

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The East Ohio :  
Gas Company dba Dominion East Ohio for : Case No. 07-829-GA-AIR  
Authority to Increase Rates for its Gas :  
Distribution Service. :

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

In the Matter of the Application of The East Ohio :  
Gas Company dba Dominion East Ohio for : Case No. 07-831-GA-AAM  
Approval to Change Accounting Methods. :

In the Matter of the Application of The East Ohio :  
Gas Company dba Dominion East Ohio for : Case No. 08-169-GA-ALT  
Approval of Tariffs to Recover Certain Costs :  
Associated with a Pipeline 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 dba Dominion East Ohio for : Case No. 06-1452-GA-UNC  
Approval of Tariffs to Recover Certain Costs :  
Associated with Automated Meter Reading and :  
for Certain Accounting Treatment. :

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**MOTION TO TERMINATE EXPEDITED RESPONSE TIMES FOR MOTIONS  
SET IN THE ENTRY OF MARCH 19, 2008 FILED BY THE STAFF OF THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

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The Staff of the Ohio Public Utilities Commission moves for an order terminating the expedited response times for motions set in the Attorney Examiner's Entry dated March 19, 2008, paragraph 5, because good cause to deviate from the response time provided in Ohio Administrative Code Section 4901-1-12 (B) no longer exists, making the expedited

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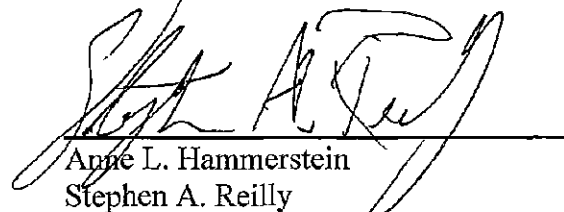
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response times unnecessary. The continuation of the expedited response times under such circumstances prejudices Staff and all others seeking to respond to motions by limiting unnecessarily their response times.

Respectfully submitted,

Richard Cordray  
Ohio Attorney General

Duane Luckey  
Section Chief

Handwritten signatures of Anne L. Hammerstein and Stephen A. Reilly, written in black ink over a horizontal line.

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## MEMORANDUM IN SUPPORT

The procedural rules of the Public Utilities Commission of Ohio provide fifteen days for a party to file a memorandum-contra responding to a motion and seven days for a party to reply to a memorandum-contra. Ohio Admin. C. 4901-1-12 (B). Those response times apply unless altered by the attorney examiner. *Id.* In this case, the attorney examiner, exhibiting a concern for time, found *good cause* to reduce those response times to seven business days for a memorandum-contra and four business days for a reply. *In re: The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR (Entry at 2) (March 19, 2008). The attorney examiner, further exhibiting a concern for time, also ordered service of motions by electronic mail and explicitly eliminated the additional response time the Commission's rules provided for service by mail. *Id.* The existing circumstances justified that concern. When the attorney examiner reduced the response times, over two hundred days had elapsed from the filing of the rate increase application. From that point to the time of the Commission's final decision on rehearing, at least, the following time-consuming events had to occur:

1. A motion to intervene needed to be decided;
2. A motion to dismiss needed to be argued and decided;
3. The hearing had to be held;
4. The contested issues needed to be briefed and argued;
5. The Commission needed to decide the matter and issue an Opinion & Order;
6. Rehearing applications had to be briefed and argued;
7. The Commission had to decide the rehearing applications and issue a decision.

Accordingly, time was a legitimate concern when the attorney examiner shortened the response times.

Time is not a concern now. All of the foregoing events have occurred. The case has been decided by the Commission. *In re: The East Ohio Gas Company d/b/a*

*Dominion East Ohio*, Case No. 07-829-GA-AIR ( Entry on Rehearing) (December 19, 2008). It has been appealed to the Ohio Supreme Court. *In re: The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR (Notice of Appeal of Ohio Partners for Affordable Energy) (February 11, 2009); *In re: The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR (Notice of Appeal of The Ohio Consumers' Counsel) (February 17, 2009). Additionally, Dominion has revised its tariff and the new rates are in effect. *In re: The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR (Revised Tariff of The East Ohio Gas Company d/b/a Dominion East Ohio) (October 16, 2008). Under that tariff, phase II of the straight-fixed-variable rate, which is the subject of the Consumer Groups' motion, will become effective six months from now, in October, 2009. *Id.* Sufficient time exists to decide Consumer Groups' motion under the typical time frames provided by the Commission's procedural rules.

Consumer Groups filed their motion on March 31, 2009. Under the typical time frames of the Commission's procedural rules, memoranda contra would be due April 15, 2009 and replies would be due April 22, 2009. *See*, Ohio Admin. C. 4901-1-12 (B). That means, under the typical time frames for responding to motions, over five months would exist for deciding the motion before the phase II rates became effective on October 1, 2009. Staff submits that is plenty of time and that time concerns no longer exist.

Additionally, the abbreviated response schedule prejudices those who might contest Consumer Groups' motion. Approximately four months passed between the Commission's Entry on Rehearing and Consumer Groups' motion. That means Consumer Groups had four months to consider, choose and hone their arguments. Under

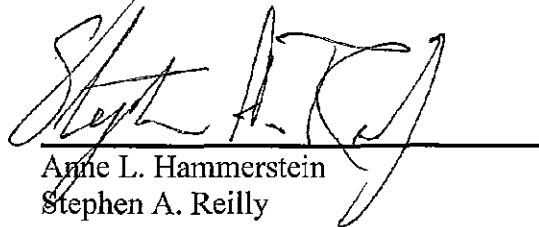
the current schedule those that might contest them have little more than a week to review, research, and respond to those arguments. That is not fair absent some compelling reason. As discussed above, such a compelling reason no longer exists. Accordingly, the abbreviated deadlines should be withdrawn.

O.A.C. § 4901-1-12(F) provides that the Attorney Examiner may, upon their own motion, issue an expedited ruling on any motion, with or without the filing of memoranda, where the issuance of such a ruling will not adversely affect a substantial right of any party. Staff submits that given the shortened time frame for response currently in existence that this is the appropriate time for the Attorney Examiner to invoke this rule. An expedited ruling on this motion will not affect a substantial right of any party.

Respectfully submitted,

Richard Cordray  
Ohio Attorney General

Duane Luckey  
Section Chief

A handwritten signature in black ink, appearing to read "Stephen A. Reilly", is written over a horizontal line.

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## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by e-mail and via regular U.S. mail, postage prepaid, upon the following parties this 3rd day of April, 2009.

Respectfully submitted,

  
**Stephen A. Reilly**  
Assistant Attorney General

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