

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of the Rules in)	
Ohio Adm.Code Chapter 4901:1-43 Regarding)	Case No. 21-10-GA-ORD
Recovery of Infrastructure Development Costs.)	

**JOINT REPLY COMMENTS OF THE EAST OHIO GAS COMPANY
D/B/A DOMINION ENERGY OHIO AND VECTREN ENERGY
DELIVERY OF OHIO, INC. D/B/A CENTERPOINT ENERGY OHIO**

In accordance with the Commission’s March 10, 2021 Entry in this proceeding, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO) and Vectren Energy Delivery of Ohio, Inc. d/b/a CenterPoint Energy Ohio (CEOH) (collectively, the Companies) hereby file joint reply comments in response to the initial comments of The Office of the Ohio Consumers’ Counsel (OCC). For the reasons stated herein, the Commission should not adopt OCC’s proposed amendments to Ohio Adm.Code Chapter 4901:1-43 regarding recovery of infrastructure development costs.

I. REPLY COMMENTS

A. Rule 4901:1-43-03

1. Reply to OCC

Paragraph (A)(3)(a). OCC opposes the Staff proposal to eliminate the existing subparagraph, which requires a natural gas company filing for approval of an economic development project (EDP) to provide the “[e]stimated state and local taxable base increase” associated with the project. Ohio Adm.Code 4901:1-43-03(A)(3)(a). The Companies submitted initial comments supporting the proposal, which explained that the information is neither required by statute nor within the Companies’ possession or control. (Joint Cmts. at 1.)

OCC argues that eliminating the requirement has not been justified and suggests that utilities can seek a waiver of the requirement instead. (OCC Cmts. at 2.) The Companies

disagree. As the Companies' initial comments pointed out, R.C. 4929.163 does not actually require this information, and utilities do not typically have it. (Joint Cmts. at 1.) If the statute does not require the information, and the utilities do not have it, a mandate to provide it is not warranted. Nor does it make sense for the utilities to have to continually file motions to waive an unnecessary requirement that they are not in a position to satisfy. To the Companies' knowledge, this requirement has been waived in every single notice proceeding. Requiring utilities to continue filing and the Commission to continue ruling on such motions is a waste of resources, when the information is clearly unnecessary to the Commission's review. OCC has neither explained why this information is necessary to approve an EDP nor otherwise supported maintaining this requirement.

OCC further recommends that "the utilities provide this information in subsequent updated annual reports once the information becomes known." (OCC Cmts. at 2.) OCC, however, offers no basis for its assumption that this information will at some point become known to the utilities. Again, the information is not within the Companies' possession or control, either before or after the EDP notice is filed. Furthermore, contrary to OCC's suggestion, neither R.C. 4929.165 nor Ohio Adm.Code 4901:1-43-04 requires this information to be submitted in the utilities' annual reports. OCC, in essence, recommends that the Commission adopt a new requirement as an alternative to an existing requirement that is not necessary.

In short, OCC has not demonstrated a need for the regulatory requirement and Staff's proposed elimination is reasonable and appropriate. As discussed in the Companies' initial comments, Staff's proposal should be adopted.

B. Rule 4901:1-43-04

1. Reply to OCC

Paragraphs (D) and (E)(2). R.C. 4929.165 requires the utility to file an annual report that

(a) details the infrastructure development costs related to the applicable EDP(s) and (b) sets forth the proposed rider rate for the twelve months following the annual report. Ohio Adm.Code 4901:1-43-04(D) provides that the proposed rider rate “will become effective on the seventy-sixth day[after the annual filing], unless suspended by the commission for good cause shown.” Ohio Adm.Code 4901:1-43-04(E)(2) further provides that “affected parties” may file a motion to intervene and submit comments concerning the annual report, but must do so “within forty-five days of the date of the filing of the annual report.”

OCC argues that these deadlines are “too short.” (OCC Cmts. at 3.) OCC proposes the elimination of the 75-day automatic approval, or in the alternative, amending the rule to extend the period to 120 days. (*Id.* at 4-5.) OCC further recommends eliminating the 45-day time frame for intervention and comments, or in the alternative, amending the rule to extend that period to 90 days. (*Id.*) If the 75-day auto-approval process remains, OCC proposes to amend Paragraph (E)(2) to require utilities to provide substantive responses to discovery within seven (7) days of receipt of the discovery. (*Id.* at 5.)

OCC offers no explanation why the 75-day (two and a half months) automatic approval deadline does not allow for “meaningful review.” (OCC Cmts. at 3.) The Staff reviews each utility’s annual report filing. *See, e.g.*, Case Nos. 20-519-GA-IDR and 20-520-GA-IDR. That review consists of an audit of the plant additions associated with the filing, which includes reviewing invoices and the general ledger and verifying that the plant additions are owned and operated by the utility. (*See, e.g.*, Case No. 20-519-GA-IDR, Staff Report (Aug. 13, 2020); Case No. 20-520-GA-IDR, Staff Report (Dec. 7, 2020).) During its review, Staff also examines whether the annual report is consistent with the Commission’s rules. (*Id.*) Staff is able to do all of that, and issues its findings recommending a proposed rate, before the 75-day period expires.

OCC fails to demonstrate that the current process does not “safeguard that these charges are prudently incurred.” (OCC Cmts. at 3.) Staff, which has the burden of reviewing and auditing the annual reports, did not propose any changes to the rule’s time periods or suggest that there is not “adequate time” “to furnish comprehensive recommendations.” (*Id.* at 4.) OCC claims that the existing deadlines do not allow intervenors to conduct discovery (*id.*), but to date, OCC has *never* intervened in an annual IDR report proceeding. OCC cannot show that it has been harmed by a procedural process that it has never attempted to utilize.

For these reasons, OCC has not demonstrated that its proposed changes to the rule are justified, and the Companies recommend that the Commission reject them.

II. CONCLUSION

The Companies appreciate the opportunity to comment on the proposed rules. For the reasons stated in their joint initial and reply comments, the Companies respectfully request that the Commission act in accordance with their comments, adopt Staff’s proposed amendment, and reject OCC’s proposed amendments to Ohio Adm.Code Chapter 4901:1-43.

Dated: May 3, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail upon the following individuals on May 3, 2021:

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Summary: Comments Joint Reply Comments electronically filed by Christopher T Kennedy on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio and Vectren Energy Delivery of Ohio, Inc. d/b/a CenterPoint Energy Ohio