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 for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services of Ancillary Services. | ) ) ) ) ) | Case No. 07-1224-GA-EXM |

ENTRY

The Commission finds:

(1) The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

(2) On December 28, 2007, in accordance with Section 4929.04, Revised Code, Dominion filed an application for approval of a general exemption of certain natural gas commodity sales services or ancillary services from all provisions of Chapter 4905, Revised Code (with the exception of Section 4905.10, Revised Code); all provisions of Chapter 4909, Revised Code; all provisions of Chapter 4935, Revised Code (with the exception of Sections 4935.01 and 4935.03, Revised Code); Sections 4933.08, 4933.09, 4933.11, 4933.123, 4933.17, 4933.28, and 4933.32, Revised Code; and from any rule or order issued under those chapters or sections.

(3) By opinion and order issued June 18, 2008, the Commission approved the terms of a stipulation filed in this case, which provided that Dominion would conduct an auction to secure natural gas supplies for Standard Service Offer (SSO) and Standard Choice Offer (SCO) customers. The stipulating parties were Dominion, Staff, the Ohio Consumers' Counsel (OCC), Integrys Energy Services, Inc., Ohio Gas Marketers Group (OGMG), MXEnergy, Inc., National Energy Marketers Association, Northeast Ohio Public Energy Council, and Dominion Retail, Inc. Ohio Partners for Affordable Energy and Industrial Energy Users-Ohio were the only other parties in this case; however, they were not signatory parties to the stipulation.

(4) By orders issued February 11, 2010, and March 2, 2011, the Commission approved the auction results for the SSO and SCO rates for the periods addressed in those orders.

(5) On May 18, 2010, OCC filed a motion requesting that the Commission order a special management/performance (m/p) audit for Dominion and order Dominion to prepare a Long-Term Forecast Report (LTFR) pursuant to the requirements of Section 4935.04, Revised Code. In its memorandum in support, OCC states that the motion was prompted by a joint application (Joint Application) filed with the Federal Energy Regulatory Commission (FERC) on March 26, 2010, by Dominion and Dominion Transmission Inc. (DTI), which is an interstate pipeline company that is affiliated with Dominion. According to OCC, the Joint Application sought a certificate of public convenience and necessity for authorization of a lease agreement at FERC and proposed that, under the lease agreement (Lease Agreement), Dominion would lease approximately 3 to 5 billion cubic feet (Bcf) of its on-system storage to DTI. DTI would, in turn, use the leased storage capacity to serve customers in the interstate market. OCC explains that the lease would occur in two phases beginning with 3 Bcf in the first phase (Phase I), and expanding to 5 Bcf in the second phase (Phase II) beginning in 2014. The Lease Agreement was proposed for an initial term of 15 years, continuing year-by-year thereafter upon mutual agreement of the joint applicants.

(6) In its May 18, 2010, motion, OCC requests that the Commission order an m/p audit to investigate: how much capacity Dominion has available and how much it has in excess; what facilities are being built and who will be asked to pay the associated costs; what other entity, besides DTI, was offered the opportunity to lease this capacity; and whether the Lease Agreement creates a subsidy and how the lease revenues are accounted for. OCC also requests that the Commission order Dominion to file an LTFR to assure that the loss of on-system storage capacity will not negatively impact Dominion's Choice program or the SCO auction process. In support of its motion for an m/p audit, OCC disputes the claims in the Joint Application that the on-system storage capacity that would be leased is excess. OCC believes that the claim that this capacity is in excess of

what is needed for Dominion's core customers is based on insufficient data because it is based only on the most recent two years of data. OCC also states that the Joint Application fails to address the issue of how Dominion would serve in-state customers if any of the recently lost demand were to return.

(7) On June 2, 2010, Dominion filed a memorandum contra to OCC's motion. In its response, Dominion disputes OCC's claim that the capacity being leased may not be excess. Dominion states that prior m/p auditors have fully reviewed the storage capacity issue and that the excess capacity is not a new development. Dominion further avers that the Joint Application makes clear that existing customers will not be asked to bear any of the incremental cost of the lease, and that, in any case, this is a rate case issue and should not be an issue in OCC's request for an m/p audit. Dominion also claims that the amount of storage capacity available for its customers will not be reduced since, during Phase I, the transfer of storage capacity will be accomplished through displacement of gas rather than through physical withdrawals from storage. Dominion also argues that the Commission's June 18, 2008, order in this proceeding explicitly granted it an exemption from those provisions of Chapters 4905 and 4935, Revised Code, which require m/p audits and LTFRs.

(8) On June 14, 2010, OCC filed a reply to Dominion's memorandum contra. OCC challenges Dominion's statement that the Lease Agreement will not reduce the quantity of storage service available to Ohio retail customers. OCC argues that, since there is a finite amount of storage, it is unclear how, if Ohio retail demand increases and Dominion should need the 3 to 5 Bcf leased to DTI, Dominion can still provide the same amount of storage to its Ohio customers. OCC states that Dominion's argument that the Lease Agreement will not cause any additional costs to be borne by current customers does not address the potential for customers to be negatively impacted because of a future rate case. OCC further disputes Dominion's claim that it is exempt from filing an LTFR or an m/p audit. In support of its argument, OCC points out language in *In the Matter of the Application of The East Ohio Gas Company dba Dominion East Ohio for Approval*

*of a Plan to Restructure Its Commodity Service Function*, Case No. 05-474-GA-ATA (05-474), Opinion and Order (May 26, 2006), in which Dominion's initial exemption was granted, whereby the Commission stated explicitly that it was retaining authority to order a special m/p audit at any time for any issues it deemed necessary.

(9) On May 19, 2010, and June 29, 2010, Stand Energy Corporation and the Citizens Coalition, respectively, neither of which are parties in this case, filed documents supporting OCC's motion.

(10) On July 2, 2010, the OGMG, which is a party in this case, filed comments acknowledging the legitimate questions raised by OCC, but questioning the necessity of an m/p audit to resolve those questions. Regarding OCC's issue on how to enforce Dominion's assurance that the current level of in-market storage service will not be compromised, OGMG states that this can be easily accomplished by 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, even should Dominion's intrastate demand return to historic levels. As to OCC's concern that the new interstate storage services are offered to all suppliers on a nondiscriminatory basis, OGMG states that it has approached Dominion on this issue and is satisfied that Dominion is committed to offering the service, beginning in 2011, as part of its regularly scheduled open season for storage service conducted in February.

(11) On July 19, 2010, Dominion filed a response to OGMG's comments, stating that prior gas cost recovery audits have confirmed 58,704 million cubic feet (MMcf) of storage capacity available to serve the Ohio market. Dominion represents that it will commit to providing all of the 58,704 MMcf of storage capacity to its Ohio market in the event demand returns to historic levels. Dominion also commits to making the storage service in question available to marketers on a nondiscriminatory basis consistent with the terms specified in Phase I of the Lease Agreement. Dominion believes these commitments will adequately address the concerns raised by OGMG. Finally, Dominion notes that it does not believe that the Commission has

authority to order an m/p audit under its general supervisory authority under Sections 4905.05 and 4905.06, Revised Code, stating that the Commission can only assert authority over an approved alternative rate plan through Section 4929.08, Revised Code.

(12) In addition to its previous statements, on September 17, 2010, OCC filed reply comments further questioning whether Phase I of the Lease Agreement was merely the first step in transferring more storage capacity to DTI over the 15 to 20 year term of Phase II. Given Dominion's claim of excess storage capacity, OCC questions why it is making the investment in maintaining and expanding its storage facilities and who will pay for this investment if those facilities are ultimately leased to DTI. OCC also questions the value of Dominion's commitment to retain its current storage levels to serve core customers in the absence of either an affidavit to supplement the record or tariff provision.

(13) On July 16, 2010, the Ohio Oil and Gas Association (OOGA) filed a motion to intervene in the proceeding. In support of its motion, OOGA states that many of its 1,500 members have production connected to, are shippers on, and/or sell gas to marketers on the Dominion system and, as such, make substantial use of Dominion's storage capacity. Thus, OOGA asserts that its members have a direct and substantial interest in assuring that there is no degradation in the current level of service on the Dominion system. No one filed a memorandum contra to OOGA's motion to intervene. The Commission finds that OOGA's motion to intervene is reasonable and should be granted.

(14) As a preliminary matter, we note that the Commission has issued its final order ruling on Dominion's application in this case. Consequently, any filings in this docket after the final order should be for the purpose of considering and implementing the SSO and SCO auctions. Therefore, it follows that OCC's motion should not have been filed in this docket, but should have been filed in a complaint docket pursuant to Section 4905.26, Revised Code, wherein OCC would have appropriately borne the burden of demonstrating reasonable grounds for complaint. We believe the fact that OCC inappropriately filed the motion

in this case provides sufficient justification to dismiss OCC's motion. However, due to the numerous filings in this docket pertaining to OCC's motion, we elect to set forth our analysis below which concludes that the motion should be denied in its entirety based on its merits and, even if the motion had been properly filed as a complaint case, OCC has not set forth reasonable grounds for complaint. We note that, because OCC's motion should have been filed in a complaint docket, our analysis below applies the standard applicable to complaint proceedings, specifically, that the complainant bears the burden of demonstrating reasonable grounds for complaint.

(15) With regard to OCC's request that the Commission direct Dominion to file an LTFR pursuant to Section 4935.04, Revised Code, the Commission notes that, by virtue of our June 18, 2008, order adopting the stipulation filed by the parties in this case, Dominion was granted an exemption from the filing of LTFRs under Section 4935.04, Revised Code. Therefore, OCC's motion for an order directing Dominion to file an LTFR under 4935.04, Revised Code, should be denied.

(16) Furthermore, in considering the remainder of OCC's request for an m/p audit, we would point out that, on October 21, 2010, FERC issued its ruling in FERC Docket No. CP10-107-000 approving Phase I of the Joint Application. FERC issued a limited-jurisdiction certificate of public convenience and necessity to Dominion authorizing it to lease the capacity to DTI. As pointed out by Dominion, during Phase I, the transfer of the leased storage capacity will be through displacement and no gas will physically move from Dominion's storage facilities to DTI. Thus, there is no reduction in the amount of physical gas in storage that will be available to Dominion's core customers during Phase I. In addition, Dominion has committed to making its entire storage capacity of 58,704 MMcf available to serve its core Ohio market. The Commission intends to ensure that Dominion adheres to this commitment through our review of the costs that flow through Dominion's Transportation Migration Rider-Part B. We believe that this review will provide protection for customers through Phase I of the Lease Agreement.

(17) Regarding Phase II of the Lease Agreement, the Commission notes that Dominion has attested that all of the capacity to be leased will be through new investment. Therefore, we believe that OCC's concerns about who will pay for that investment are premature. Those costs can only be recovered through a base rate proceeding after all parties have fully reviewed the cost allocations. That rate case review is the process by which the Commission will determine what, if any, of the storage investment costs will be allocated to core customers. It would be premature and speculative for the Commission to attempt to address cost recovery prior to such a proceeding.

(18) The Commission also finds that, regarding the issue of offering the storage capacity for lease to all potential bidders on a nondiscriminatory basis, Dominion has affirmed that it will provide storage service to marketers on a nondiscriminatory basis consistent with the terms specified in Phase I of the Lease Agreement. Specifically, Dominion has provided that the Phase I capacity will be offered as part of its annual open season process. We believe this commitment will ensure the capacity will be offered to all potential bidders in a nondiscriminatory manner.

(19) Regarding Dominion's assertion that the Commission does not have authority to order an m/p audit, the Commission further emphasizes that, in our May 26, 2006, order in 05-474, at 8, the Commission stated that it has the authority to order an m/p audit at any time for any issues it deems necessary. Additionally, the Commission's general supervisory authority permits the Commission to initiate an audit when warranted. Nevertheless, based on the findings above, the Commission is unconvinced as to the necessity for or usefulness of the m/p audit requested by OCC. As discussed herein, we believe there are adequate tools available to the Commission to ensure core customers will not be harmed by the Lease Agreement. An m/p audit at this time would serve no purpose. Therefore, the Commission finds that OCC has not stated reasonable grounds and, therefore, the motion should be denied in its entirety.

It is, therefore,

ORDERED, That OOGA's motion to intervene be granted. It is, further,

ORDERED, That OCC's Motion to Order a Special Management Performance Audit and to Order Dominion to Prepare a Long-Term Forecast Report (LTFR) be denied. It is, further,

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

ORDERED, That a copy of this entry be served upon all parties of record and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler

Todd A. Snitchler, Chairman

Paul A. Centolella

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Secretary