

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

The attorney examiner 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 an application for approval of tariffs to recover, through an

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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 entry issued March 19, 2008, the attorney examiner concluded that good cause existed to modify the response times for motions in these cases. Therefore, the examiner required that any party wishing to file a memorandum contra a pending motion must do so within seven business days after service of a motion and any party wishing to file a reply to a memorandum contra a pending motion must do so within four business days after service of the memorandum contra. In addition, the examiner required that the parties serve motions by electronic means and that the additional three days' time, where service is made by mail, pursuant to Rule 4901-1-07, Ohio Administrative Code (O.A.C.), would not apply.
- (3) 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.
- (4) On March 31, 2009, 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 a motion to stay the implementation of the stage two GSS and ECTS tariffs in these cases. Their motion contained a footnote stating that an expedited ruling on this motion was not being requested because, in the March 19, 2008,

entry, the attorney examiner had already established an expedited schedule for the filing of responses to motions.

- (5) On April 3, 2009, Staff filed a motion to terminate the expedited response times for motions that were established in the examiner's March 19, 2008, entry. In support of its motion, Staff states that the circumstances that justified the reduction of the response times no longer exist. According to Staff, absent the expedited response times required by the examiner in these cases, memoranda contra the Consumer Groups' March 31, 2009, motion would be due April 15, 2009, and the replies would be due April 22, 2009, in accordance with Rule 4901-1-12(B), O.A.C. Staff explains that the Consumer Groups had four months to consider and prepare the arguments set forth in their March 31, 2009, motion. However, Staff points out that, with the abbreviated response schedule, those parties who wish to contest the Consumer Groups' motion would be prejudiced because they would have little more than a week to review, research, and respond to the arguments set forth in the motion. Therefore, Staff requests that the expedited response times be terminated.
- (6) Rule 4901-1-12(F), O.A.C., provides that the attorney examiner may issue an expedited ruling on any motion, with or without the filing of memoranda, if the issuance of such ruling does not adversely affect a substantial right of any party.
- (7) In light of the abbreviated response schedule that is currently in place in these cases, and taking into consideration the requirements of Rule 4901-1-12(F), O.A.C., the examiner finds that it is appropriate to issue an expedited ruling addressing Staff's April 3, 2009, motion. Upon consideration of Staff's request, the examiner agrees that present circumstances no longer require that an abbreviated response schedule be required for all motions. From the brief footnote in the Consumer Groups' motion, it appears that they may have wanted the expedited schedule to apply in this situation. However, given the nature and import of the March 31, 2009, motion filed by the Consumer Groups, the attorney examiner does not believe that it is reasonable to expect interested parties to respond on an expedited basis. The request by the Consumer Groups will be considered and acted upon by the Commission; thus, it is essential that all parties have an

adequate amount of time, as provided for in the Commission's rules, to respond to the March 31, 2009, motion to stay. Furthermore, even though the expedited schedule is no longer in place, the Consumer Groups will still have an opportunity to reply to any memoranda contra that are filed in response to their motion; thus, the Consumer Groups' rights will not be adversely affected by this ruling.

- (8) Therefore, the attorney examiner finds that Staff's April 3, 2009, motion to terminate the expedited response times for motions set in the March 19, 2008, entry is reasonable and should be granted. Accordingly, responses to future motions filed in these cases should adhere to the procedures and filing deadlines set forth in Chapter 4901-1, O.A.C. Specifically, with regard to responses to the Consumer Groups' March 31, 2009, motion, in accordance with Rule 4901-1-12(B), O.A.C., memorandum contra and reply memorandum are due on April 15, 2009, and April 22, 2009, respectively.

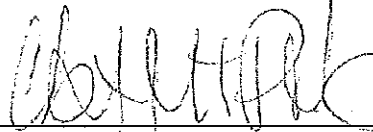
It is, therefore,

ORDERED, That Staff's motion to terminate the expedited response times for motions set in the March 19, 2008, entry be granted. It is, further,

ORDERED, That the response times set forth in finding (8) be observed. It is, further,

ORDERED, That a copy of this entry be served upon each interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Christine M.T. Pirik
Attorney Examiner

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/vrm

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Renee J. Jenkins
Secretary