

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual 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. :

**REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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INTRODUCTION

In this case, The East Ohio Gas Company d/b/a Dominion Energy Ohio (“DEO” or “Company”) filed an application seeking Commission approval to adjust DEO’s Pipeline Infrastructure Replacement (“PIR”) Cost Recovery Charge for the year 2021.

On March 23, 2022, the Office of the Ohio Consumers’ Counsel (“OCC”) filed a Motion to Intervene and Comments. Also on March 23, 2022, the Staff of the Public Utilities Commission of Ohio (“Staff”) filed Comments.

On March 25, 2022, DEO filed a Statement indicating its agreement with the Staff’s recommendations. However, DEO stated that it did not agree with the OCC’s proposed adjustment to the rate of return.

On March 31, 2022, Staff filed Testimony for Jonathan J. Borer; DEO filed testimony for Lori S. Parker; and OCC filed testimony for Daniel J. Duann.

On April 1, 2022, DEO filed Correspondence regarding the Company, Staff, and OCC's agreement to stipulated exhibits, waiver of cross examination of witnesses, stating that there was no need to have a hearing, and proposed a briefing schedule.

Staff, OCC, and DEO each filed an Initial Briefs on April 20, 2022.

Staff's Reply Brief addresses the points made within OCC's Initial Brief.

A. The Commission should continue to follow its practice of applying rates of return determined in a Company's most recent base rate case.

In its Motion to Intervene and Comments filed on March 23, 2022, OCC stated that the Company's rate of return from its last rate case is stale.¹ OCC relies on a number of arguments, all of which lack merit.

In its Initial brief, OCC argued that using the rate of return from the Company's last rate case is for regulatory efficiency and consistency and, furthermore, that use is not a substitute for exercising sound policy.²

OCC claimed using the Commission approved rate of return is not in the public's interest. OCC would argue the opposite if the market interest rates had risen since the Commission's latest approved rate of return; specifically, OCC would argue for an increase in the rate of return. OCC would argue that an adjustment in said circumstance would not be in the public's interest, as customers would pay more. The Commission acknowledged this dichotomy, initially approving the Company's CEP:

It is the Commission's practice to utilize the cost of capital and capital structure approved in the utility's last rate case in subsequent alternative rate plan and rider proceedings. . . . The

¹ OCC Comments at 2.

² OCC Initial Brief at 4 – 5.

cost of capital components should apply equally to credits for customers and the cost recovery mechanism. The Commission recognizes the decrease in the cost of debt and the resultant impact on the CEP revenue requirement. While, in this instance, deviating from our long-standing practice of using the long-term debt rate from the most recent rate case would improve the benefits of the Stipulation for customers, the Commission also must acknowledge that the cost of capital may increase, just as it has recently fallen, resulting in an adverse impact to customers' bills.³

Moreover, the Commission further observed, "Modifying the long-term debt rate in this cost recovery case, which is just one of the costs of capital components, would necessarily involve 'cherry picking,' while ignoring any cost increases that have occurred since the *Rate Case*."⁴

B. The Commission should reject the rate of return proposed by OCC.

The Commission should not adopt the proposal advocated by OCC. The Commission has been very clear that it establishes rates of return in base rate cases, and applies those rates prospectively in later tariff filings.⁵ The Commission established rates for DEO in the Company's last rate case. This is a long-established Commission practice, without precedent to the contrary. OCC seeks to alter that precedent without any justification other than current market conditions,⁶ a context that has been repeated

³ *In the Matter of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of an Alternative Form of Regulation*, Case No. 19-0468-GA-ALT, Opinion and Order (Dec. 30, 2020) at ¶ 68 ("2019 CEP Case").

⁴ *Id.*

⁵ *In the Matter of the Annual Application of The East Ohio Gas Company D/B/A/ Dominion Energy Ohio for an Adjustment to the Capital Expenditure Program Rider Rate*, Case No. 21-619-GA-RDR, Opinion and Order at ¶¶ 58 – 60. ¶ 71 (Feb. 23, 2022), *2019 CEP Case*, Case No. 19-468-GA-ALT Second Entry on Rehearing at ¶ 20 (Feb. 23, 2022), *2019 CEP Case*, Case No. 19-468-GA-ALT, Opinion and Order at ¶¶ 68 – 70, 79 (Dec. 30, 2020).

⁶ OCC Initial Brief at 2.

regularly throughout regulatory history. OCC states the only just and reasonable rate of return is its updated 7.20%.

The Commission has recognized that deviating from the long-standing practice of utilizing the long-term debt rate from the most recent rate case may, at times improve the benefits for customers; however, the Commission must also acknowledge other factors, such as the possible increase in cost of capital, which would result in an adverse impact to customers' bills.⁷ The Commission has also noted, the long-term debt rates are just one of the costs of capital components. Modifying the Company's long-term debt rate is "cherry-picking," while ignoring any cost increases that have occurred since Dominion's last rate case.⁸

CONCLUSION

The Commission should adopt the recommendations made by Staff in its Comments filed in this case on March 23, 2022, and agreed to by DEO, as indicated in its Comments filed on April 1, 2022. OCC's argument of a lower the rate of return should be rejected as detailed in the aforementioned reasons.

⁷ *In the Matter of the Annual Application of The East Ohio Gas Company D/B/A/ Dominion Energy Ohio for an Adjustment to the Capital Expenditure Program Rider Rate*, Case No. 21-619-GA-RDR, Opinion and Order at ¶ 58 (Feb. 23, 2022).

⁸ *Id.*

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Reply Brief**, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by electronic mail, upon the following parties of record, this 4th day of May 2022.

/s/ Jodi Bair

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