

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE APPLICATION OF
THE EAST OHIO GAS COMPANY DBA
DOMINION ENERGY OHIO FOR
APPROVAL OF AN ALTERNATIVE FORM OF
REGULATION TO ESTABLISH A CAPITAL
EXPENDITURE PROGRAM RIDER
MECHANISM.**

CASE No. 19-468-GA-ALT

OPINION AND ORDER

Entered in the Journal on December 30, 2020

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I. SUMMARY

{¶ 1} The Commission approves and adopts the stipulation and recommendation resolving all issues related to The East Ohio Gas Company dba Dominion Energy Ohio's application for an alternative rate plan to initiate the capital expenditure program rate recovery mechanism, consistent with this Opinion and Order.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} The East Ohio Gas Company dba Dominion Energy Ohio (Dominion or Company) is a natural gas company and a public utility as defined by R.C. 4905.03 and R.C. 4905.02, respectively. As such, Dominion is subject to the jurisdiction of this Commission.

{¶ 3} Under R.C. 4929.05, a natural gas company may seek approval of an alternative rate plan by filing an application under R.C. 4909.18, regardless of whether the application is for an increase in rates. After an investigation, the Commission shall approve the plan if the natural gas company demonstrates, and the Commission finds, that the company is in compliance with R.C. 4905.35, is in substantial compliance with the policies of the state as set forth in R.C. 4929.02, and is expected to continue to be in substantial compliance with state policy after implementation of the alternative rate plan. The Commission must also find that the alternative rate plan is just and reasonable.

{¶ 4} Pursuant to R.C. 4929.111, a natural gas company may file an application under R.C. 4909.18, 4929.05, or 4929.11, to implement a capital expenditure program (CEP) for any of the following: any infrastructure expansion, infrastructure improvement, or infrastructure replacement program; any program to install, upgrade, or replace information technology systems; or any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction. In approving the application, the Commission shall authorize the natural gas company to defer or recover both of the following: a regulatory asset for post-in-service

carrying costs (PISCC) on the portion of the assets of the CEP that are placed in service but not reflected in rates as plant in service; and a regulatory asset for the incremental depreciation directly attributable to the CEP and the property tax expense directly attributable to the CEP. A natural gas company shall not request recovery of the PISCC, depreciation, or property tax expense under R.C. 4929.05 or R.C. 4929.11 more than once each calendar year.

B. Procedural History

{¶ 5} In Case No. 11-6024-GA-UNC, et al., the Commission modified and approved Dominion's application for authority to implement a CEP for the period of October 1, 2011, through December 31, 2012. *In re The East Ohio Gas Company dba Dominion East Ohio*, Case No. 11-6024-GA-UNC, et al., Finding and Order (Dec. 12, 2012). Subsequently, in Case No. 12-3279-GA-UNC, et al., the Commission modified and approved Dominion's application to implement a CEP for the period of January 1, 2013, through December 31, 2013. *In re The East Ohio Gas Company dba Dominion East Ohio*, Case No. 12-3279-GA-UNC, et al., Finding and Order (Oct. 9, 2013).

{¶ 6} In Case No. 13-2410-GA-UNC, et al., the Commission modified and approved Dominion's application to implement a CEP in 2014 and succeeding years, pursuant to R.C. 4909.18 and 4929.111. The Commission also approved Dominion's request for accounting authority to capitalize PISCC on program investments for assets placed in service but not yet reflected in rates; defer depreciation expense and property tax expense directly attributable to the CEP; and establish a regulatory asset to which PISCC, depreciation expense, and property tax expense are deferred for future recovery in a subsequent proceeding. Dominion was authorized to accrue deferrals under the CEP until the accrued deferrals, if included in rates, would cause the rates charged to the Company's General Sales Service customers to increase by more than \$1.50 per month. Additionally, the Commission noted that the prudence and reasonableness of Dominion's CEP-related regulatory assets and associated capital spending would be considered in any future proceedings seeking cost recovery, at which time the Company would be expected to provide detailed information

regarding the expenditures for the Commission's review. *In re The East Ohio Gas Company dba Dominion East Ohio*, Case No. 13-2410-GA-UNC, et al., Finding and Order (July 2, 2014).

{¶ 7} On February 27, 2019, in the above-captioned case, Dominion filed a notice of intent to file an application for approval of an alternative rate plan pursuant to R.C. 4929.05, 4929.111 and 4909.18. In the notice, Dominion stated that the application would request approval to establish a CEP Rider.

{¶ 8} On March 29, 2019, Dominion filed a notice of intent to file an alternative rate plan application for an increase in rates, notice of test year and date certain, and attached exhibits. Dominion noted that the notice of intent was sent to the mayor and legislative authority of each affected municipality. Dominion also notified the Commission that the Company is using a test year of the 12 months ending December 31, 2018, and a date certain of December 31, 2018. Concurrently with the notice, Dominion also filed a motion for waiver from certain provisions of the Commission's Standard Filing Requirements (SFR) contained in Ohio Adm.Code 4901-7-01.

{¶ 9} On May 1, 2019, Dominion filed its alternative rate plan application, along with supporting exhibits and testimony, pursuant to R.C. 4909.18, 4929.05, 4929.11, and 4929.111.

{¶ 10} By Entry issued on June 19, 2019, the Commission, consistent with Staff's recommendations, granted the Company's motion for waiver of certain SFR, in part, and denied it, in part.

{¶ 11} By Entry dated August 14, 2019, the Commission directed Staff to issue a request for proposal (RFP) for audit services to assist the Commission with the audit of Dominion's CEP and associated CEP costs and deferrals.

{¶ 12} On September 4, 2019, Staff filed correspondence on the docket indicating that, on August 23, 2019, Dominion had filed the additional information required by the

Commission's June 19, 2019 Entry and that Dominion's application was now in compliance with Ohio Adm.Code 4901:1-19-06(C).

{¶ 13} By Entry issued September 11, 2019, the Commission deemed Dominion's application filed as of August 23, 2019. Additionally, the Commission selected Blue Ridge Consulting Services, Inc. (Blue Ridge) to assist the Commission with the audit of Dominion's CEP and associated CEP costs and deferrals. Consistent with the RFP, Blue Ridge was directed to file a final audit report with the Commission by February 26, 2020.

{¶ 14} By Entry dated January 10, 2020, the attorney examiner granted a request by Dominion for a 60-day extension of all deadlines reflected in the RFP timeline, with the final audit report being due on April 27, 2020.

{¶ 15} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 16} On April 27, 2020, Blue Ridge filed its audit report. Further, on May 11, 2020, Staff filed its report of investigation (Staff Report) pursuant to Ohio Adm.Code 4901:1-19-07(C).

{¶ 17} To assist the Commission with its review of Dominion's CEP application, the attorney examiner established a procedural schedule in this matter, such that objections and

motions to intervene were due by June 10, 2020; expert testimony was due by August 10, 2020; and the hearing was scheduled to commence on August 17, 2020, at 10:00 a.m.

{¶ 18} By Entry dated August 20, 2020, the motions to intervene filed by the Office of the Ohio Consumers' Counsel (OCC) and the Northeast Ohio Public Energy Council (NOPEC) were granted. Additionally, the joint motion filed by Dominion and Staff to continue the procedural schedule and to reschedule the hearing to commence on September 14, 2020, was granted.

{¶ 19} On August 31, 2020, Dominion filed a stipulation and recommendation (Stipulation) entered into by the Company and Staff, as well as testimony in support of the Stipulation.

{¶ 20} On September 1, 2020, the attorney examiner conducted a prehearing conference with the parties. As a result of the conference, by Entry dated September 2, 2020, a revised procedural schedule was established with a prehearing conference scheduled for September 14, 2020, and the hearing to commence on September 15, 2020. Due to the continued COVID-19 state of emergency declared by the governor in Executive Order 2020-01D, and given the passage of Am. Sub. H.B. 197, the attorney examiner indicated that the hearing would be held using remote access technology known as Webex, which would enable the parties and interested persons to participate by telephone and/or video on the internet.

{¶ 21} The hearing was held, as rescheduled, via remote access technology, on September 15, 2020. The following exhibits were admitted into evidence at hearing: the Stipulation (Joint Ex. 1); the stipulated schedules (Joint Ex. 2); recommended tariff sheets (Joint Ex. 3); the testimony of Dominion witness Vicki H. Friscic in support of the Stipulation (Co. Ex. 4); Dominion's application (Co. Ex. 1); Ms. Friscic's direct testimony (Co. Ex. 2); the Staff Report filed on May 11, 2020 (Staff Ex. 1); the audit report filed by Blue Ridge on April 27, 2020 (Staff Ex. 2); the direct testimony of Kerry Adkins (OCC/NOPEC Ex. 1); the direct

testimony of Daniel J. Duann (OCC/NOPEC Ex. 2); and various other exhibits offered by OCC and NOPEC (jointly, Intervenors) (OCC Ex. 3-10; NOPEC Ex. 1-4).

C. Summary of the Application

{¶ 22} In its application, Dominion proposes to implement the CEP Rider to recover the deferred expenses for CEP assets, PISCC, incremental depreciation expenses, a depreciation offset to rate base, and the associated property tax expense associated with the CEP assets. Dominion proposes establishing the initial CEP Rider in accordance with the rates set forth in Exhibit A attached to its application, which will recover the revenue requirement associated with the CEP regulatory asset and related capital investments for the period October 1, 2011, through December 31, 2018. Thereafter, Dominion proposes an annual update process, through which future CEP deferrals and investments may be reviewed and recovered, beginning with investment through December 31, 2019. In the application, Dominion proposes the following CEP Rider rates for the recovery of CEP deferrals for assets placed in service from October 1, 2011, through December 31, 2018:

Rate Schedule	Rate
General Sales Service - Residential and Energy Choice Transportation Service - Residential	\$3.89/month
General Sales Service - Nonresidential and Energy Choice Transportation Service - Nonresidential	\$11.06/month
Large Volume General Sales Service and Large Volume Energy Choice Transportation Service	\$51.64/month
General Transportation Service and Transportation Service for Schools	\$447.70/month
Daily Transportation Service	\$0.0475/Mcf
Firm Storage Service	\$0.1269/Mcf

(Co. Ex. 1 at Ex. A at 5).

{¶ 23} Further, for CEP investments placed in service after December 31, 2018, Dominion is continuing to defer such expenses under the existing authority provided in the

Commission's prior CEP orders. Beginning March 2020, and continuing annually thereafter, Dominion proposes to file an adjustment to the CEP Rider, to capture deferrals and investment in the prior year and any reconciliation adjustments. To this end, Dominion proposes the following schedule:

Date	Activity
March 1	CEP Rider Application
July 1	Staff Report
July 15	Motions to Intervene and Comments by Dominion and Other Parties
July 31	Notification Whether Issues Raised in Comments Have Been Resolved
August	Hearing
September Billing Cycle 1	Rate Effective Date

(Co. Ex. 1 at 5-6.)

D. Summary of the Audit Report and the Staff Report

1. BLUE RIDGE AUDIT REPORT

{¶ 24} As stated previously, on April 27, 2020, Blue Ridge filed its audit report. As part of the audit, the Commission directed Blue Ridge to conduct a two-phase evaluation of Dominion's CEP capital expenditures. The first phase included a review of the accounting accuracy and used and useful nature of Dominion's non-pipeline infrastructure replacement (PIR) and non-automated meter reading (AMR) capital expenditures and related assets from its most recent base case on March 31, 2007, through December 31, 2018. The second phase of the audit consisted of assessing and determining the necessity, reasonableness, and prudence of Dominion's non-PIR and non-AMR capital expenditures and related assets, with an emphasis on the CEP expenditures and assets from October 2011 through December 2018. As part of its investigation, Blue Ridge issued data requests, conducted interviews

and field inspections, and performed analyses, including variance analysis and detailed transactional testing.

a. Phase 1 – Plant in Service Balances

{¶ 25} Initially, Blue Ridge notes that Dominion’s beginning balances are not reflective of Commission-approved ratemaking adjustments from its last base rate case. *In re The East Ohio Gas Company dba Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Services*, Case No. 07-829-GA-AIR, et al. (*Rate Case*), Opinion and Order (Oct. 15, 2008). Blue Ridge identified issues with roll-forward-balance calculations within the Company’s total plant and reserve schedules and noted that the Company did not record retirements. Specifically, Blue Ridge states the following ratemaking adjustments from the *Rate Case* were not reflected in Dominion’s beginning balances: Plant in Service - (\$17,319,717) and Depreciation Reserve - \$53,822,053. While Blue Ridge does not recommend Dominion’s December 31, 2018 plant balance be adjusted at this time, Blue Ridge does recommend these adjustments be considered in Dominion’s next base rate case to ascertain their impact at that time. (Staff Ex. 2 at 9, 22, 34, 88.)

{¶ 26} Next, Blue Ridge recommends revisions to the net plant Dominion is seeking to recover to adjust for asset retirements not recorded and to remove cost of removal that was incorrectly recorded as an addition. Specifically, Blue Ridge recommends Dominion’s plant in service be reduced by \$1,898,489 and depreciation by \$376,064. (Staff Ex. 2 at 10.)

{¶ 27} Though Blue Ridge notes there were some initial challenges related to extracting historical data, overall Blue Ridge reports Dominion was able to provide sufficient information, including detailed continuing property records, for Blue Ridge to reconcile the application to plant data. Though it did not identify gross discrepancies, some of Blue Ridge’s account adjustments came from this analysis. Blue Ridge has verified that all work included in the projects were capital in nature, and the scope of work and cost detail coincided with the applicable Federal Energy Regulatory Commission (FERC) accounts. (Staff Ex. 2 at 10.)

{¶ 28} Blue Ridge also reports that in 2018, Dominion implemented the PowerPlan fixed asset system to replace its systems, applications, and products (SAP) system to allow it to be more efficient and, therefore, perform future reporting on a timelier basis. Blue Ridge agrees with Dominion's assessment because the system has significantly greater capability than SAP and has the ability to provide more data. Blue Ridge states Dominion will need to demonstrate in future filings that a reconciliation can be more easily performed between the CEP and the fixed asset system for annual reporting on a timely basis. (Staff Ex. 2 at 10.)

{¶ 29} Blue Ridge has also validated Dominion's depreciation accrual rates to the Commission-approved rates set in Case No. 13-1988-GA-AAM. While Blue Ridge identified some Dominion utilized depreciation accrual rates for several FERC accounts (357.00-Storage Other Equipment, 380.00-Distribution Services-LP & RP, and 380.00- Distribution-New Customer Facilities) that have not technically been approved by the Commission, these have no impact on CEP revenue requirements. In conclusion, Blue Ridge states its review found that the use of the rates is not unreasonable. (Staff Ex. 2 at 10, 25-26, 31-32, 35, 109-110, 112.)

{¶ 30} Finally, through physical inspections, Blue Ridge has determined that the CEP assets in question are used and useful, were not overbuilt, and provide benefit to the ratepayer. Blue Ridge reports that Dominion personnel appeared knowledgeable about the projects. Desktop reviews of asset documents, performed at the Company by Blue Ridge, demonstrated adequate supporting documentation for the projects, including the appropriate engineering detail. Further, according to Blue Ridge, the projects appeared to have been adequately planned with alternatives vetted. (Staff Ex. 2 at 10.)

b. Phase 2 - Capital Expenditures Prudence Audit

{¶ 31} As part of the second phase of the audit, Blue Ridge did not find any indication that Dominion's non-PIR/non-AMR expenses and assets for the period April 1, 2007, through December 31, 2018, were unnecessary, unreasonable, or imprudent except with

regard to the cost overruns. Blue Ridge noted that, out of a sample of 210 work orders and/or projects evaluated, 32 or approximately 15 percent were over budget by 20 percent or greater. Dominion explained that the budget variance was either unforeseen or beyond the Company's direct control on 14 of the work orders/projects and the remaining work orders/projects required a closer evaluation. Blue Ridge found that the Company's explanation regarding ten of the remaining work orders/projects was either in whole or in part not unreasonable. Further, Blue Ridge recommends that Dominion make a more concerted effort to ensure project budgets include the routine project costs to help avoid cost overruns and provide savings to the ratepayer. Blue Ridge reviewed Dominion's processes and controls, which it found sufficient so as not to adversely affect the balances in the distribution utility net plant in service. Blue Ridge also examined internal audit reports conducted on various areas of Dominion's operations that could impact utility plant-in-service balances and applicable Sarbanes-Oxley Act and FERC audits and was satisfied with actions taken with regard to these audits. Blue Ridge notes that Sarbanes-Oxley Act audits prior to 2011 were not available due to Dominion's record retention guidelines. (Staff Ex. 2 at 11-12, 35, 41, 54-55, 65-66.)

{¶ 32} Blue Ridge reviewed both capital spending and cost containment strategies and concluded that Dominion is implementing sound cost containment strategies. In addition, even though capital spending has increased 115 percent from the first full year of the implementation of the CEP in 2012 through 2018, the nature of the spending does not give Blue Ridge cause for concern. Blue Ridge found that the capital additions, costs of removal, and retirements reflected in the CEP revenue requirements rate base reconciled to the December 31, 2018 cumulative totals provided in the 2019 Annual Informational Report and were calculated consistently with the December 12, 2012 Finding and Order in Case No. 11-6024-GA-UNC. In addition, the deferrals associated with PISCC and depreciation expense also tied to the December 31, 2018 cumulative totals provided in the 2019 Annual Informational Filing. (Staff Ex. 2 at 11, 29, 43, 45.)

{¶ 33} However, Blue Ridge discovered that deferred property taxes reported, for which the Company is seeking recovery through the CEP revenue requirements, was different from the amount reflected in the 2019 Annual Informational Filing. The difference was attributed to revisions to the effective property tax rate. Blue Ridge recommends that the deferred property taxes reflected in the CEP revenue requirements be updated to reflect the actual tax rate and the correction for the tax rates for tax years 2015, 2016, and 2017, removing the lease payment reclass. On a related note, Blue Ridge found that the Company used an estimated property tax rate to calculate its annualized property taxes. Blue Ridge recommends that, in the subsequent annual filings, the property taxes based on estimated rates should be trued up using the actual rate. (Staff Ex. 2 at 11.)

{¶ 34} Additionally, Blue Ridge recommends that the revenue collected through the CEP Rider should be reconciled to the CEP revenue requirements and a mechanism for true-up should be established. Blue Ridge also recommends that the accumulated deferred income taxes (ADIT) on liberalized depreciation should be updated to reflect the revisions to remove allowance for funds used during construction (AFUDC) from original cost and to reflect the actual settled balances following the tax return filing. As indicated above, other than the adjustments and suggestions specified, Blue Ridge found nothing to indicate that the non-PIR/non-AMR capital expenses and assets for the period April 1, 2007, through December 31, 2018, were unnecessary, unreasonable, or imprudent. (Staff Ex. 2 at 11-12.)

2. STAFF REPORT

{¶ 35} As noted above, the Staff Report was filed on May 11, 2020. Staff adopts the audit report filed by Blue Ridge and, based on the audit, recommends that Dominion take the following steps with regard to the plant audit:

- (1) Revise CEP net plant balances as of December 31, 2018: plant in service \$612,895,042; accumulated provision for depreciation \$36,219,656; net CEP plant in service \$649,114,695;

- (2) Demonstrate that a reconciliation can be more easily performed between the CEP and the fixed asset system for annual CEP reporting on a timely basis;
- (3) Update the deferred property tax expense in the CEP to reflect the actual tax rate and the correction for the tax rates for tax years 2015, 2016, and 2017, removing the lease payment reclass;
- (4) True-up estimated property tax expense to the actual rate in the subsequent annual filing;
- (5) Update ADIT on liberalized depreciation to reflect the removal of AFUDC from original costs and to reflect the actual balances following the tax return filing;
- (6) Revise net plant balance to reflect adjustments from the last base rate case not reflected in beginning balances in its next rate case; and
- (7) Evaluate the performance issue that occurred related to PowerPlan (massed assets recorded as FERC 106 instead of FERC 101) and develop a plan to identify and rectify the issue should it occur again in the future.

(Staff Ex. 1 at 7-8.)

{¶ 36} Next, with regard to capital spending, Staff recommends that Dominion work with Staff to identify reasonable and meaningful annual caps in order to keep costs under control and to ensure ratepayers are not burdened with excessive and unnecessary plant investments (Staff Ex. 1 at 8).

{¶ 37} Staff finds Dominion's methodology for the recovery of deferrals, annualized depreciation expense, and rate base depreciation offset to be reasonable (Staff Ex. 1 at 9).

{¶ 38} Staff indicates it has reviewed the rates and tariffs proposed by Dominion and makes the following recommendations:

- (1) The initial CEP Rider rate should be a fixed rate, modified to include the Blue Ridge adjustments, as estimated in the chart below:

Rate Schedule	Rate
General Sales Service - Residential and Energy Choice Transportation Service - Residential	\$3.87/month
General Sales Service - Nonresidential and Energy Choice Transportation Service - Nonresidential	\$11.02/month
Large Volume General Sales Service and Large Volume Energy Choice Transportation Service	\$51.44/month
General Transportation Service and Transportation Service for Schools	\$445.99/month
Daily Transportation Service	\$0.0473/Mcf
Firm Storage Service	\$0.1264/Mcf

(Staff Ex. 1 at 9).

- (2) Dominion should file an annual CEP Rider update to adjust the rider rate, which should include the same schedules in similar format as the currently filed annual reports (Staff Ex. 1 at 10).
- (3) The annual CEP Rider filings should be set with fixed caps starting the first year the rider is adjusted through 2024 or until the filing of the next rate case, whichever comes first (Staff Ex. 1 at 10).
- (4) The caps should be set to increase by a fixed cap rate for each future year until 2024 or when the Company files its next rate case, with the cap being no greater than \$1.00 per year for residential customers (Staff Ex. 1 at 10).
- (5) The annual CEP Rider should include a reconciliation and true-up mechanism for actual costs from the prior year (Staff Ex. 1 at 10).

- (6) If a Commission order is issued prior to 2021, the first-year filing in 2021 will cover audit of assets for 2019 and 2020. Thereafter, the Company will file an annual review. If a Commission order is issued later, the Company should confer with Staff to establish the best time for the first filing. (Staff Ex. 1 at 10.)
- (7) Staff recommends that Dominion should file its annual CEP Rider filings on May 1 and with rates going into effect November 1 (Staff Ex. 1 at 10).
- (8) The CEP Rider rate caps will also cap Dominion's capital expense deferral authority, granted in Case Nos. 13-2410-GA-UNC and 13-2411-GA-AAM, in calendar years 2019 through 2024 (Staff Ex. 1 at 10).
- (9) Deferral of the PISCC, property tax, and depreciation expenses should cease once Dominion begins to recover CEP assets in rates (Staff Ex. 1 at 10).
- (10) The CEP Rider should cease on December 31, 2024, unless Dominion files a base rate application in 2024. Further, Dominion should cease accruing CEP-related deferrals until such time that Dominion files an application or applications, pursuant to R.C. 4909.18, 4929.05, or 4929.11, to incorporate into base rates the CEP Rider revenue requirement and to recover a return on and of the assets underlying the CEP deferral. (Staff Ex. 1 at 10.)
- (11) In the event Dominion does not file the aforementioned rate case by December 31, 2024, Dominion should file revised tariff sheets by January 1, 2025, that revise the CEP Rider rate to \$0, and Dominion should not exercise its deferral authority granted in Case Nos. 13-2410-GA-UNC and 13-2411-GA-AAM for assets placed in service beginning January 1, 2025, and beyond until Dominion files a rate case. Dominion's deferral authority granted in Case Nos. 13-2410-GA-UNC and 13-2411-GA-AAM should remain unchanged for assets placed in service beginning January 1, 2025, and beyond, so long as Dominion meets the recommended 2024 rate case filing deadline. (Staff Ex. 1 at 10.)

- (12) Should Dominion seek to continue the CEP Rider or equivalent capital rider beyond its next base rate case, Dominion should be required to file an application (in conjunction with its next base rate case) for an alternative rate plan for collection from customers of CEP investment in calendar years 2024 and beyond. Any such application filed by Dominion for an alternative rate plan should include specific annual rate caps and annual audits. (Staff Ex. 1 at 10.)
- (13) In the next PIR alternative regulation re-authorization filing, the Company should consider discussing aligning the audit and filing timing of PIR and CEP for audit purposes only. Staff specifies it does not recommend merging the programs, rather merging the audit timing in order to create efficiencies. (Staff Ex. 1 at 10.)

E. Summary of the Stipulation

{¶ 39} The Stipulation, executed by Dominion and Staff (Signatory Parties), was filed on August 31, 2020. The Signatory Parties state the Stipulation is supported by adequate data and information; represents an integrated and complete document, as well as a just and reasonable resolution of the legal and policy issues raised in the proceeding; meets the Commission's criteria for assessing the reasonableness of a stipulation, and should be accepted and approved by the Commission. The Signatory Parties stipulate and recommend as follows:¹

1. Dominion's application filed in this proceeding on May 1, 2019, shall be approved as filed, subject to the findings and recommendations of the Staff Report filed in this proceeding on May 11, 2020, except as otherwise specifically provided for in this Stipulation. If any proposed rates, charges, terms, conditions, or other items set forth in Dominion's application are

¹ This is a summary of the terms agreed to by the Signatory Parties and presented to the Commission for approval; this summary is not intended to replace or supersede the Stipulation.

not addressed in the Staff Report or the Stipulation, the proposed rate, charge, term, condition, or other item shall be treated in accordance with the application. (Joint Ex. 1 at 2.)

2. The CEP Rider revenue requirement associated with the CEP assets placed in service and the related CEP regulatory asset for the period October 1, 2011, through December 31, 2018, is shown in the schedule attached to the Stipulation and identified as Joint Exhibit 2.0 (Joint Ex. 1 at 2).

Rate Schedule	Adjusted Rate²
General Sales Service - Residential and Energy Choice Transportation Service - Residential	\$3.86/month
General Sales Service - Nonresidential and Energy Choice Transportation Service - Nonresidential	\$11.00/month
Large Volume General Sales Service and Large Volume Energy Choice Transportation Service	\$48.33/month
General Transportation Service and Transportation Service for Schools	\$481.24/month
Daily Transportation Service	\$0.0420/Mcf
Firm Storage Service	\$0.1948/Mcf

(Joint Ex. 2).

3. The Commission should approve final tariffs in the form of Joint Exhibit 3.0, which includes Original Sheet Nos. CEP 1 and CEP 2, to be effective on a bills-rendered basis commencing with the first billing cycle following Commission approval of the Stipulation. The recommended initial CEP Rider rates, associated with the CEP assets placed in service and the related CEP regulatory asset for the period October 1, 2011, through December 31, 2018, are the rates identified in Original Sheet No. CEP 1 in Joint Exhibit

² The adjusted rate is based on total bills and volumes for the 12 months ending December 31, 2019.

- 3.0. The initial CEP Rider rates in Original Sheet No. CEP 1 in Joint Exhibit 3.0 have been calculated using total bills for the 12 months ending December 31, 2019, for each rate class except the DTS and FSS rate schedules for which volumes in Mcf are used. For any CEP Rider rates covered by the Stipulation, Dominion's annual applications to update the CEP Rider rates shall rely on total bills for the most recent 12 month period ending December 31, for each rate class except the DTS and FSS rate schedules for which volumes in Mcf are used. (Joint Ex. 1 at 2; Joint Ex. 3.)
4. Dominion's annual applications to update the CEP Rider rates shall be filed on or before April 1 of each year with the rate effective date for the updated CEP Rider rates being on or before the start of the first billing cycle of October (Joint Ex. 1 at 3).
 5. The first annual update of the CEP Rider rates to be filed in 2021 shall cover the CEP assets placed in service and the related CEP regulatory asset for the period January 1, 2019, through December 31, 2020. Beginning 2022, subsequent annual updates of the CEP Rider rates shall cover the CEP assets placed in service and the related CEP regulatory asset for the prior calendar year from January 1 through December 31. Beginning with the first annual update filing, the CEP Rider shall include a reconciliation of costs recoverable and costs actually recovered. Any resulting reconciliation adjustment, plus or minus, shall be made to the revenue requirement of the subsequent CEP Rider filing. Reconciliation adjustments will be determined using the same methods and mechanics currently employed for the PIR Cost Recovery Charge. (Joint Ex. 1 at 3.)
 6. Staff or its designee shall perform an annual review of Dominion's annual application to update the CEP Rider rates to determine the lawfulness, used and usefulness, prudence, and reasonableness of the CEP assets

placed in service and the related CEP regulatory asset included in the proposed updated CEP Rider revenue requirement (Joint Ex. 1 at 3).

7. Dominion shall file its next application to adjust base rates that customers pay, no later than October of 2024. Dominion's application shall propose a date certain that is no later than two months after the application's filing date. The base rates for which Dominion seeks approval shall, among other things, incorporate both of the following: (i) the CEP Rider revenue requirement as of the date certain of that case, and (ii) a return on and of the assets underlying the CEP deferrals that are used and useful on the date certain of that case, including any unamortized CEP regulatory assets as of the date certain. In the event Dominion fails to timely file an application to adjust base rates in accordance with this paragraph, or fails to comply with the requirements of this paragraph, Dominion shall cease accruing CEP-related deferrals, and shall promptly file revised tariff sheets that revise CEP Rider rates to \$0.00, until such time that Dominion files an application in compliance with these requirements. Provided that Dominion files an application in compliance with these requirements, Dominion's authority pursuant to Case Nos. 11-6024-GA-UNC, 11-6025-GA-AAM, 12-3279-GA-UNC, 12-3280-GA-AAM, 13-2410-GA-UNC, and 13-2411-GA-AAM (collectively, the *CEP Deferral Cases*) to accrue CEP-related deferrals, file annual updates to the CEP Rider, and implement approved CEP Rider rates will continue until such time as rates approved in the aforementioned rate case become effective. (Joint Ex. 1 at 3-4.)
8. If Dominion seeks to continue CEP-related deferrals and/or the CEP Rider or equivalent capital rider beyond such time as rates approved in the aforementioned rate case become effective, Dominion shall file an application separately or in conjunction with its next base rate case to continue such deferral authority after the effective date of new base rates

and/or an alternative rate plan for recovery from customers of CEP investment placed in service in calendar years 2024 and beyond. Such application shall be filed not later than the aforementioned application to adjust base rates and may be filed pursuant to R.C. 4909.18, R.C. 4929.05, or R.C. 4929.11. (Joint Ex. 1 at 4.)

9. The annual updated CEP Rider rates shall be subject to the following residential rate caps:

CEP Rate Effective Period	CEP Investment Period³	GSS-R & ECTS-R Rate Cap (per customer, per month)
October 1, 2021– September 30, 2022	Through December 31, 2020	\$5.51 (increase reflects two years' investment)
October 1, 2022– September 30, 2023	Through December 31, 2021	\$6.31
October 1, 2023– September 30, 2024	Through December 31, 2022	\$6.96
October 1, 2024– September 30, 2025	Through December 31, 2023	\$7.51

Charges for the remaining rate classes shall be determined by allocating the revenue requirement to those rate schedules based on the cost of service study used in Dominion's most recent base rate case. The Signatory Parties agree that the aforementioned rate caps will also cap Dominion's

³ The periods and applicable rate caps shown may be affected by the timing and date certain of Dominion's next rate case and thus may be modified by the Commission in that proceeding.

capital expense deferral authority, granted in the *CEP Deferral Cases*, for CEP investments placed in service in calendar years 2019 through 2023. Deferral of the PISCC, property tax, and depreciation expenses will cease once the costs associated with CEP assets begin to be recovered in rates. Deferral of the PISCC, property tax, and depreciation expenses will also cease for any CEP assets excluded from the annual CEP revenue requirement due to application of the aforementioned rate caps. Any assets excluded from recovery in the CEP Rider due to application of the aforementioned rate caps shall be deemed to be base rate assets. Any adjustments to CEP-related deferrals relating to such excluded assets will result in a reversal of the regulatory asset and be expensed on Dominion's accounting books and records. (Joint Ex. 1 at 4-5.)

10. In the Company's next base rate case, Dominion shall evaluate the adjustments to base rate net plant balances recommended in Appendix D to the Plant in Service and Capital Spending Audit prepared by Blue Ridge and submitted in this proceeding on April 27, 2020. In its initial application, Dominion shall make the recommended adjustments unless it determines that such adjustments are no longer appropriate under then-current ratemaking conventions. Any Signatory Party may support or oppose Dominion's proposed treatment of such adjustments in its sole discretion. (Joint Ex. 1 at 5.)
11. With respect to Staff's recommendations regarding "Financial Review and Earnings Impact," the Signatory Parties acknowledge that the Staff is entitled to make such recommendations to the Commission as it deems necessary and appropriate regarding recovery issues in future cases and that the other Signatory Parties are entitled to support or oppose such recommendations as they deem necessary and appropriate in future cases (Joint Ex. 1 at 6).

12. With regard to incremental revenue, the Signatory Parties acknowledge that the recommended CEP Rider revenue requirement set forth in Joint Exhibit 2.0 of the Stipulation does not include any revenue-generating plant, and therefore there is no incremental revenue offset incorporated into the revenue requirement. However, if, in future years, revenue-generating plant is included in the CEP Rider revenue requirement, then an incremental revenue offset shall also be included in the CEP Rider revenue requirement. The incremental revenue offset shall be calculated in accordance with the formulas adopted in the *CEP Deferral Cases*, and to determine incremental revenue associated with straight fixed-variable rate customers shall use a baseline of current customer count as of the date certain in this case December 31, 2018. (Joint Ex. 1 at 6.)
13. Within 30 calendar days of the filing of the Stipulation, Dominion shall make an incremental contribution of shareholder funding in the amount of \$750,000 to the EnergyShare program. This \$750,000 contribution shall be in addition to the \$400,000 contribution in shareholder funding that was previously committed to the EnergyShare program to assist Dominion customers in 2020. (Joint Ex. 1 at 6.)
14. The Signatory Parties hereby withdraw their respective objections to the Staff Report, which were filed on June 10, 2020. Such objections may be reinstated if the Commission rejects the Stipulation in whole or in part. (Joint Ex. 1 at 7.)
15. The Signatory Parties stipulate, agree, and recommend that the Commission issue a final Opinion and Order in this proceeding, ordering the adoption of this Stipulation, including the terms and conditions agreed to in this Stipulation by all Signatory Parties (Joint Ex. 1 at 9).

F. *Consideration of the Stipulation*

{¶ 40} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 41} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for the Commission's consideration is whether the agreement, which embodies considerable time and effort by the Signatory Parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy*

Consumers of Ohio Power Co. v. Pub. Util. Comm., 68 Ohio St.3d 559, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* at 126. The Supreme Court of Ohio stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

1. IS THE SETTLEMENT A PRODUCT OF SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?

{¶ 42} Dominion offered the testimony of Vicki H. Friscic, in support of the Stipulation. Ms. Friscic testified that all of the parties were invited to and had the opportunity to participate in settlement negotiations. According to the witness, there were six meetings held via teleconference in July and August 2020. The parties circulated written proposals in advance of or at the outset of the negotiation sessions and Dominion answered questions from the parties and invited feedback and counterproposals. Ms. Friscic testified that all agreed upon terms and conditions were incorporated into the Stipulation. Dominion witness Friscic states that all of the parties were represented by attorneys, most, if not all, of whom have years of experience in regulatory matters before the Commission. Further, Ms. Friscic stated that all of the parties either employed or had access to technical experts with comparable experience in Commission proceedings. (Co. Ex. 4 at 9.)

{¶ 43} OCC and NOPEC witness Duann testified that the settlement is not a product of serious bargaining among parties with diverse interests. Dr. Duann submits that the Stipulation is largely a repetition of the position taken by Staff, as reflected in the Staff Report, and by the Company in its application. Dr. Duann testified that serious bargaining only results if Staff would “step back and allow the parties most adverse to each other,” which in this case is Dominion and customer parties, OCC and NOPEC, to reach a settlement. OCC acknowledges that, while diversity of interest is not required, diversity of the signatory parties may be considered and should be applied not just in settlements with numerous parties where there is a diverse interest but, in all proceedings, evenly and consistently (OCC Br. at 3-5). OCC and NOPEC argue that the interests of Dominion’s customers are not adequately considered and reflected in the Stipulation, particularly where

OCC and NOPEC constituents will bear the cost of the settlement (OCC Br. at 4). OCC and NOPEC posits that, in addition to the process of bargaining, the settlement must reflect a genuine compromise among parties with competing interests. OCC and NOPEC argue that the lack of compromise is evident from the Stipulation for three reasons. First, OCC and NOPEC assert that the Signatory Parties made no attempt to reduce the rate of return set 12 years ago. Second, OCC and NOPEC argue, if the Stipulation is approved, the CEP rate to be paid by residential customers is a mere \$0.01 less than the rate proposed in the Staff Report and \$0.03 less than the amount proposed by Dominion in its application, as a result of using an update to the number of customer bills (instead of December 2018, the number of customer bills for December 2019). Third, OCC and NOPEC note that the Stipulation reflects an agreed upon reduction to the revenue requirement of \$239,347, a mere 0.29 percent of the annual revenue requirement of \$82,918,394. Opposing Intervenors cite these factors as proof that the Stipulation is not a product of serious bargaining among capable parties with diverse interests. (OCC/NOPEC Ex. 2 at 5, 8-9, 21-22; OCC Br. at 2-5.)

{¶ 44} As OCC and NOPEC recognize, a diversity of interest among the signatory parties is not a determinative aspect of the first part of the three-part test. *In re Suburban Natural Gas Co.*, Case No. 18-1205-GA-AIR, et al., Opinion and Order (Sept. 26, 2019) at ¶ 90; *In re Ohio Power Co.*, Case No. 14-1158-EL-ATA, Second Entry on Rehearing (Feb. 1, 2017) at ¶ 14; *In re Ohio Power Co.*, Case No. 14-1693-EL-RDR, et al., Opinion and Order (Mar. 31, 2016) at 52. Furthermore, there is no requirement that any particular party or, as OCC and NOPEC advocate, the parties most adverse, be a signatory to the stipulation in order for the first part of the three-part test to be met. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 04-571-GA-AIR, et al., Opinion and Order (Apr. 13, 2005) at 9. It is undisputed that all parties were afforded the opportunity to participate in settlement discussions (Co. Ex. 4 at 9; OCC/NOPEC Ex. 1 at 7). The Commission expects that parties to settlement negotiations will bargain in support of their own interest in deciding whether to support a stipulation. Furthermore, the Commission believes that parties themselves are best positioned to determine their own best interests and whether any potential benefits outweigh any

potential costs. Further, OCC and NOPEC do not dispute that each of the parties is represented by competent, capable, and knowledgeable counsel familiar with Commission proceedings and with access to technical experts (Co. Ex. 4 at 9; OCC/NOPEC Ex. 1 at 7). The other factors raised by OCC and NOPEC - the age of and the failure to reduce the rate of return, the difference in the rate in the Staff Report and Dominion's application as compared to the Stipulation, and the reduction to the revenue requirement - are unrelated to the first part of the three-part test to evaluate a stipulation. Accordingly, the Commission finds that the Stipulation meets the first part of the three-part test used to evaluate stipulations.

2. DOES THE SETTLEMENT, AS A PACKAGE, BENEFIT RATEPAYERS AND THE PUBLIC INTEREST?

a. Signatory Parties

{¶ 45} Dominion and Staff contend the Stipulation includes numerous benefits for ratepayers and is in the public interest, as presented by Dominion witness Friscic. Ms. Friscic enumerated seven ways in which the settlement, as a package, benefits Dominion's ratepayers and is in the public interest: (1) The Stipulation supports Dominion's obligation under R.C. 4905.22 to furnish necessary and adequate service and facilities by allowing recovery of CEP assets placed in service and CEP-related deferrals and provides for the timely recovery of future CEP investments, thus encouraging future investments in Ohio; (2) The Stipulation mitigates the bill impacts of CEP rates by, among other things, incorporating a depreciation offset of \$310 million, which accounts for depreciation expense collected from customers through base rates, but not yet recognized as an offset to rate base; establishing an annual residential rate cap; and providing for an annual review of the lawfulness, used and usefulness, prudence, and reasonableness of CEP assets placed in service; (3) The Stipulation specifies the effect of the residential rate caps on Dominion's deferral authority and the treatment of any CEP assets and CEP-related deferrals that are excluded from recovery in the CEP Rider; (4) The Stipulation refines Dominion's commitment regarding the timing of the filing of its next application to adjust its base rates;

(5) The Stipulation requires that Dominion file a new application to continue its authority to accrue CEP-related deferrals after the effective date of new base rates and to recover CEP investments placed in service after December 21, 2023; (6) As part of the Stipulation, Dominion agrees to evaluate Blue Ridge's recommended adjustments to base rate net plant balances in Dominion's next base rate case; and (7) The Stipulation provides for an incremental contribution of shareholder funding to Dominion's EnergyShare program, which provides for bill payment assistance to Dominion's lower income residential customers. Staff offers that many of the enumerated benefits may prove to be a substantial benefit to the economy, the environment, the energy market, and individual ratepayers. Accordingly, the Signatory Parties argue the second part of the three-part test is satisfied. (Co. Ex. 4 at 10, 12; Staff Br. at 4-5.)

{¶ 46} Further, Dominion submits that the pre-tax rate of return of 9.91 percent in the Stipulation is based on the capital structure and cost of capital authorized in the Company's most recent base rate case, as recognized by the auditor to be appropriate, and reflects the reductions for the federal income tax rates associated with the Tax Cuts and Jobs Act (TCJA) (Co. Ex. 1 at 4; Co. Ex. 4 at 24; Staff Ex. 2 at 107; Tr. at 21). *See Rate Case, Opinion and Order* (Oct. 15, 2008) at 6, 28. In addition, Dominion notes that the same rate of return is utilized to calculate the impact of CEP deferrals and compliance with the \$1.50 rate cap for the approved CEP, as well as for other rider applications that are not for an increase in base rates. Dominion notes that the rate of return from the last base rate case was also utilized by Blue Ridge to calculate its recommended CEP revenue requirement (Co. Ex. 4 at 24; Staff Ex. 2 at 113). The Company explains that the Commission has repeatedly utilized the last authorized rate of return to calculate the revenue requirement in various rider proceedings for Dominion and other natural gas utilities. *See, e.g., In re Columbia Gas of Ohio, Inc.*, Case No. 16-2422-GA-ALT, *Opinion and Order* (Jan. 31, 2018) (reauthorizing the Infrastructure Replacement Program); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT, *Opinion and Order* (Feb. 19, 2014) (reauthorizing the Distribution Replacement Rider); *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 19-1945-GA-RDR, Finding

and Order (April 8, 2020) (approving Dominion's current AMR recovery charge); *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 19-1944-GA-RDR, Finding and Order (April 8, 2020) (approving Dominion's current PIR recovery charge). According to Dominion, the Commission also incorporated the rate of return and return on equity from the Company's last base rate case to calculate the credits to customers in Dominion's TCJA case. *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 18-1908-GA-UNC, et al. (TCJA Case), Finding and Order (Dec. 4, 2019). Further, as Company witness Friscic and Blue Ridge acknowledged, this approach is consistent with the Commission's approval of the CEP Rider for Columbia Gas of Ohio, Inc. (Columbia). *In re Columbia Gas of Ohio, Inc.*, Case No. 17-2202-GA-ALT (Columbia CEP Case), Opinion and Order (Nov. 28, 2018) at ¶ 37. Accordingly, Dominion and Staff advocate that the rate of return reflected in the Stipulation is consistent with Commission practice and should not be modified, outside the context of a base rate case. Furthermore, Dominion states that OCC and NOPEC have not offered a single Commission decision that would support their proposal to deviate from the Commission's practice. (Joint Ex. 2.0; Co. Ex. 1 at 4; Co. Ex. 4 at 24-25; Co. Br. at 20-22; Tr. at 21-23; Co. Reply Br. at 18-19.)

b. Opposing Parties

{¶ 47} OCC and NOPEC submit that the Stipulation should be rejected, as it does not benefit customers or the public interest. NOPEC⁴ requests that the Commission direct Dominion to seek recovery of its CEP assets and deferrals in a traditional rate case to be filed in 2021, rather than the alternative regulations pursuant to R.C. 4929.05 and 4929.111. NOPEC reasons a traditional rate distribution case would permit the Commission and interested stakeholders to review the Company's rate base, expenses, and rate of return, assuring customers that the rates they pay are justified by the Company's current expenses. (NOPEC Br. at 3, 5-6.)

⁴ NOPEC, in its reply brief, states that it adopts and incorporates the arguments presented in OCC's post-hearing brief.

{¶ 48} NOPEC reasons that the Stipulation is not beneficial to customers, as it permits Dominion to selectively increase customer charges while ignoring other factors, such as the Company's reduced cost of debt. NOPEC notes that Dominion's last rate case was filed in 2007, which will allow some 17 years before another review of its expenses, if the Stipulation is approved. *Rate Case*, Opinion and Order (Oct. 15, 2008). NOPEC notes that Dominion's cost of debt has declined since its 2007 rate case from 6.50 percent to 4.23 percent, as of the filing of this application in 2019, and to 2.25 percent as of the summer of 2020.⁵ *Rate Case* at 10, Entry on Rehearing (Dec. 19, 2008) at 5; *In re The East Ohio Gas Co. dba Dominion Energy Ohio*, Case No. 20-175-GA-AIS, Finding and Order (May 6, 2020) at ¶ 4, Report (July 2, 2020). NOPEC contends Dominion's application for recovery is egregious during a pandemic where certain regions of the state have been particularly adversely impacted financially and are not expected to recover as soon as other regions of the nation (NOPEC Br. at 4-5). Recently, in the Company's *TCJA Case*, NOPEC notes that the Commission ordered Dominion to file a distribution rate case by October 2024, unless otherwise ordered by the Commission. *TCJA Case*, Finding and Order (Dec. 4, 2019) at ¶ 31. According to NOPEC, conditions warrant the Commission ordering Dominion to file sooner than October 2024, as the pandemic, and its attendant health and financial impacts, makes it blatantly unfair to Dominion's customers and the public interest for Dominion to select projects that will significantly increase customer charges without allowing the Company's expenses and finances to be examined. (Tr. at 27.) NOPEC notes that Dominion witness Friscic agreed that the rate case could be filed any time prior to October 2024 (Tr. at 88). NOPEC states that, if the Commission rejects the Stipulation, as NOPEC advocates, Dominion will continue to accrue CEP deferrals until base rates are set in a traditional base rate case. NOPEC further declares that Dominion's overall financial condition is sound and would

⁵ In the *Rate Case*, the Commission approved, pursuant to stipulation, a rate of return of 8.49 percent which was imputed from a capital structure of 48.66 percent long-term debt and 51.34 percent equity, a cost of debt of 6.50 percent, and a return on equity of 10.38 percent. *Rate Case*, Staff Report (May 23, 2008) at 20-22. (OCC/NOPEC Ex. 2 at 10, footnote 18.)

not be negatively impacted by the delay to recover CEP deferrals. (OCC/NOPEC Ex. 2 at 14, 15, Att. DJD-5; Tr. at 27, 78, 88; NOPEC Br. at 4-5, 6-7.)

{¶ 49} If the Commission does not reject the Stipulation, in the alternative, OCC states that the Stipulation must be modified to meet parts two and three of the three-part test. OCC argues that Dominion should not be allowed to increase bills for distribution service for the next five years, pursuant to the alternative regulation statutes, particularly during the state of emergency, without being subject to a review of its books under a traditional rate case until 2024. OCC and NOPEC emphasize that customers are experiencing health and financial impacts as a result of the pandemic. OCC reasons, and NOPEC endorses, that the pandemic and financial emergency have been devastating for Ohio, especially the Cleveland area, and, as a result, consumer protections and financial assistance will likely be needed for some time after the pandemic ends. OCC and NOPEC recognize that the Commission has taken steps to protect customers during the pandemic, including the moratorium on disconnections, extending the 2019-2020 Winter Reconnect Order, limiting door-to-door sales, and prohibiting utilities from performing non-essential functions. *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2019-2020 Winter Heating Season*, Case No. 19-1472-GE-UNC (2019 WRO Case), Finding and Order (Sept. 11, 2019); *In re Proper Procedures & Process for the Commission's Operations & Proceedings During the Declared State of Emergency*, Case No. 20-591-AU-UNC (Emergency Case), Entry (Mar. 17, 2020), Entry (Mar. 20, 2020); *In re The East Ohio Gas Co. dba Dominion Energy Ohio*, Case No. 20-600-GA-UNC, Finding and Order (June 3, 2020). OCC and NOPEC also acknowledge that initially Dominion took some actions which benefitted its customers during the pandemic. However, Intervenors note that Dominion and other utilities have been permitted to discontinue such protections. *In re The East Ohio Gas Co. dba Dominion Energy Ohio*, Case No. 20-600-GA-UNC, Supplemental Finding and Order (July 15, 2020) (allowing Dominion to resume disconnections as of August 3, 2020). (NOPEC Br. at 2; OCC Br. at 2, 6-9.)

{¶ 50} OCC and NOPEC state that the pandemic is a bad time to increase the charges Dominion's residential customers will pay by nearly \$50 annually. OCC recommends preferably that the Commission reject the CEP Rider and postpone any increased charges to consumers for CEP investments until Dominion's next base rate case. In the alternative, OCC requests that the Commission revise the Stipulation to protect consumers as advised by OCC/NOPEC witness Adkins to, at a minimum, delay the implementation of the new CEP Rider rate until October 2021, at the earliest, and include 2019 CEP investments in the calculation of rider charges for October 2022, with the investments each year thereafter to be included in the subsequent year's calculation until Dominion files its next base rate case. Under this proposal, any CEP investments that are used and useful on the date certain would be included in rate base with customers paying for those investments in accordance with R.C. Chapter 4909. (OCC/NOPEC Ex. 1 at 16-18; Joint Ex. 1 at 4-5; OCC Br. at 6-9.)

{¶ 51} If the Commission elects to adopt the Stipulation, OCC recommends modifications to benefit ratepayers and the public interest: (a) reduce the rate of return; (b) reduce the return on equity; (c) revise the rate cap to a limit on the amount of investments; and (d) adjust the CEP Rider revenue requirement for estimated operations and maintenance (O&M) expense savings.

1. RATE OF RETURN AND RETURN ON EQUITY

{¶ 52} OCC argues the stipulated rate of return and return on equity should be modified to a 7.20 percent pre-tax rate of return based on an actual cost of debt of 2.29 percent and a 9.36 percent return on equity. OCC and NOPEC note that, since 2008, Dominion's cost of debt initially dropped from 6.50 percent to 4.23 percent and, currently, Dominion's approved cost of debt is 2.25 percent (OCC Ex. 3; Tr. at 23). *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 20-175-GA-AIS, Finding and Order (May 6, 2020), Report (July 2, 2020). OCC and NOPEC estimate Dominion's lower cost of debt will result in a profit of \$9.4 million for Dominion, at customer expense, for the first year of the CEP Rider and continue for at least the next four years or until the approval of the

Company's next base rate case (OCC/NOPEC Ex. 2 at 20; Tr. at 21, 23; OCC Ex. 3 at 3; OCC Br. at 9-11.)

{¶ 53} Next, OCC notes the 10.38 percent return on equity, like the cost of debt rate, is based on Dominion's most recent base rate case and the financial conditions at the time of the rate case. OCC advocates that the return should be commensurate with the business and financial risk on such an investment under current financial conditions. Based on the analysis of OCC/NOPEC witness Duann of similar gas distribution utilities nationwide for 2019 and 2020, and Dominion's risk profile in comparison to a typical utility, Dr. Duann concludes that Dominion, with the support of its parent company, faces less risk than the typical natural gas distribution utility. Therefore, OCC/NOPEC witness Duann recommends a 20-basis point reduction to the average 9.56 percent rate of return be applied to CEP investments. (OCC/NOPEC Ex. 2 at 6-7.) OCC reasons that, over the last 12 years, there has been a drastic drop in the cost of debt and equity to an average of 9.41 percent in the first half of 2020. Adopting OCC's recommendation for a 7.20 percent rate of return, residential customers would pay \$3.28 per month in the first year of the CEP Rider, as opposed to the \$3.86 per month pursuant to the Stipulation, a reduction of 15 percent. (OCC/NOPEC Ex. 2 at 12, 16, 18, 24; Tr. at 101, 148; OCC Br. at 12-13, 16-19.)

{¶ 54} OCC also argues that the Commission should accord substantial weight to the testimony of OCC/NOPEC witness Duann regarding an appropriate rate of return on the CEP, as the only rate of return expert testimony offered in this case. Further, OCC posits that, as the only expert testimony offered, the Commission lacks the discretion to disregard Dr. Duann's expert opinion. (OCC/NOPEC Ex. 2 at 7, 16, 18, 24; Tr. at 148; OCC Br. at 16-19.)

{¶ 55} OCC argues the alternative regulation statute, R.C. 4929.111, does not require the Commission to use the rate of return from the utility's most recent base rate case when approving a single-issue ratemaking application like the CEP Rider. Further, OCC points to the Entry of June 19, 2019, which denied Dominion's request for waiver of the rate of

return information, as an endorsement that the information from the utility's most recent rate case need not be used. June 19, 2019 Entry at ¶¶ 14, 18, 20. Accordingly, OCC avers this alternative regulation application should be treated like a rate case application. OCC acknowledges that use of the utility's most recent base rate case might make sense when the case was, in fact, recent; however, 12 years ago is a different financial climate. Further, OCC states that, given the amount of Dominion's proposed rate increase via the CEP Rider of at least \$80 million per year, the Commission should set a new rate of return based on current conditions, just as the Commission has in recent base rate cases for small gas distribution companies. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, et al., Opinion and Order (Aug. 28, 2019); *In re Suburban Natural Gas Company*, Case No. 18-1205-GA-AIR, et al., Opinion and Order (Sept. 26, 2019); *In re Northeast Ohio Natural Gas Corp.*, Case No. 18-1720-GA-AIR, et al., Opinion and Order (Sept. 26, 2019). Since it is Dominion that controls the lack of a rate case filing since its last case in 2007, OCC reasons the Commission should require ratemaking that favors customers and the public interest to make regulatory principles work to the benefit of consumers. (OCC Br. at 13-16.)

{¶ 56} In regard to the pandemic, Dominion declares that it recognizes the financial difficulties faced by many Ohioans, especially as a result of the pandemic over the last several months, and lists the actions taken by the Company, as well as the Commission, to ensure service continuity and to provide payment relief to Dominion customers during the pandemic. However, Dominion reasons that these issues do not present an "either or" situation between providing bill relief to customers and permitting Dominion to commence recovery for its CEP investments. The Company emphasizes that the Stipulation reflects a \$310 million depreciation offset, establishes annual residential rate caps at a lower level than in the *Columbia CEP Case*, and includes a \$750,000 shareholder-funded contribution to the EnergyShare program, factors which OCC's and NOPEC's briefs do not even acknowledge. *Columbia CEP Case*, Opinion and Order (Nov. 28, 2018), Stipulation (Oct. 25, 2018) at 12. (Co. Reply Br. at 11-12, 14.)

{¶ 57} In regard to the request to delay the implementation of the CEP recovery mechanism, as requested by OCC, or as requested by NOPEC, Dominion states that there is no legal basis for such action. Further, the Company states that delaying the CEP Rider would provide little benefit to customers and would cause material financial harm to Dominion. The Company declares that Dominion has followed the approved 2012 CEP process and notes that Blue Ridge determined the program to be prudently implemented. There is no question, according to Dominion, that its CEP is consistent with the Company's obligations under R.C. 4905.22 to furnish necessary and adequate service and facilities, or that the revenue requirement under the Stipulation reflects just and reasonable services and facilities as required by R.C. 4929.111(C). Dominion continues that, since those conditions have been satisfied, recovery shall be approved pursuant to R.C. 4929.111(D). Given that Dominion was required to seek recovery before CEP deferrals reached a stated level, the Company believes it would be unreasonable and borderline unconscionable to delay recovery of prudent CEP investment costs. Dominion contends that OCC and NOPEC have not offered or alleged any reason for the Commission to indefinitely delay the recovery of Dominion's CEP investments. Further, Dominion asks that the Commission prohibit OCC from advocating against the rate case timing which it previously supported in Dominion's approved TCJA settlement case. Dominion states that, for every month that the CEP Rider is not effective, the Company suffers financial harm due to the lost revenue. Further, Dominion claims that the delay in implementing the CEP Rider reduces the incentive for Dominion's parent company to invest in Ohio. (Co. Br. at 12-13; Co. Reply Br. at 10, 13, 21-22.)

{¶ 58} Considering the arguments to modify the rate of return and return on equity, Dominion emphasizes that part two of the three-part test is not whether modifications proposed by a non-signatory party also benefit ratepayers but whether the Stipulation provides ratepayer benefits. Dominion admits the Company could have filed for recovery of its CEP investments through a base rate application; however, the statute expressly permits recovery pursuant to an alternative rate plan, including an automatic adjustment

mechanism. R.C. 4909.18, 4929.05, and 4929.11. Dominion notes that CEPs have been approved by the Commission for Columbia and Vectren Energy Delivery of Ohio, Inc. Dominion argues that the Stipulation provides the same benefits approved by the Commission in the *Columbia CEP Case* (as both include depreciation offsets and rate caps); on the whole, Dominion ratepayers fare better in comparison to Columbia's as Dominion's residential rate is lower for each comparable year; Dominion's rate caps are lower; and Dominion's incremental rate cap increase is lower by a margin of \$0.73 per program year in comparison to \$1.05 per program year for Columbia. Further, Dominion notes that, while the *Columbia CEP Case* Stipulation included the pass through of savings related to the TCJA, Dominion customers have already received the benefit of the TCJA as a result of a separate proceeding. The Company reiterates that the CEP investments, placed in service from 2011 through 2018, are unrelated to the debt refinancing rate for June 2020 and going forward, which did not support the prior CEP investments. Resetting the rate of return and equity ignores, according to Dominion, the cost increases since Dominion's last base rate case, which would offset Dominion's reduced cost of debt or equity or change in capital structure. (Co. Ex. 4 at 14, 15, 18-19; Co. Reply Br. at 2, 7-8, 10, 16-18; Tr. at 127; OCC Ex. 2 at DJD-06 at 5, 7.)

2. RATE CAPS

{¶ 59} OCC submits that the rate caps in the Stipulation do not adequately protect customers from paying too much under the CEP Rider. OCC and NOPEC believe that the availability of the CEP encouraged Dominion to substantially increase its CEP spending as reflected in the Company's spending from 2012 to 2018, when CEP expenditures increased by 73 percent, outpacing inflation. Intervenors note that residential customers would initially see an increase in their monthly bill of \$3.86 per month under the Stipulation. According to the Intervenors, the caps in the Stipulation would allow Dominion to invest as much as the \$137.1 million in 2020, before reaching the \$5.51 cap and causing customers to incur another \$0.80 per month increase. Intervenors reason the same scenario could occur in 2021. OCC/NOPEC witness Adkins advocates that customers would be better served

with a cap on the amount of capital investments to be included in the CEP Rider, which is easier to implement and monitor, than a cap on the rate. OCC advocates that a capital investment of \$73 million, based on the Company's average capital investments in years 2012 and 2013, is reasonable and tied to Dominion's actual CEP investments before Dominion started substantially increasing its annual CEP spending, knowing that it would receive cost recovery on a more expedited basis through single-issue ratemaking. (OCC/NOPEC Ex. 1 at 15, 23-24; Joint Ex. 1.0 at 4-5; Joint Ex. 2; Tr. at 39-40.)

{¶ 60} Dominion replies that the record evidence, including the audit report and the Staff's review and recommendation, substantiates the accounting accuracy, used and useful nature, necessity, reasonableness, and prudence of the CEP assets placed in service during the period October 2011 through December 2018. The Company further notes that, with a few relatively minor adjustments to plant balances, the auditor determined there was nothing to indicate that the Company's CEP investments "were unnecessary, unreasonable, or imprudent," that the Company's processes and controls as to plant balances "were adequate and not unreasonable," that Dominion was "taking appropriate measures to control labor and contractor costs, which in turn control spending," and that the auditor "did not see anything during field testing that would indicate the Company is 'gold plating' construction." The auditor's report was supported by Staff's review and recommendation. Accordingly, Dominion avers there are no facts that substantiate OCC's claim that Dominion has been spending too much capital in its CEP. Dominion notes that OCC recommends an arbitrary CEP investment cap that so happens to encompass a period of lower than average plant additions as a proxy for an investment cap almost a decade into the future. Dominion states that its CEP was ramping up in 2012 and 2013 and the investment cap proposed by OCC and NOPEC ignores the actual audited and confirmed CEP investments for 2014 through 2019. Dominion notes that the Commission-approved rate caps for Columbia are not investment caps, which OCC supported, at cumulative and average annual rate levels considerably higher than the rate caps reflected in the Stipulation. *Columbia CEP Case*, Opinion and Order (Nov. 28, 2018) at ¶ 37. Dominion notes that there

are a number of factors that can make it difficult to translate an investment cap to an impact on the customer bill. Further, Dominion states an annual rate cap serves the same fundamental purpose as an investment cap. Dominion states there is no basis in the law for OCC's recommended \$73 million investment cap, and, as a matter of policy, such a cap would hinder future investment regardless of the impact on Dominion's system or its customers. Therefore, Dominion argues the proposal should be rejected. (Co. Reply Br. at 22-25; Staff Ex. 1 at 7; Staff Ex. 2 at 28-29; Tr. at 114-115.)

{¶ 61} Staff states that, in addition to the rate cap mechanism in the Stipulation and the cap on investments proposed by OCC, there are a number of possible mechanisms that could have been proposed with some being better from the customer perspective. However, Staff points out that the test for evaluating a stipulation is not whether the benefit is better or different benefits could have been negotiated but whether the Stipulation, as a package, benefits ratepayers and the public interest and is reasonable. Staff submits the record in this case adequately justifies the reasonableness of the proposed CEP Rider and caps. (Staff Reply Br. at 8.)

3. OPERATIONS AND MAINTENANCE EXPENSE SAVINGS

{¶ 62} Based on Dominion's PIR rider, OCC submits Dominion's CEP should result in O&M expense savings for Dominion and that savings should be passed on to Dominion's customers. OCC/NOPEC witness Adkins notes that, under the PIR, customers receive a credit for O&M savings. OCC estimates, based on known O&M savings in the PIR, that the O&M savings as a result of CEP investments for 2011 through 2018 to be \$4,067,030 per year and recommends that the CEP Rider revenue requirement be reduced by that amount each year. Applying the same methodology to future years, OCC recommends that the CEP revenue requirement for 2019 and beyond be reduced by an additional \$750,000 for a total of \$4,817,030 annually to reflect estimated O&M expense savings. (OCC/NOPEC Ex. 1 at 25-30; OCC Br. at 22-23.)

{¶ 63} Dominion contends that OCC has not identified or calculated any potential savings from CEP investments included in the revenue requirement for October 2011 through December 2018, which was evaluated by the auditor. Further, Dominion claims that OCC's comparison to the PIR is misplaced. The PIR program involves the focused replacement of bare steel, cast iron, and other target pipe, which provides obvious and readily calculated O&M savings. As the basis for its proposal, Dominion notes that OCC makes the unsubstantiated claim that some of the CEP investments are similar to the types of investments made through Dominion's PIR. Dominion notes that the CEP covers a broad spectrum of assets in various categories and there is not a causal connection to determine the impact of the CEP on O&M expenses (Co. Ex. 4 at 27). Dominion states that, where offsets are appropriate and feasible to recognize for the CEP Rider (for example, depreciation offsets and incremental revenue recognition), Dominion has agreed to recognize them as appropriate (Co. Br. at 27). The Company notes that there is no such O&M savings offset as a part of Columbia's approved CEP Rider. Dominion reasons that OCC's proposal as to O&M savings is not supported by any relevant data, reliable expert opinion, or record evidence to support OCC's contention that the investments in the CEP for the period result in any quantifiable net O&M savings. (Co. Ex. 4 at 27; Tr. at 86.)

{¶ 64} In regard to O&M savings, Staff notes that the express purpose of R.C. 4929.111(A) is to allow the utility to implement a CEP for specific infrastructure and facilitate recovery of the associated program costs. Staff notes that the statute does not authorize the Commission to incorporate a savings offset. Staff reasons that a base rate case is the appropriate proceeding to recognize expense recovery not associated with the CEP. Staff also notes that the Company has explained that the CEP and savings associated with the PIR are distinguishable. Accordingly, the Signatory Parties request that the Stipulation should not be modified in this manner. (Co. Ex. 4 at 27; Staff Reply Br. at 9.)

c. Commission Conclusion

{¶ 65} The Commission is always mindful that some customers may find it challenging to pay their utility bills and, therefore, we share OCC's and NOPEC's concern

for customers, particularly so during this pandemic. To that end, the Commission has implemented consumer protections and approved additional financial assistance and extended payment plans in response to the pandemic, including the suspension of disconnections, extending the 2019 Winter Reconnect Order and starting the 2020 Winter Reconnect Order early, as well as revising certain provisions. *2019 WRO Case*, Case No. 19-1472-GE-UNC, Finding and Order (Sept. 11, 2019); *Emergency Case*, Entry (Mar. 12, 2020), Entry (Mar. 13, 2020) at ¶ 6; *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2020-2021 Winter Heating Season*, Case No. 20-1252-GE-UNC (*2020 WRO Case*), Finding and Order (Aug. 12, 2020), Entry on Rehearing (Oct. 7, 2020). Further, Dominion has offered certain financial assistance or waivers and extended payment plans to assist customers who may find it difficult to afford their utility service regardless of prior payment history. *In re The East Ohio Gas Company dba Dominion Energy Ohio*, Case No. 20-600-GA-UNC, Supplemental Finding and Order (July 15, 2020) at ¶¶ 36, 40. Given that we have no way of determining when this pandemic will end and the state's economy rebound, as the Commission deems it necessary, we will direct other measures to assist and protect utility consumers.

{¶ 66} The Commission finds that the Stipulation benefits ratepayers and the public interest by promoting safe and reliable service through Dominion's replacement of aging facilities and the development and deployment of information technology to enhance customer service and support. The Stipulation facilitates Dominion's recovery for such investments in a timely manner and includes rate caps that establish a limit on the impact to customers' bills and that serve to limit the amount of Dominion's CEP investments. The Stipulation also includes financial benefits that will accrue to ratepayers, including the depreciation offset which reflects the portion of depreciation expense collected from customers through base rates, but not yet recognized as an offset to rate base, and, particularly for customers who may need financial assistance, a contribution of \$750,000 in shareholder funds to support EnergyShare. (Co. Ex. 4 at 6-8, 10-11; Joint Ex. 1 at 1, 4-6.)

{¶ 67} Intervenors recommend that Dominion be directed to pursue CEP recovery in a rate case. However, Ohio statutes clearly permit a natural gas company to pursue recovery for capital investments in either a base rate case, pursuant to R.C. 4909.18, or under the alternative rate regulations, pursuant to R.C. 4929.05. The Commission notes that Dominion filed this application for a CEP recovery mechanism in May 2019, approximately ten months before the pandemic was recognized in Ohio, and has invested millions in its infrastructure, to date, without cost recovery, consistent with the Commission-approved *CEP Deferral Cases*. The Commission finds it better to address consumer protection concerns due to the pandemic as a separate matter rather than within certain cases filed during the pandemic.

{¶ 68} Intervenors also emphasize that the 6.50 percent cost of debt approved in Dominion's last rate case has fallen to 4.23 percent in 2019 and currently is 2.25 percent (OCC Ex. 3; Tr. at 23). *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 20-175-GA-AIS, Finding and Order (May 6, 2020), Report (July 2, 2020).⁶ It is the Commission's practice to utilize the cost of capital and capital structure approved in the utility's last rate case in subsequent alternative rate plan and rider proceedings. Recently, the cost of capital components determined in the Company's last base rate case were used to calculate the credits to Dominion customers in the *TCJA Case*. *TCJA Case*, Finding and Order (Dec. 4, 2019). The cost of capital components should apply equally to credits for customers and the cost recovery mechanism. The Commission recognizes the decrease in the cost of debt and the resultant impact on the CEP revenue requirement. While, in this instance, deviating from our long-standing practice of using the long-term debt rate from the most recent rate case would improve the benefits of the Stipulation for customers, the Commission also must acknowledge that the cost of capital may increase, just as it has recently fallen, resulting in an adverse impact to customers' bills. Moreover, we must also take into account that adopting the Intervenors' position regarding cost of capital might lead to the loss of many substantial benefits for customers that other elements of the Stipulation provide, not the

⁶ OCC calculates Dominion's actual cost of debt to be 2.29 percent, including fees, as of June 2020 (OCC Ex. 2 at 20; Co. Ex. 1, Exhibit H, Schedule A-2).

least of which is the significant reduction to the CEP's revenue requirement that results from the \$310 million depreciation offset. Further, Dominion's cost of capital is intricately tied to the Company's capital structure and risk assessment, at the time of evaluation, and may be determined by various methods, each method with its own advantages and shortcomings. Modifying the long-term debt rate in this cost recovery case, which is just one of the costs of capital components, would necessarily involve "cherry picking," while ignoring any cost increases that have occurred since the *Rate Case*. Further, we are compelled to evaluate the Stipulation as a package, considering a variety of factors, not just rates. For these reasons, we follow the practice that we have undertaken for decades.

{¶ 69} However, additional consideration of the circumstances is required and, to that end, the Commission will schedule a forum for interested stakeholders to comment and answer questions regarding the revision of a utility's cost of capital and capital structure outside of a rate case proceeding. The Commission will schedule the forum and inform interested stakeholders of the process by separate entry in the near future.

{¶ 70} Returning to Dominion's CEP case, importantly, the Commission notes Blue Ridge concluded that the Company's CEP, with a few exceptions, was consistent with the Commission-approved process, prudent, and reasonable, which includes the cost of capital. We believe it to be an efficient use of Commission and utility resources to continue to follow the practice of utilizing the last approved rate of return and return on equity in subsequent proceedings. Furthermore, evaluating and re-evaluating the financial market to determine the appropriate rates to use in each alternative rate plan and rider case would be inefficient and subject to volatility. In December 2012, the Commission approved Dominion's initial application for a CEP and the Company commenced making CEP investments and has continued to make such investments, without a recovery mechanism. OCC and NOPEC focus on Dominion's current cost of debt; however, the CEP investments made from October 2011 through December 2018 were not made at Dominion's current cost of debt. Accordingly, after taking into account all of these considerations, as well as the substantial benefits that the Stipulation provides, as a package, the Commission declines to modify the

Stipulation as recommended by OCC. Nonetheless, the Commission finds it prudent, as Staff recommends, to monitor measures of profitability of companies that have been granted deferrals and shall do so as part of Dominion's annual filings in this case (Staff Ex. 1 at 8).

{¶ 71} The Commission recognizes that there are several ways to limit the capital investments undertaken as part of a CEP. While the Signatory Parties were able to reach an agreement to include residential rate caps, OCC and NOPEC advocate the replacement of residential rate caps with an investment cap. The fundamental purpose of either of the caps is the same—to limit the amount of the capital investments made by Dominion. One mechanism is stated from the perspective of the impact on customers' bills and the other mechanism is stated as a limitation imposed on the utility's capital spending. The Commission has previously adopted stipulations that included residential rate caps similar to those in the proposed Stipulation. *Columbia CEP Case*, Opinion and Order (Nov. 28, 2018) at 16; *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT, Opinion and Order (Feb. 19, 2014) at 8; *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, et al., Opinion and Order (Aug. 28, 2019) at 30. Further, the Commission notes that the guiding scope of the deferrals established in the *CEP Deferral Cases* has been a rate cap on the impact to customers' bills. Either type of cap is a benefit to ratepayers and serves the public interest, as the cap serves to limit Dominion's capital expense deferral amounts.

{¶ 72} In regard to the request to modify the proposed Stipulation to account for estimated O&M savings, the Commission must deny the requests. Intervenors fail to offer any record support or causal connection to the CEP and any reduction in O&M expenses. Instead, opposing parties rely on the O&M savings in the PIR to contend a similar reduction "should" be seen in the CEP. Accordingly, the Commission finds that the record does not support an adjustment to the CEP revenue requirement for a change in O&M expenses, at this time. The matter may be further explored in a rate case proceeding. (OCC/NOPEC Ex. 1 at 5, 12-13, 25-28.)

{¶ 73} For all of the reasons noted above as to the proposed modifications to the Stipulation, the Commission finds that the Stipulation satisfies the second part of the three-part test. The mere fact that all of the parties were not able to reach a unanimous settlement on each of the factors opposed by OCC and NOPEC does not cause the Stipulation to fail the second part of the analysis used to evaluate the Stipulation. The question before the Commission is not whether there are other mechanisms that would better benefit ratepayers and the public interest but whether the Stipulation, as a package, benefits ratepayers and the public interest. Therefore, we deny Intervenors' requests that the Stipulation be rejected for failure to satisfy part two of the three-part test or that Dominion be required to pursue recovery in a rate case rather than by way of the alternative rate plan. The Commission notes that the basis for several of OCC's and NOPEC's arguments in opposition to the Stipulation evolves from Dominion's application to pursue recovery for the CEP investments through the alternative regulation provisions. The Commission will not deny Dominion's CEP application where the law permits a utility to pursue the alternative regulation path.

3. DOES THE SETTLEMENT PACKAGE VIOLATE ANY IMPORTANT REGULATORY PRINCIPLE OR PRACTICE?

a. Signatory Parties

{¶ 74} The Signatory Parties contend that the Stipulation does not violate any important regulatory principle or practice. Further, Dominion witness Friscic testified that the Stipulation encourages compromise as an alternative to litigation; allows the Company to recover its prudent costs through just and reasonable rates; supports the Company's financial condition; supports the Company's ability to provide safe and reliable service; assists Dominion with its obligation under R.C. 4905.22 to furnish necessary and adequate service and facilities; and furthers the state policy in R.C. 4929.02(A)(1) to promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services. Further, Dominion witness Friscic also testified that the Commission has approved similar alternative rate plan applications for a CEP Rider cost recovery mechanism for two other

gas utilities in Case Nos. 18-49-GA-ALT and 17-2202-GA-ALT and, therefore, if approved, the Stipulation would provide fair and equitable regulatory treatment amongst natural gas utilities. Accordingly, Dominion and Staff submit that the Stipulation meets the third part of the three-part test used to evaluate stipulations. (Co. Ex. 4 at 28; Co. Br. at 17-20; Staff Br. at 5-6.)

{¶ 75} Further, Dominion submits that the rate of return used in the Stipulation to calculate the CEP revenue requirement, 9.91 percent, is based on the capital structure and cost of capital authorized by the Commission in Dominion's most recent base rate case, as adjusted for the reduction in the federal income tax rate pursuant to the TCJA. *Rate Case*, Opinion and Order (Oct. 15, 2008) at 6, 28; *TCJA Case*, Finding and Order (Dec. 4, 2019). Dominion also notes that the rate of return used in the Stipulation is the same rate of return used in the Company's AMR Cost Recovery Charge case and PIR Cost Recovery Charge cases recently approved by the Commission. In addition, according to Dominion, the settlement promotes gradualism and mitigates the bill impact of the CEP rates for customers in six ways, among other factors that will mitigate the impact of the CEP Rider. Dominion notes that the CEP revenue requirement includes a depreciation offset, which the Company asserts effectively provides a credit to customers by reducing rate base and provides for the recovery of deferred cost over the useful life of the asset as opposed to on a current-year basis (Co. Ex. 4 at 12; Co. Ex. 2 at 12). Dominion notes that the Stipulation incorporates annual residential rate caps, effectively limiting the amount of the investment that may be recovered via the CEP Rider for any given year, and further provides for an annual review of the lawfulness, used and usefulness, prudence, and reasonableness of the CEP assets placed in service. Dominion adds that the Stipulation provides for incremental shareholder-funded bill payment assistance through EnergyShare. The Company notes that the CEP Rider will become effective more than nine years after the CEP investments commenced, excluding PISCC, depreciation, and property tax expenses associated with the investments. Dominion argues that otherwise the impact of the CEP Rider is mitigated by low current

commodity rates, as well as the TCJA savings credited to customers. (Co. Ex. 4 at 16-17; Joint Ex. 1; Joint Ex. 2.0, Co. Ex. 1 at 4; Co. Ex. 4 at 24; Tr. at 21.)

{¶ 76} Dominion notes that, when the Company filed this application in May of 2019, the pandemic state of emergency did not exist. Further, the Company outlines several actions, outside of this case, that the Commission and Dominion have taken to alleviate the energy burden of residential customers, including the Company's voluntary suspension of disconnections for nonpayment; the suspension of the collection of deposits, reconnection fees, and late payment charges until October 2020; the expansion of the Company's payment plan offerings through the commencement of the winter heating season, including a plan of up to 24 months in exceptional circumstances; the suspension of the Percentage of Income Payment Plan Plus (PIPP) anniversary and reverification drops through the end of July 2020; and the treatment of any missed PIPP installment payments for active PIPP customers due or billed as of August 2, 2020, as arrearages subject to arrearage crediting. *In re The East Ohio Gas Company dba Dominion Energy Ohio*, Case No 20-600-GA-UNC, Finding and Order (June 3, 2020). Dominion notes that the Company has not filed a deferral application to recover any lost or forgone revenue from the waived fees. Dominion also notes that the Commission made its Winter Reconnect Order effective a week earlier than in prior years. Further, the Winter Reconnect Order permits any residential customer to reconnect service or avoid the disconnection of service with a payment of \$175 and, this year, the Commission modified its reconnection procedures for existing PIPP customers to transfer any balance over the \$175 into arrearages. *2020 WRO Case*, Finding and Order (Aug. 12, 2020), Entry on Rehearing (Oct. 7, 2020). Accordingly, Dominion reasons all customers are benefiting from the TCJA credits, low commodity costs, and assistance that is available for customers who need additional financial support and such factors support the Commission's approval of Dominion's CEP rider rates and the Stipulation. (Co. Br. at 19-26.)

b. Opposing Parties

{¶ 77} NOPEC submits that, to be approved under the alternative rate plan statute, R.C. 4929.05, the plan must comply with state policy, including that reasonably priced

services be made available to consumers pursuant to R.C. 4929.02(A)(1). NOPEC declares that Dominion's plan, during this pandemic, violates the standard and the third part of the test used by the Commission to evaluate stipulations. NOPEC argues that use of the alternative rate application pursuant to R.C. 4929.05 and 4929.111 is particularly egregious, unjust, and unreasonable, where Dominion utilizes the rate of return approved in the Company's last base rate case, and where the Company has reduced its cost of debt rate from 6.50 percent to 2.25 percent. *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 20-175-GA-AIS, Finding and Order (May 6, 2020) at ¶ 4. NOPEC recommends that the Commission reject the Stipulation and direct Dominion to seek recovery of its CEP investments through a traditional base rate proceeding to be filed in 2021. NOPEC asserts that the traditional rate case process will produce just and reasonable rates for customers. NOPEC notes that the Stipulation would permit Dominion to increase residential customer rates by approximately \$50 annually in the first year of the CEP Rider and the rates would continue to increase over the next five years. (Joint Ex. 1 at ¶ 9; Joint Ex. 2; OCC Br. at 7-8; NOPEC Br. at 5-8; Tr. at 23.)

{¶ 78} OCC, like NOPEC, advocates that the 9.91 rate of return is out of date and, therefore, means the settlement violates regulatory principles and practices. OCC avers it is a fundamental regulatory principle that the approved rate of return is to afford the utility's shareholders the opportunity to achieve the stated rate of return but is not a guarantee. *In re Columbus Southern Power Co.*, Case No. 11-346-EL-SSO, et al., Opinion and Order (Aug. 8, 2012). OCC and NOPEC aver that, under the circumstances, the Stipulation guarantees Dominion a 9.91 percent pre-tax rate of return on its CEP investments. OCC also contends that it is a long-standing regulatory principle that the utility's rate of return on investments should be based on current market conditions, which, according to OCC, the Stipulation fails, as Dominion's shareholder return on investment will be greater than shareholders would otherwise receive in the market with similar risk. OCC/NOPEC witness Duann explained that the financial conditions in 2008 are far different than the current financial situation and a 9.91 percent rate of return bears no relation to the risk faced by Dominion

shareholders in 2020. Accordingly, OCC reasons that utilizing the 9.91 percent rate of return to determine the CEP Rider rate results in unjust and unreasonable rates for Dominion customers, in violation of R.C. 4905.22 and R.C. 4929.02(A)(1). For these reasons, OCC encourages the Commission to reduce the rate of return in this case and adopt Dr. Duann's recommendation of a 7.20 percent rate of return to determine the CEP Rider rate. Furthermore, OCC avers that good regulatory policy requires that the Commission consider equity among consumers. (OCC/NOPEC Ex. 2 at 6, 12-13, 28; OCC Br. at 23-25.)

{¶ 79} The Commission incorporates its discussion and conclusions presented above in regard to part two of the three-part test used to evaluate stipulations in its analysis and discussion of the third part of the three-part test. As noted above, it has been the Commission's long-standing practice to utilize the last approved rate of return in a utility's rate case in subsequent alternative regulation and rider proceedings. *Columbia CEP Case*, Opinion and Order (Nov. 28, 2018); *In re Columbia Gas of Ohio, Inc.*, Case No. 16-2422-GA-ALT, Opinion and Order (Jan. 31, 2018) (reauthorizing the Infrastructure Replacement Program); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT, Opinion and Order (Feb. 19, 2014) (reauthorizing the Distribution Replacement Rider); *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 19-1945-GA-RDR, Finding and Order (April 8, 2020) (approving Dominion's current AMR recovery charge); *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 19-1944-GA-RDR, Finding and Order (April 8, 2020) (approving Dominion's current PIR recovery charge). The Commission has followed that policy in Dominion's *CEP Deferral Cases* underlying this CEP recovery case. As discussed above, the Stipulation adopts that precedent. The Commission is obligated to follow its precedent. *Cleveland Elec. Illum. Co. v. Pub. Util. Comm.*, 42 Ohio St.2d 403, 431, 330 N.E.2d 1 (1975), superseded on other grounds by statute as recognized in *Babbit v. Pub. Util. Comm.*, 59 Ohio St.2d 81, 89, 391 N.E.2d 1376 (1979). Dominion, with the assistance of Staff, has presented adequate justification for the Commission to uphold the precedent and, therefore, we decline to modify the Stipulation to reflect the rate of return advocated by OCC. Further, no argument presented by opposing Intervenors convinces the Commission

to change or revise this practice. The financial impact of the pandemic has been and will continue to be addressed, as determined by the Commission, in other proceedings that focus on consumer protection. Accordingly, we find the rates reflected in the Stipulation not to be unjust or unreasonable. OCC and NOPEC rely heavily on Dominion's use of the alternative rate plan statute as the foundation for their position that the Stipulation violates important regulatory principles and practices. The Commission disagrees. R.C. Chapter 4929 has been adopted by the General Assembly as the law in the state of Ohio, which the Commission is obligated to follow. We note that the Stipulation promotes the availability of adequate and reliable natural gas services for consumers, pursuant to R.C. 4929.02, and supports Dominion's obligation to furnish necessary and adequate service and facilities, pursuant to R.C. 4905.22 (Co. Ex. 4 at 8, 11, 28). For all of the reasons presented in the Commission's rationale in regard to parts two and three of the three-part test, the Commission finds that the Stipulation does not violate any important regulatory principle or practice. Accordingly, the Commission finds that the Stipulation satisfies part three of the three-part test.

III. COMMISSION CONCLUSION ON THE STIPULATION

{¶ 80} For the above noted reasons, the Commission finds that the Stipulation satisfies the three-part test used to evaluate stipulations and should be approved. Further, the Commission finds that Dominion is in compliance with R.C. 4905.35 and is in substantial compliance with the policy of the state as specified in R.C. 4929.02; that Dominion will continue to be in substantial compliance with the policy of the state as specified in R.C. 4929.02 after implementation of the Commission-approved alternative rate plan; and that the alternative rate plan, with the implementation of the Stipulation as approved by the Commission, is just and reasonable (Co. Ex. 1 at Ex. D).

{¶ 81} The Commission notes that Blue Ridge indicated that Sarbanes-Oxley Act compliance audit reports for the period 2007-2010 were not available due to Dominion's record retention policies and, therefore, Blue Ridge was unable to review and render a decision regarding the Company's controls for the period (Staff Ex. 2 at 41). The

Commission directs Dominion to reevaluate its record retention policies with the goal of retaining the documents likely to be needed for subsequent audits, annual reviews, or rate cases, for an extended period of time. Accordingly, the Commission approves the Stipulation, consistent with this Opinion and Order.

IV. PROCEDURAL AND OTHER ISSUES

A. *Motion to Strike*

{¶ 82} On September 8, 2020, as subsequently amended on that same date, OCC and NOPEC filed an amended joint motion to strike portions of the testimony of Dominion witness Friscic in support of the Stipulation. In the motion, OCC and NOPEC argue that Dominion's testimony improperly relies on the stipulation in Case No. 17-2202-GA-ALT (*Columbia CEP Case*) as precedent to support the Stipulation in this proceeding. OCC and NOPEC assert that the terms of the stipulation in the *Columbia CEP Case* specifically prohibit citing the stipulation "as precedent in any future proceeding for or against any Signatory Party." *Columbia CEP Case*, Stipulation (Oct. 25, 2018) at 12. OCC and NOPEC contend that using a settlement agreement reached in one proceeding as precedent against parties in another proceeding violates Commission precedent. Intervenors note that Dominion was not a party to the *Columbia CEP Case*, was not privy to the confidential settlement discussions and the concessions made and lacks knowledge of the reasons why OCC supported the settlement in light of the circumstances at that time. OCC and NOPEC aver the Commission must evaluate the cases independently based on the facts, circumstances, and record evidence in each individual case. The Intervenors contend that any reliance by Dominion on the stipulation in the *Columbia CEP Case* entered into evidence in this matter is misguided and improper, does not benefit customers, and is contrary to the public interest.

{¶ 83} On September 14, 2020, Dominion filed a memorandum contra the motion to strike. In its memorandum, Dominion notes that, as Intervenors admit, Dominion was not a party to the *Columbia CEP Case*. Further, Dominion asserts that the Commission has not previously enforced a provision like that cited by the Intervenors against a non-party.

Dominion avers that the Signatory Parties in this proceeding have agreed to the same basic CEP Rider construct that the Commission approved for Columbia Gas of Ohio, Inc. (Columbia). The Company declares that Columbia's and Dominion's CEP Riders serve the same function, include a depreciation offset, and are subject to annual rate caps. Dominion seeks, in this case, the same deferral authority granted to Columbia. Dominion reasons, therefore, that the *Columbia CEP Case* is one fact of many that the Commission should consider in this proceeding. Dominion notes that OCC and NOPEC do not challenge any of the criteria for admissibility of the testimony and that the Commission has been directed by the Ohio Supreme Court to respect its own precedent to assure predictability, which is essential in all areas of law, including administrative law. Accordingly, Dominion reasons that the *Columbia CEP Case* was not irrelevant or inadmissible in this case and Intervenors' arguments are without merit.

{¶ 84} The motion filed by OCC and NOPEC on September 8, 2020, was denied at the hearing on the basis that Dominion was not a party to the *Columbia CEP Case* (Tr. at 10-11).

{¶ 85} In their respective briefs, OCC and NOPEC request that the Commission reconsider the motion and reverse the attorney examiner's ruling denying the motion to strike. OCC and NOPEC state that Ms. Friscic's testimony relied heavily on the Commission's approval of the *Columbia CEP Case*, comparing the terms of the Columbia settlement to the Stipulation in this case, thereby relying on the *Columbia CEP Case* as precedent. Intervenors reiterate, pursuant to the terms of the stipulation in the *Columbia CEP Case*, that the settlement agreement cannot be cited as precedent against OCC. OCC contends that it is irrelevant that Dominion was not a party to the *Columbia CEP Case*. The Commission adopted the Columbia settlement in its entirety, including the language which prohibited the citing of the stipulation as precedent in any future proceeding for or against any party. On that basis, OCC contends it is the Commission's ruling that the Columbia stipulation cannot be used as precedent by any party, not just the signatory parties to the Columbia stipulation. OCC offers there is good policy to prohibit the use of settlements as

precedent in subsequent proceedings, as a settlement is a compromise of issues unique to each particular case. By denying the motion to strike the requested portions of the testimony, Intervenors assert parties will be significantly less incentivized to negotiate and settle cases, thereby undermining parties' ability and willingness to enter into settlements in Commission proceedings, increasing the likelihood of costly litigation, and consuming Commission resources. Accordingly, OCC requests, pursuant to Ohio Adm.Code 4901-1-15(F), that the Commission reverse the attorney examiner's ruling and grant the joint motion of OCC and NOPEC to strike. (OCC Br. at 25-27; NOPEC Br. at 8.)

{¶ 86} Further, NOPEC notes that this case is distinguishable to the extent that Dominion relies on the Columbia stipulation to support not filing a rate case until 2024. NOPEC notes that Columbia's rates were not approved during a financially devastating pandemic and Dominion is seeking a much longer period of time before the Company files a rate case. NOPEC notes that Columbia's stay out period was over two years from the date of the order until the rate case was due, whereas Dominion seeks a stay out period of nearly five years from the date of the *TCJA Case* in December of 2019 and the due date of the rate case, October 2024. NOPEC contends that the Dominion stay out period disproportionately harms customers who are knowingly being overcharged based on an outdated and exorbitant rate of return and likely other overstated expenses. (NOPEC Br. at 8-9.)

{¶ 87} Dominion argues the attorney examiner's ruling should be affirmed by the Commission, as OCC and NOPEC present the same arguments which were already rejected. Further, Dominion avers that OCC now offers the unreasonable argument that the provision in the Columbia stipulation means not only that signatory parties are prohibited from citing the stipulation, but that no one else may cite the stipulation, including OCC, Columbia, Staff, and the Commission, as precedent. As stated previously in its memorandum, Dominion offers that stipulations are interpreted and enforced under the principles of contracts and contracts are binding on the parties who enter into the contract but cannot bind a non-party. *E.E.O.C. v. Waffle House, Inc.*, 534 U.S. 279, 294 (2002). Accordingly, Dominion declares that it is not bound by OCC's agreement with Columbia and Staff. (Co. Reply Br. at 28-29.)

{¶ 88} Staff states that it was appropriate for Dominion witness Friscic to compare the *Columbia CEP Case* to the Dominion CEP, where, in Dominion’s opinion, the Dominion CEP is at least as favorable, if not more favorable than the approved Columbia CEP. Staff concludes that OCC was not harmed as a result of the denial of the motion to strike Ms. Friscic’s testimony. Further, Staff reasons that mere recitation of the fact that OCC signed the Columbia stipulation does not in and of itself make use of that matter against OCC. Staff argues that the Commission did not and could not direct that its Order in the *Columbia CEP Case* not be used as precedent. The Commission must respect its own precedent. (Staff Reply Br. at 12-13.)

{¶ 89} The Commission affirms the attorney examiner’s ruling. As acknowledged by the parties and the bench in its ruling, Dominion was not a signatory party to the stipulation in the *Columbia CEP Case*; indeed, Dominion was not even a party to the *Columbia CEP Case* and, therefore, is not bound by the terms of the stipulation. As the Commission has previously determined, a utility that is not a signatory party to the stipulation is not bound by its terms. *In re the Long-Term Forecast Report of Ohio Power Company and Related Matters*, Case No. 10-501-EL-FOR, et al., Opinion and Order (Jan. 9, 2013) at 7. Furthermore, the Commission is obligated and compelled to follow its own precedent for the integrity of its decisions. *Cleveland Elec. Illum. Co. v. Pub. Util. Comm.*, 42 Ohio St.2d 403, 431, 330 N.E.2d 1 (1975), superseded on other grounds by statute as recognized in *Babbitt v. Pub. Util. Comm.*, 59 Ohio St.2d 81, 89, 391 N.E.2d 1376 (1979). Accordingly, the Commission finds that the attorney examiner’s ruling was reasonable and must be affirmed.

B. Tariff Language

{¶ 90} In its reply brief, Staff notes that, as admitted by Dominion witness Friscic on cross-examination, the tariff language attached to the Stipulation requires modification to properly recognize the period for which the CEP Rider rates are based. Staff proposes the Commission adopt the following revisions to Original Sheet No. CEP 2:

This Rider is subject to reconciliation or adjustment, including, but not limited to, increases or refunds. Such reconciliation or adjustment shall be limited to: (1) the period of expenditures upon which the rates were calculated determined as follows: from October 1, 2011 to December 31, 2018, for the initial CEP Rider rate; the twenty-four-month period from January 1, 2019 to December 31, 2020, for the first CEP Rider update; and every subsequent twelve-month period of expenditures upon which the rates were calculated, if determined to be unlawful, unreasonable, or imprudent by the Commission in the docket in which those rates were approved and (2) any case ordered by the Commission to address the impacts of federal income tax reform.

{¶ 91} Further, Staff proposes the tariff attached to the Stipulation also be revised to state:

The CEP Rider shall be updated annually to reflect CEP expenditures during the most recent calendar year, except the first annual update which shall reflect CEP expenditures from January 1, 2019 to December 31, 2020.

(Joint Ex. 3; Tr. at 73-74; Staff Reply Br. at 14-15.)

{¶ 92} On October 26, 2020, Dominion filed a correspondence stating that Dominion has reviewed Staff's proposed changes to the tariff sheets has no objection to the changes, and further recommends that the Commission adopt the revised tariff language. However, Dominion notes that its acceptance of the Staff's modifications to the tariff language is conditioned upon an otherwise unmodified Stipulation and Dominion reserves the right to take a different position if a material modification of the Stipulation occurs.

{¶ 93} The Commission finds that the modification to the tariff language is appropriate and the tariff shall be amended accordingly.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 94} Dominion is a natural gas company and a public utility as defined by R.C. 4905.03 and R.C. 4905.02, respectively. As such, Dominion is subject to the jurisdiction of this Commission.

{¶ 95} On February 27, 2019, Dominion filed a notice of intent to file an application for approval of an alternative rate plan under R.C. 4929.05. Dominion noted that the application would request approval to establish a CEP Rider.

{¶ 96} On March 29, 2019, Dominion filed a notice of intent to file an alternative rate plan application for an increase in rates, notice of test year and date certain, and attached exhibits. Concurrently with the notice, Dominion also filed a motion for waiver from certain provisions of the Commission's SFR contained in Ohio Adm.Code 4901-7-01.

{¶ 97} On May 1, 2019, as supplemented on August 23, 2019, Dominion filed its alternative rate plan application, along with supporting exhibits and testimony, pursuant to R.C. 4909.18, 4929.05, 4929.11, and 4929.111.

{¶ 98} By letter dated September 4, 2019, Staff notified Dominion that, with the additional information filed August 23, 2019, Dominion's application was in compliance with Ohio Adm.Code 4901:1-19-06(C) and, therefore, deemed to have been filed on August 23, 2019.

{¶ 99} On April 27, 2020, Blue Ridge filed its audit report.

{¶ 100} On May 11, 2020, the Staff Report was filed.

{¶ 101} OCC and NOPEC were granted intervention in this case by Entry issued August 20, 2020.

{¶ 102} On August 31, 2020, a Stipulation executed by Dominion and Staff was filed. The Stipulation was intended to resolve all of the issues in the case.

{¶ 103} The evidentiary hearing in this matter was held on September 15, 2020.

{¶ 104} The Stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.

{¶ 105} Dominion and its application, as modified by the Stipulation and this Opinion and Order, have satisfied the conditions for approval of an alternative rate plan, as set forth in R.C. 4929.05(A).

VI. ORDER

{¶ 106} It is, therefore,

{¶ 107} ORDERED, That the Stipulation be adopted and approved, consistent with this Opinion and Order. It is, further,

{¶ 108} ORDERED, That Dominion be authorized to file tariffs, in final form, consistent with this Opinion and Order. Dominion shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 109} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

{¶ 110} ORDERED, That a forum be initiated for interested stakeholders to discuss revision of a utility's cost of capital and capital structure outside of a rate case. It is, further,

{¶ 111} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

GNS/hac

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Case No(s). 19-0468-GA-ALT

Summary: Opinion & Order approving and adopting the stipulation and recommendation resolving all issues related to The East Ohio Gas Company dba Dominion Energy Ohio's application for an alternative rate plan to initiate the capital expenditure program rate recovery mechanism, consistent with this Opinion and Order. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio