

FILE

6

RECEIVED-DOCKETING DIV  
2011 JUN -2 PM 5:06  
PUCO

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 for Approval to Modify and )  
Further Accelerate its Pipeline Infrastructure )  
Replacement Program and to Recover the )  
Associated Costs. )

Case No. 11-2401-GA-ALT

---

MOTION FOR LEAVE TO INTERVENE OUT OF TIME AND MEMORANDUM IN  
SUPPORT BY INDUSTRIAL ENERGY USERS-OHIO

---

Samuel C. Randazzo (Counsel of Record)  
Joseph E. Olikier  
Frank P. Darr  
MCNEES WALLACE & NURICK LLC  
21 East State Street, 17<sup>TH</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 469-8000  
Telecopier: (614) 469-4653  
sam@mwncmh.com  
joliker@mwncmh.com  
fdarr@mwncmh.com

June 2, 2011

Attorneys for Industrial Energy Users-Ohio

{C34298: }

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business.  
Technician JA Date Processed JUN 02 2011

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The	)	
East Ohio Gas Company d/b/a Dominion	)	Case No. 11-2401-GA-ALT
East Ohio for Approval to Modify and	)	
Further Accelerate its Pipeline Infrastructure	)	
Replacement Program and to Recover the	)	
Associated Costs.	)	

---

**MOTION FOR LEAVE TO INTERVENE OUT OF TIME**

---

Industrial Energy Users-Ohio ("IEU-Ohio") hereby respectfully moves the Public Utilities Commission of Ohio ("Commission"), pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, for leave to intervene out of time in the above-captioned matter with the full powers and rights granted by the Commission, specifically by statute or by the provisions of the Ohio Administrative Code, to intervening parties. The reasons supporting IEU-Ohio's Motion for Leave to Intervene Out of Time are fully set forth in the Memorandum in Support.

By an Opinion and Order issued in Case No. 08-0169-GA-ALT on October 15, 2008<sup>1</sup> the Commission granted alternative rate regulation by 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 charges. On March 31, 2011, DEO filed a Motion to 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. On April 11, 2011, the Commission issued an Entry


---

<sup>1</sup> *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio 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, Case No. 08-0169-GA-ALT, Opinion and Order (October 15, 2008) (hereinafter "2008 Order").*

ordering that all future filings regarding DEO's request to modify its PIR program be made in Case No. 11-2401-GA-ALT and not in Case No. 08-0169-GA-ALT.

As demonstrated further in the Memorandum in Support attached hereto and incorporated herein, IEU-Ohio has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. IEU-Ohio believes that its participation will not unduly prolong or delay this proceeding and that it will significantly contribute to the full development and equitable resolution of the factual and other issues in the proceeding. The interests of IEU-Ohio will not be adequately represented by other parties to the proceeding and, as such, IEU-Ohio is entitled to intervene with the full powers and rights granted by the Commission, specifically by statute and by the provisions of the Ohio Administrative Code, to intervening parties.

Respectfully submitted,

  
\_\_\_\_\_  
Samuel C. Randazzo (Counsel of Record)  
Joseph E. Olikar  
Frank P. Darr  
MCNEES WALLACE & NURICK LLC  
21 East State Street, 17<sup>TH</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 469-8000  
Telecopier: (614) 469-4653  
sam@mwncmh.com  
joliker@mwncmh.com  
fdarr@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The	)	
East Ohio Gas Company d/b/a Dominion	)	Case No. 11-2401-GA-ALT
East Ohio for Approval to Modify and	)	
Further Accelerate its Pipeline Infrastructure	)	
Replacement Program and to Recover the	)	
Associated Costs.	)	

---

**MEMORANDUM IN SUPPORT**

---

In support of this Motion for Leave to Intervene Out of Time, IEU-Ohio states that it is an association of ultimate customers. A current listing of IEU-Ohio member companies is available on IEU-Ohio's website at [http://www.ieu-ohio.org/member\\_list.aspx](http://www.ieu-ohio.org/member_list.aspx). IEU-Ohio's members purchase substantial amounts of electric and related services from Ohio's Electric Distribution Utilities ("EDU").

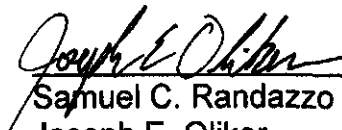
IEU-Ohio's members work together to address matters that affect the availability and price of utility services. Additionally, IEU-Ohio seeks to promote customer-driven policies that will assure an adequate, reliable, and efficient supply of energy for all consumers at competitive prices. To this end, IEU-Ohio has worked, including actively participating in the legislative process related to SB 221, and will continue to work to produce legislative, regulatory, and market outcomes that are consistent with the state policy contained in Section 4928.02, Revised Code.

IEU-Ohio has a real and substantial interest inasmuch as this proceeding may directly or indirectly impact the provision of electric service to IEU-Ohio members' manufacturing facilities. Specifically, IEU-Ohio's direct interest in this proceeding is the result of the effect that this proceeding shall have upon the price, adequacy, and reliability of the electric supply and related services within Ohio.

Prior to filing this Motion, IEU-Ohio contacted DEO's counsel to determine whether DEO is opposed to IEU-Ohio's late intervention. DEO's counsel indicated that DEO does not oppose IEU-Ohio's late intervention.

The Commission should grant IEU-Ohio's Motion. IEU-Ohio participated in the underlying proceeding (Case No. 08-0169-GA-ALT). Moreover, the granting of this Motion will not jeopardize the procedural schedule and it will assure that a significant customer group is present as this Application moves forward. IEU-Ohio will not be adequately represented if the Commission denies IEU-Ohio's Motion, which is being filed merely a few days after the deadline. While the intervention deadline was set for May 25, 2011, testimony is not due until June 24, 2011, and the hearing will not be held until July 6, 2011. The Commission has granted late intervention in the past, especially in circumstances such as these when the deadline for testimony has not yet passed and the hearing is over a month away.

Respectfully submitted,



Samuel C. Randazzo (Counsel of Record)

Joseph E. Olikier

Frank P. Darr

MCNEES WALLACE & NURICK LLC

21 East State Street, 17<sup>TH</sup> Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

joliker@mwncmh.com

fdarr@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Leave to File Out of Time, and Memorandum in Support of Industrial Energy Users-Ohio*, was served upon the following parties of record this 2<sup>nd</sup> day of June, 2011 via first class mail, postage prepaid.

  
Joseph E. Olikar

Mark Witt  
Joel E. Sechler  
Melissa L. Thompson  
Carpenter, Lipps & Leiland LLP  
280 Plaza Suite 1300  
280 North High Street  
Columbus, Ohio 43215  
whitt@carpenterlipps.com  
sechler@carpenterlipps.com  
thompson@carpenterlipps.com

**On Behalf of The East Ohio Gas Company  
d/b/a Dominion East Ohio**

Joseph P. Serio  
Larry S. Sauer  
Kyle L. Verrett  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
614-466-8574 (Telephone)  
serio@occ.state.oh.us  
sauer@occ.state.oh.us  
verrett@occ.state.oh.us

**On Behalf of the Office of the Ohio  
Consumers' Counsel**

Colleen L. Mooney  
David C. Rinebolt  
Ohio Partners for Affordable Energy  
231 West Lima Street  
P.O. Box 1793  
Findlay, Ohio 45839-1793  
cmooney2@columbus.rr.com  
drinebolt@aol.com

**On Behalf of Ohio Partners for Affordable  
Energy**

Todd M. Smith  
Schwarzwald McNair & Fuso LLP  
616 Penton Media Building  
300 East Ninth Street  
Cleveland, Ohio 44114  
tsmith@smcnlaw.com

**On Behalf of UWUA Local G555**

Joseph P. Meissner  
The Legal Aid Society of Cleveland  
1223 West 6<sup>th</sup> Street  
Cleveland, Ohio 44113  
jpmeissn@lasclev.org

**On Behalf of the Neighborhood  
Environmental Coalition, Consumers for Fair  
Utility Rates and The Empowerment Center  
of Greater Cleveland**

William Wright  
Stephen Reilly  
Devin Parram  
Attorney General's Office  
Public Utilities Commission Section  
180 E. Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215-3793  
william.wright@puc.state.oh.us  
stephen.reilly@puc.state.oh.us  
devin.parram@puc.state.oh.us