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**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) Case No. 08-169-GA-ALT
for Approval of Tariffs to Recover Certain)
Costs Associated with a Pipeline Infrastructure)
Replacement Program Through an Automatic)
Adjustment Clause, And for Certain Accounting)
Treatment.)

**MOTION TO MODIFY ORDER GRANTING ALTERNATIVE RATE REGULATION,
MOTION TO CONVENE A PREHEARING CONFERENCE AND
MOTION TO WAIVE OR DEFER THE FILING OF MEMORANDA CONTRA**

By an Opinion and Order issued in this proceeding on October 15, 2008 ("2008 Order"), the Commission, pursuant to R.C. 4929.05, granted alternative rate regulation authorizing The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") to implement a Pipeline Infrastructure Replacement ("PIR") Program and associated PIR Cost Recovery Charge. By this Motion, DEO respectfully requests, pursuant to R.C. 4929.08(A), that the Commission modify the 2008 Order to allow DEO to further accelerate the removal and replacement of bare steel, cast-iron, wrought-iron, copper and ineffectively coated pipeline. The requested modifications to the 2008 Order would provide for:

- Adjustment of the \$1 annual increase limit in the PIR Cost Recovery Charge to accommodate an approximate doubling of annual PIR expenditures;
- Replacement of the current post in-service carrying cost ("PISCC") rate with DEO's authorized pre-tax return on rate base for PIR assets placed into service before being reflected in the PIR Cost Recovery Charge;
- Changes in the PIR Cost Recovery Charge fiscal period and filing schedule;
- Clarification of the PIR Program scope to address governmental pipeline relocation projects and inside meter relocations;
- A reconciliation adjustment to ensure recovery of the approved PIR Cost Recovery Charge revenue requirement;

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- Five-year reauthorization of the PIR Program effective with Commission approval of this Motion to modify the alternative rate plan approved in the 2008 Order; and
- Other changes as needed to facilitate the regulatory review process and ensure sufficient Commission oversight of the expanded PIR Program, including retention of an independent financial auditor to review annual PIR Cost Recovery Charge filings and biennial depreciation studies of PIR investments.

R.C. 4929.08(A) authorizes the Commission to modify an order granting alternative rate regulation only after notice and a hearing. To facilitate the scheduling of such a hearing, DEO is filing, concurrently with this Motion, the direct testimony of Jeffery A. Murphy (DEO Exhibit 1.0), Vicki H. Friscic (DEO Exhibit 2.0), Timothy C. McNutt (DEO Exhibit 3.0), Eric S. Hall (DEO Exhibit 4.0) and John E. Kleinhenz, Ph.D. (DEO Exhibit 5.0).

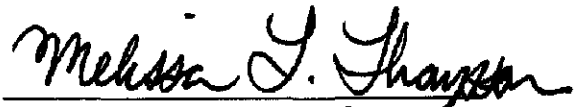
In order to begin the PIR Program acceleration described herein during the 2011 construction season, DEO respectfully requests issuance of a final order on this Motion by not later than June 30, 2011. To facilitate the issuance of an order by this date, DEO respectfully requests that the Commission convene a prehearing conference, pursuant to Rule 4901-1-26(A) Ohio Administrative Code ("O.A.C."), as soon as possible in order to establish a procedural schedule and hearing date.

Pursuant to Rule 4901-1-12(B)(1), O.A.C., memoranda contra the instant Motion would ordinarily be due within fifteen days. DEO recognizes that such a deadline is not practical under the circumstances. Moreover, because R.C. 4929.08(A) specifically requires the Commission to conduct a hearing on this Motion, the Commission cannot issue a final order based on this Motion and any memoranda contra. DEO therefore requests that the Commission waive or defer the filing of memoranda contra the instant Motion, pursuant to Rule 4901-1-38(B), O.A.C. Responses to this Motion (if any) may be addressed at the requested Rule 4901-1-26(A) prehearing conference.

For the reasons discussed in this Motion and attached Memorandum in Support, the Commission should immediately convene a prehearing conference to establish a procedural schedule and hearing date, waive or defer the filing of memoranda contra the instant Motion and modify the 2008 Order as requested herein.

Dated: March 31, 2011

Respectfully submitted,



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**MEMORANDUM IN SUPPORT OF
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I. INTRODUCTION AND BACKGROUND

The parties in DEO's last rate case, Case No. 07-829-GA-AIR *et al.*, stipulated to implementation of the PIR Program "for an initial five-year period or until the effective date of new base rates resulting from the filing of an application to increase base rates, whichever comes first." (Case No. 07-829-GA-AIR *et al.*, Opinion and Order (Oct. 15, 2008) at 9 ("2008 Order".) In agreeing to an initial term for the PIR Program, the parties and the Commission understood that at some point it would be appropriate to evaluate the execution of the program, analyze the results achieved and determine what changes, if any, should be made to the program going forward.

Although the initial five-year term is only about half complete, it is already clear that certain changes to the PIR Program should be made so that DEO can further accelerate the replacement of its aging pipeline infrastructure by approximately doubling annual PIR expenditures. The Commission need not and should not wait until the end of the initial five-year term to authorize changes to the PIR Program that will provide significant safety, ratepayer and economic benefits. The Commission should authorize these changes now.

The PIR Program was approved to allow cost recovery for the accelerated replacement of approximately 4,122 miles of bare steel, cast-iron, wrought-iron and copper pipelines. DEO

originally determined, and Staff and no other parties disagreed, that 25 years was a reasonable time frame in which to complete this work. Replacement of ineffectively coated pipe was also approved as part of the program scope; however, the amount of ineffectively coated pipeline to be replaced was not quantified at the time the PIR Program was approved. Costs associated with PIR Program investments are recovered through an annually-adjusted PIR Cost Recovery Charge. Without approval of the PIR Program and the PIR Cost Recovery Charge, it would take DEO approximately 89 years to complete the replacement of all pipelines initially quantified within the scope of the program.

In the course of the PIR Program to date, experience has made it clear that numerous assumptions underlying certain findings upon which the 2008 Order approving the program was based are no longer valid. Most significantly, the assumption that work anticipated under the PIR Program could be completed in 25 years is no longer valid. Since starting the program, DEO has determined that it has approximately 1,450 miles of ineffectively coated pipeline in its system in addition to the over 4,100 miles of in-scope pipeline initially quantified in its Application. Thus, the amount of pipe that needs to be replaced is 35% greater than initially assumed. In addition, subsequent to approval of the existing PIR Program, Commission Staff has clarified its expectations regarding cost recovery for the relocation of inside meters. Staff has indicated that such costs may be capitalized and recovered through the PIR Cost Recovery Charge only if done in conjunction with a mainline replacement project where the company plans to operate the system at a regulated pressure. At current spending levels, and considering the current \$1 cap on annual PIR Cost Recovery Charge increases, work that DEO thought it could complete within 25 years will now take *at least 35 years, if not considerably longer.*

Moreover, several recent tragedies involving pipeline failures illustrate the need to replace aging infrastructure, particularly pipelines operating at higher pressures, as quickly as practicable. Recent natural gas pipeline explosions demonstrate the potentially catastrophic consequences of such pipeline failures. For example, the rupture of a 30-inch transmission pipeline in San Bruno, California in September 2010 was truly catastrophic, occurring in a residential neighborhood and resulting in eight deaths, approximately 50 persons injured, 37 homes destroyed and 18 damaged. A natural gas pipeline failure in Philadelphia, Pennsylvania in January 2011 killed one person and injured five others. Another failure in Allentown, Pennsylvania in February 2011 resulted in five deaths. Both of the Pennsylvania failures involved older cast iron distribution mains. Although details of these explosions and their causes are under investigation and may not be known for some time, there is now considerable focus nationally on pipeline safety and aging infrastructure.

As already reflected in this proceeding's record, DEO has more bare steel pipeline in its system than any other LDC in the United States. Despite this, DEO believes that its pipeline system is safe, and will continue to be safe with an accelerated pipeline replacement program. DEO adheres to established pipeline safety regulations in maintaining its system. But there is no avoiding the fact that aging bare steel, cast-iron, wrought-iron, copper and ineffectively coated pipelines pose a potential safety hazard. Given several recent, fatal incidences of pipeline failures throughout the country, it has become clear that addressing this potential hazard over a 25-year period entails significant — and unnecessary — safety risks. The safest and most cost-effective method to address this risk is for DEO to replace its aging pipeline infrastructure as soon as practicable within authorized cost recovery provisions. The quicker DEO can replace in-scope pipeline, the safer its system will be.

Commission Staff and Office of Ohio Consumers' Counsel's ("OCC") assumption that DEO's PIR Program would result in immediate operating and maintenance ("O&M") cost savings was also faulty. To be clear, DEO has never operated under this assumption. From DEO's perspective, the PIR Program is, has always been, and should always be about *safety*. Safety dictates that the Company prioritize high pressure transmission and distribution pipeline for replacement, even though these pipelines generally do not have active leak history or other leading indicators of an immediate hazard. The prudence of this approach has been validated by the San Bruno transmission pipeline explosion. But DEO has been criticized for using this approach because it does not result in immediate O&M cost savings. This disconnect between safety and money needs to be addressed. If it is not, annual proceedings to adjust the PIR Cost Recovery Charge will continue to be plagued by debate and litigation over whether DEO is prudently executing the PIR Program as Staff and OCC continue to place greater emphasis on cost savings over safety. Commission decisions to date in the cost recovery proceedings have not resolved the issue, although the Commission has sided with Staff and OCC regarding the manner in which cost savings should be calculated. If the Commission believes that the PIR Program should emphasize cost savings over safety, it should modify the 2008 Order to say so expressly.

In addition to increased safety and reliability in both the short-term and the long-term, further accelerating the PIR Program will result in a number of important benefits. First, accelerating replacements inevitably will more quickly generate O&M savings from avoided leak repairs. Increasing its investment in pipeline replacements, DEO will be able to meet the objectives of both replacing the remaining in-scope transmission and high pressure distribution pipelines while at the same time increasing the replacement of in-scope low pressure distribution

systems, which tend to have more leaks, thereby generating O&M savings that can be passed back to customers sooner.

Second, further accelerating the PIR Program will concentrate investments at a time of relatively low and stable natural gas prices. According to the Energy Information Administration, natural gas prices are projected to remain at current levels through 2012 and under \$6 per MMBtu until 2020. As a result, increases in the PIR Cost Recovery Charge resulting from further acceleration of PIR investment will not impact customer bills to the same extent as in a period of high natural gas prices. In addition, a decrease in the PIPP Rider rate of \$0.9929 and a decrease in the Retail Price Adjustment of \$0.20 have been approved by the Commission and will be implemented in April 2011. Low natural gas prices combined with recent rate decreases will minimize the impact on customer bills from further acceleration of the PIR Program for many years to come.

Third, DEO's customers, the Ohio economy and state and local governments will benefit significantly from the increased employment and higher payroll and property taxes generated by doubling annual PIR expenditures, from the current level of over \$100 million per year to over \$200 million annually. DEO's proposed accelerated PIR Program also fits the federal policy of making infrastructure improvements to spur economic growth. These antecedent economic benefits are critically important in today's economy and for the foreseeable future.

For each of these reasons, discussed more fully below, the Commission should authorize the requested modifications to the 2008 Order so that DEO may further accelerate investments in its PIR Program.

II. ARGUMENT

A. The Commission Has Statutory Authority To Modify An Order Granting An Alternative Rate Plan.

DEO initially filed its application for approval of a PIR Program pursuant to R.C. 4929.11. (Application at 1.) In an Entry on Rehearing dated May 28, 2008, the Commission determined that the PIR application should be considered under the alternative rate plan requirements of R.C. 4929.05. (Entry on Rehearing at Finding 14.) Thus, the PIR Program was approved as an alternative rate plan.

The Commission has the authority to modify or abrogate an order granting alternative rate regulation under certain specified conditions. Specifically, R.C. 4929.08 provides:

The public utilities commission has jurisdiction over every natural gas company that has been granted an exemption or alternative rate regulation under section 4929.04 or 4929.05 of the Revised Code. As to any such company, the commission, upon its own motion or upon the motion of any person adversely affected by such exemption or alternative rate regulation authority, and after notice and hearing and subject to this division, may abrogate or modify any order granting such an exemption or authority only under both of the following conditions:

(1) The commission determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest;

(2) The abrogation or modification is not made more than eight years after the effective date of the order, unless the affected natural gas company consents.¹

As discussed below, certain findings upon which the 2008 Order was based are no longer valid, and modification of the Order is in the public interest. The Commission may therefore modify the Order.

¹In addition, under the Commission's rules, Ohio Adm. Code 4901:1-19-11(B)(2), "If the commission determines that a natural gas company granted alternative rate regulation is not in substantial compliance with the state policy as specified in section 4929.02 of the Revised Code, that the natural gas company is not in compliance with its alternative rate plan, or that the alternative rate regulation is affecting detrimentally the integrity or safety of the natural gas company's distribution system or the quality of any of the company's regulated services or goods, the commission, after a hearing, may abrogate the order granting such alternative rate regulation." (Emphasis added.)

B. The Commission Should Modify The 2008 Order Approving The Alternative Rate Plan.

1. Certain findings upon which the 2008 Order was based are no longer valid.

At least three critical assumptions for findings underlying the 2008 Order are no longer valid. First, DEO has determined that the amount of pipe that must be replaced under the program exceeds the original scope by approximately 35%. Thus, at current spending levels and with the \$1 cap on annual increases to the PIR Cost Recovery Charge, it will take at least 35 years to complete the PIR Program, if not considerably longer because the \$1 cap would not even accommodate replacement of the initially quantified scope within 25 years. (Direct Testimony of Timothy C. McNutt (DEO Exhibit 3.0) at 5; Direct Testimony of Jeffrey A. Murphy (DEO Exhibit 1.0) at 8-9.) Second, in light of recent catastrophic pipeline failures, some would question whether a 25-year time horizon for replacing aging pipeline infrastructure is too long. Extending that horizon out another ten years is unacceptable. This infrastructure should be replaced as soon as possible with authorized cost recovery provisions. (Direct Testimony of Eric S. Hall (DEO Exhibit 4.0) at 5-6; DEO Exhibit 1.0 at 4-5, 10; DEO Exhibit 3.0 at 13.) Third, Commission Staff and OCC mistakenly assumed that the PIR Program would result in immediate O&M cost savings due to avoided leak repairs. The Commission must clarify whether the PIR Program should emphasize safety or cost savings. (DEO Exhibit 1.0 at 4-5; DEO Exhibit 3.0 at 8; 11-13; DEO Exhibit 4.0 at 6.)

a. The amount of ineffectively coated pipeline in DEO's system has increased the program scope by 35%.

In seeking approval of the PIR Program, DEO proposed a 25-year, \$2.7 billion (in 2007 dollars) program to complete the accelerated replacement of approximately 4,122 miles of bare steel and other in-scope pipeline in its distribution system, including ineffectively coated

pipeline. (Application (February 22, 2008) at 2-5.) As discussed in the Direct Testimony of Company Witness Timothy McNutt, at the time of the original PIR application, DEO did not know whether the ineffectively coated pipeline would materially increase the overall scope of the PIR Program. (DEO Exhibit 3.0 at 4-5.) Since approval of the program, however, DEO has determined that it has approximately 1,450 miles of ineffectively coated pipeline on its system. Adding the ineffectively coated pipeline (1,450 miles) to the bare steel pipeline (4,122 miles) results in a new program scope that exceeds the original scope by 35%. Given the expanded scope of the PIR Program, the assumption that the program could be substantially completed within 25 years is no longer valid. (DEO Exhibit 4.0 at 4-6; DEO Exhibit 1.0 at 5, 8-9.)

b. Recent pipeline failures demonstrate that extending the 25-year time frame of the existing PIR Program is not advisable.

Company Witness Eric Hall discusses several pipeline incidents that have occurred recently in Ohio and elsewhere. (DEO Exhibit 4.0 at 2-4.) For example, in December 2009, DEO's 16-inch, high pressure main on Midlothian Road in Youngstown, Ohio ruptured. This pipeline was installed in 1946, and subsequent analysis revealed that it was ineffectively coated. DEO has since replaced pipeline from the lot that ruptured which had been operating at pounds pressure. DEO's independent consultants determined that a longitudinal seam in conjunction with poorly bonded, low frequency electric-resistance weld caused the pipeline to rupture. Fortunately, the gas that leaked from the pipe did not ignite, and no injuries occurred as a result of the failure. (DEO Exhibit 4.0 at 4.)

As further explained in Mr. Hall's testimony, there have been numerous pipeline failures around the country involving old bare steel and cast iron pipeline. (DEO Exhibit 4.0 at 2-4.) For example, in September 2010, a 30-inch transmission pipeline failure led to an explosion in San Bruno, California, killing eight people, injuring approximately 50 people, destroying 37 homes

and damaging 18 others. In December 2010, a Consumers Energy Company pipeline failed in Wayne, Michigan, killing two people and critically injuring another in the ensuing explosion. In January 2011, a Philadelphia Gas Works cast iron pipeline failed and leaking gas ignited, killing a utility worker and injuring five people. In February 2011, a 12-inch, cast-iron pipeline failure in Allentown, Pennsylvania led to the deaths of five people. Also in February, a 36-inch transmission line failure in rural Columbiana County, Ohio resulted in an explosion, but thankfully there were no injuries.

The transportation and distribution of natural gas carries certain inherent safety risks that can never be fully eliminated. DEO must therefore manage the safety risks on its system to the best of its ability with the resources available. The issue before this Commission is whether the resources currently being devoted to the PIR Program are sufficient to address the risk that this program was intended to mitigate. DEO does not believe that current resources devoted to the PIR Program are sufficient. More pipe should be replaced sooner in order to decrease the risks associated with aging infrastructure. There is no question that this will cost a lot of money. But dollars should never come before safety.

c. Concerns about whether the PIR Program should be prioritized on the basis of O&M cost savings must be resolved.

Although DEO believed that the 2008 Order approved an agreed-upon methodology for calculating annual O&M cost savings, the cost savings issue has been debated in each of the first two PIR Cost Recovery Charge proceedings.

In the first PIR Cost Recovery Charge proceeding, DEO acknowledged that because it prioritized replacing transmission lines, "the savings obtained through reduction in corrosion and leak related costs was expectedly modest in the PIR Program's first year." (Case No. 09-458-GA-UNC, Supplemental Direct Testimony of Vicki Friscic (October 9, 2009) at 12-14, Post Hearing

Brief of DEO (November 2, 2009) at 32.) Staff proposed a different calculation methodology, believing its method "protects customers against cost increases and is consistent with cost savings that should accrue from the implementation of the PIR program." (Case No. 09-458-GA-UNC, Testimony of Kerry J. Adkins (October 14, 2009) at 8.) The Commission approved Staff's methodology. (Opinion and Order (December 16, 2009) at 11.) This Opinion and Order is currently on appeal at the Supreme Court of Ohio in Case No. 2010-0563.

Although cost savings was not "formally" disputed in the most recent PIR Cost Recovery Charge proceeding, it is clear from comments filed in that docket that Staff and OCC are dissatisfied with the level of cost savings achieved to date. After criticizing DEO's calculation method for O&M savings, Staff noted that it "has a keen interest in seeing the Company achieve actual operation and maintenance savings from this program and believes that achievement of such savings should be a consideration in the evaluation of whether the annual PIR recovery should continue after the initial five-year period." (Case No. 10-733-GA-RDR, Staff Comments and Recommendations (September 24, 2010) at 8.) Similarly, OCC commented that DEO's customers "were promised the opportunity of significant O&M cost savings...as a result of the implementation of the PIR Program...." (OCC Comments (September 24, 2010) at 5.) OCC further recommended that the Commission order DEO "to reevaluate its priorities, and make a greater effort to achieve O&M cost savings that would be considered significant." (*Id.* at 6.)

If the Commission believes that the PIR Program should emphasize cost savings over safety, it should modify the 2008 Order to say so expressly. DEO does not agree that cost savings should drive the prioritization of its pipeline replacements. DEO still has over 245 miles of high pressure, bare or ineffectively coated pipeline in its system. As noted, the ineffectively coated Midlothian pipeline operated at high pressure. The consequences of failure of a high

pressure pipeline (whether transmission or distribution) can be catastrophic, as evidenced most recently by the pipeline explosions discussed by Mr. Hall. (DEO Exhibit 4.0 at 2-4.) Low pressure distribution pipelines are less hazardous simply because these pipelines operate at lower pressures and therefore release less gas if they leak. (DEO Exhibit 4.0 at 5-6; DEO Exhibit 3.0 at 11-12.)

Mr. McNutt explains that in prioritizing PIR work, DEO focused initially on the replacement of high pressure transmission pipelines. (DEO Exhibit 3.0 at 11-12.) While replacing high consequence pipelines is the most prudent course of action to maximize system safety, the replacement of these pipelines does not, and should not be expected to, lead to significant reductions in O&M expense. High pressure pipeline typically has minimal leak history or other leading indicators for replacement. Because these pipelines have few leaks to begin with, O&M savings will not be realized when they are replaced. By contrast, O&M savings can be realized by replacing low pressure distribution pipelines with active leak history due to avoided leak repairs. It was because of criticism from Staff and OCC about the lack of cost savings that DEO began to assign a higher priority to low-pressure system replacements. (DEO Exhibit 1 at 4-5; DEO Exhibit 3.0 at 11-12; DEO Exhibit 4.0 at 5-6.)

Cost savings should not be the tail wagging the dog. Recent events dictate that the PIR Program should refocus on high-pressure system replacements. Having said this, there is an opportunity to generate cost savings by replacing leaking, low-pressure distribution pipeline. Both objectives — safety and cost savings — can be realized simultaneously by replacing low pressure and high pressure pipeline at the same time. (DEO Exhibit 3.0 at 11-12; DEO Exhibit 4.0 at 5-6.) This is simply not possible with the current restrictions on cost recovery due to the

\$1 cap on increases to the PIR Cost Recovery Charge. (DEO Exhibit 3.0 at 5; DEO Exhibit 1.0 at 9-10.)

2. Certain modifications to the 2008 Order are necessary and in the public interest.

a. The \$1 PIR Cost Recovery Charge cap should be increased to accommodate more rapid investment in the PIR Program.

For residential customers, the 2008 Order limits annual increases in the PIR Cost Recovery Charge to no more than \$1. (Staff Report at 5; 2008 Order at 9.) Staff recommended a cap on the PIR Cost Recovery Charge increase because it was "reasonable and consistent with limitations Staff has agreed to in other proceedings dealing with infrastructure replacement programs." (Staff Report at 5.)

DEO is proposing to further accelerate its investment in the PIR Program. In calendar year 2011, DEO proposes to spend an additional \$50 million, and in 2012 and for the remainder of the PIR Program, DEO proposes to spend an additional \$100 million or more per year. In essence, DEO is planning to double its investment in the program so that it can replace more pipe quicker. (DEO Exhibit 1 at 3, 13.)

The current \$1 cap, however, necessarily limits the scope and pace at which DEO can invest in the PIR Program. The cap should be doubled initially to \$2 to accommodate the proposed acceleration of investment. DEO proposes that the cap then be re-evaluated after its filing to adjust the PIR Cost Recovery Charge based on investments through December 2012. (Direct Testimony of Vicki Friscic (DEO Exhibit 2.0) at 4-5.) DEO will expand the studies to be submitted in the August 2012, as ordered by the Commission in its 2008 Order, to include a preliminary recommendation regarding the sufficiency of the \$2 cap based on anticipated PIR Program spending over the remainder of the requested five-year reauthorization period. (DEO

Exhibit 2.0 at 5.) The cap can subsequently be revisited to determine whether any further adjustment is appropriate. The amount of the annual cap thereafter should be no less than \$2, adjusted annually for inflation. (DEO Exhibit 2.0 at 5.)

DEO also proposes to allow the Company to carry over into the next year any unused or unspent dollars that were available to increase the PIR Cost Recovery Charge. For example, in its first annual update of the PIR Cost Recovery Charge filed in 2009, the Commission approved an initial residential service PIR Cost Recovery Charge of \$0.72 per month. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge and Related Matters*, Case No. 09-458-GA-RDR, Opinion and Order (December 16, 2009) at 13. With an approved initial-year cap of \$1.12 per month, the remaining \$0.28 increase that could have potentially been recovered in 2009 was not permitted to carry over to 2010. Similarly, when the rate was raised to \$1.58 per month in 2010, the remaining \$0.14 of the subsequent maximum rate of \$1.72 per month (\$0.72 initial rate plus the annual increase cap of \$1) that could have potentially been recovered was lost. (DEO Exhibit 3.0 at 5.) Mr. McNutt explains factors beyond DEO's control that led to those lower than anticipated spending levels. (DEO Exhibit 3.0 at 6.) By disallowing any carry-over to the next calendar year, the Commission further limits the Company's ability to recover its investment and discourages further investment.

As Company Witness Vicki Friscic explains, raising the annual cap to \$2 will not unreasonably impact customers. Using March 2011 DEO rates, adjusted for a proposed increase in the AMR Cost Recovery Charge and approved decreases in DEO's PIPP Rider and Retail Price Adjustment component of the Standard Service Offer ("SSO") and Standard Choice Offer ("SCO") commodity rates, the average residential customer will soon be paying 39% less per

year for natural gas service than in September 2008 (just before DEO's rate case changes to base rates went into effect) and nearly 35% less than in December 2008 (when DEO's rates upon rehearing of the rate case went into effect). (DEO Exhibit 2.0 at 8-9.) On an annual basis, an average SSO customer's bill is \$894.63 at adjusted March 2011 rates versus \$1,471.55 at September 2008 rates and \$1,369.77 at December 2008 rates. (DEO Exhibit 2.1 at 2.) The exploration of the shale gas throughout the Midwest and the rest of the country continues to drive down the cost of natural gas. Because of this exploration and other market forces, natural gas commodity prices are expected to remain low. (DEO Exhibit 2.0 at 10-11.)

Given that customers' bills are lower now than they have been in the past several years, an increase in the PIR Cost Recovery Charge cap will not significantly affect customers. The PIPP Rider will decrease in April by \$0.9929. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for the Adjustment of its Interim Emergency and Temporary Percentage of Income Payment Plan Rider*, Case No. 11-1022-GA-PIP, Finding and Order (March 23, 2011) at 2. The Commission has also approved a decrease of \$0.20 in the Retail Price Adjustment of the SSO and SCO rates effective in April. *In the Matter of the Application of The East Ohio Gas Company d/b/a 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, Finding and Order (March 2, 2011) at 3. Combined, these rate decreases would offset nearly five years of the PIR Cost Recovery Charge increases at the proposed \$2 cap, or nearly 10 years of increases over what the PIR Cost Recovery Charge will increase with the existing \$1 cap. (DEO Exhibit 2.0 at 11.) The time is ripe to adjust the PIR Cost Recovery Charge annual cap.

b. The calculation of post in-service carrying charges should be modified to allow DEO to earn an appropriate return on PIR investments.

The PIR Staff Report recommended and the Commission approved a PIR Cost Recovery Charge to recover: (1) incremental depreciation expense, (2) incremental property taxes, and (3) return on rate base. (*PIR Staff Report*, p. 5; 2008 Order at 9.) Staff further recommended that DEO be permitted to recover the post in-service carrying charges ("PISCC") for its investment in its replaced infrastructure plant "from the date that the applicable assets are used and useful until the next effective date of the PIR Rider." (*PIR Staff Report*, p. 6; 2008 Order at 9.)

As Mr. Murphy explains, the components of the PIR Cost Recovery Charge, including PISCC, were adopted by the Commission when DEO's investment was significantly less than its proposed investment, and the cost of losing a return on equity was tolerable. (DEO Exhibit 1.0 at 17.) However, with the increase in DEO's investment in this project, it is neither reasonable nor tolerable for DEO to lose the return on its equity in newly installed plant under the PIR Program. Therefore, DEO proposes to change the current PISCC rate to DEO's authorized pre-tax return on rate base, which includes both debt and equity components for the period between when the PIR assets are placed in service and costs associated with those investments are recovered through the PIR Cost Recovery Charge. More detailed explanations of the proposed change to a pre-tax return on rate base, including the distinct recognition of its debt and equity components, is provided in the testimonies of Jeffrey Murphy and Vicki Friscic. (DEO Exhibit 1.0 at 14-20; Exhibit 2.0 at 4.) Altering the method by which DEO recovers its investment will appropriately recognize the cost of debt and equity funds used to accelerate the PIR Program.

c. The Commission should adjust the PIR Cost Recovery Charge period to a calendar year.

DEO currently files a PIR Cost Recovery Charge case once annually, based on a fiscal year from July 1 to June 30. Beginning in 2012, DEO proposes to adjust this period from January 1 to December 31.

As Mr. McNutt explains, a change in the PIR Program year from the current fiscal year to a calendar year is necessary to align the PIR investment period with DEO's capital budgeting year and annual construction cycle. (DEO Exhibit 3.0 at 12.) Given the magnitude of the proposed increase in capital investment, this change will ensure efficiencies in managing the further accelerated PIR Program.

As Ms. Friscic further explains, DEO plans to file its next adjustment of the PIR Cost Recovery Charge in accordance with the existing authorization, which provides for a pre-filing notice in May 2011 and an application in August 2011, with implementation of a revised rate anticipated in November 2011. (DEO Exhibit 2.0 at 3.) To transition from the PIR Program's current fiscal year to a calendar year, DEO proposes to file an application for the six-month period from July 1, 2011 through December 31, 2011 in February 2012, with an adjustment of the PIR Cost Recovery Charge anticipated in May. Thereafter, beginning with costs incurred in 2012, DEO proposes to make filings based on each calendar year, with a pre-filing notice in November, an application in February and implementation of the approved PIR Cost Recovery Charge in May. (DEO Exhibit 2.0 at 3.)

d. The Commission should adopt changes to the scope of the PIR Program.

The Commission adopted Staff's recommendations to include the following activities as "in-scope" for the PIR Cost Recovery Charge:

- Replacement of bare steel (including ineffectively coated steel piping), cast- and wrought-iron and copper pipeline referenced in the application, including any segments of plastic pipeline where it is more cost-effective to replace those segments rather than re-use them;
- Main-to-curb connections to which curb-to-meter service lines are connected;
- Assumption of ownership of curb-to-meter service lines including new installations, and repair or replacement of existing service lines including risers.

(Staff Report at 4-5; 2008 Order at 9.) In Case No. 09-458-GA-RDR, Staff and DEO disagreed upon the recovery of certain items "in-scope" in the PIR Cost Recovery Charge. DEO argued that this charge included the recovery of new installations of curb-to-meter service lines. (Case No. 09-458-GA-RDR, Opinion and Order (December 16, 2009) at 7.) The Commission disagreed and determined that costs associated with installations of curb-to-meter service lines to new customers should be excluded. (*Id.*) This issue is currently on appeal at the Ohio Supreme Court and may therefore need to be revisited by the Commission, depending upon the court's ruling.

Independent of the current appeal, DEO proposes two changes to clarify the infrastructure considered "in-scope" under the PIR Cost Recovery Charge. Initially, DEO proposes that the cost of governmental relocations should be excluded for cost recovery if the percentage of plastic footage of each pipeline relocation is more than 25% of the total footage of the relocation. DEO also proposes to include the costs of meter relocations into the PIR Cost Recovery Charge if the relocation is due to a replaced main pipeline that DEO plans to subsequently operate at a regulated pressure. Additional detail concerning proposed changes to the PIR Program scope are discussed in Mr. McNutt's Direct Testimony. (DEO Exhibit 3.0 at 9-12.)

e. A reconciliation adjustment should be approved to ensure recovery of the approved revenue requirement.

DEO proposes that for each year's PIR Cost Recovery Charge adjustment application, the Commission approve both the rate and the revenue requirement, such that any over- or under-recovery of the revenue requirement resulting from the approved cost recovery charge will be used to adjust the revenue requirement in the subsequent year.

As Ms. Friscic explains, the PIR Cost Recovery Charge is calculated as the fiscal year revenue requirement divided by the number of historical bills issued (or historical billed volumes for the Daily Transportation Service rate schedule). (DEO Exhibit 2.0 at 5-6.) The Commission-approved rate is effective for the following year. But if actual bills issued during the year vary in number from the historical bills used to determine PIR Cost Recovery Charge, an over- or under-recovery of the revenue requirement may result. DEO is not permitted to true-up subsequent rates in order to recover the full revenue requirement authorized in the prior year's rate adjustment application.

To address this situation, and to provide for the proper accounting of the equity return on investments between the in-service date and the point at which the applicable PIR Cost Recovery Charge is billed to customers, DEO proposes a true-up mechanism that would work as follows: Based on the calendar-year filing schedule proposed by DEO, adjusted rates for the preceding calendar year will be implemented in May. (DEO Exhibit 2.0 at 6.) A true-up of the revenue requirement associated with the rate in effect May through April will be calculated and shown as an adjustment to the revenue requirement in the next February filing for inclusion in the subsequent rate adjustment. (DEO Exhibit 2.0 at 6.) Actual recoveries at the new rate will be determined for the period May through December. (DEO Exhibit 2.0 at 6.) Recoveries for January through April will initially be estimated by multiplying the approved PIR Cost Recovery

Charge by the number of customer bills (or volumes billed for the Daily Transportation Service rate schedule) for January through April of the prior year. (DEO Exhibit 2.0 at 6.) The total recoveries determined in this manner for May through April will be compared to the previously approved revenue requirement to determine any over- or under-recovery. A final reconciliation adjustment, if needed, will be made to the PIR Program regulatory asset after January through April actual recoveries are known. (DEO Exhibit 2.0 at 6.)

By not allowing DEO to adjust for any over- or under-recovery of its revenue requirement, the Commission limits the Company's ability to fully recover its costly investment if an under-recovery exists, or allows recovery in excess of costs in the case of an over-recovery. Permitting a true-up of DEO's revenue requirement will ensure full recovery of PIR Program costs — no more and no less. (DEO Exhibit 2.0 at 5-6.)

- f. The Commission should reauthorize the PIR Program for a five-year period effective with Commission approval of this Motion to modify the alternative rate plan approved in the 2008 Order.**

The Commission approved the PIR Program and PIR Cost Recovery Charge for an initial period of five years or until the effective date of new rates resulting from a rate case, whichever comes first. (2008 Order at 9.) Assuming DEO does not file another base rate case, the PIR Program will expire October 15, 2013. If the proposed increase in PIR capital spending is approved without extending the program authorization for a new five-year period, expiration of the program in October 2013 will allow for only one full year of increased investment before the continuance of the PIR Program is at risk. As Mr. McNutt explains, increasing PIR capital spending will involve a ramp-up period of approximately twelve months in order to ensure appropriate staffing, make sufficient arrangements with contractors and coordinate appropriately with local governments. (DEO Exhibit 3.0 at 11.) This is not a cost-effective effort for

potentially only one full year of increased investment. In addition, it may be difficult for contractors to commit their resources and to staff appropriately knowing that the increased work may be only short term.

Due to the magnitude of the accelerated PIR Program, reauthorization for a five-year period is necessary. As the Commission noted in the 2008 Order, five years was an appropriate amount of time to review the initially approved PIR Program. (2008 Order at 9.) Likewise, the Commission should review the accelerated PIR Program "after it has been in effect for a reasonable period of time and make any adjustments it deems appropriate." (Staff Report at 5.)

g. Additional changes are necessary to improve the PIR Program.

Ms. Friscic explains two proposed changes to ensure a timely review of the cost impact of the accelerated PIR Program. (DEO Exhibit 2.0 at 12-13.) First, in light of the increased investment in the PIR Program, DEO recommends the Commission retain an independent, third-party financial auditor to support Staff's review of future PIR Cost Recovery Charge applications. This would allow Staff to review and more efficiently analyze DEO's PIR Cost Recovery Charge proposals, whether on an annual or biannual basis. Further, an independent auditor would provide the Commission another layer of oversight over the accelerated PIR Program. The cost to retain the auditor would be recovered through the PIR Cost Recovery Charge. (DEO Exhibit 2.0 at 12-13.)

Second, DEO proposes to implement biennial depreciation studies of its PIR-related plant accounts, the cost of which would also be recovered in the PIR Cost Recovery Charge. (DEO Exhibit 2.0 at 13.) DEO recommends that its depreciation consultant perform an assessment of the PIR-related plant once every two years to determine whether the in-scope plant service lives have increased to warrant a reduction in the depreciation expense. In the event the depreciation

study identifies differences between the actual and theoretical depreciation reserve for accounts due to longer service lives, DEO will reduce its depreciation expense by amortizing the difference over a ten-year period, as was approved in DEO's last rate case. (DEO Exhibit 2.0 at 13.)

3. The benefits of further accelerating the PIR Program outweigh the rate impact to customers.

As discussed above, customers' gas bills are currently lower than they have been in the past several years, and are expected to remain that way for the foreseeable future due to low gas prices and other factors including, as explained by Ms. Friscic, bonus tax depreciation legislation enacted in December 2010 that will significantly reduce DEO's PIR Program rate base, thereby lowering PIR Cost Recovery Charges in the near term and thereafter. (DEO Exhibit 2.0 at 11-12.) DEO appreciates the fact that there is never a good time to increase charges to customers, but given a choice, it is preferable to do so when low gas prices and other factors largely offset the increase. It is possible in the current market environment to increase the PIR Cost Recovery Charge but still keep total bills at levels well below what customers were paying just before and just after DEO's last rate case. (DEO Exhibit 2.0 at 8-9.)

Customers will not only continue to benefit from a safer, more reliable system; they will also receive the economic benefits that a doubling a PIR expenditures will provide. In 2008, DEO engaged Kleinhenz & Associates to examine the regional economic impact of the Company's proposed PIR Program, including the effect that the program might have on job creation, personal income and overall economic activity. (DEO Exhibit 1.0 at 7.) That study concluded that the program could be expected to create or support over 3,000 jobs at its peak, increase personal income by over \$3 billion, and drive over \$7.5 billion of output after the economic spin-off activity is taken into account. (DEO Exhibit 5.0 at 2-3; DEO Exhibit 5.1.)

More importantly, Kleinhenz & Associates projected that the northeast Ohio region would account for approximately 75% of all of the benefits that accrue to the State of Ohio. (DEO Exhibit 5.0 at 3.) Accelerating that level of economic activity at this particular time is especially important given the “jobless recovery” of the recent recession.

C. The Commission should convene a prehearing conference and waive or defer the filing of memoranda contra.

DEO's proposal to approximately double its annual PIR expenditures is not something that can be done overnight. As Mr. McNutt explains, projects must be planned and coordinated, contractors hired and mobilized, and internal resources shifted. The "ramp-up" period to further accelerate the PIR Program is expected to take about a year. (DEO Exhibit 1.0 at 13; DEO Exhibit 3.0 at 11.) A Commission order approving the further acceleration of the PIR Program is a prerequisite for this ramp-up to begin. DEO therefore requests the issuance of a ruling on this Motion by no later than June 30, 2011.

To facilitate issuance of an order by June 30, the Commission should immediately convene a prehearing conference, pursuant to Rule 4901-1-26(A), O.A.C. A procedural schedule and hearing date should be among the topics of discussion at this conference. If parties believe that it would be appropriate to shorten deadlines for discovery responses and responses to motions, DEO would be prepared to discuss that as well. And because DEO's Motion is being filed in an existing docket, the key stakeholders are already known. There is no need to wait for motions to intervene before scheduling a prehearing conference.

DEO also suggests that the Commission waive or defer the filing of any memoranda contra this Motion, pursuant to Rule 4901-1-38(B), O.A.C. The fifteen day period allotted by Rule 4901-1-12(B)(1), Ohio Administrative Code, to file memoranda contra is not practical because parties have not had an opportunity for discovery. Even with discovery, R.C.

4929.08(A) specifically requires the Commission to conduct a hearing on this Motion. The parties should not have to bear the time and expense of preparing memoranda contra and replies that will not alleviate the need for a hearing. Presumably, parties will have the opportunity to present written arguments in post-hearing briefs. This is another issue that can be addressed at the requested Rule 4901-1-26(A) prehearing conference.

III. CONCLUSION

The time is right to further accelerate the PIR Program. Doubling expenditures under the program will allow DEO to replace its aging infrastructure in a manner that simultaneously accomplishes the goals of increased safety, reliability and O&M savings, while also contributing to the Ohio economy. Low gas prices and decreases in other components of customers' bills make it possible to achieve these benefits without placing an undue financial burden on customers. Accordingly, DEO respectfully requests that the Commission immediately convene a prehearing conference to establish a procedural schedule and hearing date, waive or defer the filing of memoranda contra this Motion and modify the 2008 Order as requested herein.

Dated: March 31, 2011

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Modify Order Granting Alternative Rate Regulation, Motion to Convene A Prehearing Conference And Motion To Waive Or Defer The Filing Of Memoranda Contra was served by U.S. Mail to the following persons on this 31st day of March, 2011:

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