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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of The East )  
Ohio Gas Company, dba Dominion East )  
Ohio, for Approval of a General Exemption )  
Of Certain Natural Gas Commodity Sales )  
Services or Ancillary Services. )**

**Case No. 07-1224-GA-EXM**

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**COMMENTS OF  
THE OHIO GAS MARKETERS GROUP**

**I. Procedural History**

Now comes the Ohio Gas Marketers Group ("OGMG")<sup>1</sup> who intervened in this proceeding on February 28, 2008 and were granted full party status by Entry issued March 26, 2008. The OGMG has followed the latest set of filings in this docket commencing on May 18, 2010 with a motion for a special management performance audit and a long-term forecast filed by the Office of the Ohio Consumers' Counsel (OCC). In response, to the OCC's motion, Dominion East Ohio (DEO) on June 2, 2010 filed a memorandum contra. This was followed by a Reply submitted by the OCC on June 14, 2010. The OGMG has also reviewed the DEO filing in Federal Energy Regulatory Commission (FERC) Docket CP 10-107-000 which sought FERC approval to commence a delivery by displacement interstate storage capacity lease (Phase I) this winter followed by investment that would permit an interstate storage capacity lease with greater deliverability on or after 2014 (Phase II).

<sup>1</sup> The OGM is an ad hoc coalition who at the time of intervention consisted of the following Commission certified gas marketers: Constellation NewEnergy-Gas Division, LLC; Direct Energy Services, LLC; Hess Corporation; Interstate Gas Supply, Inc.; Just Energy LLC (formerly known as Commerce Energy); SouthStar Energy Services LLC; and Vectren Retail LLC dba Vectren Source.

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## **II. Introduction**

The issues presented in the OCC's motion are unique to DEO who among the major Ohio local distribution companies is the only one to have developed natural gas storage fields within its distribution service area ("In Market Storage"). By directly integrating storage with its distribution system, DEO is able to service peak day and seasonal space heating demand with gas supplies to supplement deliveries from the Federal Energy Regulatory Commission (FERC) regulated interstate transmission system. DEO's In Market Storage consists of converted, depleted Clinton sand gas wells. DEO, via a series of injection, withdrawal and monitoring wells, uses the natural formations or "vessels" that formerly contained local natural gas to store working gas. Thus, while the maximum amount of gas that can be injected into DEO's In Market Storage is controlled by the size of the usable storage stands in each storage field, the actual amount of working gas put into seasonal storage is determined more by the demand for storage and efficiency with which the working gas can be injected and recovered.

Currently, DEO fills its In Market Storage during the injection season, to a seasonal capacity of 55 BCF.<sup>2</sup> This capability to bring 55 BCF of gas to market to meet seasonal demand is essential to support DEO's Standard Choice Offer (SCO) and Standard Service Offer (SSO) service, Choice program and its transportation / firm storage service programs as well as to balance the DEO system. The fact that the In Market Storage gas goes directly into the distribution system outside of the interstate system provides additional flexibility to out of market storage fields. In no small measure, DEO's ability to avoid curtailment in the 1970's came from the fact that its In Market Storage gas was not

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<sup>2</sup> Based upon review of auction related information and confirmed by a telephone conference with Jeff Murphy, Managing Director of Commercial Operations for Dominion East Ohio.

subject to FERC curtailment plans. Further, the great success of the DEO Choice program and the relatively low price of the SCO and SSO service is attributable in part to the fact that suppliers, like the OGMG members, can use summer priced gas to meet winter gas demand because each Ohio residential and small commercial customer comes with a storage allotment which can be used by Competitive Retail Natural Gas Supplier (CRNGS), and is a factor in the delivery pattern for the Standard Choice Offer (SCO) supplier.

Given the importance of the DEO In Market Storage fields and the level of service they make possible, the concern that the OCC raises over Phase I and Phase II is understandable. To assure that the hundreds of thousands of residential customers in northeastern Ohio who depend on DEO for gas service will not see the quality of that service diminished, the OCC calls for an independent third party expert to conduct a management performance audit and for the preparation of a long term forecast(s). DEO counters by noting that since it now operates under an alternative rate plan under Section 4929.05, Revised Code, it is no longer subject to management performance audits, nor is it obligated to prepare long term forecasts.<sup>3</sup> DEO also claims that OCC has misinterpreted the proposed Phase I and Phase II portions of its application at FERC and insists that neither Phase I nor Phase II will compromise the current In Market Storage activities.<sup>4</sup> DEO argues that the decline in demand for storage in its Ohio jurisdictional service area has created a greater potential for storage service than DEO intrastate load can take advantage of and that Phase I in particular will simply tap this underutilized portion of the storage vessel space available from the In Market Storage field; although, Phase II can and

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<sup>3</sup> DEO Memorandum Contra, pp. 7-10.

<sup>4</sup> Id. pp. 11-14.

will happen only if significant investments are made in injection and withdraw wells, compression and additional interstate pipeline facilities.

As suppliers to the SCO and Choice programs in the DEO service area, the OGMG members are keenly aware of the attrition in load which has taken place in the DEO service area over the past decade. Further, the OGMG acknowledges that while the storage vessel size of the DEO In Market Storage fields are finite and not subject to change, reduced storage needs means that the amount of working gas injected into storage and the need for buffer gas are reduced. In fact, failure to reduce the working gas, particularly in storage fields where low porosity and permeability is combined with the Clinton sands' tendency for ill-defined storage vessel barriers, creates a risk of increased storage gas loss due to migration.

In sum, DEO's description of demand driving the availability of storage space in its Ohio In Market Storage fields<sup>5</sup> and the conclusion that providing an interstate service will not diminish the intra state service is theoretically sound. In fact, from a theoretical stand point DEO could have claimed that the additional working gas for the interstate service may actually increase deliverability for the intrastate service. On the other hand, OGMG agrees with the OCC that given the importance of the In Market Storage fields to the quality of service both today and in the future, the Commission should be involved and should play a role to assure that a transfer of intrastate storage assets to interstate storage does not result in a degradation of the quality of gas service in Northeast Ohio.

### **III. Issues**

The issues presented in the matter at bar center around a complex set of procedural questions. Does the fact that DEO's present standard service procurement plan is

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<sup>5</sup> DEO Memorandum Contra, pp. 7-10.

authorized under the Alternative Rate Regulation provisions of Section 4929.05, Revised Code bar management performance audits and long term forecast?<sup>6</sup> If management performance audits are banned per se could the Commission order them if a finding is made under Section 4929.08, Revised Code that the current plan is not in the public interest? If such a finding is made, can it be applied retroactively? Finally, does the Commission even under an alternative rate plan retain its general supervisory authority under Sections 4905.05-.06, Revised Code?

OGMG has two observations on the legal issues presented. First, basic rules of construction require the Commission to interpret statutes so as to give meaning to all provisions<sup>7</sup>. Arguably, the fact that the General Assembly passed Chapter 4929 to authorize Alternative Rate Procedures means that programs authorized under that Chapter must be treated differently than rates established under the cost of service methodology established in Section 4909.18, Revised Code. Thus, one would expect different regulatory tools to apply in Alternative Rate plans than in Cost of Service rate plans. Second, and most importantly, there is no need to explore whether management performance audits and long term forecasts are appropriate in this matter because the actual controversy does not necessitate such relief.

DEO, in its Memorandum Contra, states: “There will be no reduction in the amount of storage capacity or deliverability offered to DEO’s existing Ohio retail customers as a result of the Lease Agreement”.<sup>8</sup> Note the word “offered” in the above statement. It is clear that DEO is not saying that it desires to limit intrastate customers to today’s capacity

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<sup>6</sup> OCC Motion, pp. 16-20; DEO Memorandum Contra, pp. 16-18; OCC Reply, pp. 15-17.

<sup>7</sup> See Section 1.47(B), Revised Code and Massillon City School Dist. Bd. of Edn. v. Massillon, 104 Ohio St. 3d. 518, 2004-Ohio-6775, 820 N.E. 2d 874 (2004).

<sup>8</sup> DEO Memorandum Contra, p. 4.

or if the intrastate market continues to shrink to some future smaller load. In fact, on page 5 of its Memorandum Contra describing the Phase II portion of its FERC application, DEO states that it will not offer full storage service out of the In Market Storage fields until “.... after DEO adds facilities to ensure that there will be no degradation of service to its existing intrastate customers”.

Thus, there appears to be no case or controversy over the issue of whether the amount of storage assets devoted to intrastate service should be transferred to interstate service. Further, there is agreement that intrastate customers can and will enjoy the historic level of service commensurate with market demand. OGMG concludes that there are really only two issues before the Commission: 1) How to enforce DEO’s assurance that the current level of in market storage service will not be compromised by Phase I or Phase II even if the DEO service area returns to its historic high levels of storage demand; and 2) will the new, interstate storage services be open to all suppliers on a non-discriminatory basis.<sup>9</sup>

On the issue of assuring that the Phase I and Phase II services will not impair the intrastate gas services, the simplest and most straight forward way of accomplishing the goal would seem to be an order from the Commission requiring that the historic level of seasonal storage and the maximum daily withdrawal not be diminished by Phase I and Phase II should DEO’s intrastate market demand return to historic levels. That would eliminate the time, cost and confusion of a management performance audit which, at best, would produce the same results.

OGMG has reviewed the data supplied to it by DEO for purposes of the auction and met with Jeff Murphy, Managing Director of Commercial Operations for DEO. Based

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<sup>9</sup> See OCC Motion, pp. 12-13 and DEO Memorandum Contra, p. 10.

on that information the historic seasonal level of storage injection appears to be 59 BCF. The company's historical working gas capacity level was 60 Bcf, but with the decommissioning of the Columbiana field, DEO now believes the maximum seasonal injection would be limited to 59 Bcf.<sup>10</sup> More important to the marketers is what the daily deliverability will be. The maximum daily delivery has been 1.08 Bcf a day. Even though the annual throughput on DEO has declined dramatically over the past decade, the peak delivery has not. Thus, the Commission should assure that Phase I and Phase II will not diminish DEO's ability to deliver 1.08 Bcf to its Ohio market. Since these numbers are based on informal interviews and internal records, OGMG believes that DEO should supplement the record in this proceeding with documentation of what the historic annual delivery amounts have been as well as the more critical daily delivery so that there is a factual record on this point for reference should there be a need in the future for a benchmark of what has been "offered".

On the subject of making sure that access to the new, interruptible interstate delivery service is open and non-discriminatory,<sup>11</sup> the OGMG agrees with the OCC that given the FERC application in Phase I, only DTI would be offered the interruptible displacement storage service. To extend that service to all qualified suppliers, a tariff provision would be required. When the OGMG asked DEO if an interruptible storage service structured like Phase I could be made available to all qualified suppliers who apply, the answer was affirmative. DEO's only caveat was that any requests for a new interruptible storage service come in February at the time of the regularly scheduled DEO

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<sup>10</sup> In addition to the annual quantity that can be stored and the maximum daily withdrawal, another important metric is the amount of gas that can or must be removed from storage as the withdraw season progresses or "ratchets". OGMG is assuming no change to the ratchets. The Commission should review any and all changes to the ratchets in order to assure the quality of the storage service.

<sup>11</sup> See OCC Motion, pp. 12-13.

open season for firm storage service. The OGMG is agreeable to having applications for Phase I interruptible storage by displacement service start with applications at the next scheduled open season, which will be in February 2011, until DEO commences its Phase II lease arrangement. Because Phase II will require FERC authorized construction and will be an interstate service, access to Phase II will be subject to FERC requirements and approval. Thus, the OGMG does not believe that additional safeguards will be required from the Commission at this time as to Phase II.

#### **IV. Conclusion**

The OGMG concludes and recommends that the Commission order DEO to file appropriate affidavits establishing what the historic annual delivery amount is as well as the more critical daily delivery. In addition, the Commission should direct DEO to insert a provision in its tariff that displacement storage service similar to that of the Phase I storage lease is available to all qualified suppliers so long as any request for new displacement storage service is made in February at the time of the regularly scheduled open season for firm storage service until such time as the Phase II lease arrangement begins.

Respectfully Submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP



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Source**

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Comments was served via email where applicable and via first class U.S. mail, postage prepaid, this 2<sup>nd</sup> day of July, 2010, upon the following persons.



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