

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
East Ohio Gas Company d/b/a)	Case No. 21-1095-GA-RDR
Dominion Energy Ohio to Adjust its)	
Pipeline Infrastructure Cost Recovery)	
Charge and Related Matters.)	

**CONSUMER PROTECTION COMMENTS
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

Dominion Energy Ohio (“Dominion” or “Utility”) proposes to increase the rider rates that the Utility’s residential consumers pay to fund the pipeline infrastructure replacement program (that has been ongoing for fourteen years).¹ The Utility is seeking approval to increase the monthly charge to its 1.2 million residential customers to \$16.81² (or a total charge of \$201 per year to each of its residential consumers) for program spending from January 1, 2021 through December 31, 2021.

The Office of the Ohio Consumers’ Counsel (“OCC”) is concerned about the impact of the increasing rider rates on consumers, the rate of return used, and other issues. It is neither just nor reasonable to force Dominion’s 1.2 million residential consumers to continue to pay charges for the PIR program that are in part based on a 13-year-old and excessive 9.91% pre-tax rate of return included in the application. The stale rate of return will result in consumers overpaying and Dominion earning profits that are

¹ Application to Adjust the Pipeline Infrastructure Replacement Cost Recovery Charge (“Application”) at 2 (February 25, 2022).

² Application, Attachment B.

too high for current financial market conditions. Under the application, the Utility can collect a cost of debt from customers that is nearly three times its actual cost of debt.

Dominion's application has failed to demonstrate the proposed pre-tax rate of return of 9.91% is just and reasonable. Overcharging consumers is not just and reasonable. Knowingly requiring consumers to pay more to provide a utility an undeserved windfall where the consumers receive nothing of value in exchange is unconscionable to do at any time. The use of an outdated and inflated rate of return to enrich Dominion is especially troublesome during a pandemic, a period of rising gas prices, and a time of the highest rate of inflation in forty years. In addition, requiring consumers to pay more than they otherwise should violates the basic regulatory compact between consumers and utilities, where consumers should only pay fair and reasonable rates of return for monopoly services.³

II. RECOMMENDATIONS

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 requirement in the annual PIR Cost Recovery Charge applications is unjust and unreasonable and should instead adopt an updated rate of return in this case.

Dominion proposes to continue to use the rate of return that was set 13 years ago in Case No. 07-829-GA-AIR in charging customers a profit on the pipeline investment in this application. Dominion filed this case under Revised Code 4929.05 governing approval of natural gas company alternative rate plans. Revised Code 4929.05(A)(3)

³ R.C. 4905.22; R.C. 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 two recent cases, in unchallenged and uncontroverted testimony, an OCC expert witness conclusively demonstrated that the 9.91% pre-tax rate of return set in Case No. 07-829-GA-AIR is inflated and outdated.⁴ If Dominion is allowed to continue using this outdated and inflated rate of return, consumers served by Dominion would be paying far more than they should be paying for Dominion's facilities and services.⁵

The OCC witness, Dr. Daniel J. Duann, demonstrated that the return on equity component of Dominion's rate of return no longer reflects Dominion's current financial risks and is far higher than recent returns on equity for comparable utilities.⁶ Dr. 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.⁷ Similarly, Dr. Duann showed that Dominion's outdated rate of return includes an embedded cost of debt component of 6.50%, when its actual cost of debt is only 2.29%, as shown in DEO's own filing with the PUCO.⁸ 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%.⁹

⁴ Case No. 20-1634-GA-ALT, Direct Testimony of Daniel J. Duann, Ph.D. at 6 (October 25, 2021); Case No. 19-0468-GA-ALT, Direct Testimony of Daniel J. Duann, Ph.D. at 9-10 (September 11, 2020).

⁵ Case No. 20-1634-GA-ALT, Duann Direct Testimony at 7; Case No. 19-0468-GA-ALT, Duann Direct Testimony at 22-26.

⁶ Case No. 20-1634-GA-ALT, Duann Direct Testimony at 6-8.

⁷ *Id.* at 11-12.

⁸ *Id.* at 7-8.

⁹ *Id.* at 11-12.

The PUCO should find in this case that Dominion's use of an outdated and inflated rate of return set 13 years ago is neither just nor reasonable. The result of using an outdated and inflated pre-tax rate of return is that it will increase the revenue requirement for the PIR program and lead to rates that are unjust and unreasonable (and too high) for consumers.¹⁰ This violates the fundamental regulatory principle that all rates for monopoly utility services should be just and reasonable for consumers.¹¹ Ohio law also requires that all utility rates be just and reasonable.¹²

The PUCO should take the opportunity presented in the annual update of Rider PIR to update the rate of return to be used to set the PIR Cost Recovery Charge collected from consumers. Equity and reasonableness require the PUCO to consider whether charging customers a rate of return set 13 years ago remains justified—and it does not, for the reasons explained above.

III. CONCLUSION

Dominion's filed application, requesting to continue charging consumers an outdated and inflated rate of return through single issue ratemaking, should be denied. Single issue ratemaking, coupled with base distribution rates that have not been reviewed in thirteen years, is not good public policy. OCC recommends that the PUCO adopt a

¹⁰ Case No. 20-1634-GA-ALT, Duann Direct Testimony at 17.

¹¹ This regulatory principle is also referred as cost-based regulation. In other words, the rates of utility services that consumers pay should be based on the prudently-incurred costs of providing these utility services to consumers, which includes a reasonable and fair rate of return on the capital invested. *See*, for example, James C. Bonbright, *Principles of Public Utility Rates*, Columbia University Press, New York (1961) at 240-241.

¹² *See* R.C. 4905.22.

reasonable pre-tax rate of return of no higher than 7.20% in updating Dominion's Rider
PIR revenue requirement.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Consumer Protection Comments was served on the persons stated below via electronic transmission, this 23rd day of March 2022.

/s/ Amy Botschner O'Brien

Amy Botschner O'Brien

Assistant Consumers' Counsel

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

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Summary: Comments Consumer Protection Comments by Office of the Ohio
Consumers' Counsel electronically filed by Mrs. Tracy J. Greene on behalf of
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