

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 to Adjust its Pipeline Infrastructure) Case No. 09-458-GA-UNC
 Replacement Program Cost Recovery)
 Charge and Related Matters.)

ENTRY

The Commission finds:

- (1) On August 30, 2007, The East Ohio Gas Company d/b/a Dominion East Ohio (DEO), *inter alia*, filed an application to increase its gas distribution rates (Case No. 07-829-GA-AIR) and 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 (PIR) program (Case No. 08-169-GA-ALT). These applications were consolidated by the Commission and will be jointly referred to herein as the *DEO Distribution Rate Case*.
- (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 the *DEO Distribution Rate Case*. Included in the stipulation approved by the Commission was a provision adopting, with some modifications, the Commission Staff's recommendations set forth in the Staff Report filed in the *DEO Distribution Rate Case* on May 23, 2008. The Staff Report set forth procedures to be followed for the annual updates to the PIR program cost recovery charge. Specifically, this process provides that DEO would file an annual application beginning in August 2009 supporting an initial charge and subsequent adjustments to the PIR cost recovery charge. The application is to be based on the costs incurred for the fiscal year ending June 30 of the same year. DEO is to file a prefiling notice 90 days prior to filing its application. Staff and other parties then may file comments, and DEO has until October 1 of each year to resolve the issues raised in the comments. If the issues raised in the comments are not resolved, then a hearing will be held. The goal of the process approved in the *DEO Distribution Rate Case* is for the

proposed amendment to the PIR cost recovery rider to be effective in November.

- (3) In accordance with the procedure approved by the Commission in the *DEO Distribution Rate Case*, as explained in finding (2) above, DEO filed its prefiling notice on May 29, 2009, as supplemented on June 1, 2009.
- (4) Along with its May 29, 2009, prefiling notice, DEO filed a motion for waiver of the filing requirements set forth in Rule 4901-7-01, Appendix A, Chapter II, Ohio Administrative Code (O.A.C.), and Rule 4901:1-19-05(A)(2), O.A.C. Specifically, in its request, DEO seeks waivers from any requirements that it provide any further notice describing the substance of its application and that it file any materials other than those filed with its prefiling notice. In support of its motion, DEO notes that the Commission granted a similar waiver requested by Duke Energy Ohio, Inc., in *In the Matter of the Application of Duke Energy Ohio for an Adjustment to Rider AMRP Rates*, Case No. 08-1250-GA-UNC, Opinion and Order (April 29, 2009). No one filed in opposition to DEO's motion for waiver.
- (5) With regard to DEO's request pertaining to a waiver of additional notice, DEO submits that the Commission determined in the *DEO Distribution Rate Case* that DEO's application for recovery of costs for the PIR program constituted an application for an alternative rate plan under Section 4929.05, Revised Code; thus, DEO notes that it complied with all of the necessary notice requirements in the *DEO Distribution Rate Case*. DEO points out that, pursuant to the stipulation in the *DEO Distribution Rate Case*, DEO will provide notice, in the form of a letter, to all of the municipalities in its service territory, as well as all of the parties in the *DEO Distribution Rate Case*; therefore, DEO believes that additional published notice serves no purpose.

The Commission finds that, as pointed out by DEO, the PIR cost recovery charge and the annual adjustment mechanism for the rider were approved by the Commission in the *DEO Distribution Rate Case* in accordance with the alternative rate plan provisions in Section 4929.05, Revised Code. Therefore, we find that this application should be considered as an application not for an increase in rates under Section 4909.18,

Revised Code. Furthermore, the Commission notes that, Section 4909.18, Revised Code, provides that newspaper publication of notice of a hearing in applications not for an increase in rates is only required in the event the Commission determines that an application may be unjust or unreasonable. Although the process for the annual filing of an adjustment to the PIR cost recovery charge may include a hearing, the hearing would only be scheduled because the parties to the stipulation in the *DEO Distribution Rate Case* provided for a hearing in the stipulated process, not because of any conclusion by the Commission as to the justness or reasonableness of the application. Therefore, the Commission finds that no legal notice publication is required, at this time. With regard to DEO's specific request for a waiver of this requirement, the Commission notes that, if notice were required, it would be a statutory requirement and could not be waived by the Commission.

- (6) The Commission now turns to DEO's request for waiver from certain filing requirements set forth in Rule 4901-7-01, Appendix A, Chapter II, O.A.C., and Rule 4901:1-19-05(A)(2), O.A.C. The Commission notes that, as part of its prefilng notice, on May 29, 2009, DEO filed: a notice of intent to file; a list of communities and parties served with the notice of intent; typical bill comparisons; schedules supporting the proposed rates; a description of the application; and copies of the letters sent to public officials and parties to the *DEO Distribution Rate Case*. According to DEO, the prefilng process set forth by the Staff, agreed to by the parties, and approved by the Commission in the *DEO Distribution Rate Case* contemplates that DEO would only file those schedules necessary to support the annual PIR program cost recovery charge.

Upon consideration of DEO's request for waiver from filing additional materials other than those filed with the prefilng notice, the Commission finds that the information provided with the prefilng is sufficient, at this time. However, the Commission expects that DEO will work with the parties should additional information be required. Accordingly, the Commission finds that DEO's motion for waiver from providing additional materials is reasonable and should be granted.


It is, therefore,

ORDERED, That, in accordance with finding (5) no legal notice publication is required, at this time. It is, further,

ORDERED, That, in accordance with finding (6), DEO's motion for waiver from providing additional materials be granted. It is, further,


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

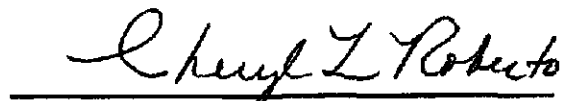
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Paul A. Centolella


Ronda Hartman Fergus

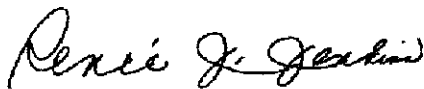

Valerie A. Lemmie


Cheryl L. Roberto

CMTP/vrm

Entered in the Journal

JUL 08 2009



Renee J. Jenkins
Secretary