

FILE

**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 File Revised Tariffs Extending its
Low-Income Pilot Program**

Case No. 10-200-GA-ATA

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

Pursuant to the Commission's Entry of September 15, 2010, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") hereby submits its Reply Comments to the Supplemental Staff Report filed on September 20, 2010 regarding DEO's low-income, low-use pilot program (the "Low-Income Pilot").

I. INTRODUCTION

Despite empirical data calling into question the necessity of the Low-Income Pilot in the first place, the Consumer Advocates¹ continue to insist that this temporary, one-year program, established to mitigate anticipated rate increases for 5,000 low-income, low-use customers, should be expanded to 20,000 customers and continued indefinitely. They also insist that the cost of an expanded program -- nearly \$1 million per year -- should be absorbed by DEO shareholders. Little mention is made of the fact that the bill increases the Low-Income Pilot was intended to mitigate never happened. In fact, virtually all customers have experienced bill *decreases* since DEO's last rate case.

¹The Consumer Advocates consist of the Office of Ohio Consumers' Counsel, Ohio Partners for Affordable Energy, The Neighborhood Environmental Coalition, The Empowerment Center of Greater Cleveland, Cleveland Housing Network, The Consumers for Fair Utility Rates, Communities United for Action, and Ohio Poverty Law Center.

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DEO has already made its position clear in Initial and Reply comments previously filed in this docket, and will not repeat those comments at length here. As discussed in previous comments, DEO does not object to a continuation of the Low-Income Pilot through March 2011 at continued shareholder expense. If the program is to continue after that date, the Commission must allow DEO to recover the cost of the program in rates. The Consumer Advocates' claim of need does not justify the confiscation of DEO's property.

II. REPLY COMMENTS

A. Contrary To The Assumptions Underlying The Perceived Need For The Low-Income Pilot, Customers Have Experienced Lower Gas Bills Since DEO's Rate Case.

Staff has completed its supplemental review of the Low-Income Pilot. The Supplemental Staff Report analyzes the total annual bill of customers consuming between 10 and 70 Mcf under three scenarios: (1) the distribution and commodity rates in effect prior to DEO's most recent base rate case; (2) the distribution and commodity rates in effect prior to October 2010; and (3) the distribution and commodity rates in effect after October 2010. Staff's analysis shows that the vast majority of DEO's customers -- including most low-income, low-use customers -- have experienced *lower* gas bills since DEO's last rate case and the introduction of the straight-fixed variable ("SVF") rate design. The Consumer Advocates should cheer the fact that customers are experiencing lower bills rather than complain about it.

Staff's analysis points out that the decline in the price of natural gas since DEO's rate case has offset both the rate increase approved in the rate case and the change in rate design. The Commission required the Low-Income Pilot because it was "concerned with the impact that the change in rate structure will have on some DEO customers who are low-income, low-use customers." (Order, Case No. 07-829-GA-AIR et. al ("Rate Case Order"), p. 26.) At the time of

the Rate Case Order, customers had experienced a period of record high gas prices and had expressed concern for the increase in rates that would result from the rate case. Although the attempt by the Commission to mitigate the rate increase and the change to the SFV rate design was well intentioned, the Commission now has empirical data showing that the Consumer Advocates' fear-mongering over SFV rate design was and is wildly misplaced. Customers have not been impacted by the rate case increase or the change to the SFV rate design to the extent anticipated. Further, the change in SFV rates effective October 14, 2010 for residential customers reduces customer bills by an average of nearly \$1.00 per month from the rates prior to that change. The decrease during the winter months is over \$3.00 per month.

The Consumer Advocates argue that Staff's analysis is "flawed because of the significant impact that the declining natural gas commodity prices have had on customers' total bill." (Comments, p. 6.) The Consumer Advocates believe that the decrease in commodity prices should be ignored because prices "could suddenly increase." (Id.) The Consumer Advocates fail to acknowledge that the Commission's September 15, 2010 Entry specifically directed Staff to perform a supplemental analysis of total bill impacts, which obviously includes commodity prices. It is not fair to criticize Staff for performing its analysis as directed by the Commission. More importantly, the Consumer Advocates have not connected the dots to explain how any future increase or decrease in commodity prices is in any way relevant to a review and analysis of the historical effectiveness of the Low-Income Pilot.

The Consumer Advocates provide their own analysis that purports to show the results of SFV rate design with "gas commodity costs . . . excluded from the bill comparisons." (Comments, p. 7.) Regardless of what their charts are intended to show, the Consumer Advocates' analysis does not reflect reality. The fact that what the vast majority of customers

actually paid to heat their homes and cook their food was lower subsequent to implementation of the SFV rate design cannot be ignored. The "substantial increases" that the Consumer Advocates claim their analysis shows simply never happened.

While in one breath criticizing Staff for including commodity prices in its analysis, in the next the Consumer Advocates argue that the Commission should expand the Low-Income Pilot "[b]ecause of the threat of future natural gas commodity price increases." (Comments, p. 6.) It is disingenuous to argue that commodity prices should be ignored for purposes of evaluating the Low-Income Pilot to date, but that the Commission should expand the program because natural gas prices might increase. Commodity prices are either relevant or they are not. And while it is true that commodity prices may increase in the future, there is certainly no information from which to conclude that this will happen anytime soon, and those knowledgeable of the topic predict continued low prices through 2011. According to recent U.S. Energy Information Administration forecasts, "EIA has revised its projections for natural gas prices downward through 2011. . . . Price expectations for 2011 are \$4.58 per MMBtu, which is \$0.18 per MMBtu (4 percent) lower than last month's forecast, primarily due to a stronger domestic production forecast."² If the experts are wrong and future prices spike unexpectedly, DEO and the Commission can address potential mitigation measures based on whatever facts they confront. The Commission should not continue or expand the Low-Income Pilot to preemptively address a scenario that is predicated on unfounded speculation.

² See http://www.eia.doe.gov/steo/contents.html#Natural_Gas_Markets

B. If The Commission Expands Or Extends The Low-Income Pilot, It Must Also Authorize A Cost Recovery Mechanism.

When the Commission ordered DEO to implement a low-income pilot program, it required the Company to make the program available to 5,000 customers for a period of one year. The Consumer Advocates seek to collaterally attack the Rate Case Order to require DEO to indefinitely expand the program to 20,000 customers, at shareholder expense of almost \$1 million per year or, alternatively, use these funds to establish a fuel fund for low income payment assistance.

The Consumer Advocates fail to acknowledge that DEO already provides substantial shareholder support to bill payment and weatherization programs. As discussed in Initial Comments, since 1994 DEO shareholders have or will provide approximately \$14 million to low and moderate income programs directly related to bill payment assistance and home weatherization. . (DEO Init. Comments, pp 4-5.) Included in the \$14 million are contributions by DEO to the Dominion EnergyShare program. The EnergyShare program is Dominion's shareholder funded fuel assistance program of last resort for anyone who faces financial hardship from unemployment or family crisis. DEO contributed over \$1 million to that program from 2004 through the 2007-2008 winter heating season, \$500,000 for the 2008-2009 winter heating season, and \$350,000 for the 2009-2010 winter heating season. Another \$500,000 will be contributed to EnergyShare for the 2010-2011 winter heating season. In addition to the shareholder funding, DEO actively promotes employee and customer contributions to EnergyShare. Each time a customer uses EnergyShare funds to pay their gas bills, DEO matches up to \$50 through a direct credit to the customer's bill, up to a total of \$50,000 per year. Additionally, since 2003, the Dominion Foundation has contributed close to \$10 million to charitable and non-profit institutions in Ohio, many of which serve "human needs." These

contributions do not include employee gifts to charitable organizations, which the Company matches dollar-for-dollar up to \$5,000. Going forward, the Dominion Foundation will continue to donate about \$1.5 million per year to charitable institutions. DEO does not wish to be thanked for these shareholder-supported initiatives, but they should at least be acknowledged.

If the Commission requires DEO to continue or expand the Low-Income Pilot beyond March 2011, the Commission must also authorize a cost recovery mechanism. There is no question that DEO and its investors are entitled to compensation for prudently incurred operating costs and a fair rate of return on the value of the utility's used and useful property. See Bluefield Water & Improvement Co. v. Public Serv. Comm'n., (1923) 262 U.S. 679, 690; Ohio Edison Co., v. Public Utilities Comm'n., (1992) 63 Ohio St. 3d. 555, 564 ("investors are assured a fair and reasonable return on property that is determined to be used and useful, R.C. 4909.15(A)(2), plus the return of costs incurred in rendering the public service, R.C. 4909.15(A)(4)"). Moreover, it is well established that the Commission "exceed[s] its authority" when it engages in the "appropriation of [a utility's] property for public purposes" without permitting the utility to not only recover the costs of such property, but earn a reasonable and just return. See Hocking Valley Ry. co. v. Public Utilities Comm'n., (1915) 92 Ohio St. 121, 126.

In deciding whether to continue or expand the Low-Income Pilot, the Commission must consider the fact that ratepayers are already providing substantial support to low-income and weatherization programs, both directly and indirectly. In its last rate case, DEO increased its spending for demand side management (DSM") programs to \$9.5 million per year, recovered from customers through a combination of base rates and the DSM Rider. These funds include \$6.5 million for low-income home weatherization and \$3.0 million for a program providing other residential customers with subsidized home energy audits and rebates for resulting energy

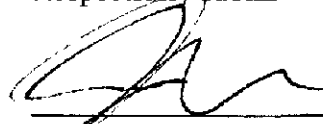
efficiency improvements, all approved by a DSM Collaborative. DEO customers also support low-income payment assistance through the Percentage of Income Payment Plan (PIPP) Rider. At some point the Commission must decide when enough low income assistance is being provided by both customers and shareholders. It should also be borne in mind that the legislature has directed to the Commission to implement policies that "[p]romote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods." R.C. 4929.08(A)(8) (Emphasis added).

III. CONCLUSION

DEO was never ordered to, never agreed to, and never expected to continue the Low-Income Pilot indefinitely at shareholder expense. It would be unfair (and unlawful) to order that the Low-Income Pilot or any alternative program be continued indefinitely without permitting DEO to recover the costs to fund such programs.

Dated: October 27, 2010

Respectfully submitted,



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CERTIFICATE OF SERVICE

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