

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
The East Ohio Gas Company d/b/a)	
Dominion Energy Ohio for Approval of)	Case No. 21-0296-GA-ATA
Changes in Rules and Regulations regarding)	
Heat Content Conversion)	

In the Matter of the Application of)	
The East Ohio Gas Company d/b/a)	Case No. 21-0297-GA-UNC
Dominion Energy Ohio for Approval of)	
Reliability Enhancement Program)	

**RESPONSE TO THE STAFF REPORT
OF THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

In conjunction with its application filed on April 1, 2021, The East Ohio Gas Company d/b/a Dominion Energy Ohio hereby files its response to the Staff Review and Recommendation (Staff Report) filed on September 22, 2021, in the above-captioned proceedings.

I. BACKGROUND

On April 1, 2021, DEO filed its application in this case. The application set forth two elements of DEO's response to an increasing concern—namely, the continued availability of Ohio conventional production, an important and economical source of gas supply that is critical to reliability in certain constrained areas of its system.

For background, one element of DEO's application (which Staff refers to as the Ohio BTU Adjustment) would essentially credit local conventional producers with additional volumes to reflect the higher heating content of Ohio-produced gas relative to gas delivered via interstate pipelines. The other (the Reliability Enhancement Fee Pilot Program) would pay an incentive to producers in specified areas of DEO's system that are especially dependent on local production—as DEO explained in discovery, cities like Marietta, Wooster, and Canton, and surrounding regions.

Both initiatives were designed to support an important, economical, but financially distressed source of supply for DEO's customers. DEO warned that failing to secure local production in constrained areas could result in a choice between substantial capital investment; restrictions on new service to homes and businesses; or worst case the abandonment of service to portions of DEO's system. The underlying premise of DEO's application is simple: in order to avoid such outcomes, customers would be asked to pay a nominal cost for programs expressly designed to promote continued gas supply reliability. That premise is neither novel nor typically controversial: virtually all utilities routinely recover costs related to service reliability in customer rates.

About six months later, after ample opportunity to review and investigate DEO's application, the Staff Report was issued on September 22. Staff recommended denying DEO's application in its entirety.

II. RESPONSE TO THE STAFF REPORT

For the reasons explained below, DEO disagrees with the conclusion and rationale of the Staff Report and recommends that the Commission approve DEO's application as filed. Alternatively, the Commission should schedule a hearing to resolve any issues or concerns associated with the application.

A. In deciding the application, the Commission should either consider the facts in DEO's application as uncontested, or set the application for hearing.

Before evaluating the rationale contained in the Staff Report, the Commission should first note what the Staff Report does *not* contain—namely, any rebuttal or even questioning of the facts set forth in DEO's application.

1. The Staff Report does not question the serious problem facing constrained areas on DEO's system.

Although it recommended denial of the application, the Staff Report did *not* question or contest any of the factual assertions in DEO's application. For example:

- The Staff Report does *not* rebut that local production is an essential and primary source of supply, needed to maintain service in several constrained areas.
- The Staff Report does *not* rebut that Ohio conventional production has precipitously declined from 120 Bcf in 1993 to 40 Bcf in 2019.
- The Staff Report does *not* rebut that local conventional producers are experiencing increased financial distress due to a sustained low-price environment brought on by high-volume Utica production.
- The Staff Report does *not* rebut that constrained areas of DEO's system are at risk of limitations on service or, worst case, abandonment of service.
- The Staff Report does *not* rebut DEO's representation in discovery that the cities of Marietta, Wooster, and the Canton/Hartville region were particularly at risk.
- The Staff Report does *not* show that there are better, lesser-cost alternatives to address reliability issues or lack of capacity in these areas.

The facts, then, appear uncontested. The Staff Report recommended denial premised *solely* on the fact (openly acknowledged in DEO's application) that customers would bear some costs. Right or wrong, that is a policy position at best, not a factual one, and the Commission should recognize it as such.

2. The Commission should either resolve the application based on the uncontested facts set forth in DEO's application, or set a hearing to confirm those facts.

Procedurally, with DEO's application publicly filed and the Staff investigation disclosing no inaccuracies or corrections, the Commission could justifiably treat the facts asserted in DEO's application as uncontested and true, and resolve the application based on those facts.

Alternatively, if the Commission believed further development of the factual record is necessary, the Commission could schedule a hearing to permit the offering of evidence. This

evidence would confirm for the Commission that action is needed now, before DEO and its customers are left only with costlier or more painful options.

It is ultimately up to the Commission whether to approve or reject DEO's application. But either way, it must by law provide reasons and address the record. So if it elects to reject DEO's application, the Commission will need to mark out its own path. It cannot lawfully follow the unexplained and unsupported direction set forth in the Staff Report.

B. Substantively, the Commission should not adopt the Staff Report: it contains virtually no supporting rationale, and what rationale is provided is unreasonable.

The Staff Report is very brief. By DEO's count, it contains two sentences that purport to explain the reasons for rejecting DEO's application, one sentence for each of the proposed initiatives.

First, the recommended denial of the modification of the Ohio Production BTU Adjustment:

Staff . . . is of the opinion that the modification to the Ohio Production Btu is unreasonable because the change results in an increase to ratepayers, while primarily benefiting conventional local producers and not the ratepayers.

(Staff Report at 3.) This is the entirety of Staff's reasoning on the Ohio BTU Adjustment. DEO strongly disagrees with the Staff Report's conclusion and believes Staff's rationale is flawed. But at least *some* reason is provided.

The same cannot be said for the recommended denial of the recovery of Reliability Enhancement Fees via TMR-B. That recommendation reads in its entirety:

It is Staff's opinion that the fees Dominion pays to the local producers should be borne by the Company and not Dominion's ratepayers.

(*Id.*) No further rationale appears in the Staff Report. *Why* Staff holds this "opinion" is left entirely unexplained.

1. DEO openly acknowledged the customer rate impact.

First, the Commission should understand that the application's rate impact on customers was fully explained and quantified on the face of DEO's application. (*See, e.g.*, Appl. ¶ 22 and ¶ 28.) DEO did *not* "hide the ball" only to have it uncovered and exposed by the Staff. Perhaps in such circumstances, the mere fact of a customer rate impact could support denying a request. But that is clearly not the situation here, especially where the resulting customer benefit has not been challenged.

The 2021 HCA Agreement does not require any fee or payment from customers or create a direct out-of-pocket cost to DEO. As DEO explained, however, the modified BTU adjustment would incrementally increase the unaccounted-for-gas (UFG) percentage on its system. The impact would be modest—for residential customers, less than one Mcf of gas per year. Based on the average SCO price over the last 12 months, that would be an annual impact of about \$3.50. And although gas prices are expected to rise this winter, NYMEX future prices remain consistent with this pricing level.

Likewise, the Reliability Enhancement Fee Pilot Program would involve the payment of a dollar-per-Mcf incentive to producers in constrained areas. The expected impact on those customers paying Transportation Migration Rider – Part B (where those costs would be recovered) was even more modest: about five to seven pennies per month.

The Staff Report did not explain how or why these costs were too great, imprudent, etc. The mere fact of cost recovery apparently ruled out further consideration.

2. The limited rationale provided by Staff – that costs should not be allowed because they benefit producers – would effectively disallow *all* cost recovery.

With respect to the Ohio BTU Adjustment, the Staff Report explained that Staff "is of the opinion that the modification to the Ohio Production Btu is unreasonable because the change

results in an increase to ratepayers, while primarily benefiting conventional local producers and not the ratepayers.” No further explanation or analysis is provided; this sentence is the full extent of the Staff Report’s analysis.

In addition to being incorrect, Staff’s rationale is simplistic and fails to shed any light on the issues before the Commission. Virtually every recoverable cost, paid by a utility, benefits parties that are not customers. That does not mean, however, that customers do not also receive a benefit. Take just a couple pertinent examples, both related to the goal supported by DEO’s application, the reliability of service:

- For decades, DEO has reserved capacity on interstate pipelines to ensure it has access to adequate supplies to meet peak demand.
 - To reserve this capacity, DEO must pay substantial sums to interstate pipelines.
 - Interstate pipelines clearly benefit from these costs; they receive money paid directly by DEO.
 - But the associated costs are passed through to customers. Should these costs be disallowed because they benefit someone besides a customer?
 - Of course not. Customers also benefit from the availability of reliable service, so the costs are properly recovered as part of the cost of service.
- Or imagine that DEO were required to build its own pipeline extension to bring supply to a constrained area, one lacking sufficient access to either interstate pipelines or local production.
 - DEO would pay various contractors to design and construct the pipeline; pay various vendors for the costs of materials and services; and pay various other employees who support the project.
 - These contractors, vendors, and employees all benefit from these costs; all of them receive payment from DEO.
 - Should the costs of constructing the pipeline be disallowed because they benefited parties other than customers?

- Again, it would be unreasonable to disallow a cost on this basis. Customers benefit from the investment in facilities, so the costs are properly recovered as part of the cost of service.

Frankly, it would be difficult to envision *any* element of a utility's cost of service that does *not* create a benefit or incentive for parties that are not customers. If that fact justified disallowing costs, then no cost would be recoverable, and no utility could stay in business.

3. The issue is not whether there is a cost, but whether the costs are reasonable and beneficial.

The question cannot simply be whether *another* party benefits from a given cost or activity. The question should ultimately center around whether the costs are prudently and reasonably incurred in the provision of service. DEO wholeheartedly agrees that if a given cost only benefited the party being paid, and provided no benefit to customers, it would seem inappropriate for recovery as part of the cost of service. But that is clearly not the case here.

DEO's application included pages of explanation addressing in detail why these costs would be prudent and reasonable. DEO explained how the Ohio BTU Adjustment and Reliability Enhancement Fee would operate, why they are needed, and how they would benefit ratepayers. In short, portions of DEO's system primarily depend on conventional local production for reliability; larger market forces have left these producers in a financially distressed condition; and if these producers fail, certain areas of DEO's system could suffer limits on, or even the loss of, service without major capital investment. Again, there is simply no explanation in the Staff Report rebutting any of the detailed explanation provided in DEO's application.

Utility service is not a zero-sum game, and the fact that the proposals create an incentive for conventional producers to continue providing an important source of supply does not detract from the customer benefit resulting from that production. In the case of the Reliability Enhancement Fee Pilot Program, that benefit will be assessed prior to the end of the pilot,

ensuring that customers will not pay any costs beyond the pilot period if the anticipated benefit does not materialize in the areas of concern.

In short, the Staff Report focuses exclusively and without explanation on *the benefit to local producers*. But what the Staff Report critically ignores is that *local production benefits customers*. That is why it is entirely reasonable to provide benefits to local producers; it benefits customers, too.

C. Denying DEO's application will have detrimental impacts on other stakeholders, including customers.

The immediate impact of denying DEO's application will be that DEO and OOGA will terminate the modified HCA Agreement, which remains executory pending PUCO review and approval. The Reliability Enhancement Fee Pilot Program will not go forward either. According to Staff, DEO should fund that program without cost recovery, and while the sums required are modest when spread across DEO's large system (five to seven cents per month), they would be prohibitive for a single entity to fund without any opportunity for recovery. To maintain reliable service to the affected areas, DEO would need to go back to the drawing board.

In the meantime, local conventional producers will lose a hoped-for source of relief that would have recognized the important role they play in the reliability of DEO's service – a role otherwise uncompensated by the operation of the unregulated natural gas market. While DEO cannot predict the precise impact in the future, it is a fact that local conventional production has been in a state of a long-term decline. While natural gas prices have risen in recent months, longer-term natural gas futures prices, which are a much more important determinant of drilling activity, are lower. And while prices may rise and fall, local producers will continue to contend with the difficulties created by the enormous size and productivity of Utica wells, whose volumes lower the regional price of gas, but cannot hydraulically reach certain portions of

DEO's system. Prices received by local conventional producers are driven by regional prices that can be more than a dollar per dekatherm less than prices at the Henry Hub NYMEX price point. As a result, the need for DEO's proposal is not diminished by recent or projected natural gas pricing.

If local production continues to diminish, this will be felt in cities and communities across DEO's system. As explained above, the constrained areas on DEO's system are *not* isolated hamlets scattered here and there over the countryside, but cities like Marietta, Wooster, Canton, and surrounding regions. Tens of thousands of customers reside in these constrained areas. Many of these cities are anxious, not just to maintain service at current levels, but to increase capacity. These cities wish to bring in new businesses and investment, build new neighborhoods for new families, and create opportunities for their citizens.

Natural gas access is a key ingredient for growing communities, but these areas are already at capacity. If local production ceases in these areas, expensive solutions will no longer be needed to expand these systems, but simply to avoid abandonment. The bill will come due at some point, and the impact will be felt by all customers – whether that is pipeline extensions in rate base, fewer customers to share the costs, or both.

Finally, even for customers outside the affected areas, an important benefit—the continued diversity of supply that Ohio conventional production provides—will also be threatened. The Ohio BTU Adjustment seeks to recognize the higher heating content of local production relative to interstate supplies and to promote the viability of an industry that provides significant benefits to customers simply by virtue of its proximity to the market. The loss of such “home grown” production would adversely affect customers by leaving them more dependent on other sources of supply.

This is the chain of events DEO is trying to forestall. Notwithstanding the limitations of the Staff Report, DEO hopes and expects the Commission to fully engage with the issues explained in the application and in these comments, and DEO respectfully requests that the PUCO approve the application.

III. CONCLUSION

For the foregoing reasons, DEO respectfully requests that the Commission approve DEO's application as filed and provide any other necessary and proper relief as set forth in DEO's application and in this response to the Staff Report.

Dated: October 22, 2021

Respectfully submitted,

/s/ Andrew J. Campbell

Andrew J. Campbell (0081485)

DOMINION ENERGY, INC.

88 East Broad Street, Suite 1303

Columbus, Ohio 43215

Telephone: (614) 601-1777

andrew.j.campbell@dominionenergy.com

(Counsel willing to accept service by email)

ATTORNEY FOR THE EAST OHIO GAS
COMPANY D/B/A DOMINION ENERGY OHIO

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail to the following person on this 22nd day of October, 2021:

werner.margard@ohioattorneygeneral.gov

/s/ Andrew J. Campbell
Attorney for The East Ohio Gas Company
d/b/a Dominion Energy Ohio

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/22/2021 4:18:34 PM

in

Case No(s). 21-0296-GA-ATA, 21-0297-GA-UNC

Summary: Response to Staff Report electronically filed by Mr. Andrew J Campbell on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio