

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of North Coast	)	
Gas Transmission, LLC for Authority to	)	
Become a Natural Gas Company in Ohio,	)	Docket No. 21-1029-GA-ATA
Replace its Existing P.U.C.O. Tariff No. 2, and	)	
Move the PUCO Rolls as a Regulated Natural	)	
Gas Company.	)	

**COMMENTS OF  
THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

In accordance with the Commission’s December 2, 2021 Entry in this proceeding, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) presents its initial comments on the application of North Coast Gas Transmission, LLC (North Coast) for authority to operate as a natural gas company in the State of Ohio.

**I. COMMENTS**

DEO has concerns regarding certain aspects of North Coast’s proposed tariffs (the Tariff) and apparent intentions regarding its approach to providing service. First, DEO is generally concerned by the implicit and explicit limitations on North Coast’s duty to serve. These limits are contrary to the legal obligations of a public utility, may deprive customers of proper protections, and could permit unfair competition with other natural gas companies. Secondly, as a prospective customer, DEO notes specific items of concern in the tariff provision. DEO reserves the right to supplement these comments based on any information that is produced or made known to DEO later in this proceeding.

**A. North Coast’s proposed tariff would limit the company’s duty to serve, contrary to the legal duties of a public utility.**

First, North Coast’s proposed tariff appears to expressly limit the company’s duty to serve. Generally speaking, under Ohio law, a natural gas company “is bound to serve those of the public who need the service and are within the field of its operations, at reasonable rates

and without discrimination.” *Indus. Gas Co. v. Pub. Util. Comm.*, 135 Ohio St. 408, 413 (1939). *Industrial Gas* specifically held that a utility may not simply “pick out good portions of a particular territory, serve only select customers under private contract and refuse service (which it alone can give) to the remaining portions of territory and to other users.” *Id.*, syllabus ¶ 2.

North Coast’s proposed tariffs appear at odds with this requirement of Ohio law. All forms of distribution service to be offered by North Coast are apparently to be offered on a discretionary basis:

- Section III.A – General Gas Service and Residential Gas Service – “Where such a Customer requests new service that requires the installation of a main line extension, *the Company shall first determine if the main line should be extended.* The Company will permit any prospective Customer requesting service to connect to its existing lines pursuant to the terms and conditions described in these Rules and Regulations, and will extend its existing lines to provide service to a prospective Customer *where such extension is deemed by the Company at its sole discretion to be operationally feasible and economically justified.*” (Orig. Sheet No. 13 (emphases added).)
- Section IV.A – Industrial Gas Service – “Where such a Customer requests new service that requires the installation of a main line extension, *the Company shall first determine if the main line should be extended.* The Company will permit any prospective Industrial Gas Service Customer requesting service to connect to its existing lines pursuant to the terms and conditions described in these Rules and Regulations or as otherwise set forth in the Service Agreement, and will extend its existing lines to provide service to a prospective Industrial Gas Service Customer *where such extension is deemed to be operationally feasible and economically justified by the Company at it[s] sole discretion.*” (Orig. Sheet No. 25 (emphases added).)
- Section VI.A – Residential Gas Service – “Where a Residential Gas Service Customer requests new service that requires the installation of a main line extension, *the Company shall first determine if the main line should be extended.*” (Orig. Sheet No. 37 (emphasis added).)
- Section VI.B – General Gas Service – “Where a General Gas Service Customer requests new service that requires the installation of a main line extension, *the Company shall first determine if the main line should be extended.*” (Orig. Sheet No. 40 (emphasis added).)

As drafted, all of these services are subject to an election by North Coast, and any conditions attached to that election are reserved to North Coast's "sole discretion."

DEO recognizes that the duty to serve must be subject to reasonable limits, such as system capacity and cost-sharing for new facilities. *See, e.g.*, DEO Tariff, Sheet No. K8 § 30. But in contrast with North Coast, DEO's tariff makes clear that *if* it has capacity to serve, and *if* prospective customers are willing to pay their share of the costs of the extension, DEO "*will* extend its distribution mains." *Id.* (emphasis added). There is no step, solely reserved to DEO's discretion, by which DEO simply decides whether or not to extend service that it has capacity to offer and that the customer is willing to pay for. Given a public utility's legal duty to serve, DEO does not believe such an "elective" approach is appropriate.

This limited commitment to serve is borne out by other elements of North Coast's tariff. For example, NC's approach to recovering commodity costs is unclear – it apparently plans either to negotiate commodity rates on a customer-by-customer basis (*see* Appl. at 5) or to charge a fixed \$7.00 rate that apparently would not vary even if the cost of gas were lower, which it frequently has been over recent years. (*See* Orig. Sheet 37 ("Rates and Charges" include "Base Rate (Initially inclusive of the Includable Cost of Gas Supplies) of \$7.00 per Mcf").) Neither approach seems well-suited to providing service to residential customers or unsophisticated commercial customers. The residential limit is further confirmed by the Tariff's definition of "Service Agreement," which lists only Industrial and General Gas Service Customers as eligible, thus excluding residential customers from its scope. (*See* Tariff Orig. Sheet 8, item 31; *see also id.* Orig. Sheet 6, item 15 ("General Gas Service" includes service "where the use . . . is primarily of a business, professional, institutional, or occupational nature").)

The net outcome appears to be that North Coast may simply pick and choose which customers it may serve, and that North Coast may not even be planning to serve smaller customers. This could have a negative impact on would-be customers of North Coast who may be subject to market power and on less-desirable customers who may be denied service altogether. If North Coast opts to focus on taking desirable customers from incumbent utilities, this will increase the cost of service to the remaining customers served by incumbent utilities.

Competition between natural gas companies is permitted under Ohio law, and DEO does not begrudge North Coast its right to pursue commercial opportunities. But any competition should be on a fair and level playing field. Permitting one utility in a region to limit its business model to the pursuit of a few large users, while competing utilities must serve all comers, would neither be fair nor in the public interest.

**B. The Commission should consider ordering revisions to other provisions of the North Coast tariff.**

In addition to the fairness concerns discussed above, DEO also notes a few other concerns regarding the North Coast tariff. DEO does not waive any rights it may have to raise concerns with other tariff provisions or the application thereof, to the extent DEO later receives service under the Tariff.

**1. The definition of “Operational Flow Order” should be modified to make clear that OFOs must be reasonably necessary.**

DEO recommends that the definition of “Operational Flow Order” or “OFO” make clear that an OFO may only be declared in “situations in which [North Coast] reasonably believes that it cannot accommodate deliveries.” (*See* Orig. Sheet 7, Section I, Item 25.) As drafted, the provision could imply that only “weather or operating conditions” require such a situation.

Proposed revisions follow:

“Operational Flow Order” or “OFO” shall mean a declaration made by the Company that the Company can only transport an amount of gas during a calendar day equal to the amount of gas which the Customer will actually deliver at the Receipt Point(s) on that calendar day, ~~or~~ and any of the following events occurs and create a situation in which the Company reasonably believes it cannot accommodate deliveries to customers: 1) any upstream interstate pipeline supplying the Company declares a Force Majeure event or an operational flow order; 2) the Commission or the Governor declare an energy emergency; or 3) adverse weather or operating conditions ~~create a situation in which the Company reasonably believes that it cannot accommodate deliveries to customers.~~

## **2. The Tariff should be expressly subject to Ohio law.**

Section II.A of the Tariff states that the tariff is subject to the following legal authorities:

“all orders, rules and regulations applicable to the Company from time to time issued or established by the Public Utilities Commission of Ohio under its powers with respect to all Customers. . . . [and] also subject to all applicable federal laws, and to the orders, rules and regulations of any federal agency having jurisdiction thereof. A Service Agreement may modify these Rules and Regulations unless otherwise prohibited by law, and shall control in the event of any conflict with these Rules and Regulations.

While this provision correctly acknowledges that the Tariff is subject to Commission orders, rules, and regulations, as well as federal law, the provision does not acknowledge Ohio law. While DEO does not necessarily believe it is necessary to explain all authorities that the tariff may be subject to, the express mention of two sources of law (the Commission and federal law) could be read to imply that Ohio law is excluded. For this reason, this provision of the tariff should make reference to Ohio law.

## **3. The Tariff should make clear that billing adjustments are subject to legal limitations.**

At least two provisions of North Coast’s tariff simply require customers to “honor” any “correction billing based upon discovery of a prior error.” (*See* Orig. Sheet 16, III.F, & Orig. Sheet 27, IV.E.) A natural gas company’s ability to adjust or correct a bill, however, is subject to various regulations (*see, e.g.*, Ohio Adm. Code 4901:1-13-04(G) & 4901:1-13-11(H)), as well as

R.C. 4933.28. As drafted, the tariff provision suggests no limit to North Coast's ability to adjust the bill based on a prior error.

DEO recommends that the provisions of North Coast's tariff that address corrected billings be rephrased to better reflect to North Coast's actual ability to adjust a bill, and at a minimum make clear that such corrections are subject to these regulations and R.C. 4933.28.

## **II. CONCLUSION**

For the reasons discussed above, DEO respectfully requests that the Commission issue any order in this case in accordance with DEO's comments.

Dated: January 4, 2022

Respectfully submitted,

/s/ Christopher T. Kennedy

Mark A. Whitt (0067996)

Christopher T. Kennedy (0075228)

Lucas A. Fykes (0098471)

WHITT STURTEVANT LLP

The KeyBank Building, Suite 1590

88 East Broad Street

Columbus, Ohio 43215

Telephone: (614) 224-3912

whitt@whitt-sturtevant.com

kennedy@whitt-sturtevant.com

fykes@whitt-sturtevant.com

Andrew J. Campbell (0081485)

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)

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

**CERTIFICATE OF SERVICE**

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail this 4th day of January, 2022, to the following:

mjsettineri@vorys.com  
glpetrucci@vorys.com  
amy.botschner.obrien@occ.ohio.gov  
william.michael@occ.ohio.gov  
Werner.Margard@OhioAGO.gov  
Thomas.Shepherd@OhioAGO.gov  
josephclark@nisource.com  
johnryan@nisource.com

Attorney Examiners:  
David.Hicks@puco.ohio.gov

/s/ Christopher T. Kennedy  
One of the Attorneys for The East Ohio Gas  
Company d/b/a Dominion Energy Ohio

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Summary: Comments Initial Comments electronically filed by Christopher T.  
Kennedy on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio