

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The East	)	
Ohio Gas Company d/b/a Dominion Energy	)	
Ohio for Approval to Change Accounting	)	Case No. 15-1712-GA-AAM
Methods Associated with its Pipeline Safety	)	
Management Program.	)	

**MEMORANDUM OF THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY  
OHIO IN RESPONSE TO STAFF’S MOTION TO CLARIFY PROCEDURES**

**I. INTRODUCTION**

On January 8, 2020, the Commission’s Staff filed a motion to clarify the procedures by which The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO) could defer expenses associated with new initiatives under its Pipeline Safety Management Program (PSMP). In accordance with Ohio Adm. Code 4901-1-12(B)(1), DEO files its memorandum in response to Staff’s motion.

DEO believes that adequate procedures are in place to enable Staff to review any new PSMP initiatives that DEO proposes. Contrary to the suggestion in Staff’s motion, DEO does not believe that it gains deferral authority solely by presenting the new PSMP initiative at a biannual meeting. The purpose of the biannual meeting is to dialogue with Staff on progress of the program initiatives, changes to the program, and other matters related to new or existing PSMP initiatives. In this instance, the December 6, 2019 biannual meeting provided an opportunity to identify new 2020 PSMP initiatives and elicit feedback from Staff in real time. This dialogue was not intended to supplant the established annual report process for Staff’s review or obtain preapproval of deferral authority for the new initiatives.

DEO has discussed the motion with Staff and appreciates Staff’s concern that it have the opportunity to examine new PSMP initiatives before DEO implements them. To that end, DEO

requests that the Commission permit the parties to discuss improvements to the existing process, to ensure that Staff has sufficient opportunity to review initiatives, and to improve the timeliness in which DEO receives guidance on deferral authority.

## II. BACKGROUND

In its 2016 Order in this proceeding, the Commission adopted a Stipulation and Recommendation, filed by DEO and Staff, which authorized DEO to defer PSMP expenses incurred on or after January 1, 2016, with an annual increase not to exceed \$15 million (the 2016 Stipulation). *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Opin. and Order, Case No. 15-1712-GA-AAM (Nov. 3, 2016), at 2, 9. In support of the 2016 Stipulation, DEO testified, “[t]he structure of the program ensures that Staff will have ample, continuing opportunities to review and recommend recommendations to the program as needed.” (DEO Ex. 1.0 at 3.) The 2016 Stipulation required DEO to participate in “biannual meetings with Staff to review progress under the PSMP, any proposed changes, the results of any new or ongoing investigations or evaluations, cost-savings measures, and other related matters.” (2016 Stipulation at ¶1(a).) The 2016 Stipulation also required DEO to file detailed annual reports by June 1 of each year on the prior year’s deferred expenses, which included, among other things, the external auditor’s findings. (*Id.* at ¶1(b).) Staff would have 90 days to examine and report on each year’s filing, and DEO would have 30 days to accept or object to Staff’s recommendations. (*Id.* at ¶1(c).) In its 2016 Order, the Commission concluded that the 2016 Stipulation facilitated DEO’s continued implementation of PSMP programs to improve safety, public education, training, and system initiatives. *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Opin. and Order, Case No. 15-1712-GA-AAM (Nov. 3, 2016) at 9. And the Commission found that the annual reporting requirements and other standards in the 2016 Stipulation benefited ratepayers. (*Id.*)

Staff subsequently raised questions over the latitude of the deferral authority under the PSMP. In June 2018, DEO filed its annual report, which included 2017 expenses associated with two new initiatives. DEO had proposed these new initiatives in the prior year's annual report. In its August 2018 report, Staff recommended removing expenses associated with the new initiatives, on the basis they were not mentioned in DEO's original application. Staff believed that the Commission's 2016 Order did not allow DEO to include "new initiatives."

The Commission, however, made clear that new initiatives were permitted. The Commission pointed to DEO's original application, which stated that "the PSMP is intrinsically forward looking, and thus subject to further development" and expressly recognized that "DEO may develop new initiatives" in response to changing conditions or regulations and would use the "biannual meetings with Staff to keep it apprised of ... any proposed changes to the program." (DEO App. at ¶9.) The Commission found that neither the 2016 Stipulation nor the 2016 Order modified this aspect of DEO's application. *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Opin. and Order, Case No. 15-1712-GA-AAM (Nov. 14, 2018) at 6.

For these reasons, the Commission held that "the Commission-approved PSMP allows [DEO] to propose new initiatives and to revise previously implemented initiatives." *Id.* With respect to process, the Commission clarified that "[i]t was and continues to be the Commission's intent that, with the approved biannual meetings and annual report process in place, [DEO] would be permitted to propose, and Staff would have the opportunity to investigate and review, new initiatives and to revise or discontinue initiatives within the established parameters for the PSMP." *Id.*

In its Motion to Clarify Procedures, Staff seeks further guidance from the Commission. The Commission's 2018 Order noted that DEO's annual reports, in addition to reporting on the

historical PSMP activities, may “propose new initiatives or revisions.” *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Opin. and Order, Case No. 15-1712-GA-AAM (Nov. 14, 2018) at 7. Staff would then have the opportunity to “object[] to any new or revised initiatives” in its report. *Id.* Staff, however, states that the 2018 Order “did not articulate the procedure” for Staff’s review of new initiatives that are “proposed outside of the annual report.” (Mot. at 4.) Staff explains that in its most recent bi-annual meeting with Staff, DEO proposed two new PSMP initiatives that it intends to implement that were not identified in its annual report filed in 2019. (*Id.*) These initiatives are planned for 2020, and will be identified in the 2019 PSMP annual report that DEO must file by June 1. Staff “intends to investigate and review these new initiatives but is uncertain as to the procedure to follow.” (*Id.*) In Staff’s view, “simply describing new initiatives in a bi-annual meeting is insufficient to establish deferral authority for the new initiatives.” (*Id.*) Rather, “it is essential that these new initiatives be carefully examined prior to their implementation by [DEO] with the expectation of deferral authority.” (*Id.*)

### **III. DISCUSSION**

#### **A. Adequate procedures are in place for Staff’s review of any new PSMP initiatives.**

Staff expresses uncertainty as to the procedure that it should follow to review the new 2020 PSMP initiatives. In DEO’s view, the Commission’s 2018 Order outlined the established procedure: DEO may propose new or revised initiatives in the annual report filed by June 1, which then provides Staff the opportunity to review and comment on them in its Staff Report.

DEO did not intend to propose the two new initiatives in question “outside of the annual report.” (Mot. at 4.) In this instance, however, DEO had not finalized the new PSMP initiatives at the time submitted its last annual report. The initiatives were finalized later in 2019. But rather than wait to disclose the new initiatives until its formal report in June 2020, DEO shared its plans with Staff during a December 2019 biannual meeting. The new proposals presented at the

meeting reflected the Company's ongoing effort to risk rank its programs to maximize the pipeline safety benefit at the heart of PSMP within the existing \$15 million annual cap and thus did not represent an increase in overall funding or deferral.

DEO believes this approach is consistent with the approved procedures. The 2016 Stipulation, recognizing that DEO may have to implement changes to the PSMP, also included a biannual meeting process for DEO to review its progress with Staff. The most recent biannual meeting with Staff provided the opportunity to identify the new 2020 initiatives, and allowed DEO to be transparent with Staff and provide Staff with advance notice of changes. It would have been imprudent for DEO to wait several more months to present information to Staff on new PSMP initiatives planned for 2020 already known at the time of the December 2019 biannual meeting. DEO certainly hoped to receive feedback from Staff regarding its view of the new initiatives, which would enable DEO to make any necessary adjustments to the initiatives or to its overall plan. The December 2019 disclosure of the new 2020 initiatives, however, was not intended to supplant the formal disclosure that DEO would have to make in an annual report.

**B. DEO appreciates that the purpose of the biannual meetings is not to obtain formal deferral authority, but to maintain a dialogue with Staff on issues with new or existing PSMP programs.**

DEO does not intend for the preview of a new initiative during a biannual meeting to establish deferral authority for the initiative. That would circumvent the annual reporting process outlined in the 2016 Stipulation and described in the 2018 Order. But the biannual meeting allows Staff to provide feedback to DEO on a new or revised initiative prior to DEO implementing the activity, if the initiative was not identified in the prior year's annual report, even if that feedback is less formal than a Staff Report. DEO recognizes that the preferred practice is that DEO discuss any new or revise initiatives in the prior year's annual report. In instances, however, where the next year's PSMP activities have not been finalized by June 1 of

the prior year, the biannual meeting provides the next opportunity in the process for DEO to identify the change.

The benefit of the biannual meeting dialogue before DEO executes a new or revised initiative, in instances where the new or revised initiative was not previously disclosed in annual report, is that DEO can implement the initiative with a reasonable understanding of Staff's expectations regarding the inclusion of the initiatives in the PSMP. To be clear, any preview of a future PSMP initiative at a biannual meeting is not a request that Staff preapprove or the Commission guarantee deferral authority outside of the annual report process. Knowing however that Staff does not oppose a proposal—if executed in the manner presented at the biannual meeting, and provided all other PSMP parameters are satisfied—would be very helpful to DEO from a planning perspective.

**C. DEO is willing to discuss with Staff improvements to the existing reporting process for PSMP activities and deferred expenses.**

DEO appreciates Staff's intent to investigate and review any new PSMP initiatives. DEO also appreciates Staff's belief that any new initiatives "be carefully examined prior to their implementation." (Mot. at 4.) DEO's intent is to engage Staff on any proposed future changes to the PSMP program in a timely manner. As noted above, biannual meetings are one occasion to identify new or revised initiatives to give Staff the opportunity to ask questions and provide feedback in real time, outside the filing of any Staff Report. DEO, however, is open to further discussions with Staff on possible improvements that the parties can agree on and stipulate to concerning the annual report process, including the possibility of moving the due date for the annual report from by June 1 to by or before September 1 each year. Extending the allowable filing date would give DEO more time to finalize proposed initiatives for a following year, while

ensuring Staff the opportunity to review and comment on such initiatives prior to implementation.

**IV. CONCLUSION**

For the reasons identified above, DEO does not believe that a ruling setting forth additional procedures is necessary at this time. Adequate procedures are in place for Staff’s review of new PSMP initiatives. DEO recommends that the Company and Staff be provided with the opportunity to further discuss possible improvements to the annual reporting process for PSMP activities and deferred expenses.

Dated: January 23, 2020

Respectfully submitted,

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**ATTORNEYS FOR THE EAST OHIO GAS  
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Summary: Memorandum Memorandum of the East Ohio Gas Company d/b/a Dominion Energy Ohio in Response to Staff's Motion to Clarify Procedures electronically filed by Mr. Christopher T Kennedy on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio