.*, *In re the Review of Chapter 4901:1-5, OAC*, Case No. 05-1102-TP-ORD, Entry ¶ 2 (Dec. 5, 2007) ("granting . . . delayed implementation date" in recognition that the "companies would need time to make necessary software and billing system changes for implementing the new [rules]"); *In re Establishment of Minimum Gas Service Standards*, Case No. 05-602-GA-ORD, Entry on Rehearing ¶ 47 (May 16, 2006) (granting delayed effective date "[i]n recognition of the efforts and cooperation by all members of the industry and the participants in the case, and in recognition of the need of the companies to implement the rules"). DEO therefore requests that the effective date of the rule changes be delayed by at least 18

[1] *Available on-line at* https://www.jcarr.state.oh.us/images/stories/manual_as_of_oct_31_2008.pdf.

months to allow sufficient time for analysis and identification of the necessary changes to DEO's system and for the programming required to implement those changes.

B. The Order Is Unreasonable in that It Does Not Make Clear the Options Available to Utilities Should Customers Default on the One-Third Payment Plan.

Rule 4901:1-18-05 (C) is unclear. It states that a customer in default of the modified one-sixth plan described in subparagraph (B)(1) or the one-twelfth plan described in subparagraph (B)(2) of this rule shall be "offered PIPP" if the customer "meets the qualifications for that PIPP plan." It also states that "if a customer is having difficulty complying with any payment plan and requests that the utility company review that payment plan, the utility company may agree to modify the payment plan." The rule's failure to describe whether DEO should offer the PIPP program to customers in default on the one-third payment plan described in subparagraph (B)(3) implies that DEO need not do so and may proceed to inform customers that they risk disconnection if they default on a (B)(3) plan. DEO thus seeks rehearing for clarification of the options available to utilities should customers default on the one-third payment plan described in subparagraph (B)(3).

C. The Order Is Unreasonable in that It Does Not Provide Customers with Notice of Upcoming Reverification Deadlines.

Rule 4901:1-18-12(D) requires annual reverification of PIPP eligibility. While the rules provide for the printing of anniversary dates on customer bills and for an annual packet of information to be sent to customers "at reverification," the rules fail to require the Ohio Department of Development to serve notification on customers reminding them to reverify their eligibility (e.g., one month before the anniversary date). Because the information sent by the utilities either coincides with reverification or predates it by nearly one year, it will not serve this

purpose. To prevent undue participation in PIPP, the rules should require such a notice to facilitate timely reverification of eligibility.

D. The Order Is Unreasonable in that It Reduced the Monthly PIPP Payment from 10% of Income to 6%.

Rule 4901:1-18-13 (A)(1) lowers the monthly PIPP payment to "six per cent of . . . household income or ten dollars, whichever is greater." The Commission should reconsider the percentage of household income that must be paid per billing cycle by PIPP customers.

The likely final outcome of the Order will be increasing arrearages for all ratepayers. Gas companies currently require PIPP customers to pay 10% of their household income per month. The originally proposed rules required only 8%, a significant reduction. The Commission now has gone even further, reducing the required payment to 6%. This will inflate the accumulated PIPP arrearages that must then be collected from other ratepayers through the PIPP rider. DEO already has a significant level of arrearages that is *not* being reduced by the existing PIPP rider rate of $0.5653 per Mcf. Given that the revised arrearage-crediting program adopted by the Commission will increase these arrearages more quickly than DEO's existing arrearage-crediting program, reducing the PIPP payment percentage will only compound this situation.

Data generated from DEO's billing system show that it will take a monumental increase in payment frequency to offset the revenue loss associated with the 6% level adopted by the Commission. PIPP customers currently make an average of 6.26 payments per year at 10% of income, resulting in payments of approximately $48.9 million per year. At 8% of income, 6.26 payments result in payments of approximately $39.6 million per year. At 6% of income and 6.26 payments per year, only $29.9 million is collected. At 8% of income, PIPP customers would need to make more than seven payments per year to generate the same total PIPP revenue that

DEO currently receives. At 6% of income, PIPP customers would need to make *more than ten* payments per year to generate the same PIPP revenue that DEO currently receives.

There is no evidence that the drastic reduction in payment levels will result in a near-doubling of the rate of payment frequency, and such an outcome appears to be little more than wishful thinking. While DEO disagrees that any reduction has been justified here, a moderate reduction—from 10% to 8%—would at least provide an opportunity to observe to what extent (if any) a correlation exists between payment amounts and payment frequency, while limiting the prospect of skyrocketing arrearages. The Commission unfortunately appears willing to gamble here, but however laudable its motives, it should bear in mind the interests of those who must ultimately foot the bill.

DEO therefore seeks rehearing and requests that the income-based payment percentage be set at 8% rather than 6%.

E. The Order Is Unreasonable in that It Does Not Permit Utilities to Apply a Previously Collected Deposit to a Customer's Existing Account Balance.

Under Rule 4901:1-18-15 (B), if a security deposit has been paid by a customer prior to entering the PIPP program, utilities must either refund the deposit or apply it to the customer's account "as requested by the PIPP customer." The rule does not address treatment of deposits if the customer has a balance due upon entering the PIPP program, however. In this situation, the utility should be permitted to apply the previously collected deposit to the existing account balance, to reduce amounts that will otherwise have to be collected through the PIPP rider. DEO seeks rehearing and requests that the rule be revised accordingly.

F. The Order Is Unreasonable in that It Does Not Make Clear Whether Certain Rules Apply to PIPP Graduates.

Rule 4901:1-18-16 sets forth the requirements for the graduate PIPP program. Rules 4901:1-18-15(B) and (C) state that PIPP customers cannot be charged a deposit or late fees. It is

not clear, however, whether such prohibitions apply to customers in the graduate PIPP program. DEO therefore seeks rehearing and requests that Commission modify the rule to make clear whether these prohibitions apply to PIPP graduates.

G. The Order Is Unreasonable in that It Does Not Clarify that Utilities Must Receive Notice from the Ohio Department of Development ("ODOD") before Terminating a Customer's Participation in PIPP.

Rule 4901:1-18-17(A) requires that the "company shall remove a percentage of income payment plan (PIPP) customer from PIPP when the customer fails to comply with the [PIPP eligibility requirements set forth in] rule 4901:1-18-12." PIPP eligibility, however, is reviewed and administered by ODOD. This puts DEO in the unreasonable position of being required to take timely action based on timely information when it does not possess that information but must depend on ODOD to obtain and transmit that information in a timely manner. Therefore, DEO seeks rehearing and requests the Commission modify Rule 4901:1-18-17(A) to read as follows:

> The gas or natural gas utility company shall remove a percentage of income payment plan (PIPP) customer from PIPP when the company receives notice from the Ohio department of development that the customer has failed~~s~~ to comply with the requirements set forth in paragraphs (C), (D), or (E) of rule 4901:1-18-12 of the Administrative Code.

III. CONCLUSION

For the reasons set forth above, DEO respectfully requests the Commission to grant rehearing and modify the rules appropriately.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Application of Rehearing of The East Ohio Gas Company d/b/a Dominion East Ohio was served upon the following parties this 16th day of January, 2009:[2]

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