BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of The Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of an Alternative Form of Regulation.	))))	Case No. 20-1634-GA-ALT

CONSUMER PROTECTION COMMENTS
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

Dominion East Ohio ("Dominion" or "Utility") seeks to continue its accelerated Pipeline Infrastructure Replacement ("PIR") program (that has been ongoing for twelve years) for another five years.[1] The Utility is currently charging each of its approximately 1.1 million residential customers $13.45 per month for this program representing between 35% and 40% of a residential customer's total monthly fixed charges. This percentage will grow as the PIR charges continue to grow. Under the residential rates adopted in Dominion's most recent case to reauthorize the program (Case No. 15-362-GA-ALT), residential customers could be paying as much as $16.84 per month for Dominion's capital investment made through 2021.[2]

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[1] Application for Approval of an Alternative Rate Plan, Case No. 20-1634-GA-ALT (Dec. 8, 2020) ("Dominion Application"). *See also, In the Matter of the Application of the East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Recover Certain Costs Associated with a Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause and for Certain Accounting Treatment*, Case No. 08-0169-GA-ALT.

[2] The $1.84 cap for 2020 PIR capital investments and $1.85 cap for 2021 PIR capital investments from Case No. 15-0362-GA-ALT when adjusted to reflect the Tax Cut and Jobs Act of 2017 reduction in the federal income tax rate from 35% to 21% results $1.69 and $1.70 caps, respectively, for PIR investments in 2020 and 2021. Therefore, $13.45 + $1.69 + $1.70 = $16.84.

The Office of the Ohio Consumers' Counsel (OCC) is concerned about the impact of the rider rates on customers, the amount the Utility is spending, the rate of return used, and other issues. The OCC recommends that the Public Utilities Commission of Ohio ("PUCO") conduct an in-depth mid-program review of Dominion's PIR program. This year, 2021, marks the start of the 13th year of the Utility's 25-year program, which is an appropriate time for a mid-program review.

This is an expensive program for Dominion's consumers. In 2019, Dominion spent $209,419,323 on the pipeline program, and cumulatively through 2019 Dominion has spent $1,803,433,764. Rate increases to customers arising from this spending is accomplished through single issue ratemaking, which has occurred year after year without Dominion filing a base rate case. At least in a base distribution case, the changes in Dominion's distribution plants, revenues, expenses, debt, and equity costs, etc. can be reviewed and updated.[3]

II. BACKGROUND

Dominion's PIR program was first approved by the PUCO in October of 2008. Under the program, Dominion initially sought to replace 4,122 miles of bare steel, cast iron and other pipeline types over a 25-year period.[4] Its program allowed for the accelerated replacement of aging pipe to prevent corrosion and reduce leak rates.[5] The

[3] Dominion's current PIR Cost Recovery Charge was approved in the PUCO's Order in Case No. 19-1944-GA-RDR (Apr. 8, 2020) and reflected a residential rider rate of $13.45/month. Dominion has since filed a *Notice of Intent to file an Application to Adjust Pipeline Infrastructure Replacement Program Cost Recovery Charge* in Case No. 20-1625-GA-RDR (Nov. 30, 2020) ("NOI"), reflecting a residential rider rate of $15.08/month (*see*, PFN Exhibit 3).

[4] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service,* Case No. 07-829-GA-AIR, Opinion and Order at 9-10 (Oct. 15, 2007).

[5] Dominion Application at 1-2.

PUCO allowed Dominion to implement the PIR program "for an initial five-year period or until the effective date of new base rates resulting from the filing of an application to increase base rates, whichever comes first. At that time DEO may request continuation of the PIR program beyond the initial term."[6]

But Dominion did not file a base rate case. Nor did it wait until the end of the initial five-year program to ask for more money. Three years later, on March 31, 2011, Dominion filed to modify the PUCO's Order approving the PIR program, under R.C. 4929.08.[7] In its 2011 Application, Dominion explained it found additional 1,450 miles of ineffectively coated steel pipe with essentially the same corrosion characteristics and leak rates as bare steel pipe that also needed to be replaced on an accelerated basis. Because of this, Dominion asked the PUCO to increase the annual charges to customers.[8] The PUCO relented and allowed annual adjustments to the PIR charge. But the PUCO ruled that the annual increases in charges were not to exceed the most recently authorized level by more than $1.40 per year.[9]

Beginning with Dominion's 2011 Renewal, the PUCO has allowed Dominion to expand the scope of the program to include ineffectively coated steel and some plastic pipe. Dominion's 2016 PIR renewal sought approval to continue the PIR program for

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[6] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service,* Case No. 07-829-GA-AIR, Opinion and Order at 9 (Oct. 15, 2007).

[7] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Modify and Further Accelerate its Pipeline Infrastructure Replacement Program and to Recover the Associated Costs*, Case No. 11-2401-GA-ALT, Opinion and Order at 2 (Aug. 3, 2011).

[8] *Id.* at 3.

[9] *Id*. at 6.

another five-year period for the investment years 2017 through 2021.[10] Dominion proposed significantly increasing program investment by $20 million in both 2017 and 2018, followed by smaller increases of three percent per year for 2019, 2020, and 2021. The Settlement adopted by the PUCO (opposed by OCC) approved Dominion's investment levels, with a concurring tripling of rates charged to its residential customers for the Utility's pipeline infrastructure replacement program.

In this renewal, for years 2022-2026, Dominion seeks to increase to its annual pipeline infrastructure replacement program capital investment by three percent per year. Under Dominion's plan customers will receive a rate increase of between $1.73 per month and $1.82 per month for the next five years. This charge is in addition to the $13.45 per month residential rider rate customers already pay plus the monthly increases for pipeline infrastructure replacement investments in 2020 and 2021.

Investment Year	**Estimated PIR Capital Investment**[11]	**Proposed Residential Rate Cap Increase on PIR Cost Recovery Charge** (per customer)[12]	**Potential Residential Charge for PIR**[13](per customer)
2022	$226 million	$1.73/month	$18.51 /month
2023	$233 million	$1.74/month	$20.25 /month
2024	$240 million	$1.82/month	$22.07/month
2025	$247 million	$1.76/month	$23.83/month
2026	$254 million	$1.77/month	$25.60/month

[10] *In the Matter of the East Ohio Gas Company d/b/a Dominion East Ohio for Approval of an Alternative Form of Regulation*, Case No. 15-0362-GA-ALT, Opinion and Order (Sept. 14, 2016); *see also* Dominion Application at 2-3.

[11] Dominion Application at 7.

[12] *Id*.

[13] In accordance with the December 30, 2020 PUCO Order adopting the August 31, 2020 Stipulation and Recommendation in Case No. 19-468-GA-ALT, Dominion will file an application for a base rate case by October 2024. It is unclear how this rate case application will affect the projected PIR customer charges.

The chart above shows the proposed increases in investment and the corresponding increases that customers could pay in their monthly bills under the program (column three). It reflects the caps on the monthly residential rate increase adopted in Case No. 15-362-GA-ALT for 2020 and 2021 and the monthly rate caps proposed in this case.

III. RECOMMENDATIONS

A. The PUCO should find that Dominion's proposal to use the rate of return set in its last base rate case in determining the revenue in the annual PIR Cost Recovery Charge applications is unjust and unreasonable and adopt an updated rate of return for this renewal.

Dominion proposes to continue use the rate of return that was set more than 12 years ago in Case No. 07-829-GA-AIR in charging customers a profit on the pipeline investment.[14] Dominion filed its Application in this case under Revised Code 4929.05 governing approval of natural gas company alternative rate plans. Revised Code 4929.05(A)(3) expressly provides that alternative rate plans must be just and reasonable. And Revised Code 4929.05(B) provides that the utility has the burden of proof.

In a recent case, in unchallenged and uncontroverted testimony,[15] an OCC expert witness conclusively demonstrated that the 9.91% pre-tax rate of return set in Dominion's last rate case[16] is inflated and outdated. The high rate of return results in customers paying far more than they should be paying for Dominion's facilities and services.[17] The OCC witness demonstrated that the return on equity component of Dominion's rate of

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[14] Dominion Application at 4.

[15] *See*, Case No. 19-0468-GA-ALT, OCC/NOPEC Ex. 2, Direct Testimony of Daniel J. Duann, Ph.D. (Sept. 11, 2020).

[16] Case No. 07-0829-GA-AIR, as adjusted to reflect the impact of the Tax Cuts and Jobs Act of 2017 reduction of the federal income tax rate from 35% to 21%.

[17] *See*, Duann Testimony at 8, Case No. 19-0468-GA-ALT.

return no longer reflects Dominion's current financial risks and is far higher than recent returns on equity for comparable utilities.[18]

The witness, Dr. Daniel J. Duann, testified that Dominion's return on equity should be no higher than 9.36% instead of the 10.38% embedded in Dominion's proposed rate of return. Similarly, the OCC expert showed that Dominion's outdated rate of return includes an embedded cost of debt component of 6.50%, since its actual cost of debt is only 2.29%, as shown in Dominion's own filing with the PUCO. Taken together (updated return on equity and current cost of debt), the OCC expert showed conclusively that Dominion's updated pre-tax rate of return should be no more than 7.20%.[19]

The PUCO should find in this case that Dominion's use of an outdated and inflated rate of return set more than 12 years ago is neither just nor reasonable. To protect consumers, the PUCO should update the rate of return to be used to set future PIR cost recovery charge rates even if the PUCO does not take the opportunity presented by this mid-program point to review the pipeline infrastructure replacement program. Equity and reasonableness require the PUCO to consider whether charging customers that rate remains justified—and it does not, for the reasons explained above.

B. The PUCO should conduct an in-depth mid-program review that should at a minimum include assessing and making a determination on the cost-effectiveness of Dominion's PIR program, including whether it meets the program's stated goals and whether customers are receiving O&M savings from the program.

Given that 2021 marks the start of the 13th year of Dominion's 25-year program, and thus the program is midway to its target replacement timeframe (by 2033), now is an

[18] *Id*. at 6-12.

[19] Duann Testimony at 7.

appropriate time for the PUCO to exercise its authority and conduct a comprehensive mid-program review of Dominion's PIR program. Such review should include whether the original 25-year accelerated timeframe for pipeline replacement is still necessary at this point. Minimally, the PUCO's review should include assessing and making a determination on the following issues:

1) Whether the PIR program is effective in meeting the stated goals of the program, including safety improvements, reliability improvements, leak-rate improvements, miles replaced targets, among other identified issues.

2) Whether the PIR program costs are excessive, including in comparison to other natural gas accelerated infrastructure replacement programs around the country.

3) Whether the PIR program is cost-effective in terms of cost per goals achieved, including in comparison with other natural gas accelerated infrastructure replacement programs around the country.

4) Whether Dominion's decisions related to the PIR program and the management of the PIR program were prudent; including but not limited to, proper pipeline replacement prioritization, effective management oversight and controls, and effective cost containment strategies and practices.

5) Whether Dominion is replacing infrastructure under the PIR program at an excessive pace or greater than minimum standards based on Federal Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA") requirements and industry practices.

6) Whether Dominion's customers are receiving the full savings for operation and maintenance ("O&M") savings associated with the program

Depending on the results of its assessment, the PUCO should consider freezing the current PIR Rider cap for the next five-year pipeline infrastructure replacement period. A freeze on the amount of money collected from customers is just and reasonable if the program is not achieving its stated goals, if the program's costs are excessive, or if the original target to complete the program in 25 years is no longer as necessary as originally thought. If leak rates are sufficiently down, then perhaps the program has been effective enough that there is no need to continue an accelerated replacement and Dominion can continue replacement under its ordinary capital replacement program with cost recovery in periodic rate cases. In addition, if there are fewer leak repairs due to pipeline replacement, customers should receive the full value of operation and maintenance savings. This means that the PUCO should confirm that all O&M savings are used to offset the cost of the program. Finally, the PUCO should commit to a review of Dominion's rates (including profits) prior to charging customers for any more pipeline investment.

IV. CONCLUSION

Prior to renewing a program that will ultimately be paid for by consumers, OCC recommends that the PUCO take this opportunity at mid-program to conduct a comprehensive review of Dominion's Pipeline Infrastructure Replacement Program pursuant to OCC's suggestions contained herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 17th day of February 2021.

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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