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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of the)
East Ohio Gas Company d/b/a Dominion)
East Ohio to File Revised Tariffs Extending)
Its Low Pilot Program.)

Case No. 10-200-GA-ATA

PUCO

REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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I. PROCEDURAL HISTORY

On June 3, 2010, OCC filed Comments, and therein included the procedural history.¹ That procedural history will not be repeated herein, but is incorporated by reference. In addition on June 3, 2010, Ohio Partners for Affordable Energy ("OPAE") and the East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion" or "Company") filed Comments.

OCC hereby replies to the Comments filed by Dominion ("Dominion Comments") and OPAE ("OPAE Comments"), as provided for in the Commission's established procedural schedule.²

¹ OCC Comments at 1-2.

² Entry at 1 (May 12, 2010).

II. REPLY COMMENTS

A. The Commission Should Disregard Dominion's Comments Recommending The Commission End The Low-Income Pilot Program.

Dominion unreasonably argues that the Commission established the Low-Income Pilot Program ("Pilot Program") for a finite period of time. The Company in its Comments stated: "The Commission expressly determined that the Low-income Pilot should last only one year."³ The Company misstates the Commission's Order. In fact, the Commission in the Dominion's 2007 Rate Case Order stated:

This pilot program should be made available one year to the first 5,000 eligible customers. * * *. Following the end of the pilot program, the Commission will evaluate the program for its effectiveness in addressing our concerns relative to the impact on low-use, low-income customers.⁴

Contrary to Dominion's argument, the Commission intended an evaluation of the Pilot Program's effectiveness after year one, that Order did not conclusively contemplate the cessation of the program.

It would make no sense for the Commission to order an evaluation of a program only to terminate that program following the evaluation. The Company, in fact, acknowledges the Commission's Order provided for an evaluation at the end of the first year of the Pilot Program's implementation.⁵ Because there is absolutely no evidence to suggest that the onerous impact of the SFV rate design on low-use low-income customers -- that gave rise to the need for the low income Pilot Program -- will recede with time. In fact, the Staff noted that a rate change will occur in October 2010 when the Dominion

³ Dominion Comments at 2.

⁴ *In re 2007 Rate Case*, Opinion and Order (October 15, 2008) at 26-27.

⁵ Dominion Comments at 2.

fixed delivery charge will increase from \$15.40 to \$17.58 while the variable charge will be eliminated altogether.⁶ With the elimination of the volumetric charge there will actually be a greater need for the Pilot Program - - not a lesser one. Therefore, the Commission should at a minimum order the continuation of the Pilot Program as it is currently structured, or if a change to the Pilot Program is contemplated, then the modification should include expansion of eligibility as argued below.

Dominion incorrectly argues that there is no legal or practical basis for the Commission to order DEO to continue the Pilot Program indefinitely.⁷ That is not accurate. The Commission implemented a similar low-income pilot program in the Duke Energy Ohio, Inc. ("Duke") service territory in response to the same concerns related to the implementation of the SFV rate design. The Commission stated:

Thus, crucial to our decision to adopt Duke and Staff's proposed rate design is the Pilot Low Income Program aimed at helping low-income, low-use customers pay their bills. This new program will provide a four-dollar, monthly discount to cushion much of the impact on qualifying customers. To ensure that this discount is available to as many customers as possible, we direct that Duke expand this pilot program to include up to 10,000 customers, instead of the 5,000 customers specified in the Stipulation.⁸

The Duke low-income program remains in effect without modification and Duke's shareholders continue to fund that program.

There were also similar low-income programs that were approved by the Commission to assist residential customers in Columbia Gas of Ohio, Inc. ("Columbia"), and Vectren Energy Delivery of Ohio, Inc. ("Vectren"). In Columbia's last rate case that

⁶ Staff Report (April 29, 2010) at 2.

⁷ Dominion Comments at 4.

⁸ *In re 2007 Duke Rate Case*, Case No. 07-589-GA-AIR, et al. Opinion and Order (May 28, 2008) at 19-20.

resulted in the implementation of the SFV rate design, the Commission approved a low-income pilot program for 6,000 eligible customers for 2009 through 2012, and funded by Columbia's shareholders.⁹ Likewise, in Vectren's last rate case that resulted in the implementation of the SFV rate design, the Commission approved a low-income pilot program for 5,000 eligible customers funded by Vectren's shareholders.¹⁰ These programs remain in place and shareholders continue to fund the program. Therefore, the PUCO must not consider authorizing Dominion to recover the Pilot Program costs from its consumers.

There are other examples where the Commission has implemented programs initially as pilot programs, and then after evaluation kept the programs in place. Such examples of long term pilot programs are the residential Choice Programs that were put in place initially as pilots.¹¹ Now twelve years later these programs are still in place absent the "pilot" label, and without an end date in sight. Therefore, the Commission should continue this Pilot Program indefinitely.

B. Dominion Should Not Be Permitted To Recover The Costs Of The Pilot Program.

Dominion unreasonably argues that if the Pilot Program is to continue indefinitely that the Commission should establish an end date for shareholder funding of the Pilot

⁹ *2007 Columbia Rate Case*, Case No. 08-72-GA-AIR, et al., Opinion and Order (December 3, 2008) at 21.

¹⁰ *2007 Vectren Rate Case*, Case No. 07-1080-GA-AIR, et al., Opinion and Order (January 7, 2008) at 14.

¹¹ *In the Matter of the Commission's Investigation of the Customer Choice Program of Columbia Gas of Ohio, Inc.*, Case No. 98-593-GA-COI; *In the Matter of the Commission's Investigation of the Energy Choice Program of the East Ohio Gas Company*, Case No. 98-594-GA-COI; *In the Matter of the Commission's Investigation of the Customer Choice Program of the Cincinnati Gas & Electric Company*, Case No. 98-595-GA-COI; *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Statewide Expansion of the Columbia Customer Choice Program*, Case No. 98-549-GA-ATA; *In the Matter of the Application of the East Ohio Gas Company for Authority to Implement Two New Transportation Services, for Approval of a New Pooling Agreement, and for Approval of a Revised Transportation Migration Rider*, Case No. 96-1019-GA-ATA, Finding and Order (June 19, 1991).

Program.¹² The cost of the Pilot Program to Dominion's shareholders is approximately \$240,000 per year.¹³ However, this cost pales in comparison to the benefits that the SFV rate design provides Dominion and Dominion's shareholders. The Commission should therefore, disregard Dominion's Comments on this issue.

During Dominion's 2007 Rate Case Dominion argued that the SFV rate design was necessary in order to avoid a multitude of future rate cases,¹⁴ and that the SFV rate design was needed to address the problem of revenue erosion caused by declining average usage per customer,¹⁵ an annual benefit estimated by Dominion to be \$33.4 million.¹⁶ The benefits that Dominion derives from the SFV rate design will dwarf the Pilot Program cost to the Company and its shareholders. Therefore, the Commission should order the Pilot Program to continue without modification, and require Dominion shareholders to continue to fund the Pilot Program.

While Dominion shareholder funding of other Dominion initiatives are irrelevant to the resolution of this case, nevertheless, the Company attempts to use such information to garner Commission sympathy. However, in making its argument, Dominion inaccurately characterizes the extent to which its shareholders provide funding to low-income assistance and energy efficiency programs.¹⁷ Dominion first alludes that

¹² Dominion Comments at 4.

¹³ 5,000 customers x \$4.00 discount per customer/month x 12 months per year = \$240,000.

¹⁴ *In re 2007 Rate Case*, Tr. Vol. II (Friscic) (August 6, 2008) at 269.

¹⁵ *In re 2007 Rate Case*, Dominion Ex. No. 1.0 (Murphy Direct Testimony) (September 13, 2007) at 41; See also Staff Ex. No. 3 (Puican Prefiled Testimony) (July 31, 2007) at 7.

¹⁶ *In re 2007 Rate Case*, September 24, 2008 Oral Argument Dominion Presentation (October 8, 2008).

¹⁷ Dominion Comments at 4.

shareholders are somehow contributing to Dominion's PIPP Program.¹⁸ This is absurd, as the Company receives full recovery of its PIPP Program costs from its customers.

Dominion next discusses its increased spending for low-income demand-side management ("DSM") programs from \$3.5 million to \$9.5 million to be spent as determined by a Commission-approved DSM collaborative.¹⁹ While the DSM commitments are accurate, the Company's shareholders contribute \$0 to fund these programs. Instead, the costs of the DSM programs are fully recovered from Dominion's residential consumers.²⁰ Of the nearly \$14 million that Dominion touts it has or will contribute to low-income customers since its last rate case, in reality nearly 70 percent of that money has been or will be paid for by Dominion's residential customers, not Dominion's shareholders. Therefore, the Commission should not be persuaded to let Dominion off the hook for the Pilot Program on the basis of its over-stated philanthropy.

C. OPAE Makes A Compelling Argument For Expanding The Pilot Program.

OPAE argues that the Commission should expand the Dominion Pilot Program to 20,000 participants. That expansion represents an increase from its present 5,000 customer level, and would roughly equate the Pilot Program to the low-income program that Duke Energy Ohio, Inc. ("Duke") was ordered to implement.²¹ This argument is consistent with the argument raised by the Joint Consumer Advocates²² in the 2007 Rate Case, and OCC continues its support for the

¹⁸ Dominion Comments at 4.

¹⁹ Dominion Comment at 5.

²⁰ *In re 2007 Rate Case*, Stipulation (August 22, 2008) at 4-5.

²¹ OPAE Comments at 7.

²² The Joint Consumer Advocates were comprised of OCC the City of Cleveland, OPAE, the Neighborhood Environmental Coalition, the Empowerment Center of Greater Cleveland, the Cleveland Housing Network, and the Consumers for Fair Utility Rates ("Citizens Coalition").

underlying concerns that the Joint Advocates raised. Those concerns are that the Pilot Program as ordered by the Commission, for Dominion, is a smaller program than the pilot program ordered in the Duke Rate case, despite the fact that Dominion is three times the size of Duke,²³ and the meager Pilot Program disregards the well documented economic problems in Dominion's service territory.²⁴ OCC urges the PUCO to retain and expand the Pilot Program and that Dominion be required to continue to fund the program.

III. CONCLUSION

For all the reasons discussed above, the Commission should disregard Dominion's Comments, and not establish a date certain to terminate the low-income pilot program. Furthermore, if the Pilot Program is continued -- as it should be -- the Company should not be authorized to recover the Pilot Program's costs from Dominion's consumers. The Commission should look at the relative insignificant costs of the Pilot Program contrasted to the significant benefits that the SFV rate design has provided the Company and its shareholders. Further, the Commission should not be persuaded by Dominion's arguments pertaining to the level of low-income support it is or will be providing customers with bill payment or energy efficiency initiatives. In the event the Commission is considering a modification to the Pilot Program it should consider increasing the program's eligibility from 5,000 to 20,000 customers.

²³ OPAE Comments at 7.

²⁴ *In re 2007 Rate Case*, Joint Consumer Advocates Application for Rehearing (November 14, 2008) at 2.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *reply Comments* was served on the persons stated below via first class U.S. Mail, postage prepaid, this 17th day of June 2010.



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