

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

14  
RECEIVED-DOCKETING DIV  
2009 OCT -2 PM 4:12  
PUCO

In the Matter of the Application of The )  
East Ohio Gas Company d/b/a )  
Dominion East Ohio for Authority to ) Case No. 07-829-GA-AIR  
Increase Rates for its Gas Distribution )  
Service. )

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

---

**COMMENTS ON THE APPLICATION OF THE EAST OHIO GAS COMPANY  
D/B/A DOMINION EAST OHIO  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

JANINE L. MIGDEN-OSTRANDER  
OHIO CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record  
Larry S. Sauer  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215  
(614) 466-8574 – telephone  
[serio@occ.state.oh.us](mailto:serio@occ.state.oh.us)  
[sauer@occ.state.oh.us](mailto:sauer@occ.state.oh.us)

October 2, 2009

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business  
Technician JS Date Processed 10-2-09

## Table of Contents

	Page
I. INTRODUCTION .....	1
II. RESERVATION OF RIGHTS .....	3
III. BURDEN OF PROOF .....	3
IV. COMMENTS .....	3
V. CONCLUSION .....	11

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of The</b>	)	
<b>East Ohio Gas Company d/b/a</b>	)	
<b>Dominion East Ohio for Authority to</b>	)	Case No. 07-829-GA-AIR
<b>Increase Rates for its Gas Distribution</b>	)	
<b>Service.</b>	)	

<b>In the Matter of the Application of The</b>	)	
<b>East Ohio Gas company d/b/a</b>	)	
<b>Dominion East Ohio for Approval of</b>	)	
<b>Tariffs to Recover Certain Costs</b>	)	
<b>Associated with a Pipeline</b>	)	Case No. 08-169-GA-ALT
<b>Infrastructure Replacement Program</b>	)	
<b>Through an Automatic Adjustment</b>	)	
<b>Clause and for Certain Accounting</b>	)	
<b>Treatment.</b>	)	

<b>In the Matter of the Application of The</b>	)	
<b>East Ohio Gas Company d/b/a</b>	)	
<b>Dominion East Ohio to Adjust its</b>	)	Case No. 09-458-GA-UNC
<b>Pipeline Infrastructure Replacement</b>	)	
<b>Program Cost Recovery Charge and</b>	)	
<b>Related Matters.</b>	)	

---

**COMMENTS ON THE APPLICATION OF THE EAST OHIO GAS COMPANY  
D/B/A DOMINION EAST OHIO**

**BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

**INTRODUCTION**

The Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in the above-captioned proceeding, hereby files these Comments on the Application of the East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "Company") to increase the rates it charges customers for systematic repair and/or replacement of distribution facilities.

The increase would be collected from customers via the Pipeline Infrastructure Replacement Program Rider ("PIR Cost Recovery Charge"), per the Application that DEO filed on May 29, 2009. The PIR Cost Recovery Charge is supposed to provide for the recovery of costs incurred for:

- a) Replacement of 4,122 miles of aging bare steel, cast-iron, wrought-iron and copper mainlines and ineffectively-coated bare steel, as well as certain segments of plastic pipeline;
- b) Replacement of 515,000 main-to-curb connections, which connect curb-to-meter service lines with a mainline;
- c) Installation of new curb-to-meter service lines and the costs associated with maintenance, repair and/or replacement of existing curb-to-meter service lines that are separated from the mainline and must be pressure tested, or those that are unsafe or leaky; and
- d) Certain on-going pipeline infrastructure improvements, including pipeline relocations and system improvements (including those associated with updating low-pressure systems to higher pressure systems if inside meters are relocated outside), as well as the associated capital expenditures for main-to-curb connections, service lines, and transmission and distribution pipeline integrity.<sup>1</sup>

Pursuant to the Stipulation and Recommendation ("Stipulation") filed on August 22, 2008, in Case No. 07-829-GA-AIR et al., and the Opinion and Order of the Public Utilities Commission of Ohio ("Commission" or "PUCO") dated October 15, 2008, the PIR Cost Recovery Charge rates are subject to increases, up to a cap, in each year 2009 through 2013.<sup>2</sup>

On May 29, 2009, DEO submitted a pre-filing notice of its intent to file an application for approval of an increase in the PIR Cost Recovery Charge. OCC filed its Motion to Intervene in these cases on June 9, 2009. The OCC Motion to Intervene was granted by an Attorney Examiner Entry dated September 8, 2009 ("Entry").

---

<sup>1</sup> Application at 1-2 (February 22, 2008).

<sup>2</sup> Id. at 9.

## **II. RESERVATION OF RIGHTS**

At this time, OCC's Comments on the Application are preliminary in nature. OCC reserves the right to file expert testimony on any of its Comments that are not resolved by October 7, 2009, in the settlement process set forth in the Attorney Examiner's September 8, 2009 Entry.

## **III. BURDEN OF PROOF**

The burden of proof regarding the Application rests upon DEO. In a hearing regarding a proposal that does involve an increase in rates, R.C. 4909.19 provides that, "[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility." Similarly, DEO in this case bears the burden of proof. Therefore, OCC does not bear any burden of proof in this case.

## **IV. COMMENTS**

### **Capital Additions In Service After the Date Certain**

OCC objects to DEO including costs for capital additions that were in service after the date certain of June 30, 2009 in this case. R.C. 4909.15(A)(1) states: "(A) The public utilities commission, when fixing and determining just and reasonable rates, fares, tolls, rentals, and charges, shall determine:

(1) The valuation as of the date certain of the property of the public utility used and useful in rendering the public utility service for which rates are to be fixed and determined. \* \* \*."

In this case, the total dollar amount of capital additions that DEO has included in the calculation of the revenue requirement is \$90.3 million. DEO provided OCC with a list of projects and the associated dollar amounts that support the \$90.3 million DEO spent on capital additions. Within those identified projects, DEO has included projects that had in-service dates that were after date certain or projects that the in-service date could not be ascertained. To include the costs of such projects within the calculation of the PIR Cost Recovery Charge would be unjust and unreasonable.

There were sixty-two projects identified by DEO that were placed in service after the date certain at a total cost of \$482,299.12. In addition, for many more projects, DEO failed to provide an in-service date, instead specifically stating the in-service date as “(blank).” Those projects without a specific designation that confirmed these projects were placed in service by the date certain totaled \$4,002,357.63. Because either the projects were placed in service subsequent to the date certain in this case or the information provided by the Company did not demonstrate whether or not these projects were in service as of the date certain in this case, the Commission cannot find the projects to be used and useful as of the date certain and cannot include the related costs in rates that are collected from customers.<sup>3</sup> OCC excluded \$4,484,656.75 in Capital Additions from recovery through the PIR Cost Recovery Charge.

In addition, OCC excluded Post-In-Service Carrying Charges (“PISCC”) of roughly \$96,648 associated with these capital additions that were not placed in service by the date certain in this case, from the PIR Cost Recovery Charge calculation. PISCC

---

<sup>3</sup> R.C. 4909.15(A)(1) states: “(A) The public utilities commission, when fixing and determining just and reasonable rates, fares, tolls, rentals, and charges, shall determine:  
(1) The valuation as of the date certain of the property of the public utility used and useful in rendering the public utility service for which rates are to be fixed and determined. \* \* \*.”

represents the carrying charges calculated at 6.5% on cumulative PIR Capital Additions for which cost recovery has not yet begun. Furthermore, a reduction to depreciation expense and property tax will also have to be considered with the exclusion of these capital additions. Since several of these projects may contain a mixture of mains and services, OCC performed an estimate of the depreciation expense and property tax, and excluded from the PIR Cost Recovery Charge calculation the related depreciation expense of \$44,342 and the property tax expense of \$44,815.

#### **New Curb-to-Meter Service Lines**

OCC objects to DEO including, in its Application, costs related to 384 New Curb-to-Meter Service Lines, that are a result of customer growth. The PIR Program, is designed to allow for the collection of certain costs uniquely associated with the replacement of aging infrastructure. DEO has been given special ratemaking treatment, and it is not the proper mechanism to recover the costs associated with these New Curb-to-Meter Service Lines which are not associated with the replacement of aging infrastructure. Rather these costs represent additions for customer growth and will be producing new revenues for the Company and should not be recovered from customers through the PIR Cost Recovery Charge. Therefore, OCC has excluded \$345,532 in capital additions<sup>4</sup> the associated PISCC of approximately \$3,482, and associated

---

<sup>4</sup> The total capital additions of \$345,532 excludes \$23,400 related to New Curb-to-Meter Service Line projects placed in-service after the date certain in this case and excludes \$21,754 related to projects that had a "(blank)" in-service date, and the total amount of \$45,154 related to these two circumstances are addressed in the section above on Capital Additions In-Service After The Date Certain.

depreciation expense of approximately \$7,225 and property tax of approximately \$3,509.

**Expenses That Are Out-of-Test-Year**

OCC objects to DEO including expenses that are incurred outside the test year.

R.C. 4909.15(C) states:

(C) The test period, unless otherwise ordered by the commission, shall be the twelve-month period beginning six months prior to the date the application is filed and ending six months subsequent to that date. In no event shall the test period end more than nine months subsequent to the date the application is filed. *The revenues and expenses of the utility shall be determined during the test period.* The date certain shall be not later than the date of filing. (Emphasis added).

In this case DEO has included depreciation and property tax expenses that will be incurred after the test year. Therefore, to include these expenses within the calculation of the PIR Cost Recovery Charge is unjust and unreasonable.

**Depreciation Expense**

OCC objects to the Company's Application because it contains depreciation expense incurred outside of the test year. The test year in this case is the twelve-month period ending June 30, 2009. DEO improperly adds the depreciation expense of \$2,285,301.40 for the twelve-month period ending June 30, 2010 associated with PIR Capital Additions made through June 30, 2009 in the calculation of the 2009 PIR Cost Recovery Charge.

**Property Tax Expense**

OCC objects to the Company's Application because it improperly includes the property tax expense of \$1,261,777.87 that it incurs after June 30, 2009 in calculating the Annualized Revenue Requirement associated with the 2009 PIR



Cost Recovery charge. As explained by Company witness, Vicki H. Friscic, the Annualized Property Tax Expense is comprised of two components. The first component represents the DEO's property tax expense recognized on DEO's books in the period from July 1, 2009 through December 31, 2009 on PIR Capital Additions through December 31, 2008. The second component represents the property tax expense on PIR Capital Additions made from January 1, 2009 through June 30, 2009 that will be recognized on DEO's books in the first half of 2010.<sup>5</sup> Both components address expenditures recognized on the Company's books outside of the test year for this case.

The inclusion of out-of-test-year expense items is contrary to Ohio law and commonly-recognized regulatory principles. The inclusion of out-of-test-year expenses also contradicts recent Commission orders related to gas utility infrastructure replacement and improvement. In several cases such as the DEO AMR case (09-0038-GA-UNC),<sup>6</sup> the Columbia PIR case (09-0006-GA-UNC),<sup>7</sup> and the Duke AMRP case (08-1250-GA-UNC),<sup>8</sup> the PUCO approved the calculation of the various riders in those cases using a consistent methodology that limited the recovery of depreciation and property tax expenses to those expenses incurred within the test year.

---

<sup>5</sup> DEO Direct Testimony of Vicki Friscic at 11 (August 28, 2009).

<sup>6</sup> *In re DEO Automated Meter Reading Case*, Case No. 09-38-GA-UNC, Opinion and Order at 5-6 (May 6, 2009); See also Stipulation at Attachment 1 (April 30, 2009).

<sup>7</sup> *In re COH Pipeline Infrastructure Replacement Program*, Case No. 09-6-GA-UNC, Opinion and Order at 5 (June 24, 2009); See also Stipulation at Schedule AMRP-1 (June 2, 2009).

<sup>8</sup> *In re Duke Accelerated Main Replacement Program*, Opinion and Order at 5 (April 29, 2009); See also Stipulation at Schedule 1 (April 14, 2009).

It should be noted that recovery of the out-of-test-year expenses through the 2009 PIR Recovery Charge in this case is not just a one-time rate increase. The impact of the out-of-test-year expenses on the 2009 PIR Cost Recovery Charge (about \$3.55 million<sup>9</sup> in annualized revenue requirement) will be carried over to the next five-year period of the PIR program. The annual PIR Cost Recovery Charge is incremental over the PIR Cost Recovery Charge of the previous year. The impact of the inclusion of the out-of-test-year expense items is substantial, about \$17.75 million for DEO's customers over the five-year period, and \$12.60 per residential customers over the same period.<sup>10</sup>

#### **Computer-Related Expenses in Incremental Operation and Maintenance**

DEO has included \$70,500 related to the Envista software subscription as a part of Incremental O&M Expense.<sup>11</sup> It is OCC's understanding that the intended function of the Envista product is to allow utilities, municipalities and highway agencies to share construction and maintenance projects on a map. Furthermore, the Company responded through discovery that the Envista software will not be used exclusively for transmission and distribution infrastructure replacement under the PIR Program.<sup>12</sup> Hence, Envista does not solely apply to infrastructure projects related to the PIR Program. Therefore, the total costs related to Envista, \$70,500, should be excluded from the Incremental O&M Expense as part of the calculation of the PIR Cost Recovery Charge.

---

<sup>9</sup> \$3.55 million/year times 5 years = \$17.75 million.

<sup>10</sup> \$0.21/Month times 60 months = \$12.60.

<sup>11</sup> Application at Schedule 15.

<sup>12</sup> DEO Response to OCC Discovery No. 61 and 62, The Company stated that 79% of its distribution system and 97% of its transmission system is not scheduled for replacement under the PIR Program.

### **Delay in Reporting Retirements**

OCC has a concern that there exists a potential lag in the process by which DEO recognizes certain plant retirements. Plant retirements should reduce the costs in rate base related to older plant that is being taken out of service/replaced by the new plant that is being placed into service and thus should reduce what customers would pay in rates. In the Notice of Intent, DEO estimated plant retirements to be \$2.9 million.<sup>13</sup> In its Application, DEO stated retirements to be \$2.3 million.<sup>14</sup> The \$600,000 difference in plant retirements between the Notice of Intent and its Application amounts to 21% of the retirements anticipated in the Notice of Intent. OCC's concern is elevated when contrasted with the insignificant difference in plant additions reported by DEO between the Notice of Intent and the Application.. DEO had a difference of only \$11,000 or 0.012% in its \$90.3 million plant additions.<sup>15</sup> The calculation of the PIR Cost Recovery Charge is such that the more plant additions placed in service increases the charge and the more retirements removed from service reduces the charge. OCC's wants assurance that there is not a systemic accounting problem.

OCC has not recommended an adjustment to the plant retirements for the PIR Cost Recovery Charge calculation in this case. However, there is the appearance that the DEO plant that is being retired as a result of the PIR program should have been more diligently reflected as retired on the Company's books. Any mains, services or other plant either removed from the ground or abandoned in the ground as a result of the PIR Program additions up to date certain should be considered not used and useful for determining the PIR Cost Recovery Charge in this case. Although the retirement amounts will be reconciled in the next PIR

---

<sup>13</sup> Notice of Intent at PFN Exhibit 5 Schedule 1 (May 29, 2009).

<sup>14</sup> Application at Exhibit A Schedule 1 (August 28, 2009).

<sup>15</sup> Notice of Intent Capital Additions: \$90,320,510.73 (May 29, 2009) vs. Application Capital Additions: \$90,332,394.15 (August 28, 2009).

Program filing, OCC recommends that the Company should be required to explain such large discrepancies that appear between future Notice of Intent and Application filings, in these PIR cases, and provide testimony explaining major discrepancies between the filings to assure that consumers are not harmed or disadvantaged through this process.

### **Stimulus Funds**

OCC inquired as to what efforts the Company is making to seek infrastructure funds resulting from the American Recovery and Reinvestment Act of 2009. DEO responded that it is reviewing the Act to identify potential projects which may qualify. The Commission should require DEO, within 45 days of the order approving the PIR Cost Recovery Charge, to provide an interim report in which DEO must document its efforts to obtain stimulus funding for PIR-related projects which may qualify under the American Recovery and Reinvestment Act of 2009, and an estimate of when any stimulus dollars will be available for the benefit of consumers. In addition, the Commission should require DEO, as part of its 2010 PIR Application, to document whether stimulus funding was available, if the Company was successful in obtaining any of the available stimulus funding, and when such stimulus funding was/will be available to reduce costs related to the PIR (and thus reduce the rates that customers pay).

**Effect of OCC's Adjustments upon the Revenue Requirement and PIR Cost Recovery Charge**

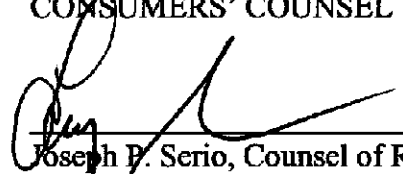
Considering the adjustments identified above, OCC recommends that the annualized revenue requirement be reduced from \$16,063,471.19 to approximately \$11,798,877.66. For residential customers (the GSS/ECTS rate schedule), the PIR Cost Recovery Charge would be reduced by approximately \$0.25 (from \$.93 to \$0.68) per monthly residential bill. Customers in other rate schedules would also see decreases in their monthly PIR Cost Recovery Charge as a result of these proposed adjustments, but OCC has not performed the calculation to quantify the applicable reductions.

**V. CONCLUSION**

The Office of the Ohio Consumers' Counsel respectfully files these Comments on the DEO PIR Application in conformance with the Stipulation and with the Attorney Examiner's September 8, 2009 Entry. OCC's Comments are directed toward producing for DEO's approximately 1.1 million residential consumers the best result and lowest reasonable rate possible.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

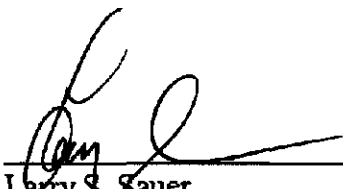


Joseph P. Serio, Counsel of Record  
Larry S. Sauer  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
(614) 466-8574-Telephone  
(614) 466-9475-Facsimile  
[serio@occ.state.oh.us](mailto:serio@occ.state.oh.us)  
[sauer@occ.state.oh.us](mailto:sauer@occ.state.oh.us)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's Comments on the Application was served via electronic mail and by first-class mail, postage prepaid, to the parties of record identified below, on this 2nd day of October 2009.

  
\_\_\_\_\_  
Larry S. Sauer  
Assistant Consumers' Counsel

## **PARTIES**

Duane Luckey, Esq.  
Attorney General's Office  
Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215

Vicki Friscie  
Dominion East Ohio  
1201 East 55<sup>th</sup> Street  
Cleveland, Ohio 44103

Grant Garber  
Jones Day  
325 John H. McConnell Blvd, Suite 600  
P.O. Box 165017  
Columbus, Ohio 43216-5017