

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 the Adjustment of its Interim) Case No. 09-2011-GA-PIP
Emergency and Temporary Percentage of)
Income Payment Plan Rider.)

FINDING AND ORDER

The Commission finds:

- (1) On December 31, 2009, as supplemented February 3, 2010, The East Ohio Gas Company d/b/a/ Dominion East Ohio (DEO) filed an application to modify its Percentage of Income Payment Plan (PIPP) Rider. In its application, DEO notes that its current PIPP Rider became effective on February 7, 2006. In support of its application, DEO states that its current PIPP Rider rate is insufficient to recover the accumulated deferred PIPP arrearages, as well as the additional arrearages that are estimated to accumulate in 2010. DEO explains that it has experienced a considerable increase in the number of PIPP customers over the last several years and, during the period when the current PIPP Rider was in effect, gas rates were higher and PIPP arrearages increased as PIPP customers' bills increased.
- (2) On January 28, 2010, a motion for admission *pro hac vice*, requesting that David Rinebolt be admitted to practice before the Commission in this proceeding was filed. Mr. Rinebolt represents Ohio Partners for Affordable Energy (OPAE). Mr. Rinebolt is an active member of the District of Columbia Bar, and has been granted permission to practice *pro hac vice* before the Commission on numerous occasions. The attorney examiner finds that the motion is reasonable and should be granted.
- (3) In addition, on January 28, 2010, OPAE filed a motion to intervene in this case. In support of its motion, OPAE asserts that it is a nonprofit organization representing the interests of other nonprofits who provide energy assistance to low-income families throughout the state of Ohio. Some of OPAE's member agencies are also DEO customers. OPAE asserts that the interests of its members and clients may be directly impacted by this proceeding. Furthermore, OPAE asserts that its participation will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of this matter.

- (4) On January 25, 2010, the Office of Ohio Consumers' Counsel (OCC) filed a motion to intervene in this case. In support of its motion, OCC states that it represents DEO's residential consumers and that the interests of these customers may be adversely affected by this case. OCC submits that its participation in this case will not unduly prolong or delay the proceeding.
- (5) On February 3, 2010, DEO filed a memorandum contra the motions to intervene filed by OCC and OPAE. Specifically, DEO argues that OCC and OPAE failed to identify any real interest in this proceeding, only the generalized concern about the impact of an updated PIPP Rider on consumers. DEO asserts that granting intervention to OCC and OPAE will only delay the proceedings. However, the Commission disagrees and finds that OCC and OPAE have set forth reasonable grounds for intervention. Accordingly, OCC and OPAE's motions for intervention are granted.
- (6) In accordance with the Commission's finding and order issued December 2, 1993, in *In the Matter of the Review of the Interim Emergency and Temporary PIP Plan Riders Contained in the Approved Rate Schedules of Electric and Gas Companies*, Case Nos. 88-1115-GE-PIP et al., approval of proposed PIPP rider modifications are subject to a 45-day review process.¹ Absent Commission action, applications proposing PIPP rider modifications are approved on the 46th day after filing.
- (7) On February 10, 2010, the attorney examiner suspended automatic approval of DEO's application to allow the Commission additional time to consider the application.
- (8) DEO states, in its application, that its current PIPP Rider, which is \$0.5653 per thousand cubic feet (Mcf), was approved in Case No. 05-1421-GA-PIP and became effective February 7, 2006. According to DEO, since the last PIPP Rider adjustment, accumulated and annual deferred PIPP balances have increased, currently totaling approximately \$270 million, exclusive of additional carrying charges that will be recovered while the total deferred balance is being collected. In its application, DEO proposes two alternatives for recovering the current accumulated PIPP arrearages plus an amount

¹ Specifically, the procedure is set forth in the direct testimony of the Commission Staff in Case Nos. 88-1115-GE-PIP et al. See also, *In the Matter of the Commission Procedures for the Recovery of Emission Fees Levied Upon an Electric Light Company Pursuant to Substitute Senate Bill 359*, Case No. 93-1000-EL-EFC, Entry (June 24, 1993).

to recover the additional PIPP arrearages that are estimated to be incurred during the time the rate is in place. Specifically, DEO asserts that the arrearages can be recovered over a 12-month period, or over a 36-month period. Recovery over a 12-month period would result in a new PIPP Rider rate of \$1.7854 per Mcf. Under a 36-month recovery, the new PIPP Rider rate would be \$1.1181 per Mcf. According to DEO, the 12-month proposal would save customers approximately \$532,000 in carrying costs. DEO asserts that its proposed PIPP Rider rate has been calculated to, as nearly as possible, recover the accumulated PIPP arrearages and an estimate of the 2010 PIPP arrearage accumulation.

- (9) On February 3, 2010, DEO filed a supplement to its application proposing to use the refunds it received from the Tennessee Gas Pipeline Company (TGPC) in order to mitigate the impact of the accrued PIPP arrearage recovery on customers' bills. DEO explains that, as a result of a settlement approved by the Federal Energy Regulatory Commission (FERC), TGPC is required to provide refunds to shippers, such as DEO, resulting from TGPC's over-recovery of costs for remediating hazardous substance contamination on its pipeline system.²

DEO proposes to credit the TGPC refunds, as they are received, to the balance of the unrecovered PIPP arrearages.³ DEO calculates that, if the arrearages are recovered over a 12-month period and DEO credits the \$1.15 million TGPC refund it anticipates receiving in 2010 to the balance of the unrecovered PIPP arrearages, the new PIPP Rider rate would be \$1.7078 per Mcf; however, if the arrearages are recovered over a 36-month period and DEO credits the \$5.958 million TGPC refund it anticipates receiving during 2010 to 2012 to the balance of the unrecovered PIPP arrearages, the new PIPP Rider rate would be \$1.0760 per Mcf.

- (10) The Commission has reviewed DEO's application, as supplemented, and agrees that it is important to reduce the amount of unrecovered PIPP arrearages by adjusting the PIPP Rider in this case. In order to accomplish this goal in an appropriate and timely manner and, in light of the fact that under the proposed 12-month period customers would save approximately \$532,000 in carrying costs, the

² See FERC Docket Nos. RP91-203-076 and RP92-132-064.

³ DEO notes that the TGPC refunds would otherwise be recorded as credits to reduce the operational balancing costs deferred for recovery through DEO's Transportation Migration Rider - Part B.

Commission concludes that DEO's proposed 12-month recovery period should be approved. The Commission also supports crediting the TGPC refund to the PIPP arrearages to lessen the impact of the updated PIPP Rider on consumers, thus, resulting in the new PIPP Rider rate of \$1.7078 per Mcf. Accordingly, the Commission concludes that DEO's application, as supplemented, requesting authority to modify its PIPP Rider is reasonable and should be approved for recovery over a 12-month period consistent with our findings herein. Therefore, the Commission finds that it is unnecessary to hold a hearing in this proceeding.

- (11) DEO notes, in its application, that it is committed to recalculating the rate of Rider PIPP annually from this point forward. The Commission agrees that a yearly update of the PIPP Rider is in the best interest of ratepayers. Therefore, on a going-forward basis, the Commission directs DEO to file an application, with arrearages calculated on a calendar year basis, to update its PIPP Rider within one year of implementation of the new PIPP Rider rate and annually thereafter.
- (12) As a final matter, the Commission notes that, on March 5, 2010, OCC filed a motion to compel discovery seeking responses to a request for the production of documents, as well as responses to interrogatories. On March 19, 2010, DEO filed a memorandum contra OCC's motion to compel, and on March 23, 2010, OCC filed a reply to the memorandum contra. Given our determination that DEO's application should be approved, the Commission finds that OCC's motion to compel discovery should be denied. However, given the unique circumstances of the present case, the Commission intends to initiate an audit of the PIPP Rider in a subsequent entry. The Commission believes that such an audit would provide an appropriate venue to examine DEO's PIPP arrearages.

It is, therefore,

ORDERED, That the motion for admission *pro hac vice* of David Rinebolt be granted. It is, further,

ORDERED, That the motions for intervention filed by OCC and OPAE be granted. It is, further,

ORDERED, That the application, as supplemented, be approved for a 12-month recovery period, in accordance with finding (10). It is, further,

ORDERED, That DEO comply with the requirements of finding (11). It is, further,

ORDERED, That DEO be authorized to file in final form four complete copies of the tariff pages consistent with this finding and order and to cancel and withdraw its superseded tariff pages. DEO shall file one copy in its TRF docket and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

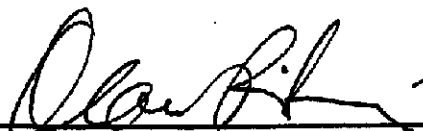
ORDERED, That the effective date of the approved tariffs shall be a date not earlier than both the date of this decision and the date upon which four complete, printed copies of final tariffs are filed with the Commission. It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That OCC's motion to compel discovery is denied. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



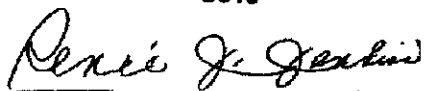
Valerie A. Lemmie

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Entered in the Journal

MAR 24 2010



Renee J. Jenkins
Secretary