

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The
East Ohio Gas Company d/b/a Dominion
East Ohio for Authority to Increase Rates
for its Gas Distribution Service.

Case No. 07-829-GA-AIR

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 Infrastructure Replacement
Program Through an Automatic
Adjustment Clause, And for Certain
Accounting Treatment

Case No. 08-169-GA-ALT

In the Matter of the Application of The
East Ohio Gas Company d/b/a Dominion
East Ohio to Adjust its Pipeline
Infrastructure Replacement Program Cost
Recovery Charge and Related Matters

Case No. 09-⁴⁵⁸—GA-UNC

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MOTION FOR WAIVER OF FILING REQUIREMENTS

The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") respectfully moves under O.A.C. 4901-7-01, Appendix A, Chapter II(A)(4), 4901:1-19-03, and 4901:1-19-05(A)(2), for a waiver from the requirement, pursuant to O.A.C. 4901-7-01, Appendix A, Chapter II(A)(4), and 4901:1-19-05(A)(2), to provide any notice, other than the pre-filing notice, regarding its application to establish a charge for the recovery of certain costs associated with DEO's Pipeline Infrastructure Replacement ("PIR") program. DEO also seeks a waiver of any requirement to file any materials other than those included in the pre-filing notice, to wit: (1) a notice of intent to file; (2) the list of communities and parties served with the notice of intent; (3) DEO's proposed PIR tariff and an update of the Communities Served tariff; (4) schedules showing typical bill comparisons; (5) schedules supporting the PIR Cost Recovery Charge rates including

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the PIR Estimated Cost Recovery Charge Revenue Requirement, PIR Estimated Cost Recovery Charge Project Additions by Month, Project Additions by Month Less Cost of Removal, Retirements, Cost of Removal, Provision for Depreciation, Net Regulatory Asset – Post In-Service Carrying Cost, Net Deferred Tax Balance – PISCC, Deferred Taxes on Liberalized Depreciation, Annualized Depreciation Associated With Additions, Annualized Amortization of PISCC, Property Tax Expense Calculation, Approved Rate of Return on Rate Base, Cost Allocation, Actual Bills Issued from April 1, 2008 – March 31, 2009, and Daily Transportation Service (“DTS”) Volumes from April 1, 2008 – March 31, 2009; (6) a description of the PIR Cost Recovery Charge rate application; and (7) the letters to public officials and parties to Case Nos. 07-829-GA-AIR, *et al.* This Motion is supported by the attached Memorandum in Support.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT OF MOTION
FOR WAIVER OF FILING REQUIREMENTS**

I. INTRODUCTION

By this motion, The East Ohio Gas Company d/b/a Dominion East Ohio (“DEO”) seeks a waiver from any requirement that DEO provide any further notice describing the substance of its application to establish a Pipeline Infrastructure Replacement (“PIR”) Cost Recovery Charge, other than the pre-filing notice agreed upon by the parties and approved by the Commission. Further, DEO requests a waiver of any further requirement to file any materials other than those included in the pre-filing notice, to wit: (1) a notice of intent to file; (2) the list of communities and parties served with the notice of intent; (3) DEO’s proposed PIR tariff and an update of the Communities Served tariff; (4) schedules showing typical bill comparisons; (5) schedules

supporting the PIR Cost Recovery Charge rates including the PIR Estimated Cost Recovery Charge Revenue Requirement, PIR Estimated Cost Recovery Charge Project Additions by Month, Project Additions by Month Less Cost of Removal, Retirements, Cost of Removal, Provision for Depreciation, Net Regulatory Asset – Post In-Service Carrying Cost, Net Deferred Tax Balance – PISCC, Deferred Taxes on Liberalized Depreciation, Annualized Depreciation Associated With Additions, Annualized Amortization of PISCC, Property Tax Expense Calculation, Approved Rate of Return on Rate Base, Cost Allocation, Actual Bills Issued from April 1, 2008 – March 31, 2009, and Daily Transportation Service (“DTS”) Volumes from April 1, 2008 – March 31, 2009; (6) a description of the PIR Cost Recovery Charge rate application; and (7) the letters to public officials and parties to Case Nos. 07-829-GA-AIR, *et al.*

Pursuant to the Stipulation and Recommendation adopted by the Commission in DEO’s recent distribution base rate case, Case Nos. 07-829-GA-AIR *et al.*, all of the municipalities in DEO’s service territory, and all of the parties to this proceeding will receive notice of DEO’s PIR Cost Recovery Charge rate application. The notice sent to the communities in DEO’s service territory and the parties includes a letter informing them of (1) the notice of intent being filed setting forth the estimated rates and the maximum rates consistent with the cap approved by the Commission; and (2) the application to be filed in August 2009, a description of the PIR Cost Recovery Charge rate application, and DEO’s proposed PIR tariff and update of the Communities Served tariff. Additional published notice will serve no purpose. A waiver of any further notice and filing requirements will not prejudice any party and will avoid significant expense to DEO.

II. ARGUMENT

Previously in this case, the Commission determined that DEO's applications relating to the recovery of costs under the Company's PIR program constituted applications for an alternative rate plan under R.C. 4929.05. As part of the process by which DEO sought Commission approval for the establishment of the mechanism to recover costs associated with the PIR program, the DEO provided all notices that were required for an application for an alternative rate plan under R.C. 4929.05. DEO provided notice to all of the municipalities affected by DEO's filing. Staff, the Office of the Ohio Consumers' Counsel ("OCC") and all participating parties received notice of DEO's application to establish a PIR Cost Recovery Charge and the potential rate effect associated with it. DEO also published notice leading up to public hearings held by the Commission throughout DEO's service territory. The Commission previously determined that DEO complied with all required notices. Entry on Rehearing at 15 Case Nos. 07-829-GA-AIR *et al*, (May 28, 2008.) Ultimately, all parties agreed upon a settlement concerning the PIR program. Opinion and Order at 9-10, Case Nos. 07-829-GA-AIR *et al*, (October 15, 2008.)

After the hearings began, numerous parties entered into a settlement via a Stipulation and Recommendation, which adopted DEO's PIR application, as modified by the Staff recommendations, (Stipulation and Recommendation at 3-4, 8, Case Nos. 07-829-GA-AIR *et al*, (August 22, 2008)). The Stipulation included the following process to implement the PIR Cost Recovery Charge.

DEO will file an annual application beginning in August 2009 supporting an initial charge and subsequent adjustments to a PIR Cost recovery Rider. The application will be based on costs incurred for the fiscal year ending June 30 of the same year. Such

application shall be filed in the docket of this proceeding (Case No. 08-169-GA-ALT). In order to facilitate a timely review, ***DEO shall file a pre-filing notice*** 90 days in advance of the application with estimated schedules that contain a combination of actual and projected data for the fiscal year. The Company will bear the burden of proof in its annual cost recovery filings of demonstrating the justness and reasonableness of the level of recovery of expenditures associated with the PIR program. Staff shall conduct an investigation of DEO's filing and, unless Staff finds the filing to be unjust or unreasonable or if any other party files and objection that is not resolved by October 1 of each year, the Staff shall issue its recommendation on the increase in the rider rate to the Commission to be effective in November of that same year. If the Staff determines that DEO's application to increase the rider is unjust or unreasonable, or if any other party that filed for intervention files an objection that is not resolved by DEO, ***an expedited hearing process will be established in order to allow the parties to present evidence to the Commission for final resolution.*** DEO shall continue to make annual filings until the effective date of the Commission's order in DEO's next base rate case.

Staff Report at 6, Case No. 08-169-GA-ALT (June 12, 2008) (emphasis added). The pre-filing notice is the only notice contemplated by Staff or the parties.

The PIR Cost Recovery Charge application process set forth by the Staff, agreed to by the parties and approved by the Commission is limited. It contemplates that DEO will file only those schedules necessary to support the annual PIR charge. The approved process does not contemplate a hearing if DEO resolves all issues raised by the parties. Further, to the extent that issues cannot be resolved, the parties contemplated that a hearing will be undertaken on an expedited basis. *Id.*

Given the agreed to and approved process is limited to the pre-filing notice and the submission of only those schedules necessary to support the charge, the Commission should grant DEO a waiver of any further requirements for notice and for filing under O.A.C. 4901-7-01, Appendix A, Chapter II(A)(4), and 4901:1-19-05(A)(2). All interested parties and the public has

previously received notice about the PIR cost recovery mechanism. DEO will provide pre-filing notice of its intent to seek approval for a specific PIR Cost Recovery Charge, including information about the schedules that it will submit to support the charge. Thus, all interested parties will have an adequate and fair opportunity to review the Company's application and to participate in this proceeding.

The process agreed to by the parties and approved by the Commission and approval of DEO's request for a waiver from additional notice and notice requirements are consistent with the Commission's prior ruling regarding the process associated with the Accelerated Main Replacement Program's ("AMRP") for Duke Energy Ohio ("Duke"). Opinion and Order at 7-8, Case No. 08-1250-GA-UNC (April 29, 2009). In that case, the parties agreed to a process for filing an AMRP charge for Duke. *Id.* That process was approved by the Commission. *Id.* The Commission granted a waiver from additional requirements. *Id.*

This case is procedurally identical to the Duke AMRP proceeding. The parties agreed upon a process through which DEO could submit an annual application to establish the PIR rates. The process agreed upon by the parties and approved by the Commission: (1) requires DEO to file and send a pre-filing notice; (2) requires DEO to file schedules supporting the PIR Cost Recovery Charge with estimated and actual data; (3) requires Staff to perform an investigation and file a report; and (4) permits Staff and other parties to object to the PIR Cost Recovery Charge. Further, if there are no objections, the Commission's order establishes that the PIR Cost Recovery Charge will become effective November 1 of the applicable year. If Staff or any party objects, or Staff finds the application may be unjust or unreasonable, and DEO is unable to resolve the objections by October 1, the matter will be set for hearing on an expedited basis and

submitted to the Commission for resolution. Staff Report at 6, Case No. 08-169-GA-ALT (June 12, 2008).

III. CONCLUSION

Because the process associated with DEO's PIR application has been determined by the parties and approved by the Commission, no additional notice or filings are required. Under these circumstances, the Commission should grant DEO's request to waive additional notice and filing requirements.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Waiver of Filing Requirements was delivered to the following persons by first class mail, postage prepaid, and electronic mail this 29th day of May, 2009.



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