

In the Matter of the Application of The )  
East Ohio Gas Company d/b/a ) Case No. 21-1109-GA-ALT  
Dominion Energy Ohio for Approval of )  
an Alternative Form of Regulation )  
)

## I. INTRODUCTION

OCC bases its oft-repeated opposition to non-low-income energy efficiency on three flawed arguments which are inconsistent with the law and the facts. **First**, OCC argues that it is against the policy of the State of Ohio to allow natural gas utilities to run cost-effective energy efficiency programs. It is not. Revised Code 4905.70 and 4929.02 clearly encourage voluntary, utility-run energy efficiency programs. **Second**, OCC argues that the competitive market is satisfying the need for energy efficiency within Dominion's territory. However, OCC's witness did not substantiate this claim with evidence. **Third**, OCC argues that Dominion's DSM portfolio does not provide systemwide benefits to non-participants. This is also incorrect; the evidence shows that DSM/EE programs are cost-effective, will increase participation dramatically, and provide benefits to participants and non-participants alike. As discussed more thoroughly below,

the Commission should reject OCC's flawed arguments and associated recommendations and approve Dominion's DSM/EE portfolio.

## **II. ARGUMENT**

### **A. Ohio policy supports cost-effective voluntary energy efficiency programs.**

OCC argues that state policy demands that the Commission reject Dominion's proposal to continue and expand its non-low-income residential DSM/EE programs. OCC Br. at 2, 9-10, 14. However, the Commission has "long recognized that conservation and efficiency should be an integral part of natural gas policy," as it stated in Dominion's 2007 Rate Case, which established Dominion's original DSM/EE portfolio. Case Nos. 07-829-GA-AIR, 07-830-GA-ALT, and 07-831-GA-AAM, Opin. & Order (Oct. 15, 2008) at 22.

More recently, the Commission recognized that voluntary, cost-effective energy efficiency programs "comport[] with Ohio's stated public policy of encouraging conservation of energy, as well as innovation and market access for demand-side natural gas services and goods, and promoting the alignment of utility and consumer interests in energy efficiency and energy conservation." *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 19-2084-GA-UNC, Opin. & Order (Feb. 24, 2021) (Vectren DSM Order) at ¶ 74. Similarly, the Commission has stated that "well-designed and cost-effective DSM programs are consistent with Ohio's economic and energy policy objectives." *In re Columbia Gas of Ohio, Inc.*, Case No. 19-1940-GA-RDR, Opin. & Order (Dec. 2, 2020) (Columbia DSM Order) at ¶ 54. The cost-effectiveness test the Commission applies ensures that these programs produce customer savings.

The 2022 Energy Efficiency workshops confirmed the Commission's commitment to encourage utility-run voluntary energy efficiency programs, consistent with R.C. 4905.70 and 4929.02. These workshops solicited stakeholder comments and presentations on the role and

benefits of utility-sponsored DSM/EE programs. DEO Ex. 4.0 at 9. After the workshops concluded, the Commission Chair acknowledged “the Commission’s statutory authority” in this area and “encourage[d] jurisdictional and non-jurisdictional interested parties to work collaboratively and cooperatively to propose energy efficiency initiatives” and “incorporate these into either comprehensive or stand-alone proceedings before the Commission for its consideration.” Minutes of the Commission Meeting, July 27, 2022.

Here, Staff agrees that Dominion is in substantial compliance with Ohio’s policies in R.C. 4929.02, and is expected to remain in substantial compliance with this policy if its application is approved.<sup>1</sup> Staff Ex. 2, Staff Report at 2. OCC offers no evidence or argument that would compel the Commission to deviate from its longstanding precedent in approving well-designed, cost-effective natural gas energy efficiency programs. Accordingly, the Commission should reject OCC’s policy argument and approve Dominion’s DSM/EE portfolio.

**B. Utility-run programs are necessary to overcome barriers to energy efficiency.**

OCC witness Shutrump argues that utility-run energy efficiency programs are unnecessary for consumers to adopt energy efficiency measures. OCC Br. at 12-14. However, Ms. Shutrump’s testimony proved unreliable during cross-examination. The ENERGY STAR printout that Ms. Shutrump relied upon did *not* state—or even imply—that the 300 million ENERGY STAR appliances sold in 2020 were sold independently of utility-run programs. Tr. 67:16-70:9. As Ms. Shutrump acknowledged, the ENERGY STAR printout did not break down sales in any manner. *Id.* If anything, it highlighted the integral role that utility company rebates play in ENERGY STAR

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<sup>1</sup> Staff refrained from recommending that the Commission either approve or deny Dominion’s DSM/EE application on the basis that the Commission is “completing its workshop evaluation on the role of energy efficiency in the state of Ohio.” Staff Br. at 3-4. However, as noted above, the workshops have concluded and the Commission has announced its intent to encourage voluntary utility-run energy efficiency programs.

adoption. *Id.* at 72:10-21. Because Ms. Shutrump’s testimony on this point is unreliable and unsupported by evidence, the Commission should give it no weight.

In contrast to OCC’s unsubstantiated arguments, Dominion witness Stephen Herndon’s testimony specifically supported the development, design, and cost-effectiveness of Dominion’s expanded DSM/EE offerings. DEO Exs. 2.0–2.2. Mr. Herndon testified that, in his expert opinion, “barriers do exist to the natural adoption of energy efficient technologies and behaviors, and utility-sponsored programs are designed to address these barriers and influence the adoption of energy efficiency.” DEO Ex. 5.0, Herndon Supp. Dir. Test. at 77-82. ELPC supports energy efficiency programs because they encourage customers to pay slightly more for energy efficient appliances and services than they might be willing to pay without a utility discount or rebate. Dominion’s DSM/EE portfolio is designed to overcome market barriers in a cost-effective manner by offering rebates on smart thermostats and energy-efficient appliances. DEO Ex. 2.0, Herndon Dir. Text at 150-156. In sum, Mr. Herndon’s testimony and the evidence in the record support the need for utility-run DSM/EE programs such as Dominion’s proposal, the Commission should reject OCC’s argument that such programs are unnecessary in light of the competitive market.

**C. Dominion’s proposed DSM/EE produces systemwide benefits for nonparticipants.**

OCC argues in its brief—without record support—that Dominion’s proposed DSM/EE portfolio does not produce systemwide benefits to nonparticipants. OCC Br. at 11-13. OCC cites only the 2006 testimony of Staff witness Stephen Puican in Case No. 05-1444-GA-UNC rather than to evidence in the current proceeding. The Commission rejected Mr. Puican’s 2006 testimony in 2016, stating that “[t]he Commission is not bound to the position advocated by Staff in any

proceeding. It is axiomatic that the Commission speaks through its orders.” *In re Columbia Gas of Ohio, Inc.*, Case No. 16-1309-GA-UNC, et al., Opinion and Order (Dec. 21, 2016) at ¶¶ 107-108.

In making this argument, OCC reiterates its criticisms of non-low-income energy efficiency programs that the Commission has repeatedly (and recently) rejected. *See, e.g.*, Vectren DSM Order ¶¶ 59-66, ¶¶ 73-77; Columbia DSM Order ¶¶ 49-56. In fact, the Commission has specifically rejected OCC’s argument that non-low-income natural gas DSM/EE programs do not provide systemwide benefits to non-participants. Columbia DSM Order ¶ 53. And the Commission has found that the continuation of utility energy efficiency programs “is in the public interest and that OCC’s recommendation to eliminate funding for non-low-income EE programs should be rejected.” Vectren DSM Order ¶ 61 (citing *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, et al., Opinion and Order (Aug. 28, 2019) at ¶ 102). To borrow the Commission’s words from last year, “[t]oday, the landscape of natural gas EE programs has not changed such that a different conclusion is warranted.” *Id.* at ¶ 62.

Here, the only evidence before the Commission demonstrates that non-participants also benefit from the environmental and economic benefits of increased energy efficiency. Tr. 33:22-24; 36-3-10; 50:14-24; 56:2-6. Under its proposed program expansion, Dominion projects that total energy savings will increase from 3.3 million therms in year one of the program to 5.4 million therms in year five—nearly ten times the current savings of 558,000 therms in 2021. The programs will result in the avoidance of approximately 1,400,000 metric tons of carbon dioxide, or the “equivalent to taking over 302,000 automobiles off the road for one year.” DEO Ex. 2.0, Herndon Dir. Test. at 274-278. Dominion’s expanded DSM/EE programs will also provide economic benefits to its service territory and Ohio by creating jobs. DEO Ex. 1.0, Hochstetler Dir. Test. at

203-207. OCC witness Colleen Shutrump could not rebut Dominion's evidence and offered no support for her opinion that non-participants will not benefit. Tr. 76:20-23. Accordingly, the Commission should reject OCC's arguments that non-participants do not benefit from Dominion's DSM/EE programs.

### **III. CONCLUSION**

Current law, established policy, and evidence in the record support Dominion's request to continue and expand its DSM/EE portfolio. OCC's initial brief and testimony of Ms. Shutrumpf do not alter the law, policy or evidence before the Commission. As Dominion has demonstrated that its request is "just and reasonable" under R.C. 4929.05, the Commission should reject OCC's arguments and recommendations and approve its application.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing document submitted on behalf of the Environmental Law & Policy Center was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on October 21, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Janean Weber  
Janean Weber

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Summary: Brief Reply Brief of the Environmental Law & Policy Center electronically  
filed by Ms. Janean R. Weber on behalf of Environmental Law & Policy Center