

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application to	:	
Modify, in Accordance with Section	:	Case No. 12-1842-GA-EXM
4929.08, Revised Code, the Exemption	:	
Granted to The East Ohio Gas	:	
Company d/b/a Dominion East Ohio in	:	
Case No. 07-1224-GA-EXM.	:	

**INITIAL POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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I. INTRODUCTION

This case involves another chapter in the story of The East Ohio Gas Company, d/b/a Dominion East Ohio's ("Dominion" or "DEO") move towards a full exit from the merchant function. This case specifically addresses Dominion's exit from the merchant function for non-residential customers. In general, Staff is supportive of this next step. Staff request, however, that the Commission adopt certain recommendations before allowing Dominion to exit the merchant function for non-residential customers.

II. BACKGROUND

On June 15, 2012, Dominion and the Ohio Gas Marketers Group ("OGMG" or the "Marketers") filed a joint motion to modify ("Joint Motion") Dominion's existing exemption plan which was approved by the Commission on June 18, 2008 in Case No. 07-1224-GA-EXM. The proposed modification would allow Dominion to discontinue

the availability of the Standard Choice Offer (“SCO”) pricing mechanism from non-residential customers beginning April 1, 2013. If the Joint Motion is approved, Dominion’s non-residential customers that are not participating in the Choice program or in a governmental aggregation program would be assigned to a participating marketer on a rotating basis and would be served at that marketer’s Monthly Variable Rate (“MVR”). A stipulation (“2012 Stipulation”) was filed along with the Joint Motion, which was signed by Dominion, OGMG and the Ohio Consumers’ Counsel. The Stipulation recommends that the Commission approve the modifications proposed in the Joint Motion and provides that Dominion will not request permission to exit the merchant function for residential customers before April 1, 2015.

III. THE STAFF GENERALLY SUPPORTS THE JOINT MOTION AND STIPULATION.

Although Staff is not a signatory party to the 2012 Stipulation, Staff generally supports the Joint Motion and 2012 Stipulation.¹ Staff proposes, however, that the Commission adopt a number of Staff’s recommendations if it chooses to ultimately approve the Joint Motion and Stipulation.

¹

Staff Ex. 2, Staff Comments at 3 (August 30, 2012).

A. Dominion and the Marketers should ensure that customers are properly educated about Dominion's exiting the merchant function.

1. Dominion should implement a comprehensive consumer-education program in advance of any exit of the merchant function for non-residential customers.

Dominion's exit of the merchant function will lead to a fundamental change in customers' relationship with Dominion. In addition, some non-residential customers who are currently on the SCO tariff service may not be familiar with or educated about Ohio's natural gas choice service or the natural gas commodity market in general.² As such, it is important to ensure that customers are fully informed about how this next phase of Dominion's exit will occur. In order to properly educate customers, Dominion should implement a comprehensive consumer education program in advance of any exit.³ As part of this consumer-education program, Dominion should provide specific customer-education material to all non-residential customers who are currently eligible for SCO tariff service. Customers that will be affected by Dominion's exit should receive at least two notices prior to the date the exit will become effective.⁴ The last notice should be sent at least 60 days prior to the date the exit becomes effective because it can take up to two billing cycles for a customer's natural gas supplier to be switched.

² Staff Ex. 1, Prefiled Testimony of Barbara Bossart at 3 ("Bossart Direct").

³ Staff Ex. 2, Staff Comments at 3-4.

⁴ *Id.* at 4; Staff Ex. 1, Bossart Direct at 4.

Staff believes that Dominion should notify customers by mail that Dominion will no longer offer SCO tariff service to non-residential customers after April 1, 2013.⁵ The letter sent to customers should include the following information:

- Customers who have not selected a Certified Retail Natural Gas Suppliers (“CRNGS”) by April 1, 2013, will be removed from SCO service and DEO will assign those customers to an approved MVR supplier.
- CRNGS price of natural gas is not regulated by the PUCO.
- The MVR supplier is required to post its rate on the PUCO Apples to Apples chart.
- Any customer whose natural gas supply has been assigned to an MVR supplier may switch to another supplier at anytime without penalty.
- It may take up to two billing cycles to switch a customer’s natural gas supplier.
- Dominion will supply a list of the current CRNGS in its service territory or identify where to find a list of available CRNGS.
- CRNGS are required to follow the Ohio Administrative Code Chapter 4901:1-29, Minimum Standards for Competitive Retail Natural Gas Service.
- Customers currently under contract with a CRNGS will not be impacted by this change, other than the fact that they are no longer eligible to return to Dominion’s SCO commodity tariff.
- Dominion will still supply the bill and maintain the natural gas pipes.⁶

⁵ Staff Ex. 2, Staff Comments at 4; Staff Ex. 1, Bossart Direct at 4.

⁶ Staff Ex. 2, Staff Comments at 4-5; Staff Ex. 1, Bossart Direct at 5-6.

In its Reply Comments, Dominion accepted Staff's recommendation to provide customer-education materials.⁷ Staff recommends that the Commission direct Dominion to work with Staff to develop these customer-education materials.⁸ Assuming the Stipulation is approved, Staff recommends that Dominion meet with Staff within two weeks of the issuance of an Order to develop the appropriate educational materials.⁹ Staff also recommends that, within 60 days of the issuance of an Order, Dominion provide Staff with the proposed educational materials and a schedule that is consistent with the timelines recommended by Staff.¹⁰

2. MVR suppliers should be required to provide customers with certain information regarding MVR rates.

Staff also believes MVR suppliers should be required to provide certain educational materials to customers. MVR supplier rates are typically different from supplier to supplier and may vary significantly.¹¹ Because of these potential price differences, it is important for customers to understand how the MVR is determined. Staff recommends that within the first month of MVR service, MVR suppliers should notify their customers and explain how their MVR is determined.¹² In addition, MVR suppliers should inform

⁷ DEO Exhibit 4, Dominion's Reply Comments at 1 (September 13, 2012).

⁸ Staff Ex. 2, Staff Comments at 5.

⁹ Staff Ex. 1, Bossart Direct at 7.

¹⁰ *Id.*

¹¹ Staff Ex. 2, Staff Comments at 5.

¹² *Id.*

customers that the MVR is posted on the PUCO's Apples to Apples chart monthly and notify the customers that they may switch to another offered rate or CRNGS at anytime without penalty.¹³

3. Development of the customer-education materials should be funded through the customer-education fund established in Case No. 05-474-GA-ATA.

Staff recommends that the cost of developing this recommended customer-education material be funded through the \$14 million Dominion collected pursuant to the Stipulation and Recommendation approved in Case No. 05-474-GA-ATA.¹⁴ In Case No. 05-474-GA-ATA, Dominion and a number of other signatory parties agreed that consumer education be would funded from “the amounts attributable to the 1% accounts receivable discount.... and a new Program Cost Fee” that was applied to all suppliers participating in the Energy Choice program.¹⁵ The parties to the 2005 Stipulation agreed to cap this fund at \$14 million. Staff recommends that any customer-education program implemented by Dominion be funded using the customer-education funds as agreed to by parties to the 2005 Stipulation.

¹³ Staff Ex. 2, Staff Comments at 5.

¹⁴ *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a Plan to Restructure Its Commodity Service Function*, Case No. 05-474-GA-ATA (Opinion and Order at 6, 21-22) (May 26, 2006).

¹⁵ *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a Plan to Restructure Its Commodity Service Function*, Case No. 05-474-GA-ATA (Stipulation at ¶1) (December 7, 2005).

B. Dominion should provide the Commission with information regarding the results of Dominion's exit of the merchant function for non-residential customers.

If the Stipulation is granted, Dominion should provide information to the Commission to help it evaluate and understand the consequences of Dominion's exit from the merchant function for non-residential customers. Dominion and the Marketers view Dominion's exit of the merchant function for non-residential customers as a necessary step in Dominion's progression towards a fully competitive market.¹⁶ The final step in Dominion's exit of the merchant function would presumably be a full exit for residential customers. Although Dominion, the Marketers, and OCC agreed not to request an exit of the merchant function for residential customers before April 1, 2015,¹⁷ Dominion's exit of the merchant function for non-residential customers, if granted, provides the Commission with an opportunity to observe the effects of Dominion's continuing progression towards full competition. If Dominion and the Marketers are able to report to the Commission the results of Dominion's exit for non-residential customers, the Commission will be more informed and prepared to decide whether any future request by Dominion to exit for residential customers is appropriate.

OGMG and RESA's witness, Teresa Ringenbach, testified regarding areas that should be studied by the Commission if the Stipulation is ultimately granted.¹⁸ Based

¹⁶ DEO Exhibit 1.0, Direct Testimony of Jeffery A. Murphy at 6-7; OGMA/RESA Ex. 1, Direct Prepared Testimony of Teresa L. Ringenbach at 3-6 ("Ringenbach Direct") (September 13, 2012).

¹⁷ Joint Exhibit 1, 2012 Stipulation at ¶ 1(b).

¹⁸ OGMA/RESA Ex. 1, Ringenbach Direct at 6-7.

upon Ms. Ringenbach's assessment, Staff believes that the following information should be provided to the Commission to help the Commission analyze the effects of Dominion's exit for non-residential customers:

1. A record of the number of suppliers participating in Dominion's territory over the next three years in order to determine whether there have been increases or decreases in supplier participation;
2. A record of the number and type of various supplier offers of new products and services;
3. A record of customer participation levels in new supplier product and service offerings;
4. An analysis of any increased investment in Ohio by suppliers that was caused by Dominion's exit of the merchant function for non-residential customers; and
5. Specific customer billing determinants.¹⁹

Supplying this information to the Commission will help the Commission make a more informed decision regarding any potential request by Dominion to exit the merchant function for residential customers.

¹⁹

Staff Ex. 1, Bossart Direct at 6-7.

IV. THE COMMISSION MAINTAINS THE JURISDICTION TO ABROGATE OR MODIFY ITS EXEMPTION ORDER PURSUANT TO R.C. 4929.08.

In its Initial Comments, Staff requested that the Commission clarify that “nothing precludes the Commission from re-establishing the SCO or other pricing mechanism if it determines that Dominion’s exit is unjust or unreasonable for non-residential or residential customers.”²⁰ In reply, Dominion indicated that it “does not disagree with the broader thrust of this comment” by Staff but “recommends that the Order in this case ... state, in effect, that the Commission retains authority to modify or abrogate the order in this case as set forth in R.C. 4929.08.”²¹ Staff acknowledges that R.C. 4929.08 sets forth certain requirements that must be met before the Commission can modify an exemption order. That being said, Staff believes it would be helpful for customers to understand that the Commission will continue to monitor Dominion’s exit from the merchant function in the future and, within the confines of the law, will ensure that the exit is in the public interest. Staff requests that the Commission make this clear by including such a statement in any Order issued in this case.

²⁰ Staff Ex. 2, Staff Comments at 3.

²¹ DEO Exhibit 4, Dominion’s Reply Comments at 2.

V. CONCLUSION

Subject to the foregoing recommendations, Staff supports and recommends that the Commission adopt the Joint Motion and Stipulation.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Initial Post-Hearing Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio was served via electronic mail upon the following parties of record on the 13th day of November, 2012.

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