BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
The East Ohio Gas Company d/b/a	)	Case No. 17-0820-GA-ATA
Dominion East Ohio for Approval	)	
of Changes in Rules and	)	
Regulations.	)	

APPLICATION FOR REHEARING BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

In this case, the risk associated with capacity on a new interstate pipeline may have unlawfully and unreasonably been shifted to consumers. The Public Utilities Commission of Ohio ("PUCO") allowed The East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion") to reserve capacity on the unbuilt pipeline, the Risberg Line.[1] The capacity would serve *potential* increased natural gas demand in the Ashtabula area.

On behalf of residential consumers, the Office of the Ohio Consumers' Counsel ("OCC") files this Application for Rehearing of the PUCO's Order. OCC has authority under law to represent the interests of all the 1.1 million residential gas customers of Dominion, pursuant to R.C. Chapter 4911. The Order is unlawful, unreasonable, unjust, and unwarranted in the following respects:

1. The PUCO unlawfully allowed Dominion to reserve capacity on the Risberg Line without a determination that the facilities and rates charged consumers are just and reasonable.

2. The PUCO unlawfully allowed Dominion to reserve capacity on the pipeline without requiring a prudency review of the costs associated with reserving the capacity.

[1] *See* Finding and Order (September 13, 2017) ("Order").

The grounds for rehearing are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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/s/ Terry L Etter

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Under the Order, Dominion will be allowed to charge existing residential consumers for pipeline capacity that is not proven to be necessary to serve them. The Risberg Line capacity that Dominion has been authorized to reserve will be primarily for industrial growth.[2] The capacity will, according to the PUCO, "better ensure peak-day reliability and operational balance in the Ashtabula area, which, in turn, will foster economic growth."[3]

After receiving comments on the original application in this case and on a supplemental application, the PUCO issued the Order approving Dominion's proposal. Dominion is to file compliance tariffs nine to 12 months before the anticipated in-service date of the Risberg Line[4] (currently November 2018[5]).

The Order violates R.C. 4905.22 because the PUCO did not determine that the service, facilities, or rates associated with Dominion's proposal were just and reasonable. The Risberg Line is not used and useful, and thus allowing Dominion to reserve capacity

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[2] *See* Order, ¶15.

[3] *Id.*

[4] *Id.*, ¶31.

[5] *See* Supplemental Application (July 27, 2017) at 5.

on the pipeline is unlawful.[6] The PUCO also did not conduct a thorough prudency review of the costs associated with Dominion's proposal. The PUCO should abrogate the Order.

II. STANDARD OF REVIEW

Applications for rehearing are governed by R.C. 4903.10. The statute allows that, within 30 days after issuance of a PUCO order, "any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding." OCC is an intervenor in this proceeding,[7] and, among other things, participated in the hearing in this case and filed a post-hearing brief.

In considering an application for rehearing, R.C. 4903.10 provides that "the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear." The statute also provides: "If, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed." As shown herein, the statutory standard to abrogate the Order is met.

[6] *See* R.C. 4909.15; R.C. 4909.18.

[7] OCC's motion to intervene was granted in the Entry dated July 10, 2015, ¶10.

III. RECOMMENDATIONS

A. The PUCO unlawfully allowed Dominion to reserve capacity on the Risberg Line without a determination that the facilities and rates charged consumers are just and reasonable.

R.C. 4905.22 states: "Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate and in all respects just and reasonable. All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission." However, in allowing Dominion to reserve the capacity, the PUCO did not determine that the rates to be charged customers would be just and reasonable. Thus, the PUCO unlawfully authorized Dominion to reserve capacity on the Risberg Line – capacity that will be paid for by existing customers.

The PUCO held that Dominion's proposal was not for an increase in rates and that a hearing on the proposal was not needed.[8] This ruling is flawed. By approving the application as supplemented, the PUCO has authorized Dominion to charge customers for costs associated with the capacity it is reserving. Although the initial charge to customers apparently is zero,[9] Dominion stated it is reserving 40,000 dekatherms ("Dth") per day on the proposed Risberg Line.[10] The initial cost of capacity on the Line is anticipated to be

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[8] *See* Order, ¶32.

[9] *See* Application (March 24, 2017), Exhibit B, Sixty-second Revised Sheet No. 2

[10] Supplemental Application (public version) at 5.

between $0.66/Dth per day and $0.88/Dth per day.[11] Thus, Dominion's initial cost of the capacity will be between $26,400 and $35,200 per day. The cost to customers would be approximately $792,000 to $1,056,000 per month, or $9.504 million to $12.672 million per year.

Dominion has negotiated a specific rate with the Risberg Line's owner, RH Energytrans, for capacity on the pipeline. Dominion notes that the negotiated rate would add a specific amount each month to the average Dominion residential customer's bill.[12] But the Order did not determine that this rate is either just or reasonable. And the Risberg Line is neither used nor useful as required by Ohio law.[13] It was premature for the PUCO to allow Dominion to reserve capacity, with a specific charge that customers will pay, on facilities that are not used and useful.

Under the tariff, the "Ashtabula Area" consists of "the portion of East Ohio's service territory in and around Ashtabula County, Ohio where incremental consumption requires the use of Upstream Pipeline capacity from R.H. Energytrans, LLC or its successor companies."[14] Thus, the pipeline would only serve new customers who build in the area to be served by the Risberg Line. But nothing in the record demonstrates that *any* customers *would* materialize in that area to use the additional capacity. No studies have been offered to show whether new customers would migrate to the area to be served by the Risberg Line if Dominion has more capacity available. Dominion has produced nothing to show how much capacity any new customers might use. And nothing in the

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[11] *See* Supplemental Application (public version), Exhibit 2, page 2.

[12] *See* Supplemental Application (public version) at 5.

[13] R.C. 4909.15; R.C. 4909.18.

[14] *Id.*, Second Revised Sheet No. F-GT&C1.

record shows whether the price negotiated by Dominion would result in rates that might attract customers to the area to be served by the Risberg Line. Any lessening of the increase in rates paid by customers outside the area to be served by the Risberg Line is pure speculation.

In addition, Dominion claims it intends to credit customers a portion of the incremental revenues realized from the Risberg Line.[15] The crediting would be made through the revenue crediting mechanism discussed in the original application.[16] But, as OCC noted in its Comments, the crediting mechanism is not included in any tariff provision.[17] The PUCO did not require Dominion to include the crediting mechanism in the tariff. The PUCO should have done so.

It was unlawful for the PUCO to allow Dominion to reserve capacity on a facility that is not used and useful, and without determining the reasonableness of the rate customers will pay. The PUCO should abrogate its Order.

B. The PUCO unlawfully allowed Dominion to reserve capacity on the Risberg Line without requiring a thorough review of the costs associated with reserving the capacity.

In determining whether a service, facilities, and rates are just and reasonable under R.C. 4905.22, the PUCO should determine whether the costs associated with a proposal are prudently incurred. Before the PUCO authorized Dominion to reserve capacity on the Risberg Line, it should have ordered a thorough prudency review of Dominion's costs associated with the Risberg Line. The PUCO did not.

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[15] *See* Application (March 24, 2017), Exhibit C-2 & C-3 at 2.

[16] *Id.*

[17] *See* OCC Comments (May 10, 2017) at 3; OCC Reply Comments (July 28, 2017) at 2.

The contract price will apparently be the basis for the rates Dominion will charge customers when the Risberg Line is operational. But there has not been a thorough prudency analysis of the costs. The PUCO Staff's review and recommendations regarding Dominion's original 86-page application were barely a half-page long. And its reply comments do not use the word "prudent" or any form of it. On the other hand, OCC raised concerns about the prudence of Dominion's proposal.[18]

A prudency review is especially necessary because consumers will be paying for capacity that will not be used to serve them. Those consumers bear the risk, while Dominion's shareholders bear none. Thus, Dominion will have little or no incentive to minimize costs that it could pass through to consumers as unchecked charges.

Without a prudency review, the Order unlawfully authorized Dominion to reserve capacity on the Risberg Line. The Order should be abrogated.

IV. CONCLUSION

Under the PUCO's decision, consumers have all the risk associated with Dominion's reservation of capacity on the Risberg Line. In addition, it has not been shown that the capacity is needed to serve the consumers bearing this risk. This is unjust, unlawful, and unreasonable. To protect consumers, the PUCO should abrogate the Order.

[18] *See* OCC Comments at 2.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Application for Rehearing was served on the persons stated below via electronic transmission, this 13th day of October 2017.

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