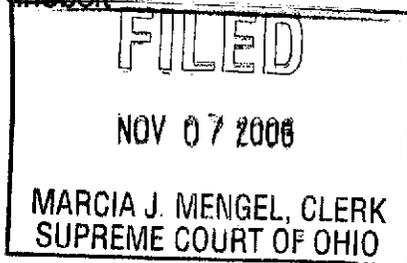


IN THE SUPREME COURT OF OHIO
On Appeal from the Public Utilities Commission of Ohio

Ohio Partners for Affordable Energy,)	Case No. 06-1633
)	
Appellant,)	
)	Appeal from the Public
)	Utilities Commission of Ohio
v.)	
)	
)	
The Public Utilities Commission of Ohio,)	Public Utilities
)	Commission of Ohio
Appellee.)	Case No. 05-474-GA-ATA

**SUPPLEMENT OF APPELLANT,
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The East)
Ohio Gas Company d/b/a Dominion East) Case No. 05- 474 -GA-ATA
Ohio for Approval of a Plan to Restructure)
Its Commodity Service Function)

1. APPLICANT RESPECTFULLY PROPOSES:

- New Service Change in Rule or Regulation
- New Classification Reduction in Rates
- Change in Classification Correction of Error
- Other, Not Involving Increase in Rates
- Various Related and Unrelated Textual Revisions Without Change in Intent

2. DESCRIPTION OF PROPOSAL:

The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") proposes to restructure its commodity service obligation to expand retail choice options for its customers and to maximize the pool of customers receiving commodity service from competitive retail natural gas suppliers. The Phase I Transition Plan, Attachment 1 to this Application, proposes an interim wholesale model in which DEO will continue to provide commodity service until March 31, 2007 using an auction process to obtain its wholesale supplies. DEO proposes to eliminate the GCR and implement a new Standard Service Offer Gas Cost Rate.

The Phase I Transition Plan sets out DEO's comprehensive proposal and explains the reasons for the proposed tariff changes.

The proposed Energy Choice Pooling Service Terms and Conditions in Attachments 3-A and 3-B and the proposed tariffs in Attachments 4-A and 4-B also reflect the Commission's March 9, 2005 Entry in Case No. 05-123-GE-UNC approving DEO's waiver request and the tariffs proposed in that case.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered to the public course of business
Technician: [Signature] Date Processed 4-8-05

3. TARIFFS AFFECTED:

General Sales Service

Large Volume General Sales Service

P.U.C.O. No. 100 General Service Rate (West Ohio Division)

P.U.C.O. No. 102 Large Volume General Service Rate (West Ohio Division)

Gas Cost Recovery Rate (to be eliminated)

Standard Service Offer Gas Cost Rate (New)

Energy Choice Pooling Service Terms and Conditions

Energy Choice Transportation Service

Large Volume Energy Choice Transportation Service

Energy Choice Transportation Service (West Ohio Division)

Large Volume Energy Choice Transportation Service (West Ohio Division)

Standby Service Rate

Transportation Migration Rider -- Part B

Transportation Surcredit Rider

Gross Receipts Tax Rider

Gross Receipts Tax Rider (West Ohio Division)

4. Attached hereto and made a part hereof are:

Attachment 1 Phase I Transition Plan (to be approved)

Attachment 2 Phase II Design (not proposed for Commission approval at this time)

Attachment 3-A Proposed Energy Choice Pooling Service Terms and Conditions (redlined version)

Attachment 3-B Proposed Energy Choice Pooling Service Terms and Conditions (clean version)

Attachment 4-A Proposed schedule sheets (redlined version)

Attachment 4-B Proposed schedule sheets (clean version)

Attachment 5 Proposed Gas Supply Agreement to Serve Standard Service Offer and Percentage of Income Payment Plan Customers

5. This application will not result in an increase in any rate, joint rate, toll, classification, charge or rental.
6. DEO respectfully requests that the Commission grant this application, approve DEO's proposed tariffs and Gas Supply Agreement, and permit DEO to implement Phase I of its Transition Plan.

Respectfully submitted,



Helen L. Liebman

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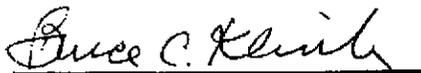
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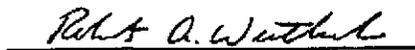
COUNSEL FOR THE EAST OHIO GAS COMPANY
D/B/A DOMINION EAST OHIO

VERIFICATION

State of Ohio, Cuyahoga County, ss:

Bruce C. Klink, Vice President, Pricing and Business Development and Robert A. Westbrooks, Assistant Secretary and Sr. Corporate Counsel of the East Ohio Gas Company dba Dominion East Ohio, being first duly sworn hereby verify this application.


Bruce C. Klink


Robert A. Westbrooks

Sworn and subscribed before me this 6th day of April, 2005.



J. A. DEMERS, Attorney
NOTARY PUBLIC - STATE OF OH
My commission has no expiration date
Section 147.03 R. C.

Attachment 1

1000005

4-08-05

DOMINION EAST OHIO
PHASE 1 TRANSITION PLAN

**DOMINION EAST OHIO
PHASE 1 TRANSITION PLAN
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OBJECTIVES

The primary objectives of the Transition Plan are two-fold: (1) to foster a competitive market in which customers can make informed choices among expanded alternatives while ensuring reliable commodity service by suppliers and (2) to address, without disrupting the competitive marketplace, the commodity service needs of those customers that cannot or will not choose among those alternatives. The Transition Plan is intended to restructure Dominion East Ohio's ("DEO") commodity service obligation to expand retail choice options for its customers and maximize the pool of customers receiving commodity service from a Competitive Retail Natural Gas Supplier ("CRNGS").

RATIONALE FOR CHANGE

Restructuring DEO's commodity service obligation will address various issues that have arisen since the Company expanded the Energy Choice program throughout its entire system in October 2000. Implementing the Transition Plan will eliminate the confusion and market distortion resulting from the unrecovered gas cost portion of the Gas Cost Recovery ("GCR"), which has made it difficult for customers to compare the GCR to supplier offers. It will shift the costs and risks of unexpected changes in migration away from DEO and its sales customers to the suppliers bidding to supply those customers in the future. Since, by law, DEO cannot earn a profit on GCR service, the Company receives no financial benefit from providing that service. Instead, the Transition Plan's restructuring of DEO's commodity service obligation will better recognize DEO's fundamental role as a distribution service provider. No longer burdened by competing with a non-market responsive GCR price, suppliers are expected to devote greater effort to compete in DEO's market and provide more price and service options to customers.

GENERAL APPROACH AND TIMELINE

DEO recognizes that customers and other stakeholders may not be prepared to immediately move to a full retail model in which suppliers have a direct retail relationship with all eligible customers and DEO provides no commodity service other than as a provider of last resort in the event of a supplier default. Thus, while DEO remains committed to achieving a full retail end state as soon as practical, Phase 1 of the Transition Plan uses an interim wholesale model in which DEO will continue to provide commodity service until March 31, 2007 using an auction process, similar to that conducted for its Percentage Income Payment Plan ("PIPP") customers over the past five years, to obtain its wholesale supplies. DEO will issue its request for quote ("RFQ") under the auction process within 30 days of Commission approval, with the intent of receiving supply from the winning bidders and rendering bills reflecting the restructured commodity service within another 60 days, preferably by September 1, 2005.

In order to minimize the risk and consequences of supplier default, an individual supplier will be limited to serving no more than one-third of the total volumes to be acquired through the bidding process. DEO will remain the provider of last resort, using on-system storage reverting back to DEO from the defaulting supplier and operational balancing capacity to ensure reliable service in the event of default. In light of the unknown outcome of Phase 1, it will be structured as a pilot program. (The terms 'Phase 1' and 'Pilot' will be used interchangeably.) If Phase 1 performance meets agreed-upon goals, DEO will make an application by September 30, 2006, requesting Commission approval of Phase 2, which will randomly move remaining eligible customers into a direct retail relationship with marketers on the basis of average market share for non-aggregation customers throughout 2006.

DEO will conduct a customer education program developed in consultation with the Stakeholder Group prior to and throughout the Pilot period to ensure that customers understand their options, the implications of their choices and the available consumer protections. Market research will be conducted periodically to assess the effectiveness of the education program, and the results will be shared with the Stakeholder Group.

If Phase 1 performance does not meet the agreed-upon goals, DEO will make an application by September 30, 2006, requesting Commission approval of either a modified Transition Plan or a return to GCR commodity sales.

REPORTING

DEO will post monthly program statistics on its corporate web site. Those statistics will include Standard Service Offer ("SSO"¹) and Energy Choice customers and volumes by class, participation rates by class, number of participating CRNGS, market shares (with CRNGS names withheld), monthly SSO Rate, and other information as required by the Commission. DEO will file quarterly reports in this docket that contain the preceding information and an assessment of supplier and program performance, including the following comparisons: (1) target deliveries to volumes nominated, (2) target deliveries to volumes billed, and (3) comparable capacity required to comparable capacity demonstrated. In addition to reporting on any customer market research conducted during the prior quarter, the reports will also identify and assess the impact of any supplier defaults; describe CRNGS aggregate storage utilization; and assess the adequacy of the comparable capacity requirements and operational balancing inventory held for the program.

¹ This document uses the term SSO service to describe the restructured commodity service that will replace GCR service. A more straightforward term, such as Sales service, may be used in communication with customers to avoid confusion.

STAKEHOLDER PROCESS

DEO will conduct quarterly Stakeholder Group meetings within 30 days of filing each quarterly report. Stakeholder Group invitees will include those expressing an interest in attending and those granted intervenor status in this docket. Stakeholder Group meetings will be moderated by DEO and will be intended to address issues that arise during Phase 1 and to facilitate the design of Phase 2.

COST RECOVERY

Transportation Migration Rider – Part B (Unrecovered Gas Cost Component)

Prior to GCR service being discontinued, DEO will estimate the balance of unrecovered gas cost and associated excise tax expected to remain at the point of transition to determine the unit rate to be billed to customers upon implementation of SSO service. Presently, those costs are recovered from, or credited to, GCR customers and those on Energy Choice for twelve months or less. The balance of unrecovered gas costs, positive or negative, remaining at point of transition to SSO service will be trued up through the unrecovered gas cost component of the Transportation Migration Rider – Part B, which will be revised to apply to all sales and Energy Choice rate schedules. As a result, there will be no difference between the non-gas commodity charges billed to SSO customers and those billed to Energy Choice customers, regardless of how long the customer was on SSO or Energy Choice service.² Because the balance is recoverable from both classes and is part of the transition cost associated with the Pilot, recovery will be spread over the entire Phase 1 period, from the point when SSO service begins through March 31, 2007. Due to the extended recovery period, the amount to be recovered will include carrying cost accrued at DEO's actual short-term borrowing rate based on the weighted average yield of Dominion commercial paper outstanding. The true-up after March 31, 2007, will be accomplished by debiting or crediting, as appropriate, the operational balancing component of the Transportation Migration Rider – Part B. If DEO fully recovers or passes back the full balance prior to March 31, 2007, it will cease billing the rider. The accounting of the balance, recoveries and final true-up of unrecovered gas cost will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

Cash-Outs and On-System Storage Sales/Purchases

All receipts and disbursements for cash-outs and on-system storage sales or purchases, net of excise tax, will be debited or credited, as appropriate, to the cost of operational balancing inventory held by the Company and recovered through the Transportation Migration Rider – Part B (operational balancing component). Cash-out amounts will include those from all sources, including traditional, non-Energy Choice

² In order to equalize non-gas commodity charges, DEO will apply the Transportation Surcredit Rider to SSO service base rates. An offsetting amount will then be added to the commodity cost billed to SSO customers to permit a more accurate comparison with Energy Choice supplier offers.

transportation and pooling services offered by DEO. (On-system storage sales/purchases are not available to traditional transportation and pooling service customers.) The accounting of those receipts and disbursements will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

Transportation Migration Rider – Part B (Operational Balancing Component)

The rider will be converted from a rate based on the expected unit cost of contract storage held for Energy Choice-related operational balancing capacity to a tracker designed to recover all operational balancing costs as well as certain costs and credits formerly handled through the GCR mechanism. The rate, which will be updated quarterly on the same schedule as DEO's current GCR filings, will reflect the following:

- All costs associated with maintaining operational balancing inventories, including contract storage, the withdrawal season FT needed to support firm withdrawals, the injection season FT needed to support firm injections, and carrying cost on the inventory as currently recovered through the GCR;
- The net effect of any receipts or disbursements associated with cash-outs, on-system storage sales or purchases, and operational sales of storage;
- The recovery of contract storage costs from Transportation Migration Rider – Part A and Volume Banking Service charges that are billed to non-Energy Choice transportation customers;
- The crediting of migration-related charges included in seasonal FSS injection and withdrawal rates;
- The cost of purchased gas, net of storage activity, incurred by DEO as a result of differences between actual unaccounted-for gas levels and volumes provided though the fuel retention charged transportation customers;
- Any difference between the amount billed for provider of last resort ("POLR") service and the actual cost incurred for the volumes purchased or withdrawn from storage; and
- Associated excise tax.

Some of the preceding items may involve either a debit or a credit to expense depending on the nature of the transaction, e.g., a negative versus a positive imbalance cash-out. DEO will retain detailed accounting information for each of the above items, but will combine their effects into a single rider rate to avoid the customer confusion that would accompany the creation of multiple new riders. The rider will be applicable to all SSO and Energy Choice customers. The accounting of the costs and recoveries associated with the rider will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

Unaccounted-for Gas ("UFG")

DEO will update its fuel retention rate using its existing methodology before issuing the SSO-supply RFQ. The updated rate will go into effect at the point of transition to SSO service and will serve as the system-wide rate charged to both Energy Choice and traditional transportation service. That rate will be fixed for the Pilot period.

The extent to which DEO's fuel retention rate over- or under-collects the actual retention requirement will be reflected in DEO's monthly gas purchase and net storage activity. Because DEO's monthly gas purchase and net storage activity is also affected by DEO's operational balancing requirements, DEO will debit or credit the Transportation Migration Rider – Part B (operational balancing component) with the combined cost of any over- or under-collection of fuel retention and maintaining operational balancing inventories, as well as the other items indicated previously.

DEO will make its proposal for post-Pilot treatment of unaccounted-for gas in the filing to be made by September 30, 2006. Included in that proposal will be an update to the fuel retention rate to become effective April 1, 2007.

It should be noted that DEO's storage migration adjustment to book inventories will continue to be shown as a storage withdrawal volume on the supply side and a company use volume on the requirements side. Because company use is one of the components of the fuel retention rate, recovery of the storage migration component will be provided through fuel retention. Any changes in the storage migration adjustment will be handled in the true-up process described above.

Purchase of Storage in Place by SSO Suppliers

Because restructured SSO service will begin after the start of the injection season, DEO will sell SSO suppliers on-system storage inventory in order to attain the percentage level specified in the Energy Choice Pooling Service ("ECPS") terms and conditions for the month in which those suppliers begin delivering gas for the Pilot. The price for that sale will be based on the average first-of-month price index for Dominion Transmission, Inc. ("DTI") Appalachia from April 2005 through the month prior to suppliers delivering gas for the Pilot plus the 100% load factor DTI FTNN rate. That city gate Dt rate will be converted to an in-field Mcf rate by adjusting for Btu conversion, fuel retention and associated excise tax. If contract storage inventory is sold to SSO suppliers as a result of an assignment or release of contract storage capacity, the price will be based on the same average first-of-month price index excluding the 100% load factor DTI FTNN rate. Any difference between the amount realized from such sales and the actual cost (including any credits resulting from the sale of low-cost LIFO layers at market prices) will be included in unrecovered gas cost and handled accordingly. The calculation of the purchase price and associated accounting of such sales will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

Transportation Migration Rider – Part B (Energy Choice Program Costs)

At the point of the transition to SSO service, DEO will resume billing the rider at the \$0.0211 per Mcf in effect when Energy Choice was expanded system-wide. Costs covered by that rider will be of the same type recovered previously, including incremental expenses associated with customer and employee education, market research, load research, billing system changes and electronic bulletin board changes. If DEO establishes a separate phone number or automated prompt to handle customer inquiries

associated with the transition to SSO service that is staffed by non-company labor, such costs will be included for recovery as well. If, at the end of the Pilot period, DEO has over-recovered its expenses through the rider, it will credit the over-recovered balance to the cost of operational balancing held by the Company recovered through the Transportation Migration Rider – Part B. If those expenses are not fully recovered by the end of the Pilot period, the rider will continue until full recovery is accomplished. The accounting of the costs and recoveries associated with the rider will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

AUCTION PROCESS

Nature of Service

The auction is intended to address the commodity service needs of DEO's PIPP and SSO customers. A supplier will deliver and sell to DEO, on a firm daily basis, supplies of natural gas to meet a portion of those customers' usage requirements based on the number of tranches awarded to the supplier through the auction process. The total number of customers to be served by the suppliers will be affected by various factors such as migration to and from Energy Choice, new customer additions, termination and restoration of customers' service, supplier default (after DEO's POLR service obligation expires after two billing cycles) and, in the case of PIPP customers, income eligibility. Suppliers awarded contracts through the auction process will be wholesale providers of gas to DEO and will not have a direct retail relationship with the PIPP or SSO customers served during the Pilot period. Suppliers will operate under the capacity and operational aspects of the ECPS terms and conditions except as those terms and conditions specifically refer to retail relationships between suppliers and customers and except as noted herein.

General Structure

DEO will conduct two auctions, one before the Pilot begins and another during the Pilot period. In the first auction, DEO will bid out half of the requirements for a term covering the entire Pilot period and the other half for a term covering its initial months. In the second auction, DEO will request new bids for half of the requirements for the remainder of the Pilot. The auction structure will permit DEO to (1) provide a measure of price certainty for half of the requirements over the entire Pilot period, and (2) establish pricing for the other half under two different sets of market conditions. In order to ensure that PIPP customers receive a lower commodity price than standard SSO service during the Pilot, DEO will award the PIPP supply contracts to the supplier(s) submitting the lowest bids for each term. SSO supply contract awards will then be made based on an evaluation of the remaining bids. The price to be paid to winning bidders on the SSO portion of the auction will be the market-clearing price for each term's set of bids.

Term

The initial auction will be conducted simultaneously for two terms: the First Partial Period and the Full Period. One half of DEO's PIPP and SSO service obligation at the point of transition to SSO service will be auctioned for the period through March 31, 2006 ("First Partial Period"). The other half will be auctioned for the period through March 31, 2007 ("Full Period"). Suppliers can bid to provide commodity service for either or both periods. A subsequent auction will occur in January 2006 to solicit bids for half of DEO's PIPP and SSO service obligation at that point for the period April 1, 2006 to March 31, 2007 ("Second Partial Period").

PIPP Supply Auction

The auction for PIPP supplies will be conducted in conjunction with the bidding for SSO supplies. Bids for both PIPP- and SSO-related supply will be submitted for tranches of approximately 5-6 Bcf of annualized load. There will be two PIPP tranches awarded. As of February 2005, normalized PIPP customer usage is 11.2 Bcf per year, which DEO would split into two tranches of 5.6 Bcf each. Although the final tranche sizes for the PIPP awards and SSO awards will be slightly different, initial bids will be requested for a common tranche size regardless of the customer group to be served.³ DEO will award one PIPP tranche to the lowest price bidder for the First Partial Period and another to the lowest price bidder for the Full Period. The tranche size for the second auction in January 2006 will be updated based on one-half of DEO's normalized PIPP load at that time. In that auction, DEO will again award the PIPP tranche to the lowest price bidder.

SSO Supply Auction

Bids will be submitted for SSO tranches of approximately 5-6 Bcf of annualized load. Assuming no material changes to DEO's existing GCR obligation of 67.6 Bcf, DEO will bid out six tranches of 5.6 Bcf each for the First Partial Period and another six tranches of the same size for the Full Period. Suppliers can bid on one or, at most, two tranches in each period. The tranche size for the initial auction will be specified at the time the RFQ is issued, based on one-twelfth of DEO's normalized GCR obligation at that time.⁴ The tranche size for the second auction in January 2006 will be updated based on one-twelfth of DEO's normalized SSO obligation at that time. Only six tranches will be auctioned at that time, since another six from the initial auction will span the entire Pilot period. Suppliers will be limited to no more than two of the SSO tranches to be awarded in the second auction.

³ DEO will provide customer-weighted PIPP and GCR load profile information in the RFQ package. Suppliers submitting bids for a tranche agree to sell gas to DEO at the bid price for either the PIPP customer supply pool or the SSO customer supply pool.

⁴ If changes in PIPP and GCR requirements cause the PIPP tranche size to be significantly different than the SSO tranche size at the time the RFQ is to be issued, DEO may revise the number of SSO tranches to be auctioned in order to better equalize their size.

If fewer than three suppliers submit bids in the initial auction, DEO will continue to provide commodity service under the GCR mechanism until it determines whether another auction approach should be pursued. If three or more suppliers submit bids that, in the aggregate, are insufficient to serve the entire market up for bid, DEO will offer those suppliers the opportunity to increase their number of tranches bid in order to obtain the requisite aggregate number. If those suppliers still do not bid on enough tranches in the initial auction to serve the entire market up for bid, DEO will continue to provide commodity service under the GCR mechanism until it determines whether another auction approach should be pursued. DEO will be under no obligation to attempt a subsequent auction if the initial auction does not yield desired results. If the auction for the First Partial Period is successful, but suppliers do not bid on enough tranches in the January 2006 auction to serve the entire market then up for bid, DEO will request Commission approval of an alternate approach, which could take the form of resuming GCR service while continuing to meet its contractual obligations to those suppliers that bid for the Full Period.

Price Specification

All bids will be specified as a fixed adjustment ("Retail Price Adjustment") to the NYMEX settlement price on the final day of trading for each month ("NYMEX Price"). Bidders will quote their Retail Price Adjustment bid as an adjustment to the NYMEX Price for the commodity rate to be charged DEO on a \$ per Mcf basis at the burner-tip to yield a pricing structure comparable to the retail prices offered by Energy Choice suppliers. The Retail Price Adjustment must be fixed for the term being bid. Nonconforming bids will be rejected. The Retail Price Adjustment will have to take into account all costs and risks associated with upstream transportation to DEO's city gate, DEO's Btu conversion and fuel retention rates, ECPS fees, uncertainty of the aggregate load to be served, and the unique nature of service described herein.

In order to establish a market-clearing price for the SSO contracts to be awarded for the First Partial Period, DEO will rank order the Retail Price Adjustment bids from low to high (excluding the tranche awarded for PIPP supplies) and use the bid for the sixth tranche as the Retail Price Adjustment to be paid for each of the lowest six bids, thereby clearing the market for that half of DEO's SSO requirements. The same process will be repeated for the contracts to be awarded for the Full Period. In the event of a tie in the bid for the market-clearing sixth tranche, the tranche (or tranches in the event there are tying bids for multiple tranches) will be divided equally among those tying bidders willing to accept a smaller load to be served. DEO will expressly reserve the right to reject any and all bids.

The monthly price for commodity service billed to SSO customers will equal the NYMEX Price plus the average of the two market-clearing Retail Price Adjustments. The price paid to the winning bidders for the First Partial Period will be the market-clearing Retail Price Adjustment for that group of awards plus the NYMEX Price, while the price paid to the winning bidders for the Full Period will be the market-clearing Retail Price Adjustment for that group plus the NYMEX Price.

PIPP and SSO suppliers will be reimbursed monthly. DEO will initially pay an amount for the gas calculated by multiplying the volumes delivered to its system, adjusted for DEO's Btu conversion and fuel retention rates, by the applicable market-clearing price for the month. A monthly true-up for volumes and amounts billed to PIPP and SSO customers will ensure that the amount paid for the gas purchased from PIPP and SSO suppliers equals the amount billed to such customers for commodity service over the term of the agreement. The monthly true-up will compensate for the difference between the initial amount paid to the supplier, which is based on a calendar month supply and price, and the amounts charged to PIPP and SSO customers who will be billed a single rate over their entire billing cycle, which for the most part will not be on a calendar month basis. DEO will assume all risk of collection of delinquent payments and all meter reading and billing costs.

Bid Submission and Evaluation

All bids, in the form of a completed and signed Gas Supply Agreement, must be received by DEO by 5:00 EST on the date indicated on the RFQ regardless of the term being bid. The RFQ package will be issued within 30 days of Commission approval of the Transition Plan. DEO is seeking Commission approval of the Gas Supply Agreement as part of its proposed Transition Plan. All proposals will be considered confidential and will be opened at the same time following expiration of the auction bid period. As with the current PIPP RFP process, DEO will provide to Commission Staff and OCC on a confidential basis copies of all bids received. Conforming bids for each term will be evaluated on the basis of the estimated cost to PIPP and SSO customers over the First Partial Period and the Full Period, the sufficiency of the supplier's plan to secure its capacity and supply, the anticipated ability of the supplier to perform under the terms of the agreement, and the supplier's creditworthiness.

DEO will review its proposed awards with Commission Staff and OCC before requesting expedited Commission approval of the bids to be awarded in order to begin receiving gas within 60 days of issuing the RFQ. The Commission will have the right to reject the results of the bidding process if it concludes that there were material deficiencies in the auction process or that the market-clearing price to be awarded for either term is unacceptable. Winning bidders will be awarded the right to sell a proportionate volume to DEO based on the number of tranches awarded, i.e., as little as one-twelfth (if the supplier is awarded only one SSO tranche in either the Initial Period or Full Period term) up to as much as one-third (if the supplier is awarded two SSO tranches each in both the Initial Period and Full Period terms) of the estimated daily aggregate SSO customer requirement. In the case of PIPP supply, a winning bidder will be awarded the right to sell to DEO either 50% or 100% of the PIPP requirements depending on whether it is awarded one or both tranches. The actual load served by suppliers will be based on their awarded share of the total load of each class (i.e., PIPP or SSO) as that total load may change over the term with no volumetric limitation.

Supplier Requirements

Due to the unique nature of their commodity service obligation, SSO suppliers must comply with the following requirements that go above and beyond those of Energy Choice suppliers:

1. Suppliers will have to administer separate pools for the East Ohio and West Ohio parts of DEO's system and deliver gas to interconnects serving several isolated areas behind the East Ohio portion of DEO's system. Those isolated areas are comprised of the Ashtabula market, served via a DTI line fed upstream by Tennessee Gas Pipeline, and the Woodsfield and Powhatan Point markets, served by Texas Eastern. DEO will post the volumes required at those points one day in advance. Each tranche will include an obligation to make deliveries to the West Ohio system and to those interconnects in addition to deliveries to the integrated East Ohio system. The RFQ package will contain 24 months of historical daily deliveries at each of those points. Due to the small volumes involved at the Texas Eastern points, DEO will have the right to rotate supply responsibilities at those locations among suppliers on a non-discriminatory basis in order to avoid posting volumes that are too small to efficiently procure, nominate and deliver to DEO. Because DEO will continue to be the delivery point operator, any cash-outs or other costs incurred as a result of upstream pipeline imbalances exceeding operational balancing agreement ("OBA") tolerances will be debited or credited, as appropriate, to the Transportation Migration Rider, Part B.
2. Suppliers will have to demonstrate 100% comparable capacity throughout all twelve months of the year. The capacity needed for each month will be based on the design day requirements for that particular month. The nature of the comparable capacity will be identical to that required of Energy Choice suppliers. Like Energy Choice suppliers, SSO suppliers will be able to count their assignment of on-system storage capacity toward their comparable capacity requirement. The RFQ package will contain the estimated aggregate design day requirements of those customers receiving PIPP and GCR service at the time it is issued. Additional historical monthly PIPP and GCR requirements and temperature data will be included in the package as well.
3. If a supplier uses contract storage as part of its comparable capacity, the supplier must have the injection and withdrawal season firm transportation capacity needed to effectuate firm injections to and withdrawals from that storage.
4. Suppliers must take a release of any capacity held by DEO in excess of that needed to support DEO's operational balancing requirements. A complete listing and pertinent terms of DEO's contracts, excluding those to be retained for operational balancing, will be included in the RFQ package. The releases will be structured as temporary term releases at the rates paid by DEO through the end of the bid term in order to leave right-of-first-refusal rights, if any exist, with DEO upon contract expiration. The releases will be recallable; however, DEO will recall the capacity only in the event of supplier default. DEO will not retain any

revenue from such releases as provided by the current capacity release sharing mechanism. The RFQ package will also contain an estimate of the contract storage inventory, if any, that will be sold to suppliers in the month in which they begin delivering gas for the Pilot. (Note: Because DEO has less than 100 mcf per day in total of Ohio production being purchased under life-of-well arrangements, there will be no option to purchase Ohio production from DEO at cost.)

5. Suppliers will be required to submit semi-annual capacity and supply plans to DEO in September and February in order to demonstrate that they have adequately planned for capacity and supply in the upcoming winter and summer periods. Such plans will be considered confidential. If DEO determines that the plans do not provide adequate assurance of reliable commodity service, the supplier will be given an opportunity to revise them. Failure to submit appropriate plans, obtain sufficient comparable capacity or otherwise perform under the terms of the agreement may result in its termination.

Any supplier responding to the RFQ must include an initial capacity and supply plan setting forth its plan and capabilities to supply the tranches being bid on for the term in question. Failure to include such information will render the bid non-conforming.

Supplier Pre-Qualification

Suppliers will be pre-qualified to bid on one, two, three or four tranches using the credit evaluation process and collateral requirement formula set forth in the ECPS terms and conditions. For purposes of the evaluation, the Cash Out Price will equal the weighted average negative imbalance cash out price for the prior twelve months (weighted by normalized GCR volumes), and the Billing Rate Price will equal the weighted average Expected Gas Cost rate for the same period (again weighted by normalized GCR volumes).

Other

DEO will conduct a meeting within 15 days of issuing the RFQ to give interested parties an opportunity to better understand the RFQ requirements and receive answers to any questions they might have regarding the auction process.

PROVIDER OF LAST RESORT

DEO will be the provider of last resort ("POLR") in the event of default by an Energy Choice or SSO supplier under the following terms:

Sources of Supply

DEO will sequentially obtain supplies as needed from the following sources in the event of a supplier default:

1. *SSO Suppliers* – DEO will first offer all non-defaulting SSO suppliers the option of immediately increasing their deliveries to cover the estimated shortfall in proportion to their respective shares of SSO supply volumes. If not all suppliers are willing or able to immediately increase deliveries commensurate with their respective shares, DEO will work with willing SSO suppliers on a non-discriminatory basis to purchase whatever volumes they are able to provide up to the estimated shortfall.⁵ Suppliers will be paid the price established through the auction process for their tranche(s) of supply.
2. *Storage Assigned to Defaulting Supplier* – Upon default, all on-system storage capacity assigned or sold to the defaulting supplier and the corresponding inventories will revert to DEO as provided under the Creditworthiness provisions of the applicable terms and conditions of service. DEO will use that capacity and inventory to satisfy any financial exposure created by the default and to cover any supply shortfall not addressed by the preceding option offered to non-defaulting SSO suppliers.
3. *Operational Balancing Capacity* – If the preceding sources do not provide enough supply, DEO will utilize its operational balancing inventory to cover shortfalls resulting from a supplier default. Operational balancing capacity is held to accommodate differences between daily target deliveries and actual end-user consumption under normal operating conditions. A material supplier default will likely result in an OFO being issued. That will temporarily reduce operational balancing requirements because suppliers operating under an OFO are required to match supply with estimated consumption on a near real-time basis, rather than the 2-4 day lead-times used to post delivery targets during non-OFO periods. DEO will use the operational balancing capability temporarily freed up as a result of the OFO issuance to cover shortfall volumes not supplied by other means.⁶
4. *Incremental Purchases* – In the unlikely event that the preceding sources of supply are still not enough to cover the estimated shortfall, DEO will acquire additional flowing supplies via city gate purchases. Because DEO will release upstream pipeline capacity to SSO suppliers on a recallable basis, DEO may recall capacity not being used to deliver gas to its system in order to acquire supplies upstream of the city gate if necessary.

Term

DEO will stand ready to provide POLR service to customers for the remainder of the billing month in which the default occurs and for one additional billing month

⁵ In the event of supplier default, DEO will use its best efforts to accommodate requests for on-system storage over-withdrawals of up to 15% for those SSO suppliers providing additional deliveries. Suppliers utilizing such authorized overruns must still comply with the month-end storage inventory requirements set forth in the terms and conditions unless waived by DEO to cope with the default situation.

⁶ Based on a 22.5 Bcf maximum SSO bid award to any one supplier (1/3 of DEO's current GCR obligation), the maximum SSO default would result in a shortfall of approximately 280 MMcf/d, 95 MMcf/d of which could be served by on-system storage formerly assigned to the defaulting supplier. Because DEO's proposed level of operational balancing capacity exceeds the remaining shortfall of 185 MMcf/d, the Company expects to be able to meet its POLR obligation without the need for incremental capacity reserves or incremental purchases.

thereafter. The number of POLR service bills that a customer receives will depend on the timing of his billing cycle relative to the date the supplier defaults. If a customer has already received his bill for the billing month in which the default occurs, he will receive only one POLR service bill for the following billing month. If a customer has not yet received his bill for the billing month in which the default occurs, he will receive two POLR service bills – one for the month in which the default occurs and another for the following billing month. In either case, the customer will be free to select another supplier as soon as possible after the default occurs. Processing of any enrollments of customers formerly served by a defaulting supplier will be handled in the same manner as any other enrollment.

DEO's POLR responsibility will effectively cease at the end of the next billing month following the date of default. Supply responsibility after that time will reside with the customer's new supplier, if one is selected, or with the SSO suppliers. (See Auction Process – Nature of Service.) Thus, in the second billing month following default, a customer will be billed at a new supplier's rate if he selects another supplier that submits an enrollment in time for the bill to be generated using the new supplier's rate. If the customer does not select another supplier or does not have its enrollment submitted in time, the customer will be billed at the standard SSO rate. In the event of default by an SSO supplier, the tranche(s) that it previously served will be allocated to non-defaulting suppliers in proportion to the number of tranches each was awarded.

Pricing

Regardless of the timing of the default of an Energy Choice supplier and the supply source used to cover subsequent delivery shortfalls, DEO will bill customers of the defaulting supplier the applicable supplier rate for the entire billing month in which the default occurs and the standard SSO rate for the following billing month. In the event of a default by an SSO supplier, SSO customers would continue to be billed the standard SSO rate regardless of the supply source used to cover the delivery shortfalls created by the default. The following example illustrates the proposed procedure:

Assume a supplier defaults by failing to make supply nominations for the February 20 gas day.

- For the February billing month, all of the supplier's customers will be billed at the February supplier billing rate previously input into the billing system regardless of whether their bill was issued before or after February 20. (If it is a SSO supplier that defaults, SSO customers would likewise see no change in their February billing rate.)
- For the March billing month, all of the supplier's customers will be billed at the March SSO rate.
- For the April billing month, a customer's bill will either reflect a new supplier rate or the April SSO rate depending on whether the customer has made a selection of another supplier in time for the enrollment to be processed for the April billing month.

Cost Recovery

Any difference between the amount billed for POLR service and the price paid for the supplies will be reconciled and recovered through the Transportation Migration Rider – Part B (Operational Balancing Component). Rider recovery of that difference, as well as any adverse financial impact on DEO from the default, is appropriate because all Energy Choice and SSO customers receive the benefit of DEO standing ready to provide POLR service to either marketplace. In the month that the default occurs, DEO will designate volumes billed at the supplier's rate in excess of those provided by the supplier before the default as POLR service. In the month following default, all volumes will be designated as POLR service. Any difference in the amount billed for those POLR volumes and the actual cost incurred for the volumes purchased or withdrawn from storage will be recovered through the rider, along with an amount necessary to cover any adverse financial impact to DEO not recouped through collateral, parent company guarantee, letter of credit or other means. The accounting of the prices, costs and recoveries associated with POLR service will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

Other

A supplier's failure to nominate supply in accordance with applicable terms and conditions may constitute default for purposes of implementing these POLR service provisions. Procedures and consequences related to Energy Choice supplier default are specified in the ECPS terms and conditions, while those related to SSO supplier default will be specified in the Gas Supply Agreement. DEO will not provide POLR service under the preceding terms to traditional transportation customers, i.e., non-Energy Choice/non-SSO customers. DEO will provide commodity service to the traditional transportation class pursuant to the Gas Transportation Program Guidelines issued in Case No. 85-800-GA-COI, which require only a best efforts commodity service at a price that reflects all costs incurred by DEO in providing the service. The accounting of the prices and costs associated with such sales will be reviewed as part of an annual financial audit that will be provided to Commission Staff.

ENERGY CHOICE PROGRAM CHANGES

The summary below describes the major operational changes to the ECPS terms and conditions. Changes such as the addition of excise tax language where appropriate and minor language changes made to clarify certain provisions are not included in the following summary.

Section 3 – Sources of Supply and Capacity

- The period over which suppliers need to demonstrate comparable capacity is expanded from November through March to October through April to ensure that suppliers have sufficient capacity to meet potentially significant shoulder-month

requirements when no on-system storage withdrawals are available. The same change is also made in Section 6 – Assessment of Supply and Capacity.

- The optional purchase of local production is eliminated to conform to current practice.

Section 5 – Assignment of On-System Storage Capacity

- A reference to a summer-period injection schedule replaces the sole reference to a November 1 inventory level because DEO will have less storage injection flexibility once on-system storage capacity is assigned to SSO suppliers.
- A provision is added to provide optional sales of on-system storage volumes if requested by suppliers or if needed to meet operational requirements because DEO will no longer be able to sell operational balancing inventories to GCR customers.
- The variable cost of transportation on Dominion Transmission added to the reference price for sales of on-system storage in place is replaced with a 100% load factor rate to reflect a fully-loaded cost that is more appropriate once DEO exits the merchant function.

Section 6 – Assessment of Supply and Capacity

- A provision is added giving DEO the option to require a supplier that has failed to demonstrate comparable capacity to submit a capacity and supply plan to help DEO assess the supplier's ability to meet future customer requirements.

Section 7 – Transportation Receipt Points

- Never-used provisions related to the use of upstream pipeline capacity released to the supplier are eliminated because they are no longer considered necessary.

Section 12 – Reconciliation of Production Volumes

- The inability of a supplier to count reconciliation volumes (which do not reflect physical deliveries of gas) toward comparable capacity is made explicit in order to conform to current practice.

Section 13 – Nomination of Storage Volumes

- First-of-month summer-period injection and winter-period schedules are added because DEO will have less storage injection flexibility once on-system storage capacity is assigned to SSO suppliers.
- The beginning of the storage injection season is changed to April 1 to reflect planned changes to DEO storage operations. Charges based on the cost of optional firm storage service are added to clarify the consequence of failing to turn storage by March 31.

Section 14 – Nomination of Pool-to-Pool Volumes

- The inability of suppliers to make pool-to-pool trades that increase their imbalance is made explicit to make the nominations conform to DEO's Full Requirements Pooling Service imbalance trading requirements. The same change is also made in Section 15 – Nomination of Supplier Allocation Volumes.

Section 16 – Determination of Aggregate Daily Consumption Volume

- A provision is added giving DEO the option to post target volumes on a daily basis if needed to avoid excessive daily imbalances because DEO will have less operating flexibility once on-system storage capacity is assigned to SSO suppliers.
- A provision is added giving DEO the flexibility to adjust forecasting methodology in the event of substantial supplier enrollments in order to address imbalance issues that have arisen in the past.

Section 18 – Reconciliation of Daily Imbalance Volumes

- The under-delivery threshold under which DEO can request suspension or termination has been tightened because DEO will hold fewer assets to compensate for daily under-deliveries once it has exited the merchant function. The same change is also made to Section 26 – Conditions of Supplier Default.

Section 19 – Reconciliation of Monthly Volumes

- The annual reconciliation option is eliminated because DEO will hold fewer assets to accommodate imbalances for up to an entire year once it has exited the merchant function.

Section 21 – Operational Flow Orders

- A reference to on-system storage utilization is added to make this section consistent with the Storage OFO provisions of Section 13 – Nomination of Storage Volumes.
- The reference to the weighted average demand cost incurred for core sales is eliminated and replaced with a reference to Dominion Transmission capacity because that will be the primary source of upstream capacity that DEO will hold in the future for operational balancing purposes.
- The crediting of OFO non-compliance charges is changed to Transportation Migration Rider, Part B, from the two-part crediting to the Actual Adjustment component of the GCR because DEO will no longer have an Actual Adjustment component in rates once SSO service begins.

FILE

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of the East
Ohio Gas Company d/b/a Dominion East
Ohio for Approval of a Plan to Restructure
its Commodity Service Function

Case No. 05-474-GA-ATA

APPLICATION FOR REHEARING

Pursuant to R.C. 4903.10 and Rule 4901-1-35(A), Ohio Administrative Code, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") requests rehearing of the Commission's August 3, 2005 Entry.

I. INTRODUCTION

In its August 3, 2005 Entry (the "Entry"), the Commission found that DEO's application is a request for an exemption from the provisions of Chapter 4905, Revised Code, governing commodity sales service and that it is therefore governed by R.C. 4929.04. But DEO has not asked to make unregulated sales of natural gas, in either Phase 1 or Phase 2, and thus the Commission's conclusion was incorrect. During Phase 1, DEO will continue to make regulated sales of natural gas as it always has. The only change is that it will procure its supplies in a different way and will substitute a new pricing mechanism for the GCR. Even during Phase 2 and thereafter, DEO will continue to provide regulated commodity sales service to PIPP and ineligible customers and in its role as the provider of last resort.

Because the Commission has incorrectly characterized DEO's application, DEO requests that the Commission grant rehearing of its Entry, find that DEO's application for approval of Phase 1 should be reviewed as an application not for an increase in rates under R.C. 4909.18, and find that only Phase 1 is subject to review at this time.

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II. ARGUMENT

A. DEO Does Not Seek to Provide Exempt Commodity Sales Service

It is not clear how and why the Commission came to the conclusion that DEO's application "is governed by" R.C. 4929.04. R.C. 4929.04(A) permits the Commission to exempt any commodity sales service from various provisions of Title 49 "including the obligation under section 4905.22 of the Revised Code to provide the commodity sales service" That is not what DEO has asked for. In fact, DEO stressed in its pre-filing discussions of the transition plan and in the application itself that it will continue to be the provider of last resort even after Phase 2 implementation. *See* Phase 1 Transition Plan, pp. 13-15. DEO was under the impression that this component of its proposal was important to the parties and to the Commission.

Approval of Phase 1 will not change in any way the *nature* of DEO's commodity sales service. The only effect it will have is to permit DEO to procure its wholesale supplies of natural gas through an auction process and to substitute a new Standard Service Offer Gas Cost Rate ("SSO") for the GCR, which all agree does not give customers the proper price signals when they are considering whether to participate in the Energy Choice program. In Phase 1, DEO will continue to provide commodity service at a price that, like the current GCR, will change monthly, is based on NYMEX futures pricing, and reflects what DEO pays for the gas. DEO will still be the commodity provider to its sales customers and will sell gas at tariffed prices that remain subject to regulation.

Even after Phase 2 implementation, DEO will not make any sales of natural gas at unregulated prices. The fact that DEO will be providing sales service on a more limited basis does not change DEO's tariffed sales service into an exempt, unregulated service. All of DEO's commodity sales that are now regulated will continue to be regulated by the Commission.

DEO did not file under R.C. 4929.04 because it does not seek an exemption from regulation for its commodity sales. The Commission's conclusion that the Application is governed by that statute was incorrect. The Commission should grant rehearing and find that DEO's Application should be reviewed under R.C. 4909.18 as a request not for an increase in rates.

B. The Commission Should Review and Approve Only Phase 1 At This Time

The Commission apparently determined that it should review and address Phase 1 and Phase 2 together based on its view that DEO's application was for an exemption from regulation of its commodity sales. Because that is not what DEO has asked for, the Commission should reconsider its decision to review Phases 1 and 2 together.

Approval of Phase 1 will not alter DEO's commodity service role. Phase 1 merely changes the way DEO procures the wholesale natural gas supplies that it resells to its sales customers. Because the only difference that customers will see as a result of Phase 1 is the substitution of the SSO for the GCR, R.C. 4909.18 is the appropriate statute under which to review the pending Application for approval of a new service. A filing for approval of Phase 2 may require the application of a different statute or statutes, but that is not relevant until DEO files for approval to implement Phase 2. For purposes of reviewing the Phase 1 Application, the Commission does not first have to decide what statutory authority it has to review and approve Phase 2.

DEO has proposed that the details of Phase 2 be finalized based, in part, on the experience gained in Phase 1. DEO has stated that "[i]f Phase 1 performance does not meet the agreed-upon goals, DEO will make an application by [September 30, 2006] requesting Commission approval of either a modified Transition Plan or a return to GCR commodity sales." Phase 2 Design, p. 2. Although DEO would like to see Phase 2 implemented, there is nothing

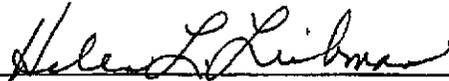
about approval of Phase 1 that commits the Commission to proceed with Phase 2. Consequently, there is no need for the Commission to consider Phases 1 and 2 together.

The issues in Phase 1 are not complicated, and neither the discovery nor the hearing on Phase 1 should be lengthy. Thus, the schedule established by the Attorney Examiner's August 18, 2005 Entry, which contemplates consideration of both Phase 1 and Phase 2, is inappropriate. The Commission should act expeditiously to review and approve Phase 1, to bring to customers as soon as possible the benefits of eliminating the confusion and market distortion resulting from the unrecovered gas cost portion of the GCR.

III. CONCLUSION

Because neither Phase 1 nor Phase 2 of DEO's transition plan involves a request to provide exempt, unregulated commodity sales service, the Commission should grant rehearing of the Entry and order that this case proceed as an application not for an increase in rates under R.C. 4909.18 for approval of only Phase 1.

Respectfully submitted,



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

1 **Q. Please introduce yourself.**

2 A. My name is Jeffrey A. Murphy, and I am employed by the East Ohio Gas
3 Company, dba Dominion East Ohio, (“DEO” or “Company”) as its Director, Pricing
4 and Regulatory Affairs. My business address is 1201 East 55th Street, Cleveland,
5 Ohio 44103-1028.

6

7 **Q. Please summarize your education and work experience.**

8 A. I graduated from The University of Akron in 1980 with a Bachelor of Arts in
9 Economics and in 1981 with a Master of Arts in Economics with a concentration in
10 Quantitative Methods. In 1988, I graduated from Baldwin Wallace College with an
11 Executive Masters of Business Administration with a focus on Systems Management.
12 I joined the Babcock & Wilcox Company in 1981 and held various positions
13 involving econometric forecasting, cost analysis and pricing. In 1986, I joined the
14 East Ohio Gas Company and have since held a variety of positions in the planning,
15 rates, financial analysis, gas supply and transportation services areas. I have also
16 served as a part-time faculty member of The University of Akron in the Department
17 of Economics. My present duties include oversight of DEO’s regulatory affairs and
18 transportation services, including the Energy Choice program.

19

20 **Q. What is the purpose of your testimony?**

21 A. My testimony addresses why the Company’s Application to restructure its
22 commodity service function is reasonable and in the public interest and should be
23 approved by the Commission.

1

2

OVERVIEW OF THE APPLICATION

3

Q. What has the Company proposed in this proceeding?

4

A. DEO has proposed a two-phase approach to exiting the merchant function. In the first phase, DEO proposed to restructure its commodity service by replacing the existing Gas Cost Recovery (“GCR”) rate mechanism, in which the Company procures all of the capacity and commodity to serve sales customers, with a Standard Service Offer (“SSO”) in which the Company would auction the right to provide gas for slices, or tranches, of its sales customer load to third party suppliers. The first phase would be conducted as a pilot. If the phase 1 pilot is successful, DEO will request Commission approval of a second phase that would remove the Company from the merchant function for all choice-eligible customers. In phase two, DEO would continue to provide SSO commodity service to Percentage Income Payment Plan (“PIPP”) customers and other non-PIPP customers that are not eligible to participate in the choice program. The Application does not request authority to make any unregulated commodity sales.

17

18

Q. Why did the Company file its Application?

19

A. Based on feedback from customers and suppliers, DEO concluded that remaining in the GCR business impeded the development of a truly competitive commodity market. The distortion caused by the unrecovered gas cost portion of the GCR rate has made it challenging for suppliers to develop competitive offers and made it difficult for customers to easily compare supplier offers to the regulated sales rate. In

23

1 addition, the market uncertainty created by an ever-changing sales-to-choice
2 migration rate has made it increasingly difficult for DEO to plan future capacity and
3 commodity purchases. Since, by law, DEO cannot earn a profit on its GCR sales, a
4 transition out of the merchant function enables DEO to focus on its fundamental role
5 as a local distribution company.

6

7 **Q. Does the Company propose to exit the merchant function in phase 1?**

8 A. No. DEO will continue to sell regulated commodity service to its sales customers
9 at a rate that equals its cost of acquiring the gas. In that sense, the Company is merely
10 replacing one mechanism used to pass through gas cost – the GCR rate – with another
11 that performs the same role in a manner that better reflects actual market prices – the
12 SSO price.

13

14 **Q. If DEO will still make regulated commodity sales in phase 1, how does its
15 proposed commodity service restructuring support a more competitive market?**

16 A. Phase 1 accomplishes several important objectives in the transition to a more
17 competitive market:

- 18 • By procuring supplies through an auction process that ties the commodity price to
19 the NYMEX settlement, DEO will be able to eliminate unrecovered gas cost on
20 any purchases during the pilot period, thus removing the single biggest
21 contributor to customer confusion about the Energy Choice program. There will
22 be no unrecovered gas cost to be collected because the rate charged to customers
23 will be set equal to the price set in that auction. (Company Witness Friscic

1 addresses the disposition of any unrecovered gas cost existing at the point of
2 transition to SSO service.) In addition, customers will be able to compare offers
3 more readily and with more certainty because the difference between the
4 NYMEX settlement price and the price charged the end use customer will be
5 fixed for the phase 1 period.

6 • Suppliers have made it clear that removing the difference between the expected
7 gas cost and what is actually charged customers in the GCR is critical if they are
8 to be able to structure prices that are truly comparable to the otherwise applicable
9 sales rate. Suppliers have indicated that, with the pricing certainty provided by
10 the auction process, they will be more inclined to offer longer-term and/or fixed
11 price arrangements due to the reduction in risk.

12 • The other provisions of the Application dealing with such factors as unaccounted-
13 for gas and cost recovery create a platform upon which an eventual transition out
14 of the merchant function can occur. The transition from GCR to SSO service will
15 involve operational changes since GCR capacity will no longer be available to
16 help provide operational balancing. In addition, accounting procedures will be
17 revised to separately track costs formerly included in the GCR. By testing those
18 provisions in the phase 1 pilot period, DEO will significantly reduce the risk and
19 uncertainty associated with those matters in phase 2.

20 • The incremental approach provided by phases 1 and 2 increases the probability of
21 a successful transition and gives the Commission the opportunity to decide the
22 merits of phase 2 on its own with the benefit of lessons learned during phase 1.

1 The stakeholder process described in the Application enables all interested
2 stakeholders to provide input into the formulation of the phase 2 application.

3

4 **Q. How will removal of the unrecovered gas cost component improve DEO's**
5 **Energy Choice program?**

6 A. Prospectively removing unrecovered gas costs ("UGC") from the sales rate eliminates
7 a major impediment to a well-functioning commodity market behind DEO. Most
8 customers simply compare supplier offers to the prevailing GCR rate. A GCR that is
9 temporarily increased by a positive UGC overstates the price-to-compare, which could
10 lead a customer to accept an unduly high supplier offer. Conversely, a GCR that is
11 temporarily decreased by a negative UGC may lead a customer to turn down an attractive
12 offer. Either way, customers are disadvantaged by the distortion caused by the UGC rate.

13

14 **Q. Why did the Company propose a two-phase process instead of immediately**
15 **exiting the merchant function with respect to eligible customers?**

16 A. In the 12 months of discussions that preceded the filing, DEO perceived a definite
17 preference by most stakeholders to adopt an incremental approach that would permit the
18 parties to consider lessons learned in phase 1 and give them additional time to address
19 issues before proceeding with the merchant function exit contemplated in phase 2.
20 Because the design calls for a second application to implement phase 2, that approach
21 affords the Commission an opportunity to assess the merits of that final step with the
22 benefit of the experience gained in phase 1.

23

1 **Q. What has the Company done to ensure the reliability of supply during phases 1**
2 **and 2?**

3 A. The Application identifies several ways that DEO will ensure continued reliability of
4 gas supplies for sales customers. First and foremost, the Company will require the SSO
5 suppliers to demonstrate that they hold comparable capacity, which is defined as
6 “[s]upply or capacity rights that are comparable to those required by East Ohio for the
7 purpose of serving its Core Sales Demand.” That assures that the suppliers replacing
8 DEO as the commodity provider have the wherewithal to make deliveries under the same
9 design day conditions that the Company uses in its gas supply planning process. In
10 addition, the Application states that DEO will maintain its role as the provider of last
11 resort in the event of an Energy Choice or SSO supplier default. DEO identified a
12 sequential series of steps that provide it with substantial resources to ensure that it can
13 obtain sufficient supplies if one or more of those suppliers fail to deliver the volume of
14 gas needed to meet their customers’ requirements.

15

16 **STANDARD SERVICE OFFER**

17 **Q. Why did the Company specify the SSO price as a function of the NYMEX**
18 **settlement price for the upcoming month?**

19 A. NYMEX prices are the most visible indicator of natural gas futures prices available.
20 The NYMEX, or New York Mercantile Exchange, is the world’s largest physical
21 commodity futures exchange on which contracts for future deliveries of multiple forms of
22 energy, including natural gas, are traded. The Commission recognized the NYMEX as
23 the best source of future pricing information in its January 12, 2005, Entry in Case No.

1 04-1912-GA-UNC when it made the NYMEX price the *de facto* benchmark for monthly
2 GCR filings. The Commission went so far as to require DEO to “provide, with its
3 monthly filing, an explanation of the reasons for any deviations from NYMEX prices and
4 the degree and impact of any such deviation.” (Entry, page 2.) Using a NYMEX-based
5 price will provide continuity in the overall pricing approach and enable the SSO price to
6 reflect current market pricing.

7

8 **Q. Will the same features that have enabled Energy Choice suppliers to offer prices**
9 **below the GCR be available to SSO suppliers?**

10 A. Yes. Potential SSO suppliers have the same type of advantages that have enabled
11 Energy Choice suppliers to price commodity service below the EGC rate. For example,
12 suppliers can:

- 13 • Optimize upstream capacity assets more effectively than can DEO because they
14 are able utilize those assets in other markets on DEO’s system and elsewhere
15 when not needed to meet their SSO obligations.
- 16 • Supplement their assigned on-system storage with additional storage service
17 exceeding the amount allocated to GCR customers.
- 18 • Hedge more aggressively than DEO, whose hedge positions are more limited by
19 weather and market-related uncertainty. Because the Company cannot effectively
20 remarket commodity that is no longer needed due to warmer-than-normal weather
21 or migration of customers to Energy Choice, its ability to lock in substantial
22 hedge positions is severely hampered.

1 • Acquire a larger share of local production than DEO, whose ability to compete
2 effectively for longer-term Ohio production purchase agreements has been limited
3 by the continued migration it has experienced.

4 • Utilize storage transfers and imbalance trading opportunities unavailable to DEO
5 to address unplanned differences between supply and requirements.

6 Those and other advantages can yield significant reductions in the underlying unit cost of
7 capacity and commodity, enabling suppliers to provide gas at a price less than the EGC
8 while still accommodating a profit margin.

9

10 **Q. Is DEO's proposal consistent with the Ohio's energy policy?**

11 A. Yes. DEO's Application furthers each of the policy objectives set out in Revised
12 Code 4929.02. It is worth noting that nothing in the policy says anything about testing
13 for quantifiable financial benefits or whether ratepayers are better off under a competitive
14 model. If the Legislature had not concluded that competition produces a better result
15 than the existing regulatory structure, it would not have formulated and approved such
16 policy objectives in the first place.

17

18 **Q. Will approval of the Company's Application result in quantifiable financial**
19 **benefits for customers?**

20 A. That is impossible to say beforehand.

21

22 **Q. Why?**

1 A. DEO can no more guarantee the results associated with an exit than it could when it
2 first embarked on its Energy Choice program. The entire purpose of that program was to
3 provide customers with a choice of energy suppliers so they could more effectively
4 control the over 80% of their utility bill comprised of commodity service and benefit
5 from competition for that service. Had there been a requirement that choice programs
6 demonstrate quantifiable customer benefits in advance, no such programs would ever
7 have been implemented.

8

9 **Q. If DEO's proposal supports a more competitive environment, should the**
10 **Commission find that it is in the public interest?**

11 A. Yes. In addition to the clear direction provided by the state's energy policy, support
12 for competitive markets has been voiced by various stakeholders, including the Ohio
13 Consumers' Counsel, whose March 3, 2004, Plan of Action for the Ohio Office of the
14 Consumer's Counsel cited "Support Continued Development of the Competitive Market"
15 as the first goal in the Natural Gas Service section of the plan, indicating that increased
16 participation "will bring more cost-effective options to customers." (Plan of Action,
17 pages 10-11.)

18

19 **Q. What steps has the Company proposed to protect customers as a result of its**
20 **proposed phase 1 restructuring?**

21 A. There are a number of safeguards intended to eliminate the potential for harm,
22 including:

- 1 • SSO suppliers will have to meet the same reliability requirements faced by DEO
2 as the GCR service provider. In addition, changes have been made to the existing
3 Energy Choice pooling service terms and conditions that increase the reliability of
4 suppliers in that program.
- 5 • DEO will act as the provider of last resort (“POLR”) just as it does today in the
6 event of a supplier default. The pricing for POLR service has been clarified to
7 assure that customers receive commodity service at the supplier’s price for the
8 month of default, a feature not present in the current Energy Choice program.
- 9 • Under the phase 1 proposal, DEO will review SSO auction results with
10 Commission Staff and OCC before requesting formal Commission approval.
11 That assures that key stakeholders will have all available information to assess the
12 bids to be awarded.
- 13 • Commission approval of the bids to be awarded is required, unlike other instances
14 in Ohio and elsewhere in which LDCs have outsourced supply responsibilities
15 without first requesting and receiving Commission approval.
- 16 • The Application explicitly recognizes the Commission’s right to reject the results
17 of the bidding process if it concludes that there were deficiencies in the process or
18 that the market-clearing price is unacceptable.
- 19 • Using a NYMEX-based mechanism to set the SSO price will assure that the rate
20 is market responsive. In fact, the proposal to use the final settlement price will
21 provide a better market indicator than the current GCR rate, which is typically
22 filed ten or more days before that final settlement price is determined.

- 1 • Customers will be able to come and go from sales to Energy Choice service just
2 as they do today, with the same eligibility provisions. As stated previously, the
3 elimination of the unrecovered gas cost will make it even easier for customers to
4 compare the SSO rate to Energy Choice commodity service offers, meaning that
5 customers will be better off.

6 By taking the above steps, DEO is able to protect customers in its proposed commodity
7 service restructuring.

8

9 **DEO'S COMPETITIVE MARKET**

10 **Q. Please describe the current state of competition in DEO's Energy Choice**
11 **program.**

12 A. There is extensive competition in DEO's Energy Choice market. As of the August
13 2005 enrollment period, the following 16 marketers are providing commodity service in
14 the program:

15 ACN Energy
16 Amerada Hess
17 Direct Energy
18 Dominion East Ohio Energy
19 ECONergy
20 Energy Co-op of Ohio
21 Exelon Energy Ohio
22 Interstate Gas Supply
23 Metromedia Energy
24 MidAmerican Energy
25 MX Energy
26 Shell Energy
27 UGI Energy Services
28 Vectren Source
29 Volunteer Energy Service
30 WPS
31

1 Those suppliers collectively serve 600,833 customers excluding PIPP customers. That
2 figure increases to 685,207 customers when the PIPP customers that are currently
3 outsourced to Shell Energy are also included.

4
5 **Q. What are the current participation rates in the residential and non-residential**
6 **markets?**

7 A. As of the August 2005 enrollment period, 53% of non-PIPP residential customers
8 participated in the Energy Choice program along with 52% of non-residential customers.
9 When the PIPP customers that are outsourced are included in the figure, the residential
10 participation rate increases to over 56%. With the exception of Atlanta Gas Light, which
11 has exited the merchant function entirely, DEO's Energy Choice program has the highest
12 participation rates and total number of customers of any choice program in the country.

13
14 **Q. What percentage of the customers currently receiving GCR service, and hence**
15 **not included in current participation rates, were in the Energy Choice program at**
16 **one point in time?**

17 A. Nearly 28% of DEO's current sales customers were in the Energy Choice program at
18 one time or another. Based on focus group discussions of the program, most customers
19 who returned to sales service did so because the GCR at the time their contract expired
20 was less than what was being offered by alternate suppliers. This was due largely to
21 quarterly GCR rates that were often below market by the end of their effective period.
22 Adding those customers to the ones currently enrolled in the program means that over
23 two-thirds of DEO's customers either are or have been Energy Choice customers.

1 Considering the fact that many customers have been precluded from participating in the
2 program due to arrearages or broken payment plans, the effective shopping rate including
3 both current and former Energy Choice customers exceeds three-fourths of DEO's
4 choice-eligible customers.

5

6 **Q. What market shares do suppliers in the program currently have?**

7 A. The market shares for the larger suppliers are as follows:

8	Supplier A	27%
9	Supplier B	25%
10	Supplier C	18%
11	Supplier D	10%
12	Supplier E	7%
13	Supplier F	7%
14	Supplier G	5%

15

16 The remaining nine suppliers share less than 2% of the market. Although the number of
17 suppliers providing commodity service to the non-choice transportation market is higher,
18 the concentration of suppliers in that market is very comparable, with the largest non-
19 choice supplier's 2004 market share equal to 29% and the top six suppliers total share
20 equal to 89% compared to the comparable Energy Choice figure of 94%.

21

22 **Q. Do you foresee changes in the market as a result of DEO's planned exit from the**
23 **merchant function?**

24 A. Yes. DEO discussed its plans with a wide group of stakeholders for more than a year
25 before making its filing. In many discussions with marketers, they indicated that they
26 would be more willing to invest time, effort and resources in DEO's market if it were to
27 proceed along the path being outlined. The Company's plan to allocate choice-eligible

1 customers in phase 2 according to market share makes it imperative that suppliers
2 compete aggressively during phase 1 in order to maximize the share of customers they
3 may receive when DEO exits the merchant function for eligible customers in the second
4 phase of its plan. In addition, the elimination of the unrecovered gas cost and the pricing
5 transparency offered by the SSO auction process reduces much of the structuring and
6 hedging risk created by the current GCR mechanism. That means suppliers would be
7 able to more aggressively extend longer-term fixed price offers to customers without
8 incorporating that risk into their offer price.

9

10 **Q. What operational changes in DEO's Energy Choice pooling service are needed**
11 **to accommodate an exit from the merchant function?**

12 A. DEO has proposed a number of changes to its existing terms and conditions of
13 Energy Choice pooling service in order to increase supplier reliability and reflect the fact
14 that DEO will hold fewer on-system storage and other contractual pipeline capacity assets
15 once it exits the merchant function. Those changes include the following:

- 16 • The period over which suppliers need to demonstrate comparable capacity was
17 expanded from November through March to October through April to ensure that
18 suppliers have sufficient capacity to meet potentially significant shoulder-month
19 requirements when no on-system storage withdrawals are available.
- 20 • First-of-month summer-period injection and winter-period schedules were added
21 for all twelve months to make sure that suppliers maintain appropriate storage
22 inventory levels throughout the entire year. The monthly schedule will ensure

1 that storage is ratably filled during the injection season and that inventories are
2 sufficient to meet peak day needs during the heating season.

3 • A provision was added to provide optional sales of on-system storage volumes if
4 requested by suppliers or if needed to meet operational requirements because
5 DEO will no longer be able to sell operational balancing inventories to GCR
6 customers.

7 • The variable cost of transportation on Dominion Transmission added to the
8 reference price for sales of on-system storage in place was replaced with a 100%
9 load factor rate to reflect a fully loaded cost that is more appropriate once DEO
10 exits the merchant function.

11 • A provision was added giving DEO the option to post target volumes on a daily
12 basis if needed to avoid excessive daily imbalances.

13 • The under-delivery threshold under which DEO can request suspension or
14 termination was tightened because DEO will hold fewer assets to compensate for
15 daily under-deliveries once it has exited the merchant function.

16 • The annual reconciliation option was eliminated because DEO will hold fewer
17 assets to accommodate imbalances for up to an entire year once it has exited the
18 merchant function.

19 The changes being proposed are relatively few and are intended to support continued
20 vigorous commodity competition in DEO's market.

21

22 **Q. How will you measure the success of phase 1 in improving DEO's competitive**
23 **commodity market?**

1 A. Given the extremely volatile market conditions that we are currently experiencing,
2 developing upfront goals or benchmarks of success will be extremely challenging. For
3 example, the recent spate of hurricane Katrina-inspired concerns about national energy
4 prices and availability will have a substantial yet unpredictable impact on both wholesale
5 and retail gas markets. More localized concerns, such as potential changes in the number
6 of customers served by the Northern Ohio Public Energy Council, could significantly
7 affect future participation rates for reasons unrelated to the implementation of phase 1.
8 Under those circumstances, it may be more appropriate to closely monitor market activity
9 via the information that DEO will post monthly rather than develop a set of *a priori* goals
10 or expectations that may turn out to be unreasonable in light of future market conditions.

11

12 **AUCTION PROCESS**

13 **Q. Please describe the SSO auction process that DEO has proposed.**

14 A. DEO proposed an auction approach based largely on the Request for Proposal
15 (“RFP”) process that has been used to outsource PIPP supply responsibilities for over
16 five years. In this case, the auction would cover both PIPP and non-PIPP sales customer
17 requirements, with bidders vying for the right to serve a portion or tranche of the full
18 requirements load of each group. As described in greater detail in the Application, DEO
19 will conduct its auction at two different times, one before phase 1 is implemented and the
20 other afterward. The second auction is intended to refresh bids for half of the supply in
21 order to avoid locking in prices during only one set of market conditions. If the
22 procedural timing is such that it no longer makes sense to conduct two separate auctions,

1 the process can be modified to rely on a single auction to avoid terms that are too short to
2 be attractive to suppliers.

3

4 **Q. Who will be asked to submit a bid?**

5 A. As it currently does with its PIPP RFP process, DEO will send the bid package to the
6 over 40 suppliers currently providing commodity service to customers through its pooling
7 programs. In addition, DEO will send the information to any wholesale suppliers that
8 have sold gas to the Company for system supply over the prior twelve months. Because
9 DEO's existing wholesale suppliers are not certified by the Commission, DEO will not
10 include a requirement that bidders be a Commission-certified competitive retail natural
11 gas supplier.

12

13 **Q. Can DEO conduct the auction and make awards without Commission approval?**

14 A. No. As indicated previously, the Application calls for DEO to request Commission
15 approval of the awards after they have been reviewed with Staff. That oversight gives the
16 Commission an opportunity to assess the bidding process and resulting prices before
17 approving the recommended awards.

18

19 **Q. Will the proposed auction process guarantee that the PIPP commodity rate
20 remains below the SSO rates?**

21 A. Yes. In order to ensure that PIPP customers receive a lower commodity price than
22 standard SSO service, DEO will award the PIPP supply contracts to the supplier(s)
23 submitting the lowest bids for each term. SSO supply contract awards will then be made

1 based on an evaluation of the remaining bids. The price to be paid to winning bidders on
2 the SSO portion of the auction will be the market-clearing price for each term's set of
3 bids.

4

5 **Q. Why did the Company propose to have potential suppliers bid on tranches**
6 **rather than bid for the entire volume?**

7 A. By bidding out supply responsibilities in tranches, DEO is able to mitigate the risk of
8 any one supplier defaulting on its delivery obligation. DEO will limit the SSO tranches
9 awarded to any individual supplier to one-third of the total. Other standard service offer
10 auctions have successfully used a tranche approach for similar reasons and to avoid
11 concentrating too much market power in any one supplier.

12

13 **Q. Why did DEO recommend that suppliers bid both PIPP and SSO tranches of**
14 **similar sizes in the same auction?**

15 A. Conducting a single auction and awarding the lowest priced bids for the PIPP
16 commodity service would assure that the its supply price would be less than the SSO
17 alternative. DEO examined the load profile and found that the two markets have
18 comparable, though not identical, monthly spreads. While there is slight difference
19 between the two, the Company concluded that it was not material enough to significantly
20 affect bid prices for the two types of load. Having said that, the Company is not
21 opposed to conducting separate auctions provided the final PIPP price is no greater than
22 the SSO price.

23

1 **Q. How will the SSO market-clearing price be established?**

2 A. After the lowest bids have been identified and tentatively awarded for the PIPP
3 portion of the auction, the remaining bids will be rank-ordered from lowest to highest.
4 The lowest priced bid for the sixth tranche (assuming that there are twelve SSO tranches
5 to be awarded in total, with six for each term) will establish the market-clearing price for
6 that term's auction. That means that all suppliers will be paid the same price for their
7 service.

8

9 **Q. Why did DEO decide to use that approach rather than just take the lowest bids
10 and pay each supplier what they bid rather than the market-clearing price?**

11 A. DEO used that approach for several reasons. The single market-clearing price has
12 been successfully utilized in other auctions such as the New Jersey Basic Generation
13 Service auction. The concept of a market-clearing rate is also present in the FirstEnergy
14 auction process used here in Ohio. Because each supplier of a tranche in DEO's auction
15 will provide an identical service, it only makes sense to pay each one the same rate. The
16 use of index pricing for purchases into a particular interstate pipeline receipt point results
17 in the same outcome. If a buyer purchases from multiple sellers using an index price, it
18 effectively pays each seller the same price for the same service. In discussions with those
19 suppliers that have expressed interest in bidding, they have indicated that they will bid
20 aggressively on the tranches.

21

22 **Q. Has the Company considered other approaches?**

1 A. Yes, it has. One of the principal alternatives considered by the Company was a
2 descending clock process under which suppliers submit the number of tranches they
3 would be willing to supply at a given price. That price is reduced in successive bidding
4 rounds until there are just enough tranches being bid to serve the market in full. At that
5 point, the bidding stops, and the awards are made to the suppliers that bid for tranches at
6 that price level.

7

8 **Q. Why didn't DEO propose that approach?**

9 A. The Company believes that, in a mature competitive market such as its own, market-
10 clearing prices are not likely to be substantially different under its proposal or a
11 descending auction format. Observations of other descending clock auctions showed
12 them to be very expensive and time consuming to conduct. Suppliers behind DEO's
13 system have been accustomed to bidding on a burner-tip basis for years based on their
14 Energy Choice experience as well as experience gained over an even longer period in its
15 traditional transportation market. Thus, the Company perceived no value to conducting
16 what could be an expensive and overly complicated bidding process only to achieve
17 similar end results.

18

19 **Q. Would the Company consider adopting a descending clock approach?**

20 A. Yes, DEO would willing to adopt such an approach if it could be implemented in an
21 efficient and inexpensive manner that assured ample participation by aggressively
22 competing suppliers.

23

1 **Q. What will happen if the Company does not receive enough bids to meet all of its**
2 **PIPP and SSO customer requirements?**

3 A. In that case, DEO will offer those bidding an opportunity to increase their number of
4 tranches on a pro rata basis. If suppliers still do not bid on enough tranches to meet the
5 entire requirements, DEO will continue to provide GCR commodity service until it
6 determines whether it should pursue another auction approach.

7

8 **Q. Once DEO auctions off its PIPP and SSO supply responsibilities, how will its gas**
9 **control and purchasing operations change?**

10 A. Gas control's role in maintaining appropriate pipeline pressures throughout DEO's
11 system will not change as a result of a merchant function exit. The work needed to
12 balance supply and requirements at city gates, district regulator stations and storage
13 operations depends on the physical flow of gas, not who nominates it for delivery. The
14 LDC Gas Supply Group ("GSG") purchasing operations will change, but the area will
15 still have a large number of supply-related responsibilities once the Company has exited
16 the merchant function. For example, while GSG currently buys roughly 70 Bcf of gas for
17 system supply today, it will continue to buy more gas than many LDCs – between 15 and
18 20 Bcf per year – for the operational balancing inventory needed to support both Energy
19 Choice and SSO service. The group will still need to closely monitor on-system and off-
20 system contract storage inventory levels and be prepared to adjust operations as
21 conditions dictate. In addition, GSG is the entity that will effectively provide the
22 provider-of-last-resort service needed to backstop the system in the even of default.
23 Thus, certain aspects of its role become even more complicated by more third-party

1 owned gas being nominated to the system. Given the group's relatively small size – two
2 supply planners support DEO exclusively and two gas traders and a manager support
3 multiple LDCs – it is not feasible to restructure the area any further given its ongoing
4 responsibilities in a post-exit environment.

5

6 **Q. Do the primary roles of other functional areas change as the Company exits the**
7 **merchant function?**

8 A. No. There are still significant gas costs to be accounted for, rates to be determined,
9 demand forecasts to be prepared and supplier pools to be balanced even when DEO has
10 exited the merchant function. DEO has been extremely efficient in its approach to the
11 Energy Choice program, and it expects to bring that same efficiency to administering
12 SSO service. The only change of any consequence has been the addition of a Project
13 Manager to oversee the development and administration of the process. Given the
14 magnitude of the change, DEO concluded that having an individual exclusively devoted
15 to coordinating the many aspects of the exit was needed to ensure its success. Even
16 though that position is incremental, DEO will not include its cost in the Transportation
17 Migration Rider because it is comprised of internal labor expense.

18

19 **Q. Does this conclude your direct testimony?**

20 A. Yes.

FILE

EXHIBIT No. _____

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The)
East Ohio Gas Company d/b/a Dominion) Case No. 05-474-GA-ATA
East Ohio for Approval of a Plan to)
Restructure Its Commodity Service)
Function.)

DIRECT TESTIMONY OF ELIZABETH HERNANDEZ
ON BEHALF OF
OHIO PARTNERS FOR AFFORDABLE ENERGY

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ELIZABETH HERNANDEZ
PUCO CASE NO. 05-474-GA-ATA

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1 Weatherization Assistance Program, a federally-funded program managed
2 by the State of Ohio's Department of Development; and, the Electric
3 Partnership Program, a state-funded program administered by the
4 Department of Development. I serve as the Chair of the Advisory
5 Committee that oversees the Community Connections Program.
6

7 Q. Have you previously submitted testimony in any regulatory proceedings?

8 A. Yes, I have provided sworn testimony is several public hearings related to
9 The Cleveland Electric Illuminating Company and DEO.

10 **Purpose of Testimony**

11 Q. What is the purpose of your testimony in this proceeding?

12 A. The purpose of my testimony is to establish the need for low income
13 customer assistance programs, both in the area of bill assistance and
14 energy efficiency, weatherization, and health and safety services. My
15 testimony also traces the history of low income energy efficiency programs
16 funded by Dominion East Ohio and/or its operating companies. Finally,
17 my testimony will explain the impact of customer arrearages created by
18 the Percentage Income Payment Program on households participating in
19 that program.

20 **Need for Low Income Assistance Programs**

21 Q. Can you describe the general affordability problem faced by low income
22 families in meeting their energy needs?

1 A. One basic measure of the impact of energy prices on families of all types
2 is called the energy burden. Basically, for the average family the energy
3 burden is approximately 5.9 percent; the family must spend 5.9 percent of
4 its household income to pay for the costs of heating, cooling and operating
5 lights and appliances. Low-income families, on the other hand, had an
6 energy burden of 16 percent in 2004. Given the steady rise in the price of
7 natural gas, fuel oil and propane during this past winter and currently, this
8 burden has undoubtedly increased. Current data from the Energy
9 Information Administration ("EIA") projects price increases of 71 percent
10 for natural gas, 17 percent for electricity, 31 percent for heating oil, and 40
11 percent for propane compared to last winter. The price increases that will
12 result from this application will increase the burden for customers, but
13 particularly for low income customers in the DEO service territories.

14

15 Q. Have agencies you are involved with seen in increased demand for bill
16 assistance and weatherization and energy efficiency services?

17 A. Absolutely. As I will detail below, we have seen consistent increases in
18 the need for assistance in obtaining essential energy services since 2000,
19 when the first wave of the recession began to be felt in Ohio. Combining
20 the impact of the recession with the increases in natural gas, fuel oil and
21 propane prices, many families have been forced to turn to community
22 action agencies and other nonprofits for assistance in order to maintain
23 essential energy services. We try to provide permanent assistance in the

1 form of weatherization and energy efficiency services to reduce a
2 household's use of energy. However, our resources for this purpose are
3 limited. We also provide households with bill payment assistance and
4 enroll customers in the Percentage Income Payment Plan when they are
5 served by regulated utilities or assist in arranging other payment plans.
6

7 Q. Can you indicate the number of customers throughout the DEO system
8 who received bill payment assistance in Program Year 2003, the winter of
9 2002-2003?

10 A. Yes. In Program Year 2003, 676,605 customers received Regular Home
11 Energy Assistance Program (Regular HEAP) grants. In the same period,
12 21,012 received Winter Crisis benefits, also known as Emergency – Home
13 Energy Assistance Program grants (E-HEAP). The total number of
14 customers served in DEO service territory was 88,617. There is some
15 overlap between the two programs, so the actual number of individual
16 households served is somewhat lower. These numbers have been
17 growing consistently in the 10% range since Program Year 2000.

18 Q. Can you indicate the number of customers throughout the DEO system
19 who participated in the Percentage Income Payment Plan?

20 A. Yes. As of May, 2004, 81,341 customers were participating in the
21 Percentage Income Payment Plan as offered by the DEO. The number of
22 participants in this Plan has also been growing consistently since 2000.

- 1 Q. How would you characterize the situation faced by these households
2 regarding the affordability of essential energy services?
- 3 A. Clearly, these households are unable to pay their bills and have been
4 forced to turn to public sources of funds and/or payment programs in order
5 to continue to receive electric service. In my experience, there are a
6 number of other households that are eligible for these services but do not
7 avail themselves of them either from lack of knowledge of the availability
8 of assistance, a desire not to accept public assistance, or other factors.
9 We reach approximately 75 percent of the eligible population statewide,
10 meaning that there are likely more than 38,000 households in the DEO
11 service territories that could qualify for assistance if they chose to do so.
- 12 Q. Can weatherization and energy efficiency programs benefit these low
13 income households by reducing demand of energy?
- 14 A. Absolutely. A number of studies have validated the fact that the
15 weatherization services provided by Ohio providers reduce the total
16 energy used for heating purposes when homes are heated by natural gas,
17 propane or fuel oil by 30%. The average savings for electrically heated
18 homes is 15%. Baseload energy efficiency services provided through the
19 Electric Partnership Program reduce electric use approximately 11.6
20 percent, and more for all electric homes that are weatherized. Given
21 improvements in lighting technology and improvements in appliance
22 efficiency because of federal standards and the voluntary Energy Star®
23 program, there are a number of energy efficiency improvements that have

1 a savings to investment ratio of much greater than 1. In other words, the
2 installation of the measures will pay for itself and will then deliver
3 additional savings in the form of lower bills.

4 **History of DEO Low Income Energy Efficiency Programs**

5 Q. Has DEO provided funding to assist low income customers use energy as
6 efficiently as possible?

7 A. Yes. Beginning in 1987, DEO began funding a weatherization and health
8 and safety program now known as the Housewarming Program.
9 Housewarming provides furnace repair and replacement energy audits,
10 repair and replacement of other gas-fired appliances, and, weatherization
11 including air sealing and insulation. The program has been funded at \$3
12 million since 1993. An additional \$500,000 was added in 2003, but that
13 funding will expire in 2008.

14

15 Q. Do you see a need for new utility funding of low income energy efficiency
16 programs and what level of funding would you suggest?

17 A. Our member agencies see a clear need for additional funding. We are
18 seeing an increase in demand for services. A recent survey by Ohio
19 Partners for Affordable Energy of its member agencies found that
20 agencies have more than 5,000 households on waiting lists for services; a
21 level roughly equal to number of units we can weatherize statewide with
22 all the federal funds provided this year. The waiting lists are growing now.
23 In the fall, they will grow at a more rapid pace.

1 I recommend an increase in funding to \$7.5 million at a minimum with
2 regular increases based on the cost of service. At the present time we
3 can serve about 1,100 per year; roughly 10.2 percent of the eligible
4 population so there would be ample opportunity to expand services.
5 Along with the higher level of funding we would also recommend
6 increasing the eligibility level to 200% of the poverty line. This would allow
7 us to serve low-income elderly households; the minimum Social Security
8 Payment places a single widow at about 178 percent of the poverty line. It
9 would also let us serve the working poor and probably help reduce the
10 mortgage foreclosure rate. Ohio currently has the largest default rate in
11 the country.

12
13 Columbia Gas of Ohio currently allocates \$5.5 million to weatherization
14 assistance through its Warm Choice Program. The Columbia program
15 serve an eligible population roughly equal to that of DEO. The increase
16 we are requesting above the Columbia program funding level would
17 address the increase in eligibility and the need for additional funding in the
18 DEO program compared to the funding that has been in place since 1993.

19
20 Q. Is funding at the \$7.5 million level reasonable, given the funding available
21 from other weatherization programs?

1 A. Yes, as I have previously indicated, we are only serving 10% of the
2 eligible. Increasing eligibility to 200 percent of the poverty line would
3 make an additional 46,000 households eligible.

4 **Impact of Percentage Income Payment Plan Arrearages on Low Income**
5 **Households**
6

7 Q. Are you familiar with the Percentage Income Payment Plan and could you
8 describe its primary features?

9 A. Yes. The Percentage Income Payment Plan permits customers with
10 incomes below 150% of the poverty line to pay a percentage of their
11 income during the winter heating season rather than the actual bill.
12 Participants pay 10% of their monthly income towards their primary heat
13 source. Participants also pay 5% of their monthly income for the
14 secondary heat source, or 3% if the household income is lower than 75%
15 of the poverty line. The primary heat source is usually natural gas and the
16 secondary source is always electricity. Customers with all electric homes
17 pay 15% or 13% of monthly income, respectively. The difference between
18 the payment and the actual bill is carried on the customer account as an
19 arrearage. If a customer fails to make the required payments under the
20 program or becomes ineligible because of an increase in income, the
21 arrearages become due and payable. Arrearage crediting programs can
22 spread out the repayment of this arrearage over an extended period.
23 Natural gas companies are made whole through the collection of a PIPP
24 Rider. Electric companies are made whole for the cost of power via

1 payments from the Universal Service Fund, which is financed by the
2 Universal Service Rider.

3

4 Q. What are the benefits of the Percentage Income Payment Plan?

5 A. The primary benefit is that it permits customers to stay connected to
6 essential utility service by paying an amount that is lower than the actual
7 bill. While the total percentage of income these customers must pay --
8 15% or 13% -- still represents a substantial burden far in excess of what
9 the average customer pays, the reduced rate makes retaining service
10 more affordable. As a result, Ohio has relatively few incidents of house
11 fires and deaths caused by people trying to stay warm because they have
12 been disconnected from electric and/or natural gas service.

13

14 Q. What are the disadvantages of the Percentage Income Payment Plan?

15 A. There are really two problems. First, as I indicated above, the percentage
16 of income participants in the program are required to pay is too high. A
17 more reasonable percentage would be 10%, split 6% gas and 4% electric.
18 New Jersey set its Percentage Income Payment Plan at 6 percent of
19 income, while Nevada uses approximately 3 percent of income,
20 comparable to the energy burden of a median income customer, as the
21 amount of the payment. Second, the presence of arrearages on customer
22 accounts is becoming an increasing problem for many program
23 participants, particularly those involved in welfare to work activities and

1 those seeking to pull themselves out of poverty. Utility companies
2 commonly report these arrearages to credit bureaus and other credit
3 reporting services. Credit reports are increasingly being used for a broad
4 array of purposes. Beyond the obvious impact of these arrearages should
5 a customer attempt to obtain a car loan or home mortgage, credit reports
6 are also used to establish insurance premiums, consulted by landlords
7 when renting apartments, and by employers when considering whether or
8 not to hire an individual. The presence of substantial arrearages on a
9 credit report can potentially prevent a person from obtaining a job which
10 could allow them to afford their bills or obtain an automobile loan so they
11 could have transportation to a job. Any type of loan they get will have a
12 higher interest rate, a reflection what appears to be a poor credit record
13 even though the customer might have consistently made their Percentage
14 Income Payment Plan payments. It could also prevent the customer from
15 obtaining housing and require them to pay more for insurance. Clearly,
16 something needs to be done to lessen the impact of arrearages on clients.

17

18 Q. What recommendations can you make in this area?

19 A. The most obvious solution would be to eliminate arrearages from the
20 program and define the percentage of income as the rate for qualifying
21 customers. I am aware that there is a concept of *rate discrimination* that
22 holds in its simplest form that similarly situated customers should pay the
23 same rates. However, in practice, similarly situated customers of various

1 customer classes do pay different rates. Designing a rate based on ability
2 to pay -- given the costs that low income customers impose on the system
3 when they default, are disconnected and must be reconnected, plus the
4 attendant collection costs -- is likely more efficient than continuing to allow
5 these customers to build massive arrearages that in all likelihood will
6 never be repaid. As I noted previously, the energy burden faced by low
7 income customers is 16% and growing. It is clearly unreasonable to
8 expect significant repayment of arrearages without an effective arrearage
9 crediting program.

10
11 Several states that have implemented percentage income payment plans,
12 including Pennsylvania and New Jersey, do not include the concept of
13 arrearages. There is no reason to continue the arrearage concept in Ohio.
14 Senate Bill 3 included an arrearage forgiveness program for elderly and
15 disabled customers participating in the Percentage Income Payment Plan.
16 And, the Public Utilities Commission of Ohio approved a stipulation in
17 Case No. 01-1228-GA-AIR, et.al., under which Cincinnati Gas & Electric
18 Company instituted an arrearage forgiveness programs for customers
19 participating in the Percentage Income Payment Plan that eliminated all
20 arrearages accrued by all Plan participants through December 2002.

21
22 The Commission approved a new arrearage crediting program in Case
23 No. 03-888-AU-ORD which permits DEO customers on the Percentage

1 Income Payment Plan who make timely payments to eliminate all
2 arrearages over a three year period. However, a recent series of focus
3 groups coordinated by Ohio Partners for Affordable Energy indicated that
4 because of their poverty many customers find it impossible to make twelve
5 payments in a row on time. Therefore we would recommend
6 supplementing that program with a monthly arrearage credit equal to the
7 customer payment. The Dayton Power & Light Company offers a similar
8 program known as Fresh Start. Under this approach, customers would
9 have an incentive associated with each payment. Ratepayers would
10 benefit because of improved payment behavior. Utility companies will
11 remain unaffected by arrearages because they are already compensated
12 through the PIPP Rider and the USF Rider.

13

14 Q. Does this conclude your testimony?

15 A. Yes.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

FILE

In the Matter of the Application of the East)
Ohio Gas Company d/b/a Dominion East) Case No. 05-474-GA-ATA
Ohio for Approval of a Plan to Restructure)
Its Commodity Service Function)

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PREPARED TESTIMONY

of

WILSON GONZALEZ

ON BEHALF OF THE
OFFICE OF THE OHIO CONSUMERS' COUNSEL
10 West Broad St., Suite 1800
Columbus, OH 43215

November 15, 2005

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
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1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4 ***A1.*** My name is Wilson Gonzalez. My business address is 10 West Broad Street,
5 Suite 1800, Columbus, Ohio, 43215-3485. I am employed by the Office of the
6 Ohio Consumers' Counsel ("OCC" or "Consumers' Counsel") as a senior
7 regulatory analyst.

8

9 ***Q2. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND***
10 ***PROFESSIONAL EXPERIENCE?***

11 ***A2.*** I have a Bachelor of Arts degree in Economics from Yale University and a Master
12 of Arts degree in Economics from the University of Massachusetts at Amherst. I
13 have also completed coursework and passed my comprehensive exams towards a
14 Ph.D. in Economics at the University of Massachusetts at Amherst. I have been
15 employed in the energy industry since 1986, first with the Connecticut Energy
16 Office (Senior Economist, 1986-1992), then Columbia Gas Distribution Company
17 (Integrated Resource Planning Coordinator, 1992-1996) and American Electric
18 Power (Marketing Profitability Coordinator and Market Research Consultant,
19 1996-2002).

000000

1 **Q3. DESCRIBE YOUR EXPERIENCE DIRECTLY RELATED TO ENERGY**
2 **EFFICIENCY AND DEMAND-SIDE MANAGEMENT.**

3 **A3.** I have been involved with many aspects of energy efficiency programs since
4 1986. While at the Connecticut Energy Office I represented the office in one of
5 the first demand-side management ("DSM") collaborative processes in the
6 country (Connecticut DPUC Docket #87-07-01). There I analyzed the
7 performance and cost-effectiveness of many efficiency programs for
8 Connecticut's electric and gas utilities that led to demonstration projects, policy
9 recommendations, DSM programs and efficiency standards. At Columbia Gas, I
10 was responsible for coordinating the Company's Integrated Resource Plan within
11 the corporate planning department and DSM program development activities in
12 the marketing department. At American Electric Power, I co-authored a white
13 paper on the Company's load control water heater program and I was a part of a
14 team that prepared DSM proposals for major customers.

15

16 **Q4. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC UTILITIES**
17 **COMMISSION OF OHIO?**

18 **A4.** Yes. I provided testimony in the *Vectren Energy Delivery of Ohio*, Case No 04-
19 571-GA-AIR.

1 **Q5. WHAT COMPANY DOCUMENTS HAVE YOU REVIEWED IN THE**
2 **PREPARATION OF YOUR TESTIMONY?**

3 **A5.** I reviewed the Company's Application, the testimony of Company witness Jeff
4 Murphy, and the 2005 Annual Forecast Report.

5
6 **II. PURPOSE OF TESTIMONY**

7
8 **Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 **A6.** My testimony addresses the lack of tangible benefits in the Company's
10 Application for residential consumers. The DSM programs I am proposing would
11 provide benefits for residential consumers by addressing the lack of cost-effective
12 energy efficiency programs for the residential class in the Dominion East Ohio
13 Energy Delivery, Inc. ("DEO" or "the Company") service territory. Given the
14 lack of substantiated consumer benefits in the Company's Application, I believe
15 that energy efficiency programs can help address that void. In addition, Energy
16 efficiency programs can provide Ohio ratepayers with many benefits over the
17 status quo. In particular, energy efficiency programs allow ratepayers to control
18 their energy use and serve as an important hedge against rising and volatile gas
19 prices. I am addressing the need for DEO to increase its investment in this area
20 and also to establish a collaborative process in order to analyze the potential for
21 direct investment by the Company in energy efficiency resources; to design
22 programs to harness that potential on a comprehensive basis, across all sectors;
23 and to facilitate the implementation of such programs by the Company to the full

1 extent that they are cost-effective. Finally, I also will be addressing the recovery
2 of the energy efficiency investments and the program-induced distribution lost
3 revenues the programs entail.

4
5 **III. NEED AND SUPPORT FOR ENERGY EFFICIENCY**

6
7 ***Q7. WHY ARE YOU RECOMMENDING AN INCREASE IN DEO'S ENERGY***
8 ***EFFICIENCY INVESTMENTS AT THIS TIME?***

9 ***A7.*** I have serious concerns about the increasing cost of residential home heating and
10 am very interested in promoting programs and policies that mitigate those
11 increases. The natural gas crisis in Ohio is real because prices reached and were
12 sustained at a level of almost \$7 per Mcf this past winter, exceeding price highs
13 that were not forecasted to occur until winter 2006-07 and more than double the
14 average price only three short years ago.¹ More importantly, commodity prices
15 have already reached \$13 per Mcf and are expected to increase almost 46% more
16 in the Midwest during this upcoming winter compared to last year.²

17
18 This concern with escalating natural gas prices is paramount in the recent
19 comments of AGA Vice Chairman Stephen E. Ewing before the House Energy
20 and Commerce Committee when he stated:

¹ See Attachment 1, Kushler, M., D. York, and P. Witte. 2005. *Examining the Potential for Energy Efficiency to Help Address the Natural Gas Crisis in the Midwest*. Washington, DC: American Council for and Energy Efficiency Economy.

² Energy Information Administration, November 8, 2005, Short-Term Energy Outlook.

1 It is distressing to consider that the \$13 prices projected in the American
2 Gas Foundation study, "Outlook to 2020," published in February of this
3 year, have already been exceeded over the last few weeks. That study
4 concluded that if policy makers and industry decision makers did not
5 immediately address critical issues that will have a significant impact on
6 the availability and price of natural gas (such as diversifying electric
7 generation mix and increasing access to domestic supplies) then prices
8 could reach \$13 by 2020. No one imagined that a mere seven months
9 later those prices would become a reality.³

10
11
12 In addition to the families and businesses suffering from these high natural gas
13 prices, the state's overall economy is suffering as well. Currently, DEO's
14 residential customers are paying \$13.78 per Mcf on the commodity portion of
15 their bill.⁴

16
17 The recent furor statewide from gas customers regarding GCR increases by DEO
18 and other gas utilities demonstrates the need for change.⁵ If increased recovery of
19 energy efficiency investments are approved by the Commission in this case, then
20 DEO's residential gas customers obtain a benefit in the form of a major option to
21 reduce their heating bills which would afford them some protection from the
22 volatility of the market.

³ Stephen E. Ewing, Testimony before the House Energy and Commerce Committee, November 2, 2005, pages 4-5.

⁴ Monthly rate as filed in *Dominion East Ohio*, Case No. 05-219-GA-GCR.

⁵ *In the Matter of the Application of the East Ohio Gas Company dba Dominion East Ohio to Revise its Gas Cost Recovery Rate*, Case No. 04-1717-GA-UNC, Application, (November 12, 2004). *In the Matter of the Application of the Columbia Gas of Ohio, Inc. for an Adjustment to its Gas Cost Recovery Rate*, Case No. 04-1715-GA-UNC, Application, (November 12, 2004)

1 **Q8. IS THERE ANY SUPPORT FOR THE INVESTMENT IN ENERGY**
2 **EFFICIENCY PROGRAMS NATIONWIDE?**

3 **A8.** There is growing support for gas energy efficiency investments to be undertaken
4 as a response to the crisis of high and volatile gas prices. A recent report by the
5 Consumer Federation of America urges that "Congress must move quickly to
6 promote energy efficiency and use of alternative fuel sources to respond to the
7 turmoil in natural gas markets..."⁶ Other examples of comments in support of
8 energy efficiency include:⁷

9 "Policies most likely to have an immediate impact are actions to
10 promote consumer conservation and energy efficiency." (National
11 Petroleum Council, Sept. 2003)

12 "Based on the Department's analysis, we concur... that over the
13 next 12 to 18 months there are only limited opportunities to
14 increase supply, and that, therefore, the emphasis must be on
15 conservation, energy efficiency, and fuel switching." (DOE Ex-
16 Secretary Abraham, June 2003)

17 "Specifically, we need a concerted national effort to promote
18 greater energy efficiency..." (Letter to the White House and
19 Congress from the CEOs of the 11 largest U.S. chemical
20 manufacturers, January 2004)

21 "Increased-efficiency, lower-cost equipment may be one answer to
22 this problem⁸." (Ron Edelstein, Gas Technology Institute,
23 November 2004)

24

⁶ See December 16, 2004 Platts Gas Daily.

⁷ Unless otherwise indicated, these quotes were contained in Martin Kushler's presentation "Energy Efficiency as a Top Policy Priority: Time for Action" given at the MEEA Midwest Energy Solutions Conference, September 28, 2004.

⁸ One of Ron Edelstein's conclusions in his presentation, "Basis of Need: GTI's Low-Income Ratepayer Initiatives," NARUC 2004 Annual Convention.

1 "Integrating improvements in efficiency standards with targeted
2 technology incentives, R&D, consumer information, and programs
3 sponsored by electric and gas utilities."⁹ (emphasis added,
4 recommendation of The National Commission on Energy Policy to
5 help meet America's energy challenge, December 2004).

6
7 "Another important tool is assisting customers to increase their
8 homes' energy efficiency and to conserve energy better. Energy
9 efficiency and conservation can do much to reduce individual
10 energy consumption and, therefore, lower customer bills. Indeed,
11 one recent study indicated that aggressive energy efficiency and
12 conservation measures could reduce
13 natural gas prices by up to 25%. While analysts may quarrel with
14 the likely impact of an increased application of energy efficiency
15 measures on natural gas prices, AGA and its members know that
16 appropriate customer energy-efficiency measures can benefit their
17 customers. Moreover, these benefits will be almost immediate in
18 today's high-priced environment. In contrast, other measures to
19 ameliorate the impact of natural gas prices require a considerably
20 longer time frame." (Testimony of AGA Vice Chairman Stephen
21 E. Ewing before House Energy and Commerce Committee,
22 November 2, 2005).

23
24
25 More recently, the Energy Policy Act of 2005 (Act), signed into law August 8,
26 2005, provides incentives for energy efficiency in residential applications and for
27 industrial and the commercial sectors.

28

⁹ Commission recommendation in, Ending the Energy Stalemate A Bipartisan Strategy to Meet America's Energy Challenges, The National Commission on Energy Policy, December 2004.

1 **Q9. IS THERE A CONCERTED EFFORT IN THE MIDWEST AND OTHER**
2 **REGIONS TO PROMOTE THE INVESTMENT IN ENERGY EFFICIENCY**
3 **PROGRAMS?**

4 **A9.** Yes. A Midwest Natural Gas Initiative was announced on October 3, 2005 at the
5 Annual Midwest Energy Efficiency Conference in Chicago. The Midwest
6 Natural Gas Initiative is a cooperative effort by eight Midwest states to develop a
7 multi-state energy efficiency initiative to decrease natural gas consumption by 1%
8 per year for five years. The expectation is that reducing demand will help
9 wholesale natural gas prices to decrease by as much as 13%. The effort is being
10 led by NARUC president Diane Munns. The governors of Iowa and Wisconsin
11 have already signed on to the initiatives and other states are reviewing them.¹⁰

12
13 Elsewhere, Maine Governor and Chairman of the Coalition of Northeastern
14 Governors John Baldacci is asking other governors in New England to commit to
15 a conservation and energy-efficiency effort aimed at cutting New England's
16 natural gas use 5% over the next six years.¹¹

17

¹⁰ See <http://www.mwnaturalgas.org/>

¹¹ Gas Daily, October 18, 2005, page 1.

1 **IV. TANGIBLE BENEFITS FROM ENERGY EFFICIENCY**

2

3 ***Q10. HOW DOES INVESTING IN ENERGY EFFICIENCY HELP DEO'S***

4 ***RESIDENTIAL CONSUMERS WHO WOULD PARTICIPATE IN DSM?***

5 ***A10.*** Based on current bills, the average DEO residential customer using 120 Mcf a
6 year will be paying an estimated \$16.03 per Mcf based on a GCR rate of \$13.78
7 per Mcf and the distribution rate.¹² The levelized total resource cost of investing
8 in OCC's recommended energy efficiency programs is \$3.70 per Mcf¹³ over the
9 20-year average life of the measures. Through rebates and other incentives,
10 participating residential customers will only pay a fraction of that investment.
11 Customers who participate can see a reduction in their gas bills directly correlated
12 to the reduction in consumption resulting from the installation of energy
13 efficiency measures. Other customer benefits are improved comfort levels,
14 increased health, safety, property values, and better control of gas costs.

15

16 ***Q11. HOW DOES INVESTING IN ENERGY EFFICIENCY HELP DEO?***

17 ***A11.*** Investing in energy efficiency at the levels recommended by OCC is equivalent to
18 DEO buying a tranche of gas for a fixed price over 20 years of \$3.40¹⁴ per Mcf,

¹² Ohio Utility Rate Survey, PUCO, October 15, 2005. DEO's new GCR for the period 11/02/05-12/04/05 is \$13.779.

¹³ The levelized total resource cost is calculated by dividing the levelized Net Present Value (NPV) of total program costs by the levelized lifetime program energy savings. Program specific details and cost estimates appear later in my testimony.

¹⁴ This represents the utility levelized cost for the three programs.

1 which is well below existing and future predicted gas prices. Investing in energy
2 efficiency also improves the Company's system utilization by reducing winter
3 peak demand and potentially reducing the Company's collection expenses. In
4 specific circumstances, geographically targeted energy efficiency programs can
5 also postpone gas infrastructure investments.
6

7 **Q12. HOW DOES INVESTING IN ENERGY EFFICIENCY HELP THE**
8 **COMPANY'S RESIDENTIAL CUSTOMERS WHO DO NOT PARTICIPATE**
9 **IN THE PROGRAMS?**

10
11 **A12.** Although it is clear that the largest benefit of the energy efficiency investments
12 recommended by OCC will go to the participating residential customer, benefits
13 also accrue to the non-participating customer. Some of these are:

- 14
15 1. Lower future gas costs due to dampened natural gas demand. As the ACEEE
16 study points out, "because of the very tight and volatile natural gas market, a
17 reduction of about 1 percent per year in total gas demand could result in
18 wholesale natural gas price reductions of 10 to 20 percent."¹⁵
19
20 2. Dollar savings due to reduction in cost of natural gas used in electric
21 generation
22
23 3. Potential avoidance of some distribution costs (if some congested areas are
24 targeted with energy efficiency programs)
25
26 4. Potential Reduction of PIPP and uncollectables
27

¹⁵ Attachment 1, ACEEE Study page 5.

- 1 5. Economic development benefits:
2
3 a. Employee compensation
4 b. Jobs
5
6 6. Increase taxes collected by Local and State entities from energy efficiency
7
8 7. Programs that boost the local economy and help with existing budget deficits
9
10 8. Environmental benefits (less CO₂, a contributor to global warming, from more
11 efficient appliance and homes)
12
13 9. Utility planning flexibility
14
15 10. Development of new technologies
16
17 11. Transformed market for energy services (more choices, better pricing, better
18 financing opportunities, more and better quality)
19

20 **V. ENERGY EFFICIENCY FUNDING, RATE IMPACTS AND ENERGY**
21 **SAVINGS**

22
23 ***Q13. WHAT DOLLAR LEVELS OF ENERGY EFFICIENCY INVESTMENTS DO***
24 ***YOU RECOMMEND FOR DEO?***

25 ***A13.*** I recommend that DEO's energy efficiency budget for residential customers be
26 ramped up over the next four years to \$6, \$10, \$13, and \$15 million, respectively,
27 for residential customers, in addition to the existing \$3 million low-income
28 weatherization program. These levels are moderate, averaging \$11 million over
29 the four years, or approximately 1 percent of DEO's total sales revenue. These
30 recommended funding levels are, however, consistent with program spending on

1 both the east and west coasts of the United States.¹⁶ I therefore believe the
2 increased level of energy efficiency funding is appropriate given the lack of utility
3 gas energy efficiency investments (except for low-income weatherization) in
4 Ohio. I also believe that all ratepayers would benefit by a gas energy efficiency
5 program targeted towards the commercial and industrial classes.

6
7 Based on my experience, I believe that a four-year energy efficiency program is
8 appropriate. This recommended time horizon allows for the:

- 9 • Efficient development of Company systems and processes to support the
10 programs in the first year
- 11 • Introduction and marketing of the programs to customers and with trade
12 allies, such as HVAC contractors and the building trades, early on
- 13 • Optimization of program delivery through process and impact evaluations
14 and to ramp up participation levels in the middle years
- 15 • Transformation of the market for energy services in the later years
- 16 • Avoidance of confusing stop and start program cycles of shorter time horizon
17 program efforts

18

¹⁶ According to a Navigant Consulting study, "DSM in North American Gas Utilities," April 2004, gas DSM spending as a proportion of revenues were 1.7 percent, Keyspan in Massachusetts, 2.1 percent Vermont Gas, 1.5-2.0 percent New Hampshire.
[http://www.indeco.com/www.nsf/788895c29ec2338d85256a3300690fcc/5135273d3da1f3f085256e900049c9e7/\\$FILE/EGD%20Report%20on%20DSM%20Jurisdictions.pdf](http://www.indeco.com/www.nsf/788895c29ec2338d85256a3300690fcc/5135273d3da1f3f085256e900049c9e7/$FILE/EGD%20Report%20on%20DSM%20Jurisdictions.pdf)
California's adopted natural gas goals for gas efficiency programs range from \$50 million in 2004 to \$150 million by 2012. See "Status of Natural Gas Efficiency Programs in California and Suggestions For New Initiatives" by Michael Messenger. Presentation on November 18, 2004 to NARUC Gas Staff Committee (fn 16 on Navigant Study in Q13).

1 While I make no specific recommendations as to programs for these customer
2 groups, I believe that such programs could be addressed in the collaborative.
3

4 **Q14. WHAT ARE THE RESIDENTIAL RATE IMPACTS OF YOUR**
5 **RECOMMENDED ENERGY EFFICIENCY INVESTMENTS?**

6 **A14.** Over the four years of increasing budgets, the proposed energy efficiency
7 program funding will increase average residential monthly bills by \$0.81.
8 Amortizing the cost over ten years lowers the average monthly bill increase 35
9 percent to \$0.53. Amortizing the costs also better matches program costs to
10 benefits.
11

12 **Q15. WHAT IS THE POTENTIAL FOR GAS ENERGY EFFICIENCY IN DEO'S**
13 **SERVICE TERRITORY?**

14 **A15.** While I have not conducted a gas technical and economic potential study of
15 Energy Efficiency for DEO, I conclude from my review of a recent study by the
16 American Council for an Energy Efficient Economy ("ACEEE") for the Midwest
17 that cost-effective opportunities abound.¹⁷ ACEEE estimates that Ohio residential
18 consumers can save energy at a rate of 1.8 percent or 6,172 MMcf in 2006

¹⁷ Attachment 1, see "Examining The Potential For Energy Efficiency To Help Address The Natural Gas Crisis In The Midwest" by Martin Kushler, Dan York, and Patti Witte, produced by the American Council for an Energy-Efficient Economy, December 2004. Funding for this work was provided by the Illinois Department of Commerce and Economic Opportunity; the Minnesota Department of Commerce; the Office of the Consumers' Counsel; the Ohio Department of Development; the Wisconsin Department of Administration; the Wisconsin Energy Conservation Corporation; and the Energy Foundation.

1 ramping up to 3.6 percent, or 12,723 MMcf by 2010.¹⁸ I have attached the
2 ACEEE study to my testimony as Attachment 1. ACEEE's gas savings estimate
3 for Ohio is based on realistic savings that could be achieved through the
4 implementation of aggressive programs similar to those that have been deployed
5 in recent years in response to recent regional energy shortages. ACEEE then
6 applied those estimates to the end-use estimates in Ohio to develop sector-specific
7 estimates of energy savings.

8
9 ***Q16. ARE YOU RECOMMENDING DSM FOR NON-RESIDENTIAL CUSTOMER***
10 ***CLASSES IN THIS PROCEEDING?***

11 ***A16.*** As the statutory advocate for the residential class, OCC supports DSM programs
12 as a tangible benefit for consumers that would provide a means of lowering the
13 impact of rising gas costs on the bills of residential customers. However, I also
14 believe that investment in Commercial and Industrial energy efficiency programs
15 as appropriate since programs for these classes tend to be highly cost-effective.¹⁹
16 The benefit of targeting commercial and industrial customers is that their potential
17 reductions in demand can be significant.²⁰ To the extent that demand is reduced,
18 this can lower gas costs for all customers. Thus, as a policy matter, I believe that
19 energy efficiency programs should be put in place for all customers.

¹⁸ Attachment 1, Kushler et al., Table 9 on page 23 and Table 13 page 27.

¹⁹ Attachment 1, Kushler et al., Table 21 on page 38 estimates the cost of a saved Mcf to be \$0.86 for commercial applications and \$0.74 for industrial applications.

²⁰ Attachment 1, Kushler et al., Table 13 on page 27 estimates the commercial and industrial natural gas savings in Ohio from energy efficiency to be 6,679 MMcf in 2006.

1 **Q17. WITHIN THE RESIDENTIAL CLASS, DO YOU RECOMMEND THAT ANY**
2 **SEGMENT BE GIVEN ANY EXTRA CONSIDERATION?**

3 **A17.** I recommend that approximately 25 percent of the residential energy efficiency
4 budget should be targeted towards low-income weatherization programs. I agree
5 with a statement in a recent National Regulatory Research Institute report, as
6 follows: "the problems associated with utility disconnections are everyone's
7 problem. For low-income consumers disconnection may culminate in use of
8 unsafe heating devices, health and safety risks and even homelessness. An
9 increase in call center activity as a result of high energy prices can put significant
10 strain on the function of call centers. Utilities bear significant costs associated
11 with credit and collection activities. Moreover, the soaring amount of revenue
12 owed on residential accounts must either be passed on to shareholders as bad-debt
13 write-off or kept in arrearage accounts and passed on to ratepayers in the form of
14 rate increases; this further compounds the energy burdens facing all consumers."²¹
15 In addition, there is a current backlog of low-income households awaiting
16 weatherization treatments of approximately 5,000 households.²² Low-income
17 households stand the most to gain by increased levels of weatherization.
18 Currently, 71% of Ohio households who receive Home Energy Assistance
19 Program funds heat with natural gas.²³

²¹ Francine Sevel, "The Impact of Rising Energy Prices on Low-Income Consumers," The National Regulatory Research Institute, November 2004.

²² Page 6, Direct Testimony of Elizabeth Hernandez in Case No. 05-474-GA-ATA, September 19, 2005.

²³ Ohio Department of Development at www.odod.state.us/cdd/ocs/regheap.htm.

1 Nationally, prior to the run up in natural gas prices, the poorest 20 percent of
2 households spent from 8-10% of their entire income on heating bills alone.
3 According to testimony filed in this case by OP&E witness Elizabeth Hernandez,
4 that energy burden figure for 2004 was a staggering 16%. Since most low income
5 households rent (approximately 60% nationwide), they generally pay the heating
6 bills but have no control over the efficiency of their heating units.²⁴ Increased
7 funding for cost-effective low-income weatherization programs will help reduce
8 the pressure on federal and state fuel assistance programs and therefore tend to
9 lessen Percentage of Payment Plan (PIPP) utility arrearages for gas utilities.

10
11 Traditionally, low-income has been defined as 150% of the federal poverty
12 guideline. This is the standard used for the Home Weatherization Assistance
13 Program (HWAP). However, given the dramatic increase in natural gas prices, I
14 would extend this target group to cover up to 250% of federal poverty guideline.
15 This will capture many senior citizens on fixed incomes and the workingn poor
16 who are struggling to make ends meet and pay their bills.

17

²⁴ Steven Nadel, Andrew deLaski, Jim Kliesch, Anna Monis Shipley, Edward Osann, and Charlie Harak, "Powerful Priorities: Updating Energy Efficiency Standards for Residential Furnaces, Commercial Air Conditioners, and Distribution Transformers" (September 2004), American Council for an Energy-Efficient Economy, Report No. ASAP-4/ACEEE-A043, page 14.

1 VI. COLLABORATIVE APPROACH FOR ENERGY EFFICIENCY
2 PROGRAMS
3

4 ***Q18. WHAT IS THE BEST APPROACH FOR REACHING AGREEMENT***
5 ***REGARDING THE OPTIMAL DESIGN AND IMPLEMENTATION OF***
6 ***ENERGY EFFICIENCY PROGRAMS FOR DEO?***

7 ***A18.*** The most effective way for interested parties to have input in the Gas DSM Plan
8 would be to work cooperatively with the Company in the plan design. This
9 approach significantly limits the amount of contested matters, and leads to greater
10 understanding of the complex issues by all parties involved. It also requires
11 significantly less regulatory intervention and litigation, as the parties work out
12 most, if not all, of their differences outside of the regulatory proceeding. My
13 experience in Connecticut with the Northeast Utilities and United Illuminating
14 Company collaboratives and in Maryland with the Columbia Gas or Maryland
15 collaborative,²⁵ has demonstrated that a collaborative DSM process can be very
16 effective in developing successful, cost-effective programs and avoiding
17 contentious, drawn-out litigation over DSM issues. I therefore recommend that a
18 small group of major stakeholders agree to enter into a collaborative process
19 whose purpose is to analyze the potential for direct investment by DEO in energy
20 efficiency resources; to design programs to harness that potential on a

²⁵ In compliance with the Public Service Commission of Maryland's Secretarial Orders issued on September 17, 1991 and August 20, 1992, Columbia Gas of Maryland (CMD) submitted its Energy Efficiency and Conservation Plan on November 12, 1993. The Plan was developed in consultation with the CMD collaborative.

1 comprehensive basis, across all sectors; and to facilitate the implementation of
2 such programs by the Company to the full extent that they are cost-effective.
3

4 ***Q19. HOW WOULD THE COLLABORATIVE PROCESS WORK AND HOW
5 LONG WOULD THE PROCESS TAKE?***

6 ***A19.*** The details of the process should be worked out among the key stakeholders that
7 participate. The first task of the collaborative would be to establish the overall
8 goals and objectives of the process. I recommend that the Company be given four
9 months to develop and refine the program designs proffered by OCC
10 collaboratively with interested stakeholders. This would allow sufficient time for
11 meaningful input from the stakeholders, and would allow the Company to begin
12 implementing programs before the winter of 2006-2007. At the end of the four
13 months, the Company would file a DSM plan for Commission review and
14 approval. Issues that have not been agreed to by all parties of the collaborative
15 could be brought before the Commission at that time.
16

17 ***Q20. AT EXTERNAL FACTORS SHOULD BE INCLUDED IN EVALUATING
18 THE ENERGY EFFICIENCY PROGRAMS?***

19 ***A20.*** External factors including environmental benefits and costs such as changes in
20 indoor or outdoor air quality, improved customer comfort and program impact on
21 economic development -- particularly new job creation and the multiplier effect of
22 retaining dollars in Ohio -- should be included in the evaluation procedure. If it is
23 not possible to associate specific dollar impacts with these attributes, a written

1 description and/or proxy measurement should be provided for the decision
2 process. Finally, albeit natural gas is a cleaner burning fuel than coal, its
3 combustion does generate about half the CO2 of coal, contributing towards global
4 warming.

5
6 **Q21. WHO SHOULD ADMINISTER THE PROPOSED ENERGY EFFICIENCY**
7 **PROGRAMS?**

8 **A21.** Programs may be administered by the Company or an independent administrator.

9
10 **VII. TANGIBLE NON-ENERGY BENEFITS**

11
12 **Q22. HAS ANYONE ATTEMPTED TO ANALYZE THE JOB CREATION**
13 **POTENTIAL FOR GAS ENERGY EFFICIENCY PROGRAMS IN OHIO?**

14 **A22.** Yes. Energy efficiency programs can improve local economic development in
15 various ways. Reducing the electric bills of residential customers will increase
16 their disposable income, allowing them to spend more money on other items. In
17 addition, energy efficiency investments are generally spent on businesses in the
18 local economy such as contractors, plumbers, architects, construction companies,
19 and appliance distributors. The ACEEE report estimates that, if energy efficiency
20 is done on a state-wide basis, because of multiplier effects, 5,300 net new jobs
21 would be created in Ohio by the year 2010 by investing in energy efficiency
22 programs. By the year 2020, that figure increases to 12,430 net new jobs or

1 roughly 24 jobs per every million dollars expended on energy efficiency.²⁶

2 Although those figures are for Ohio as a whole, the expectation is that increased
3 job growth will occur with DEO's investment in Energy Efficiency as well.

4
5 **Q23. HOW MUCH MONEY WOULD REMAIN IN OHIO'S ECONOMY FROM**
6 **THE GAS ENERGY EFFICIENCY PROGRAMS AS COMPARED TO**
7 **PURCHASING THE GAS COMMODITY?**

8 **A23.** Approximately 87% of the gas consumed in Ohio is imported from other parts of
9 the U.S. Those are dollars that tend to leave the state. The ACEEE Report
10 estimates that \$123 million could be saved from leaving Ohio in 2006 alone, due
11 to natural gas energy efficiency programs.²⁷

12
13 **VIII. SUPPORT FOR ENERGY EFFICIENCY**

14
15 **Q24. WHAT OHIO STATUTORY OR REGULATORY MANDATES DO THE**
16 **ENERGY EFFICIENCY PROGRAMS SUPPORT?**

17 **A24.** Based on my experience with energy efficiency programs and my review of the
18 related Ohio regulations, it is my understanding that the energy efficiency
19 programs I propose are supported through the following:

²⁶ Attachment 1, Kushler et al., Table 25 on page 42.

²⁷ Attachment 1, Kushler et al., Table 20a on page 35. He also estimates in his presentation cited earlier that "Every \$1.00 per Mcf increase in price drains an additional \$4 billion a year from the [Midwest] region."

- 1 • R.C. 4905.70: “The public utilities commission shall initiate
2 programs that will promote and encourage conservation of energy
3 and a reduction in the growth rate of energy consumption, promote
4 economic efficiencies, and take into account long-run incremental
5 costs.”

- 6 • R.C. 4928.55: allows the Director of Development to “establish an
7 energy efficiency and weatherization program targeted, to the
8 extent practicable, to high-cost, high-volume use structures
9 occupied by customers eligible for the percentage of income
10 payment plan program, with the goal of reducing the energy bills
11 of the occupants.

- 12 • R.C. 4928.61: establishes the energy efficiency revolving loan
13 fund.

- 14 • R.C. 4935.01, Sections A.1 and A.2. In its forecasting duties the
15 commission shall...reasonably balance requirements of state and
16 regional development, protection of public health and safety,
17 preservation of environmental quality, maintenance of a sound
18 economy, and conservation of energy and material resources. I
19 also have been informed by counsel that these statutes support
20 energy efficiency programs.
21
22
23
24

1 **Q25. WHAT GUIDANCE HAS THE COMMISSION GIVEN TO GAS**
2 **INVESTOR OWNED UTILITIES CONCERNING GAS DSM**
3 **INVESTMENTS?**

4 **A25.** In Case No. 94-526-GA-COI, the Commission found that DSM “programs can be
5 proposed by an Ohio gas utility at any time and cost recovery will be considered
6 for approval on a case-by-case basis.” In the Vectren Rate Case No 04-571-GA-
7 AIR, the Commission expressed concern over the levels of DSM funding
8 proposed by OCC, and expressed a keen interest on the cost-effectiveness of any
9 DSM program. Given the current natural gas crisis as manifested by
10 unprecedented natural gas prices and by extreme volatility, and given the
11 additional uncertainty in future pricing levels if the Company exits the merchant
12 function, I believe the time is appropriate to consider the cost effective energy
13 efficiency investments I am recommending.

14

15 **IX. RESIDENTIAL ENERGY EFFICIENCY PROGRAM DESIGN**

16

17 **Q26. WHAT EQUITY CONSIDERATIONS SHOULD ENERGY EFFICIENCY**
18 **PROGRAM DESIGN TAKE INTO ACCOUNT?**

19 **A26.** I recommend that:

- 20 • Program benefits should be distributed as broadly as possible
21 among and within customer classes
- 22 • Costs should be recovered, to the extent practicable, from
23 customers most directly benefiting

- 1 • Program costs should be recovered, to the extent practicable, over
2 the same period that the program produces benefits.

3

4 ***Q27. ARE THERE ANY OTHER PROGRAM DESIGN CONSIDERATIONS FOR***
5 ***ENERGY EFFICIENCY PROGRAMS?***

6 ***A27.*** I recommend that:

- 7 • Programs should complement and leverage other government or
8 private programs where possible.
- 9 • Programs should be made as visible as possible in a cost-effective
10 manner to the public to create awareness of the benefits of Energy
11 Efficiency and to promote customer satisfaction.
- 12 • Special attention should be given to capturing “lost opportunity”²⁸
13 conservation potential and programs should have a market
14 transformation focus.

15

16 ***Q28. WHAT IS MARKET TRANSFORMATION?***

17 ***A28.*** Market Transformation is a strategy that promotes the manufacture and purchase
18 of energy-efficient products and services. The goal of this strategy is to induce
19 lasting structural and behavioral changes in the marketplace, resulting in
20 increased adoption of energy-efficient technologies.

²⁸ Lost opportunity refers to energy efficiency opportunities that are lost for a considerable time if not undertaken. For example, when one purchases a new standard efficiency furnace, it is unlikely that one will replace the furnace with a more efficient unit for years to come. The same applies to new construction opportunities.

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ATTACHMENTS

BEH-A Beth E. Hixon - Utility Testimony

1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4 ***A1.*** My name is Beth Hixon. My business address is 10 West Broad Street, Suite 1800,
5 Columbus, Ohio 43215-3485. I am employed by the Office of the Ohio Consumers'
6 Counsel ("OCC" or "Consumers' Counsel") as Assistant Director of Analytical
7 Services.

8

9 ***Q2. WOULD YOU PLEASE SUMMARIZE YOUR EDUCATIONAL AND***
10 ***PROFESSIONAL HISTORY?***

11 ***A2.*** I received a Bachelor of Business Administration degree in accounting from Ohio
12 University in June 1980. For the period June 1980 through April 1982, I was
13 employed as an Examiner in the Field Audits Unit of the Ohio Rehabilitation Services
14 Commission ("ORSC"). In this position I performed compliance audits of ORSC
15 grants to, and contracts with, various service agencies in Ohio.

16

17 In May 1982 I was employed in the position of Researcher by the OCC. In 1984 I
18 was promoted to Utility Rate Analyst Supervisor and held that position until
19 November 1987 when I joined the regulatory consulting firm of Berkshire Consulting
20 Services. In April 1998 I returned to the OCC and have subsequently held positions
21 as Senior Regulatory Analyst, Principal Regulatory Analyst and Assistant Director of
22 Analytical Services.

23

1 **Q3. WHAT EXPERIENCE DO YOU HAVE IN THE AREA OF UTILITY**
2 **REGULATION?**

3 **A3.** In my positions with the OCC, and as a consultant with Berkshire Consulting
4 Services, I have performed analysis and research in numerous cases involving
5 utilities' base rates, fuel and gas rates and other regulatory issues. I have worked with
6 attorneys, analytical staff and consultants in preparation for, and litigation of, utility
7 proceedings involving Ohio's electric companies, the major gas companies and
8 several telephone and water utilities. At the OCC I have also participated and/or
9 directed special regulatory projects and provided training on regulatory technical
10 issues.

11

12 **Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THIS**
13 **COMMISSION?**

14 **A4.** Yes. I have submitted testimony before the Public Utilities Commission of Ohio
15 ("PUCO" or "Commission") in the cases listed in Attachment BEH-A. As shown on
16 this Attachment, I have also submitted testimony in a case before the Indiana Utility
17 Regulatory Commission.

18

19 **Q5. WHAT DOCUMENTS HAVE YOU REVIEWED IN THE PREPARATION OF**
20 **YOUR TESTIMONY?**

21 **A5.** I reviewed the Dominion East Ohio ("DEO" or "Company") April 8, 2005
22 Application, the testimonies of Company witnesses Jeff Murphy and Vicki Friscic,

1 Company responses to certain OCC discovery and certain Commission entries and
2 orders from other cases.

3
4 **II. PURPOSE OF TESTIMONY**

5
6 ***Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?***

7 ***A6.*** The purpose of my testimony is to present key items and issues which the
8 Commission should take into consideration in determining whether to allow DEO to
9 proceed with the Phase 1 pilot program in its Application.

10
11 DEO's Phase 1 would remove its gas commodity service rates from current regulation
12 through the Gas Cost Recovery ("GCR") rate mechanism. Customers' gas
13 commodity service rates would instead be provided under a new Standard Service
14 Offer ("SSO") rate, the price of which would be determined through a wholesale
15 bidding process tied to NYMEX futures prices. While Phase 1 is not complete
16 deregulation of the gas commodity since DEO would not completely "exit the
17 merchant function," this Phase is further movement toward more market-sensitive gas
18 prices for consumers.

19
20 DEO is asking for this movement at a time when the natural gas market has
21 experienced unprecedented high prices and extreme price volatility. There is no
22 indication that high gas commodity prices and price volatility will abate. To move
23 further toward market-based gas prices at such a time presents an increased risk for

1 consumers as to whether the competitive bidding process proposed in Phase 1 will
2 provide price benefits beyond the protection of the cost-based prices currently
3 provided through GCR regulation unless certain changes to the bidding process as
4 proposed by OCC witness Haugh are adopted. With this increased risk to consumers
5 arising from the current state of the natural gas market, I recommend the Commission
6 use the following criteria together in examining whether the Application is in the best
7 interest of residential consumers:

- 8 • A gas company's exit from the merchant function should:
 - 9 - Provide tangible benefits for consumers (will consumers be better off
10 under the change than if the gas company continued GCR service?)
 - 11 - Not harm customers through the imposition of additional costs and
12 charges
 - 13 - Be structured to permit effective efforts to inform and educate consumers
14 about changes in their gas service
 - 15 - Be structured to permit a robust competitive market structure in order to
16 increase the likelihood of price benefits for consumers
 - 17 - Provide PUCO regulatory oversight of the gas company's actions related
18 standard service offer, provider of last resort and any other gas operational
19 functions the company continues to provide
 - 20 - Be structured to functionally unbundle current regulated rates between
21 distribution and gas costs to ensure that distribution rates are just and
22 reasonable going forward and that customers do not double-pay for gas
23 costs embedded in distribution rates that are also in gas suppliers' rates

1 In the rest of my testimony I will discuss each of these criteria, as well as reference
2 topics related to the criteria addressed in the testimonies of OCC witnesses Gonzalez,
3 Hines, Haugh and Walls Rominski. In order for the Company's exit the merchant
4 function proposal to meet all of the criteria listed above, I recommend that the
5 Commission needs to adopt the OCC witness's modifications to DEO's proposal.
6

7 **III. TANGIBLE BENEFITS**

8
9 ***Q7. WHY SHOULD THERE BE TANGIBLE BENEFITS FOR CONSUMERS FROM***
10 ***A PLAN FOR AN EXIT OF THE MERCHANT FUNCTION?***

11 ***A7.*** Absent tangible benefits resulting from a change in how gas commodity service is
12 provided, consumers are no better off than under current GCR regulation and current
13 choice program structures. While it may seem impossible before Phase 1 is
14 implemented to determine if tangible price benefits will result for consumers, that
15 uncertainty is why the potential for future tangible price benefits should be examined.
16

17 For example, while many DEO consumers have saved money at times with
18 competitive suppliers versus DEO's regulated gas rate, at times consumers in the
19 aggregate have not saved money. As the OCC noted in our May 26, 2005 Comments
20 in this case, choice customers in aggregate saved \$8.3 million in the 2000, \$66.1
21 million in 2001, and \$16.7 million in 2003. However, choice customers also lost
22 \$51.8 million in 2002, \$10.9 million in 2004, and \$4.6 million in 2005 through

1 March.¹ Of course such gas choice savings numbers will change over time,
2 depending on gas market conditions and competitive supplier gas offers. However,
3 this examination shows that while there is potential for tangible price benefit, there is
4 also the risk there may not be such benefit.

5
6 **Q8. GIVEN THE RISK ASSOCIATED WITH POTENTIAL PRICE BENEFITS, ARE**
7 **THERE OTHER TANGIBLE BENEFITS THAT COULD BE ASSOCIATED**
8 **WITH THE COMPANY'S PROPOSED PHASE 1?**

9 **A8.** Yes. The OCC provided in our May 26, 2005 Comments examples of other types of
10 tangible benefits for consumers that could be associated with the Company's
11 proposal. Those included the option of lower distribution rates that could result from
12 reduced costs and risks to the Company from removing its responsibility for the
13 merchant function and the regulatory review that accompanies that responsibility. In
14 a related manner, later in my testimony, I also note that if an exit of the merchant
15 function is done it is essential to have a full examination of a gas company's rates in
16 order to establish just and reasonable rates on a going forward basis.

17
18 Another example of tangible benefits that could be associated with the Company's
19 proposal is the implementation of a comprehensive Demand Side Management
20 ("DSM") program as discussed in the testimony of OCC witness Gonzalez. In light
21 of the high gas prices consumers are facing, such a program would provide

¹ Source: Case No 05-474-GA-ATA, OCC 5/26/05 Comments at page 10, Dominion Energy Choice Report -
March 2005, provided to OCC and PUCO by DEO (Larry J. Rice)

1 consumers tools to create for themselves tangible financial benefits by controlling
2 their gas usage.

3
4 **Q9. BUT WON'T CONSUMERS RECEIVE TANGIBLE BENEFITS AS A RESULT**
5 **OF THE CONTINUED DEVELOPMENT OF THE COMPETITIVE GAS**
6 **MARKET THROUGH AN EXIT FROM THE MERCHANT FUNCTION?**

7 **A9.** I am hopeful that continued development of the competitive gas market will result in
8 gas suppliers competing to serve residential customers at lower gas prices, more price
9 options and added service value. However, as I've stated previously, there is risk to
10 consumers associated with the movement toward market gas prices in Phase 1. If
11 Phase 1 is approved, it is crucial that development of the competitive market be
12 monitored during that Phase by the Commission and stakeholders to determine if such
13 benefits result before proceeding to Phase 2. That monitoring can not be limited to
14 only market metrics such as number of marketers, market share and customers
15 participation rates. In addition, there must be an examination to ascertain whether
16 customers have obtained benefits through Phase 1.

1 **IV. ADDITIONAL COSTS AND CHARGES**

2

3 ***Q10. ARE THERE COSTS AND CHARGES UNDER PHASE 1 WHICH CUSTOMERS***
4 ***DO NOT CURRENTLY PAY?***

5 ***A10.*** Yes. As OCC witness Hines testifies, there are several additional charges that will be
6 imposed on residential customers under DEO's proposal. Since customers should not
7 be harmed by the Company's exit of the merchant function and since there is
8 uncertainty about the benefits to customers which may result from DEO's proposal, I
9 recommend that customers not be asked to bear an additional cost burden of the
10 Company's decision to exit the merchant function.

11

12 **V. INFORMED CONSUMERS**

13

14 ***Q11. WHY SHOULD THE COMMISSION BE CONCERNED NOW ABOUT THE***
15 ***DETAILS NEEDED TO INFORM CONSUMERS ABOUT THE CHANGES IN***
16 ***THEIR GAS SERVICE DUE TO AN EXIT FROM THE MERCHANT***
17 ***FUNCTION BY DEO?***

18 ***A11.*** Under Phase 1 it may be that consumers will see and experience little change in their
19 gas bills and dealings with DEO and gas suppliers. However, since DEO intends for
20 Phase 1 to lead into a full exit of the merchant function in Phase 2, the development
21 of an effective and timely education program for consumers becomes a part of what
22 the Commission and Stakeholders should deal with during Phase 1. In order for
23 consumers to be well informed about changes in their gas service, bills and gas

1 choice, I recommend the Commission adopt the education plan proposals presented
2 by OCC witness Walls Rominski.

3
4 **VI. STRUCTURED TO PERMIT A ROBUST COMPETITIVE MARKET**

5
6 ***Q12. IN ORDER TO PERMIT A ROBUST COMPETITIVE MARKET WHAT***
7 ***CHANGES SHOULD THE COMMISSION MAKE TO THE COMPANY'S***
8 ***PROPOSAL?***

9 ***A12.*** OCC witness Haugh describes several modifications that would improve the
10 Company's proposed auction process for the Standard Service Offer rate to be offered
11 to consumers. Those SSO auction changes would encourage competition for lower
12 prices during Phase 1 and increase the likelihood of price benefits for consumers.

13
14 In addition, as I discuss in Section VIII, if Phase 1 is approved, the Commission
15 should require the Company to conduct a functional unbundling of current rates
16 between gas costs and distribution costs before Phase 2 implementation. This
17 unbundling would ensure that all appropriate gas costs are no longer being paid by
18 consumers through regulated rates, and may thus improve the potential development
19 of the competitive retail market and the opportunity for customers to obtain price
20 benefits on their gas bills.

21

1 **VII. PUCO REGULATORY OVERSIGHT**

2

3 **Q13. WHAT ASPECTS OF THE COMPANY'S ACTIONS UNDER ITS PROPOSAL**
4 **SHOULD BE SUBJECT TO REGULATORY OVERSIGHT BY THE**
5 **COMMISSION?**

6 **A13.** As recommended by OCC witness Hines, there are several aspects for which
7 regulatory review should exist. Under Phase 1, and even more so later in Phase 2, the
8 Company would no longer be subject to all of the current regulatory review under the
9 GCR mechanism. However, aspects of the Company's provision of the standard
10 service offer and provider of last resort necessitate regulatory oversight from both a
11 financial/accounting and management/performance standpoint. In addition, any other
12 operational functions which the Company provides such as operational balancing and
13 the continued day-to-day management of its Energy Choice program should be
14 subject to PUCO oversight.

15

16

17 **VIII. FUNCTIONALLY UNBUNDLE CURRENT REGULATED RATES**

18

19 **Q14. IN APPROVING PHASE 1 WHY SHOULD THE COMMISSION ORDER THE**
20 **COMPANY TO UNBUNDLE RATES BEFORE PHASE 2 IS IMPLEMENTED?**

21 **A14.** A functional unbundling, between gas costs and distribution costs, of current
22 regulated rates would ensure that on a going forward basis distribution rates are just
23 and reasonable. Absent such an unbundling, there may be components embedded in

1 distribution rates related to gas costs that customers would pay for through those
2 current rates. In addition, there may be components of current distribution rates that
3 have experienced significant changes in the level of costs since rates were structured
4 in 1993.

5
6 ***Q15. WHAT CHANGES HAVE OCCURRED IN REGARDS TO COST
7 COMPONENTS OF THE COMPANY'S CURRENT RATES?***

8 ***A15.*** As detailed in the testimony of OCC witness Hines, DEO's current distribution rates
9 that were set in 1993 are based on costs that include a higher level of certain expenses
10 and a higher balance of certain rate base items than were in existence at the end of
11 2004. In addition to such expenses and rate base items, the component of rates that
12 reflected a reasonable rate of return for DEO has also changed over time, and may
13 even be impacted further by an exit from the merchant function by the Company.

14
15 Furthermore, a full examination of rates done with an unbundling of those rates
16 should address how, and to what extent, any profits earned by the Company as a
17 result of gas-related assets or operations which it would retain even after exiting the
18 merchant function should be considered in setting rates. In the past gas companies
19 have had opportunities to generate profits from the use of gas-related assets through
20 transactions for sales of capacity, capacity releases, parking and loaning of gas and
21 exchange gas. Under its proposal DEO, in the role of provider of last resort
22 ("POLR") and for the purposes of operational balancing, will retain control over gas-
23 related assets such as interstate pipeline firm transportation capacity and interstate

1 pipeline firm storage capacity.² Because of this, the Commission should address the
2 rate treatment of potential profits the Company may generate through the retention of
3 those gas-related assets so that any such benefits would appropriately flow to those
4 who pay for the assets.

5
6 **IX. RECOMMENDATION**

7
8 ***Q16. WHAT IS YOUR RECOMMENDATION AS TO WHETHER THE***
9 ***COMMISSION SHOULD APPROVE THE COMPANY'S PROPOSAL FOR***
10 ***PHASE 1?***

11 ***A16.*** In moving to a more competitive market, it is imperative for the market structure to
12 be designed correctly to ensure that the maximum amount of benefit can flow to
13 customers. As a condition to the Company's proposal to begin Phase 1 and move
14 toward exit of the merchant function in Phase 2, the Commission should require that
15 all of the following criteria are met:

- 16 1. There are tangible benefits for consumers
- 17 2. Customers are not harmed by imposition of additional costs and charges
- 18 3. Sufficient time is allowed for effective efforts to inform consumers about
19 changes in their gas service
- 20 4. Changes are structured to permit a robust competitive market structure and
21 in order to increase the likelihood of price benefits for consumers

² Application, Attachment 1 at 6 and 13.

- 1 5. There is PUCO regulatory oversight of the gas company's actions related
2 to standard service offer, provider of last resort and any other gas
3 operations functions.
4 6. There is a full examination of current rates with functional unbundling
5 between gas and distribution costs.
6

7 In order to meet these criteria, the Commission should adopt all the recommendations
8 contained in my testimony and the recommendations of OCC witnesses Gonzalez,
9 Hines, Haugh and Walls Rominski. Absent these modifications, the movement
10 toward gas commodity market prices and eventual exit of the merchant function
11 under DEO's Application at this time is done with risks and costs that may exceed the
12 benefits and protections under Ohio's current regulated GCR and gas choice program.
13

14 ***Q16. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?***

15 ***A16.*** Yes. However, I reserve the right to incorporate new information that may
16 subsequently become available through outstanding discovery or otherwise.

Beth E. Hixon
Utility Testimony

As an employee of the Office of the Ohio Consumers' Counsel (OCC):

Company	Docket No.	Date
Ohio Power	83-98-EL-AIR	1984
Ohio Gas	83-505-GA-AIR	1984

As an employee of Berkshire Consulting Service:

Company	Docket No.	Date	Client
Toledo Edison	88-171-EL-AIR	1988	OCC
Cleveland Electric Illuminating.	88-170-EL-AIR	1988	OCC
Columbia Gas of Ohio	88-716-GA-AIR et al.	1989	OCC
Ohio Edison	89-1001-EL-AIR	1990	OCC
Indiana American Water	Cause No. 39595	1993	Indiana
Office of the Utility Cons Counsel			
Ohio Bell	93-487-TP-CSS	1994	OCC
Ohio Power	94-996-EL-AIR	1995	OCC
Toledo Edison	95-299-EL-AIR	1996	OCC
Cleveland Electric Illuminating.	95-300-EL-AIR	1996	OCC
Cincinnati Gas & Electric	95-656-GA-AIR	1996	City of Cincinnati, OH

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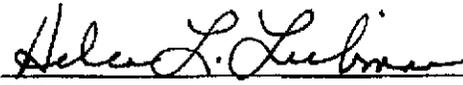
In the Matter of the Application of The East
Ohio Gas Company d/b/a Dominion East
Ohio for Approval of a Plan to Restructure
its Commodity Service Function

Case No. 05-474-GA-ATA

MOTION TO STRIKE TESTIMONY OF ELIZABETH HERNANDEZ

Pursuant to Rule 4901-1-12(A) of the Ohio Administrative Code, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") requests that the Commission strike the testimony of Elizabeth Hernandez filed by Ohio Partners for Affordable Energy ("OPAE"). The arguments in support of this motion are set forth in the accompanying memorandum in support.

Respectfully submitted,



Helen L. Liebman

Mark A. Whitt

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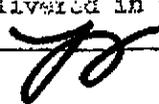
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ATTORNEYS FOR THE EAST OHIO GAS
COMPANY D/B/A DOMINION EAST OHIO

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of The East
Ohio Gas Company d/b/a Dominion East
Ohio for Approval of a Plan to Restructure
its Commodity Service Function**

Case No. 05-474-GA-ATA

**MEMORANDUM IN SUPPORT OF
MOTION TO STRIKE TESTIMONY OF ELIZABETH HERNANDEZ**

On September 19, 2005, OPAE filed the testimony of Elizabeth Hernandez, the Property Services Director of the Cleveland Housing Network, Inc. As stated in that testimony, the purpose of the testimony "is to establish the need for low income customer assistance programs, both in the area of bill assistance and energy efficiency, weatherization, and health and safety services." (P. 2.) The testimony also "traces the history of low income energy efficiency programs" and "explain[s] the impact of customer arrearages created by the Percentage [of] Income Payment Program." (*Id.*)

None of those matters is the subject of DEO's Application. In fact, Ms. Hernandez never -- not even once -- refers to the Application, thus proving that her testimony has nothing to do with the matters at issue in this case. Although several of the parties who filed comments attempted to make demand side management an issue in this case, it isn't. It has nothing to do with DEO's request for Commission approval of its proposal to move from GCR service to standard offer service. Nor is the need for customer assistance programs relevant to DEO's Application. DEO understands that the level of poverty throughout the State of Ohio and the effect on the poor of ever-increasing natural gas prices are major problems, but they are not problems that should be dealt with, or that can be resolved, in the context of this case.

Because Ms. Hernandez's testimony does not address the Application or any issues raised by the Application, DEO respectfully requests that the Commission strike the testimony in its entirety.

Respectfully submitted,



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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The)
East Ohio Gas Company d/b/a Dominion)
East Ohio for Approval of a Plan to)
Restructure Its Commodity Service)
Function.)

Case No. 05-474-GA-ATA

OHIO PARTNERS FOR AFFORDABLE ENERGY
MEMORANDUM CONTRA
TO THE EAST OHIO GAS COMPANY d/b/a DOMINION EAST OHIO
MOTION TO STRIKE

INTRODUCTION

Pursuant to O.A.C. §4901-1-12(B)(1), Ohio Partners for Affordable Energy ("OPAE") files this Memorandum Contra to the *Motion to Strike the Testimony of Elizabeth Hernandez* filed by The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") on September 30, 2005. The testimony in question was filed on September 19, 2005. OPAE respectfully requests that DEO's Motion to Strike be denied.

ARGUMENT

The DEO motion seeks would strike the sole piece of testimony filed by OPAE in the instant case. In the testimony, Ms. Hernandez in her capacity as Property Services Director of the Cleveland Housing Network ("CHN")¹ discusses:

[T]he need for low income customer assistance programs, both in the area of bill assistance and energy efficiency, weatherization,

¹ CHN is a member of OPAE and operates the Housewarming Program, a weatherization and health and safety program for low-income customers funded by DEO among other programs.

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and health and safety services.... [The] testimony also traces the history of low income energy efficiency programs funded by Dominion East Ohio and/or its operating companies. Finally, ... [the] testimony will explain the impact of customer arrearages created by the Percentage Income Payment Program on households participating in that program.²

DEO objects to this testimony because it alleges that the testimony is irrelevant to the instant matter and that this case is not the appropriate forum for dealing with issues relating to the adequacy of low-income weatherization assistance, bill payment assistance, and the impact of the Percentage Income Payment Plan ("PIPP").

If not here, where; if not now, when?

DEO has not filed a rate case since 1993.³ In that case, the base funding for the Housewarming Program was set at \$3 million and has remained virtually unchanged since that time.⁴ As the Commission is aware, the price of natural gas has taken a dramatic turn for the worse, at least from the consumers' perspective. Moreover, the number of low-income customers has been steadily increasing since at least 2000 and now far exceeds the number of customers eligible for services in 1993. The level of funding for low-income assistance provided by DEO is simply not comparable to that provided by other natural gas utilities. Simply put, there is tremendous need for additional resources and this case offers the opportunity to revisit the issue of whether current funding levels are adequate and appropriate given current conditions.

² Testimony of Elizabeth Hernandez on Behalf of Ohio Partners for Affordable Energy, Case No. 05-474-GA-ATA at 2 (September 19, 2005).

³ Case No. 93-2006-GA-AIR, decided November 3, 2004.

⁴ DEO did agree to increase funding for Housewarming by \$500,000 per year from 2003 thru 2008 in a sidebar agreement to Case No. 03-1127-EL-UNC.

Consideration of the appropriate funding level for low-income assistance and Demand Side Management (“DSM”) is also appropriate in this case. The Company wants to discuss only supply side issues; specifically the method by which it procures natural gas to serve GCR customers, and ultimately whether it serves them at all. However, the Company seeks to artificially restrict this case to these issues, ignoring the role demand side reductions in energy use can play in the provision of essential utility services. Admittedly, decisions of this Commission in recent years have focused almost exclusively on supply side matters. Yet, previously this Commission has order utilities to fund DSM programs, collecting the cost of these programs in base rates. That is logical, given that customers can be served by utilities supplying a commodity alone or by combining the commodity and demand reduction to meet customer needs. To the extent that this case determines how utility service is provided to GCR customers, consideration of both supply and demand side resources is appropriate.

Additionally, as noted by Ms. Hernandez in her testimony, “[t]he price increases that will result from this application will increase the burden for customers, but particularly for low income customers in the DEO service territories.”⁵ OPAE and other parties filing comments as Joint Stakeholders allege that rates for natural gas commodity service will increase under this Application. If one accepts that argument as something relevant to this case – a reasonable assumption – then options to mitigate the impact of those rate

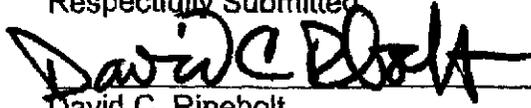
⁵ Testimony of Elizabeth Hernandez on Behalf of Ohio Partners for Affordable Energy, Case No. 05-474-GA-ATA at 2 (September 19, 2005).

increases on all customers, particularly low-income customers, should be included in this case.

CONCLUSION

DEO is requesting a fundamental change in how utility service is provided to default customers. A proposal of such significance warrants an inquiry into all the implications resulting from that change and a determination of the most appropriate method to mitigate any negative impacts that may flow from the proposed approach to providing utility service. Funding for DSM, including increased funding for the Company's low-income assistance program, is a hedge against the risks of price increases over the current system which are inherent in the DEO Application, as well as appropriate given the current exorbitant price natural gas commands in the wholesale market. Reducing consumption is in the best interest of all DEO customers. Thus, Ms. Hernandez's testimony is extremely relevant to this proceeding. By detailing the problems customers face paying for essential energy sources, the testimony will provide a more complete record for the Commission to consider. OPAE requests that the Motion to Strike be denied.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

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Affordable Energy**

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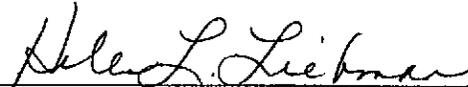
In the Matter of the Application of The
East Ohio Gas Company d/b/a Dominion
East Ohio for Approval of a Plan to
Restructure its Commodity Service
Function

Case No. 05-474-GA-ATA

**MOTION TO STRIKE TESTIMONY OF WILSON GONZALEZ
AND REQUEST FOR EXPEDITED RULING**

Pursuant to Rule 4901-1-2(A) of the Ohio Administrative Code, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") requests that the Commission strike the testimony of Wilson Gonzalez filed by the Office of the Ohio Consumers' Counsel ("OCC"). DEO also requests that the Commission issue an expedited ruling on this motion. The arguments in support of this motion and request are set forth in the accompanying memorandum in support.

Respectfully submitted,



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COMPANY D/B/A DOMINION EAST
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**BEFORE
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**In the Matter of the Application of The
East Ohio Gas Company d/b/a Dominion
East Ohio for Approval of a Plan to
Restructure its Commodity Service
Function**

Case No. 05-474-GA-ATA

**MEMORANDUM IN SUPPORT OF
MOTION TO STRIKE TESTIMONY OF WILSON GONZALEZ**

On November 15, 2005, OCC filed the testimony of Wilson Gonzalez, which deals exclusively with demand side management. Mr. Gonzalez suggests that the DSM programs he proposes "would provide benefits for residential consumers by addressing the lack of cost-effective energy efficiency programs" in DEO's service territory. (Gonzalez Testimony, p. 3.) But whether or not there are cost-effective energy efficiency programs in DEO's service territory has nothing to do with whether DEO's Application is reasonable and should be approved. Demand side management has nothing to do with DEO's request for Commission approval of its proposal to move from GCR service to standard offer service.

Even if it were true that DEO must show that its proposal provides "tangible benefits" in order to have its Application approved (a proposition with which DEO does not agree), the benefits would have to flow from the Application itself. The Commission must judge the reasonableness of DEO's Application on its own merits, not by whether it provides for unrelated programs that some intervenor might find desirable. And even if the Commission were to agree with OCC that energy efficiency programs are useful, it could not condition approval of the Application on DEO offering such programs, which DEO has no legal obligation to provide.

OCC must recognize that the Commission has no authority to order DEO to implement DSM programs. That is why it raises the matter in this case, to try to obtain some leverage on the issue. This case simply provides a convenient forum for OCC to argue for DSM programs. Saying, as Mr. Gonzalez does, that DEO's residential customers would obtain a benefit "[i]f increased recovery of energy efficiency investments are approved by the Commission in this case" (Gonzalez Testimony, p. 5) does not establish a link between this case and his DSM testimony. Mr. Gonzalez doesn't even try to argue that there is such a connection, which is tantamount to an admission that there isn't.

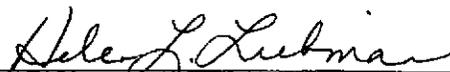
In any event, the Commission has said that it will decide this case under R.C. 4929.04. Under that statute, the Commission *must* approve the Application if it finds either that DEO "is subject to effective competition with respect to the commodity sales service" or that "[t]he customers of the commodity sales service . . . have reasonably available alternatives." The statute does not require a Commission finding that a R.C. 4929.04 application will provide some other "customer benefit." The Commission's decision to apply R.C. 4929.04 makes the irrelevance of DSM testimony even clearer.

For these reasons, the Commission should strike Mr. Gonzalez's testimony. And it should issue an expedited ruling doing so. DEO has had on file for a month and a half a motion to strike the testimony of Elizabeth Hernandez. The basis for that motion and this one are the same – that the matters addressed in the testimony are not relevant to DEO's Application or to the issues to be decided in this case. Given that the Commission has had an opportunity to consider the arguments, it should be in a position to issue an expedited ruling on this motion.

Such a ruling is necessary in light of schedule that has been established for this case. The time for filing rebuttal testimony and preparing for hearing is short. In order to permit DEO and

the other parties to focus on only the relevant matters, and not waste time and effort on irrelevancies, DEO requests that the Commission issue an expedited ruling on this motion.

Respectfully submitted,



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OHIO

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the East)
Ohio Gas Company d/b/a Dominion East) Case No. 05-474-GA-ATA
Ohio for Approval of a Plan to Restructure)
its Commodity Service Function.)

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MEMORANDUM CONTRA
DOMINION EAST OHIO MOTION TO STRIKE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

JANINE L. MIGDEN-OSTRANDER
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November 23, 2005

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**BEFORE
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In the Matter of the Application of the East)
Ohio Gas Company d/b/a Dominion East) Case No. 05-474-GA-ATA
Ohio for Approval of a Plan to Restructure)
its Commodity Service Function.)

**MEMORANDUM CONTRA
DOMINION EAST OHIO MOTION TO STRIKE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

On November 15, 2005, The Office of the Ohio Consumers' Counsel ("OCC") filed five pieces of testimony, including that of Wilson Gonzalez, in the above-referenced case. On November 16, 2005, Dominion East Ohio (DEO" or "the Company") filed a Motion to Strike the testimony of Mr. Gonzalez ("DEO Motion to Strike"). The focus of DEO's argument was that the matter at issue in Mr. Gonzalez testimony -- Demand Side Management ("DSM") -- was not a subject of DEO's Application, similar to the arguments that the Company made in its Motion to Strike the testimony of Ohio Partners for Affordable Energy ("OPAE") witness Elizabeth Hernandez, the Property Services Director of the Cleveland Housing Network, Inc. on September 30, 2005 ("DEO Motion

to Strike OPAE Testimony”).¹ DEO argued that Ms. Hernandez “never – not even once – refers to the Application, thus proving that her testimony has nothing to do with the matters at issue in this case.”² No similar argument was made regarding Mr. Gonzalez testimony.

In addition, pursuant to Rule 4901-1-12(A), DEO requested an Expedited ruling on its Motion to Strike. Pursuant to Ohio Admin. Code 4901-1-12(A)(1), the OCC submits this Memorandum Contra the DEO Motion to Strike.

II. ARGUMENT

DEO’s argument focuses on the claim that the matters in Mr. Gonzalez testimony were not raised in the DEO Application and thus cannot be a part of this proceeding.³ The Company made the same claim in its Motion to Strike the testimony of OPAE witness Hernandez, yet in neither case did the Company offer any legal citation or basis supporting this overly restrictive claim.”⁴ DEO’s argument could not be more wrong.

DEO also claims that the Public Utilities Commission of Ohio (“Commission”) “has no authority to order DEO to implement DSM programs.”⁵ This claim over-states the OCC position, as well as overstating the Company’s rights. First, the OCC has in no way alleged that the Commission should, in a vacuum, order DEO to implement a DSM program. Rather, the OCC position as set forth in the testimony of Mr. Gonzalez and Ms.

¹ DEO Motion to Strike at 2; see also DEO Motion to Strike OPAE Testimony at 2.

² Id.

³ DEO Motion to Strike at 2.

⁴ Motion to Strike OPAE Testimony at 3.

⁵ DEO Motion to Strike at 3.

Beth Hixon, is that DSM programs could and should provide the type of tangible benefits for consumers that are necessary in order for the Commission to approve the Application.⁶ OCC has advocated in favor of DSM as a condition for the exit from the merchant function because it can provide a public benefit. As filed, DEO's application fails to set forth positive benefits to induce public support for its exit. A comprehensive DSM program tied to the exit will help accomplish that objective. Therefore, DEO's opposition to the linkage is surprising and troublesome. The bottom line is that the exit must demonstrate a positive value to customers and the DSM helps establish this.

Moreover, even assuming *arguendo* that the Commission lacks the legal authority to order the Company to implement DSM programs, the circumstances in this case are different. In this case, the Company is asking for authority to stop selling gas to consumers, thus exiting the merchant function. The Company has no absolute right to exit the merchant function, which is why it seeks permission from the Commission to implement such a plan. As a result, the Commission **does not** have to grant the Company's Application. Rather the Commission **may** impose conditions on the Company's exit from the merchant function, that would be in consumer's best interests. As was noted in the testimony of Mr. Gonzalez and Ms Hixon, the implementation of a DSM program is an essential component of the type of safeguards and conditions necessary in order to provide some tangible benefits or consumers, to offset the risks associated with the DEO Application.⁷

⁶ Gonzalez Testimony at 3, Hixon Testimony at 3-7, 12.

⁷ Id.

It is worth noting that DEO has acknowledged that “the level of poverty throughout the State of Ohio and the effect on the poor of ever-increasing gas prices are major problems....”⁸ Yet, the Company response to this need is the rather uninspired claim that the problems are not the type of “problems that should be dealt with, or that can be resolved in the context of this case.”⁹ Not only does DEO claim that the exit Application is not the case in which to deal with needs that can be solved by DSM programs, but the Company offers no alternative. Rather the Company is content to focus its view of the Application as one where the Company can shed risk and shift it to consumers, insulate outdated rates based on expenses that have dropped dramatically, and preserve its ability to profit from the use of facilities that are paid for completely by customers.

In this case, DEO is proposing an unprecedented restructuring of its gas sales business. The Company would like to narrowly focus the Commission’s review in this case to address only its wants and desires. However, the Commission recognized the far-reaching and unique aspects of this case when it denied the DEO Motion for a Protective Order and ordered DEO to respond to discovery submitted by the OCC. More specifically, the Commission ruled:

It appears that the Applicants misunderstood our decision to allow discovery on the entire scope of the proposal at this stage of the proceeding. As we stated in our prior entry, we believe it is essential that the Commission, the parties and the public have a clear understanding of the details and implications of the full

⁸ DEO Motion to Strike OPAE Testimony at 2.

⁹ DEO Motion to Strike OPAE Testimony at 3.

proposals before we begin any exploratory or experimental undertakings.¹⁰

Since the Commission already ruled that it desires a clear understanding of the implications of the full proposal, it is axiomatic that issues like DSM that have a direct nexus to customer gas costs must be reviewed as part of this proceeding. OCC has repeatedly asserted the viewpoint that in order to proceed in these heretofore uncharted waters in Ohio, there must be tangible consumer benefits.¹¹ Inasmuch as the Company has failed to elucidate what those benefits might be, DSM provides an opportunity to infuse something of value for consumers. The decision to permit DEO to exit the merchant function must be predicated upon benefits for all parties. Thus it is disappointing that when OCC and OPAE have offered testimony in the spirit of identifying the type of *quid pro quo* benefits that consumers need as part of this case, the Company reaction is not to embrace the inclusivity of DSM, but rather to attempt to suppress the airing of those benefits and viewpoints in this historic proceeding.

III. CONCLUSION

Natural gas consumers are facing unprecedented high gas costs and even more unprecedented price volatility. The testimony of Mr. Gonzalez and Ms. Hernandez addresses DSM and the related implications of the DEO exit from the merchant function.

¹⁰ Emphasis added. *In the Matter of the Application of the East Ohio Gas Company dba Dominion East Ohio for Approval of a Plan to Restructure its Commodity Service Function*, Case No. 05-474-GA-ATA, Entry (September 7, 2005) at 3.

¹¹ *In the Matter of the Application of the East Ohio Gas Company dba Dominion East Ohio for Approval of a Plan to Restructure its Commodity Service Function*, Case No. 05-474-GA-ATA, Joint Stakeholders Initial Comments (May 26, 2005) at 7-10. See also Hixon testimony at 3-7, 12, and Gonzalez testimony at 3.

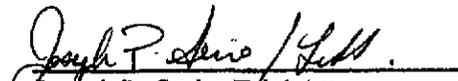
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This issue of DSM clearly falls within the scope of understanding “the details and implications” of the full proposal to exit the merchant function. DEO would prefer to limit the focus of this case in order to maximize shareholder benefits, while glossing over the impact and implications on consumers.

In a case involving the future of how more than a million consumers will purchase gas in the future, it is highly relevant for the Commission to consider DSM programs and the opportunities they provide for consumers to gain some control over the energy bills that are at issue here. However, the Commission has the obligation and duty to include DSM and other relevant issues as part of its review, consistent with its conclusion in the September 7, 2005 Entry.

Respectfully submitted,

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CONSUMERS' COUNSEL



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consumers by addressing the lack of cost-effective energy efficiency programs for the residential class....¹

DEO filed the motion to strike because it alleges that the testimony is irrelevant to the instant matter and that this case is not the appropriate forum for dealing with issues relating to the adequacy of demand side management ("DSM").

The testimony and the issues it frames address a significant void in the Application filed by DEO; the lack of benefits to residential ratepayers from the first phase of DEO's proposed withdrawal from its responsibilities as a local distribution company ("LDC") to provide the natural gas commodity to customers, a/k/a the merchant function.

DEO has not filed a rate case since 1993.² Other than low-income weatherization funding through the Housewarming Program, DEO has provided no funding for DSM programs that benefit all residential and small commercial customers.³ As the Commission is aware, the price of natural gas has taken a dramatic turn for the worse, at least from the consumers' perspective. The lack of DSM funding represents a failure by DEO to meet the needs of customers in the least-cost manner; the same basic prudence standard applied in a gas cost recovery reviews. The failure to utilize demand-side measures to meet the service obligation the Company desires to eliminate, providing the three essential energy services to customers by providing commodity, transportation and

¹ Testimony of Wilson Gonzalez on Behalf of the Office of the Ohio Consumers' Counsel, Case No. 05-474-GA-ATA at 2 (September 19, 2005).

² Case No. 93-2006-GA-AIR, decided November 3, 1994.

³ Saying that DEO failed to provide funding is a bit of a misnomer; the funding comes from customers, not from the Company.

distribution services. Simply put, there is tremendous opportunity and need for additional DSM resources. DSM programs, particularly when coupled with low-cost loans such as those offered by Ohio's Energy Efficiency Revolving Loan Fund, result in significantly greater market penetration than the free market alone. As the size of new homes grows, the energy intensity per dwelling units also increases. Those with the resources can afford the optimal in energy efficiency, but low to moderate income customers in older homes simply lack the upfront capital to invest in efficiency, at least until the furnace breaks or some other situation occurs that forces the investment.⁴ Still, all ratepayers benefit based on the reduction in demand, reduced arrearages and lower bad debt reimbursements to the utilities.

This case offers the opportunity to determine whether this lack of funding is appropriate given current conditions. Given that the purpose of both Phase I and Phase II of the Application is to reconfigure the commodity supply function – the energy supply function – it is certainly appropriate to consider options that minimize the need for the very supply the Application intends to obtain through a bidding process. A DSM program is by definition cost-effective when compared to the price of the energy commodity. To the extent it provides a lower cost option for customers when compared to bidding alone, this is the appropriate case for it to be considered.⁵

Determination of the appropriate funding level for low-income assistance and Demand Side Management ("DSM") is justified in this case. The Company

⁴ The potential for energy savings also increases with the age of the building.

⁵ The Commission could possibly require those bidding on the tranches to include a certain level of funding for DSM activities, which could be coordinated through a stakeholder collaborative.

wants to discuss only supply side issues; specifically the method by which it procures natural gas to serve GCR customers, and ultimately whether it serves them at all. However, the Company seeks to artificially restrict this case to these issues, ignoring the role demand side reductions in energy use can play in the provision of essential utility services. Admittedly, decisions of this Commission in recent years have focused almost exclusively on supply side matters. Yet, previously this Commission has ordered utilities to fund DSM programs, collecting the cost of these programs in base rates. That is logical, given that customers can be served by utilities supplying a commodity alone or by combining the commodity and demand reduction to meet customer needs. To the extent that this case determines how utility service is provided to GCR customers, consideration of both supply and demand side resources is appropriate.

Additionally, as noted in the *Direct Testimony of Elizabeth Hernandez on Behalf of Ohio Partners for Affordable Energy*, “[t]he price increases that will result from this application will increase the burden for customers, but particularly for low income customers in the DEO service territories.”⁶ OPAE and other parties filing comments as Joint Stakeholders allege that rates for natural gas commodity service will increase under this Application. If one accepts that argument as something relevant to this case – a reasonable assumption – then options to mitigate the impact of those rate increases on all customers, particularly low-income customers, should be included in this case.

⁶ Testimony of Elizabeth Hernandez on Behalf of Ohio Partners for Affordable Energy, Case No. 05-474-GA-ATA at 2 (September 19, 2005).

CONCLUSION

DEO is requesting a fundamental change in how utility service is provided to default customers. A proposal of such significance warrants an inquiry into all the implications resulting from that change and a determination of the most appropriate method to mitigate any negative impacts that may flow from the proposed approach to providing utility service. Funding for DSM represents a hedge against the risks of price increases over the current system which is inherent in the DEO Application, as well as appropriate given the current exorbitant price natural gas commands in the wholesale market. Reducing consumption is in the best interest of all DEO customers. Thus, Mr. Gonzalez's testimony is extremely relevant to this proceeding. By detailing the problems customers face paying for essential energy sources, the testimony will provide a more complete record for the Commission to consider. OPAE requests that the Motion to Strike be denied.

Respectfully Submitted



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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the East
Ohio Gas Company d/b/a Dominion East
Ohio for Approval of a Plan to Restructure
its Commodity Service Function

Case No. 05-474-GA-ATA

REBUTTAL TESTIMONY

OF

JEFFREY A. MURPHY

Helen L. Liebman
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ATTORNEYS FOR THE EAST OHIO GAS
COMPANY D/B/A DOMINION EAST OHIO

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1 **Q. Please state your name.**

2 A. Jeffrey A. Murphy.

3

4 **Q. Have you previously filed testimony in this case?**

5 A. Yes. My testimony described why the Company's Application in this case is
6 reasonable and in the public interest and should be approved by the Commission.

7

8 **Q. What is the purpose of this rebuttal testimony?**

9 A. I am responding to portions of the testimony filed by the Office of the Ohio
10 Consumers' Counsel witnesses Hines, Haugh and Hixon.

11

12 **Q. Please comment on Mr. Hines's recommendation that the Energy Choice Rider
13 not be implemented.**

14 A. Mr. Hines's recommendation is based on his conclusion that the cost of the rider
15 diminishes the commodity price-related benefits of competition. In drawing that
16 conclusion, Mr. Hines assigns no benefit or value to the activities funded by the rider,
17 which include customer education. That perspective is completely at odds with the
18 OCC's Ms. Walls Rominski's view that "[a] comprehensive education plan that supports
19 consumers as they make a choice is essential to a successful transition." (Testimony of
20 Linda Walls Rominski, page 8, lines 2-3.) In her view, the benefits of competition cannot
21 be realized without a well-designed education plan, which will obviously take
22 considerable funding to implement. The inconsistency in Mr. Hines's assignment of no
23 value to a rider intended to fund customer education efforts and the substantial value that

1 Ms. Walls Rominski places on those efforts cannot be ignored. If such efforts are as
2 critical as Ms. Walls Rominski suggests – and DEO believes they are – then a suitable
3 funding mechanism is equally imperative. As Mr. Hines concedes, the rider is not new,
4 and the Commission previously approved it when DEO expanded its Energy Choice
5 program system-wide in an environment where there was even less certainty regarding
6 potential savings, which have since been realized to the tune of \$35 million. The revision
7 of the rider rate to \$0.0211 per Mcf is reasonable, although other mechanisms could be
8 used to provide the necessary funding.

9

10 **Q. Please describe another approach to funding customer education and other**
11 **program related expenses that could provide the necessary cost recovery.**

12 A. One such alternative involves recovering those costs from a combination of the 1%
13 accounts receivable discount retained by DEO since April 1, 2005 and a \$0.0211 per Mcf
14 charge imposed, for some period of time, on marketers beginning with Phase 1, at which
15 time the accounts receivable discount could be eliminated. Those funds could recover the
16 first \$14 million of program cost, which is expected to be adequate to cover both Phase 1
17 and Phase 2 expenses. In the event spending exceeds that level, the additional costs
18 could be deferred for recovery in DEO's next base rate case.

19

20 **Q. Would passing the cost on to marketers in that fashion address Mr. Hines's**
21 **concern about imposing the rider on customers who face uncertain price benefits?**

1 A. Yes, it would. A customer will select a marketer's offer only if the customer
2 perceives a sufficient benefit¹ relative to his other options. If a marketer cannot offer
3 enough of a benefit with the \$0.0211 in its cost structure, the customer will simply
4 acquire his commodity from another provider, whether it be another marketer or DEO's
5 standard service offer ("SSO"). As a result, the market dictates whether a marketer can
6 attract customers at a price that would allow it to recover the \$0.0211 charge.

7

8 **Q. Is Mr. Hines's recommendation that the Commission require DEO to file a rate**
9 **case before any exit of the merchant function in Phase 2 relevant to this proceeding?**

10 A. No, it is not.

11

12 **Q. Please explain.**

13 A. The caption of this proceeding states very clearly what is being considered. This case
14 is about DEO's "Plan to Restructure its Commodity Service Function" and nothing more.
15 This case does not alter DEO's fundamental distribution service role, nor does it alter the
16 cost of providing that service as Mr. Hines implies. In Phase 1, the Company merely
17 changes the way in which it procures gas supply and prices its commodity service. In
18 Phase 2, suppliers for some customers change yet again when they move from SSO
19 service to an Energy Choice supplier. In essence, Phase 2 is just another expansion of
20 DEO's Energy Choice program. There was no change in DEO's fundamental
21 distribution role when it expanded the program system-wide in 2000 or when it saw

¹ Although Mr. Hines uses the term "immediate commodity price-related benefits" (Testimony of Steve Hines, page 8, lines 9-10), some customers may find other benefits, such as the price stability provided by a long-term fixed price offer or other inducements (rebates, discounts on other services, etc.), to be more important in making their commodity purchase decisions.

1 another substantial increase in enrollment as a result of governmental aggregation in
2 2002, nor will there be any such change in either the Phase 1 or Phase 2 transitions,
3 which affect even fewer customers.

4

5 **Q. Is Mr. Hines's conclusion that DEO's cost of providing service will change as a**
6 **result of its proposed commodity service restructuring correct?**

7 A. No, it is not. The notion that DEO's costs will decrease if it no longer has to buy
8 GCR supplies may be intuitively appealing, but it has no basis in fact. Mr. Hines
9 suggests that the efforts of the Gas Supply Group ("GSG") in purchasing gas supplies
10 will diminish and that therefore the associated costs will decrease. In so doing, he
11 mischaracterizes my direct testimony. Buying 15 to 20 Bcf of gas for operational
12 balancing inventory is likely to involve even more effort than buying 70 Bcf of system
13 supply. Buying a smaller volume of gas only on certain days of the month requires
14 considerably more effort than buying a larger volume that will flow ratably throughout an
15 entire month. Because DEO will have much less certainty of its operational balancing
16 requirements, it will rely much more on that day-to-day activity than the first-of-month
17 purchases where supplies are bought at one time for the entire month. Furthermore, the
18 GSG may be responsible for procuring POLR supplies in the event of a marketer default.
19 To suggest that the effort, cost or importance of a group consisting of a manager, two
20 planners and two gas traders materially diminishes as a result of either Phase 1 or Phase 2
21 is wrong.

22

1 **Q. Please summarize Mr. Hines's views regarding the need for management**
2 **performance audits in the restructured commodity environment proposed by the**
3 **Company.**

4 A. At various points in his testimony, Mr. Hines suggests that the Commission rely on a
5 management performance ("m/p") auditor to review DEO's acquisition of SSO and
6 POLR supplies, its utilization and maintenance of on-system storage, and other system
7 reliability and gas supply planning efforts of the Company.

8

9 **Q. Do you agree with those views?**

10 A. No. I disagree with Mr. Hines's views in those areas for several reasons, detailed
11 below:

12 Acquisition of SSO and PIPP Supplies

13 Unlike the acquisition of GCR supplies, which is reviewed after the fact, the Company's
14 purchase of SSO and PIPP supplies will be reviewed up front when the Commission
15 considers DEO's request to approve the proposed awards. The Application in this case
16 states that DEO will review the proposed awards with both Staff and OCC before
17 requesting Commission approval. That up-front sharing of results with Staff and OCC
18 followed by formal Commission approval has worked extremely well for the over five
19 years in which DEO has outsourced its PIPP supply responsibilities. Because all of the
20 assessment and review is conducted before the first Mcf of gas is delivered under a PIPP
21 supply arrangement, there has been no need for a review of those supply purchases in the
22 context of an m/p audit. Instead, the accounting and billing of the volumes are assessed

1 during the financial audit review process, a process that DEO has proposed to continue,
2 with only minor changes, in its Application in this case.

3 Acquisition of POLR Supplies

4 Because DEO's Application lays out the sequence of supply that it will use to provide
5 POLR service, the Company does not have much discretion in how it goes about securing
6 supplies in the event of a supplier default. DEO has proposed that the price, costs and
7 recoveries associated with any POLR service be reviewed in an annual financial audit to
8 be provided to Commission Staff. The Company has never assumed that the filing or
9 provision of financial audit information to Staff is the end of the matter. As it has in the
10 past, Staff will follow up with any questions and/or concerns. There is no need for m/p
11 auditors to perform a task that Staff can handle.

12 On-System Storage

13 Mr. Hines points to a variety of on-system storage issues that have been reviewed by m/p
14 auditors and suggests that they continue to be reviewed in that fashion in the future.
15 However, DEO's operation of on-system storage in its Energy Choice program has
16 already been reviewed by auditors, and they have expressed no concerns regarding those
17 operations. The Company has not proposed to make any significant changes in the use of
18 on-system storage in the Application. The last m/p audit included an extensive review of
19 DEO's merchant function exit planning process, which also addressed the planned use of
20 on-system storage. The only storage-related finding from that review was a
21 recommendation that DEO address the disposition of low-cost LIFO storage inventory in
22 its filing, which it did by stating that it will credit any amounts resulting from the sale of
23 that inventory to customers. The filing also specified how storage migration would be

1 handled in the calculation of DEO's fuel retention rate, which will be subjected to
2 Commission review in the Company's Phase 2 Application. The prior reviews of on-
3 system storage and the provision for continued Staff and Commission review in both the
4 Phase 1 and Phase 2 Applications mean that no benefit will be gained by additional m/p
5 audit review in this area.

6 System Reliability and Supply Planning

7 Mr. Hines suggests that future m/p audits examine DEO's planning criteria and its efforts
8 to maintain system reliability in this transition. DEO's efforts to maintain system
9 reliability by requiring a comparable capacity assessment of Energy Choice marketers
10 and maintaining an appropriate amount of operational balancing have been in place for
11 over five years and have worked extremely well. DEO has not relaxed any Energy
12 Choice reliability provisions in its Application. In fact, those requirements have been
13 expanded by extending the period over which comparable capacity will be reviewed and
14 by imposing monthly targets for storage inventory levels. None of the individuals
15 sponsoring testimony in this case have found fault with any of those provisions. Once
16 DEO outsources SSO supply along the same lines it has done for PIPP supply, DEO will
17 assign supply responsibilities to alternate suppliers and will no longer develop supply
18 plans as it has in the past. As stated in the Application, the SSO and PIPP suppliers will
19 have to generate and submit supply plans as part of the auction process. An m/p audit
20 review of those plans would serve no useful purpose since any such review would be well
21 after the fact. With DEO reporting extensive program statistics on a monthly and
22 quarterly basis, there is no meaningful benefit to be gained by subjecting the processes
23 recommended by Mr. Hines to an m/p audit.

1 In sum, the Application already provides the protections suggested by Mr. Hines, without
2 the need for m/p audit reviews on an ongoing basis.

3

4 **Q. Please summarize Mr. Haugh's recommendations regarding DEO's proposed**
5 **auction process.**

6 A. Mr. Haugh proposes that DEO base its retail price adjustment on a weighted average
7 of auction bids rather than using the market-clearing price proposed in the Application.
8 He also recommends that an independent third party consultant oversee the auction
9 process.

10

11 **Q. Does the type of auction proposed by Staff witness Mr. Puican constitute a**
12 **suitable alternative to that proposed in the Application?**

13 A. Yes. Mr. Puican recommends using a descending clock approach such as that
14 approved by the Commission for the FirstEnergy operating companies in Case No. 04-
15 1371-EL-ATA. In my direct testimony, I stated that DEO was willing to adopt that type
16 of approach "if it could be implemented in an efficient and inexpensive manner that
17 assured ample participation by aggressively competing suppliers." (Page 20, lines 20-
18 22.)

19

20 **Q. Would the descending clock auction proposed by Mr. Puican accommodate the**
21 **weighted average approach suggested by Mr. Haugh?**

22 A. No. A descending clock auction commences with bidders indicating how many
23 tranches they are willing to supply at the initial "going price." That price then moves

1 downward in specific decrements until there are just enough tranches being bid to supply
2 the market requirements. Once that occurs, the auction closes, and the market-clearing
3 price is established at the last "going price." In that process, all bidders are bidding at the
4 same price in each round, meaning that there are no other prices to use in calculating a
5 weighted average. In other words, the weighted average price is whatever price tranches
6 are being bid at in each round.

7

8 **Q. Is an independent third party consultant needed to oversee the auction process?**

9 A. No. DEO is not opposed to a full review of its auction process. However, an open
10 auction at which Staff and OCC are present will ensure the "objective view" and
11 "independent mechanism to investigate any questions of misconduct on the part of
12 bidders or the Company" that Mr. Haugh believes are necessary. (Testimony of Michael
13 Haugh, page 7, lines 10-12.) Given the liquid wholesale market for natural gas upstream
14 of DEO and the considerable experience of potential bidders seeking commodity business
15 behind DEO, the Company's proposed SSO auction will not present the sorts of
16 challenges that would require the services of an independent consultant.

17

18 **Q. Please identify that portion of Ms. Hixon's testimony to which you will be**
19 **responding.**

20 A. A portion of Ms. Hixon's testimony reiterates and summarizes that of other OCC
21 witnesses. To avoid repeating the Company's rebuttal of those points which will be
22 covered by Vicki Friscic and Scott Beckett, I will address only Ms. Hixon's comments
23 regarding the need for tangible benefits and functional unbundling.

1

2 **Q. What types of tangible benefits does Ms. Hixon address?**

3 A. Ms. Hixon suggests that the tangible benefits that she believes must be present to
4 warrant Commission approval of the Company's Application may be in the form of cost
5 savings, demand side management programs, lower distribution rates resulting from
6 reduced costs and risks that might result from a merchant function exit, and the continued
7 development of the competitive gas market.

8

9 **Q. Does Ohio Revised Code ("O.R.C.") section 4929.04, which the Commission has**
10 **concluded governs this proceeding, require an applicant to show that there will be**
11 **"tangible benefits"?**

12 A. No. It instead requires the Commission to exempt a natural gas company's
13 commodity sales or ancillary services from certain regulations if it finds that the company
14 is in "substantial compliance" with the state policy specified in O.R.C. 4929.02 and is
15 "subject to effective competition with respect to the commodity sales or ancillary service"
16 or that customers of those services "have reasonably available alternatives." (O.R.C.
17 4929.04 (A)(1) and (2)) In order to authorize an exemption, the Commission must also
18 find that the company "offers distribution services on a fully open, equal, and unbundled
19 basis to all its customers and that all such customers reasonably may acquire commodity
20 sales services from suppliers other than the natural gas company" (O.R.C. 4929.04(E))
21 and that an appropriate separation plan and code of conduct are in place. The statute says
22 nothing about the sorts of "tangible benefits" Ms. Hixon contends are necessary.

23

1 **Q. Is there effective competition for commodity service in DEO's market?**

2 A. Yes. With 58% of its residential customers and 53% of its non-residential customers
3 buying their natural gas from among the 17 suppliers participating in the Energy Choice
4 program as of the November 2005 enrollment period, it is clear that customers have
5 "reasonably available alternatives" in a market that is "subject to effective competition."
6 The extent of competition in DEO's market becomes even more apparent when viewed
7 volumetrically. In 2004, GCR sales service accounted for only 26% of the Company's
8 total throughput, with the remainder comprised of Energy Choice and traditional
9 transportation service. Those figures reveal extensive competition for commodity service
10 on DEO's system, and approval of the Application will support the continued
11 development of the competitive market that Ms. Hixon is hopeful will occur over time.
12 Even today, however, it is clear that DEO "offers distribution services on a fully open,
13 equal, and unbundled basis to all its customers and that all such customers reasonably
14 may acquire commodity sales services from suppliers other than the natural gas
15 company." Since the middle of last year, eight new suppliers have begun or will soon
16 begin operating on the Company's system, including three that have requested Energy
17 Choice pooling service.

18
19 That level of competition is consistent with the state policy set forth in O.R.C. 4929.02.

20 According to that statute, it is the policy of the state to:

- 21 • "Promote the availability of unbundled and comparable natural gas services and
22 goods that provide wholesale and retail consumers with the supplier, price, terms,
23 conditions and quality options they elect to meet their respective needs," O.R.C.
24 4929.02(A)(2);

- 1 • "Promote diversity of natural gas supplies and suppliers, by giving consumers
2 effective choices over the selection of those supplies and suppliers," *id.* at (3);
- 3 • "Encourage innovation and market access for cost-effective supply and demand-
4 side natural gas services and goods," *id.* at (4);
- 5 • "Encourage cost-effective and efficient access to information regarding the
6 operation of the distribution systems of natural gas companies in order to promote
7 effective customer choice of natural gas services and goods," *id.* at (5);
- 8 • "Recognize the continuing emergence of competitive natural gas markets through
9 the development and implementation of flexible regulatory treatment," *id.* at (6);
- 10 • "Promote an expeditious transition to the provision of natural gas services and
11 goods in a manner that achieves effective competition and transactions between
12 willing buyers and willing sellers to reduce or eliminate the need for regulation of
13 natural gas services and goods under Chapters 4905 and 4909 of the Revised
14 Code," *id.* at (7);
- 15 • "Promote effective competition in the provision of natural gas services and goods
16 by avoiding subsidies flowing to or from regulated gas services and goods," *id.* at
17 (8); and
- 18 • "Facilitate additional choices for the supply of natural gas for residential
19 consumers, including aggregation." *Id.* at (11).

20 The Company's current market structure is consistent with those policies, and its
21 Application furthers each of those policy objectives by supporting even more vigorous
22 competition. It is worth noting that neither O.R.C. 4929.02 nor 4929.04 obligates a
23 natural gas company to offer demand side management programs. DEO currently funds
24 such programs at a level of \$3.5 million per year, and it does not propose to reduce that
25 funding in the future. Increases in that funding will do nothing to affect the level of
26 competition for commodity service or the availability of alternatives to DEO's regulated
27 commodity service as required by O.R.C. 4929.04, nor will it advance any of the state
28 policy objectives set forth in O.R.C. 4929.02.

29

1 **Q. Although the O.R.C. sections discussed above do not require a showing that the**
2 **exemptions requested will produce cost savings, do you have any comments about**
3 **the cost saving issues raised by Ms. Hixon?**

4 A. Yes. Ms. Hixon cites individual periods where customers as a whole have supposedly
5 won or lost on their Energy Choice decisions. However, those calculations simply show
6 the difference between the supplier price and DEO's sales service rate on a month-by-
7 month basis. They do not show the long-term benefit that may be gained by customers
8 locking into a fixed rate in the midst of an ever more volatile market. For example, the
9 fixed rate selections of many customers last summer are likely to hold them in good stead
10 as the effects of hurricanes Katrina and Rita drove up prices substantially. Even before
11 the onset of this winter when the benefits will rise considerably, customers racked up
12 nearly \$11 million in savings in just the first six months since the Application was filed.
13 In any event, Ms. Hixon's testimony concedes that Energy Choice customers saved
14 roughly \$24 million overall from the beginning of the program until the filing of the
15 Application.

16

17 **Q. What has Ms. Hixon proposed in the way of functionally unbundling rates?**

18 A. In an extension of Mr. Hines's testimony in this area, which I've already addressed,
19 Ms. Hixon recommends that DEO's rates be functionally unbundled between gas costs
20 and distribution costs. The basis of that recommendation is that "there may be
21 components embedded in distribution rates related to gas costs that customers would pay
22 for through those current rates." (Testimony of Beth Hixon, page 10, line 23, through
23 page 11, line 2.)

1

2 **Q. Are DEO's current rates functionally unbundled between gas costs and**
3 **distribution costs?**

4 A. Yes, and the cost recovery mechanisms proposed in the Application ensure that rates
5 will continue to be unbundled in that manner. Although Ms. Hixon suggests that gas cost
6 components may be embedded in distribution rates, she does not cite any examples. In
7 fact, there are none. In the current environment, all gas costs are recovered through the
8 GCR mechanism, while upstream pipeline capacity costs associated with operational
9 balancing are recovered through DEO's transportation migration riders. Even the
10 carrying cost associated with storage inventories that are typically embedded in base rates
11 were removed from the Company's base rates in its last rate case and have since been
12 recovered in the GCR. The Application continues that type of functional unbundling in
13 order to ensure that any gas commodity or capacity costs are accounted for properly and
14 recovered in an appropriate manner via a separate rider.

15

16 **Q. Does this conclude your prefiled rebuttal testimony?**

17 A. Yes.

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of The East :
Ohio Gas Company d/b/a :
Dominion East Ohio for : Case No. 05-474-GA-ATA
Approval of a Plan to :
Restructure Its Commodity :
Service Function. :

- - -

PROCEEDINGS

before Attorney Examiner Alfred Agler, at the Public
Utilities Commission of Ohio, commencing at 10 a.m.,
on Tuesday, December 6, 2005, in Hearing Room 11-C,
180 East Broad Street, Columbus, Ohio.

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1 ATTORNEY EXAMINER AGLER: Okay. So
2 marked.

3 (EXHIBITS HEREBY MARKED FOR
4 IDENTIFICATION PURPOSES.)

5 - - -

6 JEFFREY A. MURPHY

7 called as a witness on behalf of the Applicant, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Ms. Liebman:

11 Q. Mr. Murphy, would you please state your
12 position with Dominion East Ohio.

13 A. I'm employed as the director of pricing
14 and regulatory affairs for Dominion East Ohio.

15 Q. Do you have in front of you what's been
16 marked as DEO Exhibit 1?

17 A. Yes.

18 Q. Would you identify that document, please.

19 A. That is the application that the company
20 filed earlier this year for approval of a plan to
21 restructure its commodity service function.

22 Q. And do you have a copy of DEO Exhibit 2
23 in front of you?

24 A. Yes. That is a copy of my direct

1 we transitioning from in this between Phase 1 and
2 Phase 2 from your standpoint?

3 A. The application in the case cites the
4 objectives that the Company was seeking to achieve in
5 the filing of this particular application. And the
6 objectives are two-fold. No. 1, to foster a
7 competitive market in which customers can make
8 choices among reliable commodity service alternatives
9 and to address without disrupting the competitive
10 marketplace the commodity needs of customers that
11 cannot or will not choose among alternatives. The
12 intent of the application is to in effect enable the
13 Company to arrive at an end state where it has a
14 highly competitive commodity service market for its
15 customers.

16 Transition will begin with Phase 1 and
17 move on to Phase 2 which is really the end state
18 objective that the Company has set in front of
19 itself.

20 Q. Why do you want to increase -- foster a
21 more competitive market?

22 A. When there is a well functioning capacity
23 marketing, all things being equal, more competition
24 means lower price.

1 Q. Will --

2 MS. LIEBMAN: Excuse me. Were you
3 finished with your answer, Mr. Murphy?

4 THE WITNESS: No, I was not.

5 Q. Oh, I'm sorry, please, please continue.

6 A. In such a market it's our belief that the
7 price established in the marketplace will send more
8 appropriate price signals than a regulated price, and
9 the type of changes that we've described in Phase 1
10 would enable customers to make more informed choices
11 and will enable suppliers to have more motivation to
12 participate within our Energy Choice market.

13 Q. So are you telling us that Phase 1, the
14 wholesale competition, will result in lower prices
15 for customers than the GCR process?

16 A. No, I am not. Phase 1 is a transition
17 mechanism to enable us to get to an end state where
18 more competition will lead to lower prices. However,
19 no one can guarantee there will be lower prices in
20 such a market place compared to what we would
21 otherwise have. Just as when we entered the Energy
22 Choice environment, no one could make any guarantee
23 of cost saving relative to the GCR. We cannot sit
24 here in advance of Phase 1 or Phase 2 and guarantee

1 there will be lower costs because there will be no
2 GCR to be comparative once we begin standard service
3 offer commodity service.

4 Q. So there is no guarantee Phase 1 will
5 produce lower prices for customers compared to GCR
6 nor is there a guarantee Phase 2 will result in
7 prices lower than Phase 1 or lower than the GCR
8 process?

9 MS. LIEBMAN: Is there a question?

10 Q. Will it? There is no guarantee, is
11 there?

12 A. There is never any guarantees in a
13 competitive marketplace. I think it's important to
14 recognize that price is determined by many factors,
15 one of which is the prevailing price of natural gas
16 on the national market and that price is out of the
17 control of Dominion East Ohio and I presume any of
18 the other parties in this case. That national level
19 of prices will largely determine the prices that
20 ultimately retail customers will pay.

21 Q. All right. Why do people choose a
22 competitive supplier? What's their primary
23 motivation, do you think?

24 MS. LIEBMAN: I'll object. I don't think

1 Mr. Murphy unless he can testify about why he chose
2 an alternative supplier can really testify as to why
3 other people do.

4 MR. RINEBOLT: Your Honor, if I may
5 respond, the witness has indicated that the intent of
6 this application is to spur additional competition.
7 I'm curious to if the witness has an opinion on
8 why -- why people would choose a competitive
9 supplier.

10 ATTORNEY EXAMINER AGLER: I'll overrule
11 the objection.

12 A. The Company performed market research and
13 conducted focus groups to address that question in
14 the market. Among the reasons cited by customers for
15 choosing an alternative supplier is opportunity for
16 cost savings and the opportunity to fix in a rate
17 that will not be subject to change over the term of
18 the agreement. Customers have also cited other
19 factors such as the opportunity to get rebates and
20 other kinds of cost considerations which may motivate
21 them to select another supplier.

22 Q. You indicate on page 2 at the bottom
23 between lines 19 and 23 that the GCR is an impediment
24 to the competitive marketplace further evolving. Why

1 is the GCR an impediment to further evolution of the
2 market?

3 A. The most significant impediment created
4 by the GCR is unrecovered gas costs that are included
5 in that rate. Those costs basically true up actual
6 costs to an estimated expected gas cost rate from a
7 prior period. Inevitably when there is any
8 unrecovered gas costs in that rate, it distorts the
9 final GCR rate from what the true market price is.
10 That true-up mechanism prevents accurate price
11 signals from being sent to the marketplace.

12 Q. So I presume that what follows from that
13 is that if the EGC -- or, I mean, if the true-up
14 portion, the unrecovered gas costs portion causes the
15 GCR to move below market, that that results in fewer
16 customers or no customers switching because there is
17 no price advantage; is that the primary reason a GCR
18 is an impediment to a competitive market?

19 A. That is one potential outcome. Another
20 potential outcome is when there is a positive
21 unrecovered gas cost component in the GCR which would
22 inflate the price to compare potentially leading
23 customers to make decisions based on a higher rate
24 than what the prevailing market price would indicate

1 We do, however, inject gas into storage which is a
2 natural hedge of sorts.

3 Q. All right. Now, down to the next bullet.
4 Is it reasonable to assume or is it the position of
5 Dominion East Ohio that comparability between the
6 expected gas costs -- or between the cost of SSO
7 service and the price that a marketer would be
8 charging because there is no uncollected gas cost
9 will improve the marketplace?

10 A. Yes.

11 Q. Do you think that will result in lower
12 prices to customers?

13 A. Once again, price is driven largely by
14 the natural gas market on the national level. And I
15 certainly can't predict where those prices will go in
16 the future.

17 Q. So is there any specific advantage to
18 comparability for the average customer?

19 A. Yes, there is. The customers will find a
20 more true comparison between the commodity to service
21 offered by East Ohio and a commodity to service
22 offered by an alternative supplier. In addition, in
23 discussing this matter with suppliers, they have
24 indicated that the transparencies of the SSO price

1 will enable them to reduce their structuring risk
2 because they won't have the uncertainty of the kind
3 of disruption in price by the cost recovery mechanism
4 in the GCR presently.

5 Q. Would a long-term contract for natural
6 gas signed based on the prices in late 2000 or early
7 2001 have been advantageous in, say, 2002?

8 MS. LIEBMAN: Your Honor, may we have a
9 clarification? Advantageous to whom?

10 Q. To customers, to customers.

11 ATTORNEY EXAMINER AGLER: Proceed.

12 A. We don't draw comparisons on a
13 rate-by-rate basis. But I think it is important to
14 point out that many customers find value in a fixed
15 price offer. It reduces budget uncertainty, enables
16 them to have the confidence that they will have a
17 fixed rate through the end of that term. So some
18 customers may not have as great a certainty about the
19 comparison of that fixed rate to a GCR compared to
20 others.

21 Q. Well, but if a customer signed a -- say a
22 two-year contract today and in the summer the price
23 of natural gas dropped by \$4 MCF and that continued
24 through the next winter, wouldn't that customer who

1 is on a fixed contract wind up paying more than what
2 the market can deliver?

3 A. In part it depends on whether or not the
4 customer decides to cancel that contract. While we
5 encourage customers to comply with the agreements
6 they have with marketers, nonetheless there are
7 termination provisions and customers in some cases
8 may be well served by terminating a contract and
9 paying the termination fee and obtaining gas for a
10 lower price. It's also certainly possible that that
11 price in the future could be considerably higher in
12 which the customer could reap considerable advantage.
13 Again, there is considerable market uncertainty and
14 therein lies the value of a fixed rate offer in many
15 cases.

16 Q. But if the NYMES were to decline, then
17 GCR price as currently structured declines; is that
18 correct? Isn't it?

19 A. Yes. And under the new offer the SSO
20 price would decline accordingly as well.

21 Q. In the next bullet and specifically at
22 line 13, you indicate that the application creates a
23 platform upon which you can eventually transition out
24 of the merchant function. What would -- what do you

1 mean by the term platform?

2 A. I think that is spelled out in the
3 remainder of that response. Specifically what we are
4 looking at are certainly operational changes that
5 will need to be made as we make that transition,
6 changes to accounting procedures, and while those
7 changes may not be monumental nonetheless they are
8 important to test in Phase 1 so that we could
9 conceivably then enter into Phase 2 with a greater
10 assurance and probability of success.

11 Q. Well, and I do note on line 18, you
12 indicate that this will -- that this Phase 1 will
13 reduce risks based -- by the Company. Do you or have
14 you assessed what -- whether this Phase 1 will reduce
15 the risk to customers of price increases, say,
16 associated with a movement to Phase 2?

17 THE WITNESS: Could you repeat the
18 question, please.

19 (Question read.)

20 A. I think it's important to note the GCR
21 mechanism is largely based on NYMEX prices currently
22 and the SSO price does much the same NYMEX based
23 price mechanism. That is part of the way that risks
24 are mitigated in the transition from GCR service to

1 Phase 1. The transmission significance to Phase 2
2 will have reduced risk because we are able to test on
3 some of the operational and accounting changes that
4 are needed to accommodate Phase 1. That is
5 specifically what I am referring to there in that
6 part of my testimony.

7 Q. All right. I want to jump back to the
8 issue of the unrecovered gas costs for a second.
9 Now, customers who are off of -- who have chosen an
10 alternative marketer and been served by that marketer
11 for 12 months, they don't pay the unrecovered gas
12 costs, do they?

13 A. After that 12th month, that is correct.

14 Q. All right. So the market for a customer
15 after being in it for 12 months provides a comparable
16 price to what other marketers are offering.

17 A. No, it really doesn't because I think we
18 need to keep in mind the GCR mechanism has a lag true
19 up so even though you may come back to the GCR if you
20 find that an attractive price and that GCR and
21 specifically the EGC understates the commodity costs,
22 a customer may have to pay a higher cost later on
23 when that true-up mechanism kicks in so even at that
24 particular point in time that comparison is still

1 flawed because of that true-up mechanism operating
2 prospectively.

3 Q. But if a customer who has been on choice
4 for more than 12 months comes back to the commodity
5 service or back to the GCR service and then leaves
6 before staying on it for 12 months, that uncovered
7 gas cost doesn't really apply to their rates, does
8 it?

9 A. In those circumstances where they leave
10 that quickly, it would not. But should they delay
11 that choice beyond that point, once again, that
12 unrecovered gas cost component would be in effect.

13 Q. In the next question that begins on line
14 14, you talk about discussions with stakeholders
15 prior to filing this. Did the stakeholder group
16 include any customers, not representative customers
17 but customers?

18 A. I can't recall of any end use customers
19 attending those meetings. It was primarily their
20 representatives that attended.

21 Q. Well, speaking of their representatives,
22 have any of those customer group representatives
23 signed this stipulation that was entered into
24 evidence today or will be, I presume?

1 MR. SERIO: Your Honor, could I have that
2 document marked for purposes of identification as OCC
3 Exhibit 2.

4 ATTORNEY EXAMINER AGLER: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Now, when you talk about the Company
7 shifting its focus on its fundamental role of a local
8 distribution company, one of the things that the
9 Company also accomplishes there is that it shifts the
10 risk associated with gas purchasing away from itself
11 and onto either the wholesale customers or to end use
12 customers, correct?

13 A. No. Today there is considerable risk to
14 end use customers from changes in the GCR, for
15 example, so it is not just a risk borne by the
16 Company. There are risks borne by customers in that
17 mechanism today.

18 Q. Under Phase 1 though and ultimately under
19 Phase 2, the Company wouldn't undergo any GCR M/P
20 audit review, correct?

21 A. There is none contemplated in the
22 application.

23 Q. So the Company would essentially shed any
24 of the risk associated with that review, correct?

1 A. Yes. There may be other risks such as
2 default risk or counterparty worthiness that may
3 serve to offset that reduction of risk but certainly
4 that risk of procurement-related disallowances would
5 be shed.

6 Q. And to the extent whoever is procuring
7 supplies under Phase 1 were to make a mistake, then
8 that mistake would be borne by the customers paying
9 the price, the SSO price; is that correct?

10 A. No, it is not. It would be borne by the
11 supplier because the Commission will have indicated
12 what that SSO price adjustment is to the NYMEX in the
13 application right up front, so for the supplier to
14 make a mistake as you put it, the supplier would bear
15 the consequences of that mistake, not its customers.

16 Q. So under Phase 1 that risk goes from the
17 Company to the supplier, correct?

18 A. That is correct for that part of the
19 risk.

20 Q. Because the SSO price insulates the end
21 use customer, correct?

22 A. That's correct.

23 Q. In Phase 2 there's no longer an SSO
24 price, correct?

1 A. There will still be a default service for
2 PIPP and ineligible choice customers. Whether or not
3 that would be referred to as the SSO price, I don't
4 know. There will be some level of default --

5 Q. Again, that's only a default. That's not
6 for your typical residential customer, correct?

7 A. That's correct, for those customers that
8 are eligible for Energy Choice.

9 Q. So under Phase 2 to the extent that a
10 marketer might make a mistake, then that would be
11 something that the marketer could pass through to its
12 customers in the course of setting its pricing with
13 that particular customer, correct?

14 A. Once again, the price may be established
15 in the contract. It may be a fixed price, or it
16 could be a variable price that has specific
17 adjustment mechanisms so, again, a mistake as you put
18 it may be something that may be absorbed by the
19 marketer. It would certainly have a fixed price
20 mechanism. That customer is for the term of that
21 contract presumably guaranteed a fixed price
22 regardless of what actions the marketer may or may
23 not take.

24 Q. Currently Dominion has a monthly GCR,

1 correct?

2 A. Yes.

3 Q. And under the SSO the price would change
4 on a monthly basis, correct?

5 A. Correct.

6 Q. Do you see any difference in the
7 volatility based on the current GCR versus what would
8 happen under an SSO?

9 A. Certainly there will be less volatility
10 in the SSO price associated with unrecovered gas
11 costs which will no longer be there. As to the
12 relative volatility in what would be the EGC portion
13 in the GCR and SSO, we would be unable to say
14 beforehand because it will ultimately result on those
15 NYMEX prices.

16 Q. Now, today the Company does a calculation
17 to determine savings achieved by choice customers,
18 correct?

19 A. Yes.

20 Q. And in making that calculation, the
21 Company relies on the GCR as a point of comparison,
22 correct?

23 A. Yes.

24 Q. Not the EGC, it's the GCR that's used?

1 A. GCR.

2 Q. Now, once we get into Phase 1 customers
3 won't have the GCR available so there won't be any
4 way to do a similar comparison in Phase 1; is that
5 correct?

6 A. There will still be the SSO price to
7 compare to so it again in replacing the GCR serves
8 some of the similar services and under which is a
9 price to compare.

10 Q. So a similar calculation under Phase 1
11 would be to simply compare what the marketers were
12 offering to the SSO and do the math as to whether the
13 deals were better or worse for a particular customer
14 in determining the cumulative savings or losses,
15 correct?

16 A. That's one way to look at it. However,
17 once again, I think it's important to recognize that
18 the SSO or GCR is a monthly price. And if someone
19 has a fixed price offer at one point, period of time,
20 that offer could be below or that rate later on could
21 be above that rate, so the very nature of making
22 monthly price comparisons is problematic when you are
23 looking at a number of fixed price offers in the
24 marketplace. Over the term of that entire fixed rate

1 offer you could have very considerable savings that
2 aren't necessarily reflected in an individual month's
3 comparison.

4 Q. When you do your monthly comparisons and
5 there's a long-term contract that a customer has with
6 a choice supplier, you look at the implications in
7 that month, correct?

8 A. That is correct. It is just confined to
9 that month and not over the entire term of the
10 agreement.

11 Q. In order to see the overall effect you
12 have to see what the cumulative number is as time
13 progresses?

14 A. That's correct. In theory for each
15 contract, of course, all of them have different start
16 and end dates so you really look at it over the term
17 of each individual customer's contract with its
18 supplier.

19 Q. On page 4 of your testimony you indicate
20 on lines 9 through 11 that suppliers have indicated
21 that, with the price certainty, they will be more
22 inclined to offer longer-termed or fixed price
23 arrangements. Do you have any assurances -- do we
24 have any assurances that marketers will do that?

1 A. No, we don't. We don't have any
2 assurances for market prices or other provisions
3 under a Phase 1 or Phase 2 approach just as we didn't
4 have those assurances when we embarked on the Energy
5 Choice in the first place.

6 Q. When we embarked on the Energy Choice
7 program, we still had a GCR. To the extent we go to
8 Phase 1, there is no more GCR, and we have to take it
9 at faith that we'll have more marketer offers or that
10 we will have more fixed term offers, correct?
11 There's nothing in the application that assures us of
12 that?

13 A. That is correct and nor was there
14 anything in the Energy Choice program which assured
15 similar kinds of outcomes.

16 Q. Is the GCR used to provide operational
17 balancing for the Company's entire operating system?

18 A. Some of the capacity used for the GCR
19 customer can be used for operational balancing of the
20 GCR customers' load. It is not used for operational
21 balancing or non-GCR customer classes.

22 Q. So choice and non-choice transportation
23 are not kept in balance through the use of the GCR,
24 correct?

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the East)
Ohio Gas Company d/b/a Dominion East)
Ohio for Approval of a Plan to Restructure) Case No. 05-474-GA-ATA
its Commodity Function.)

**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential natural gas consumers of Ohio, applies for rehearing of the May 26, 2006 Opinion and Order ("Order") issued by the Public Utilities Commission of Ohio ("PUCO" or "the Commission") in this docket, pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35(A). The OCC submits that the Order, which authorized implementation of the Dominion East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "the Company") Phase 1 plan to Exit the Merchant Function, erred in the following respects:

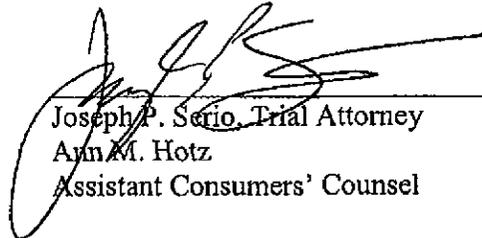
- A. The Commission erred in failing to modify the proposed auction process so that the resulting Standard Service Option price will be the lowest possible price for gas.
- B. The Commission erred in failing to include Demand Side Management or Weatherization programs as part of any customer benefit in the Phase 1 implementation of the DEO plan to exit the merchant function.

The reasons that the Commission should grant rehearing are explained in further detail in the accompanying memorandum in support.

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Respectfully submitted,

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A second important component to provide the necessary benefits to consumers is the inclusion of a significant Demand Side Management (“DSM”) program as part of any final plan. Not only is a DSM program needed to provide benefits to consumers, but it is also necessary to meet the policy standards set forth in R.C. 4929.02(A), including encouragement of demand side management, which are part of the overall requirements under which the Application is being judged.¹ The OCC respectfully urges the Commission to modify its Opinion and Order to reflect the recommendations set forth below.

II. ARGUMENT

A. **The Commission erred in failing to modify the proposed auction process so that the resulting Standard Service Option price will be the lowest possible price for gas.**

At hearing, OCC proposed an alternative auction process that was designed to take the weighted average of all prices offered by the Marketers to set the SSO price. In rejecting the alternative auction process proposed by OCC through its witness Mike Haugh, the Commission noted in the Opinion and Order that:

the Commission concludes that the use of a descending clock auction is an appropriate approach and should be approved. The record in the case, while acknowledging the inability to predict with certainty which approach would produce the lowest price, clearly indicates that such an auction format, conducted in real time, would be more open, transparent and likely to produce a more competitive atmosphere.²

¹ Opinion and Order at 2.

² *Id.* at 21.

Although the Commission reached this conclusion, the Commission failed to explain in its Opinion and Order what specific aspects of the proposed descending clock auction process would make that process more transparent and likely to produce a more competitive atmosphere than the OCC's alternative approach. Moreover and more importantly to the hundreds of thousands of current GCR customers who will be required to take the resulting alternative SSO³ the Commission has failed to select the auction process that would result in the lowest and best price for consumers.

In contrast with the descending clock auction process, the auction process proposed by OCC's witness, Mike Haugh, uses a mechanism similar to that used by trade publications such as *Gas Daily* and *Inside FERC* that set market prices. Mr. Haugh testified that these publications take the weighted average of all buys and sells in a location to achieve the market price.⁴ If the goal of the auction process is for the SSO price to be more representative of market prices, then taking the weighted average of all bidders would best accomplish that objective. The descending clock auction process would not produce the lowest and best price, because it assures that the Marketers making lower bids will receive a price higher than their actual bid. This higher rate will result in higher costs to consumers and additional profits for Marketers.

The OCC's continuing concern with the descending clock auction is that the lowest and best SSO price will not be achieved. The descending clock approach stops when there are not enough bids to fill all the tranches even though a majority of

³ Current GCR customers who decide not to select a Marketer will be required to take the SSO price in place of the current GCR offer.

⁴ Tr. Vol. 2 at 131.

Marketers could be willing to supply the SSO at a lower price, as is indicated by their lower bid price. While the weighted average methodology proposed by OCC witness Haugh allows for every Marketer to offer its lowest price, then the SSO is calculated by taking the weighted average of the lowest Marketer's bids. The alternative weighted average approach recommended by Mr. Haugh is very similar to the Request for Proposal ("RFP") approved by the Commission in case 04-1047-EL-ATA⁵ where the Commission found Monongahela Power's RFP to be acceptable to determine the SSO for its customers:

The Commission finds that Mon Power's application and RFP, once modified to comply with Commission's findings discussed above, are reasonable, subject to a final determination after a hearing on the reasonableness of the Administrative Adders.

Mr. Haugh's recommended approach more accurately matches the price at which a Marketer is willing to sell with the price the Marketer will receive. That approach is consistent with, R. C. 4929.02(A)(7) which provides that the policy of Ohio is to:

Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code.

As noted, the added advantage of OCC's proposal is that it will provide customers with a lower price overall than a declining clock auction. In Mr. Haugh's recommendation, Marketers get exactly what they bid, nothing less and, nothing more. This is fair.

⁵ *In the Matter of the Application for Approval of a Standard Service Offer and Competitive Bidding Process for Monongahela Power Company*, Case No. 04-1047-EL-ATA, Finding and Order (April 6, 2005) at 11.

If the Commission insists on conducting a descending clock auction, then there are additional safeguards that must be put in place to protect DEO's customers. The OCC recommends that certain features of the FirstEnergy Auction (from case 05-936-EL-ATA), including but not limited to the requirement of Marketers to announce an "exit price," be included in the DEO auction process. If a Marketer bids on fewer tranches than the previous round, then that Marketer must submit an exit price for the tranches withdrawn. For example, if Marketer A bids on five tranches when the Retail Price Adjustment ("RPA") is \$1.00 and only bids on two tranches when the RPA is lowered to \$0.99, then Marketer A must inform the auctioneer at what price it would be able to serve the three tranches it withdrew. This allows the auctioneer to pinpoint the lowest possible price.

The descending clock auction that was approved by the Commission in the Opinion and Order, originated in the initial comments of the Ohio Gas Marketers Group ("OGM") where it was suggested that "a descending clock auction could be conducted live at the Commission in which the auctioneer merely calls out a price which descends in set increments" and "the bidders only task is to write down the number of tranches desired."⁶ These suggestions of the OGM might make the auction simpler but they also open up the process to potential collusion. The OCC agrees with the Commission for ordering the hiring of an auctioneer and hopes that appropriate safeguards are put in place to ensure a fair process that benefits customers.

⁶ See Ohio Gas Marketer Initial Comments (May 25, 2005) at 15-16.

- B. The Commission erred in failing to include Demand Side Management or Weatherization programs as part of any customer benefits in the Phase 1 implementation of the DEO plan to exit the merchant function.**

In its Opinion and Order, the Commission stated:

Section 4929.04, R.C., simply does not mandate DSM in this proceeding.⁷

But the Commission stated that it would treat DEO's Application in this case as a filing under R.C. 4929.04.⁸ Revised Code 4929.04(A) allows the Commission to exempt a natural gas company only if:

The commission finds that the natural gas company is in substantial compliance with the policy of this state specified in section 4929.02 of the Revised Code.

Without encouraging DSM, DEO is not in substantial compliance with section R.C. 4929.02(A)(4). Therefore, the Commission should encourage DSM by requiring DEO to implement the DSM recommended by OCC and others. R.C. 4929.02 states:

(A) It is the policy of this state to, throughout this state:

(4) Encourage innovations and market access for cost-effective supply-and demand-side natural gas services and goods.

In its Opinion and Order, the Commission denied that it has a responsibility under R.C. 4929.01(A)(4) to encourage demand side management or energy efficiency.

However, in evaluating the Stipulation and Recommendation submitted by DEO, Marketers and the PUCO Staff, the Commission stated that:

⁷ Opinion and Order at 19.

⁸ Id. at 3.

upon review of these concerns, the Commission would note in the first instance that the stipulation does not change the burden of proof in this proceeding. As we stated in our entry of August 3, 2005, this matter will be governed by Section 4929.04 Revised Code, and the Company will have the burden of demonstrating its compliance with all provisions of that statute.⁹

DEO has done nothing in the Application to encourage innovations and market access for cost-effective demand-side natural gas services and goods. Simply stating that DSM is not required by the statute does not address the statutory requirement of R.C. 4929.02 to, “Encourage innovations and market access for cost-effective supply-and demand-side natural gas services and goods.” It is axiomatic that DEO could not meet all of the statutory requirements of R.C. 4929.04 if it did not address the requirements of R.C. 4929.02. Therefore, the Commission should not grant DEO an exemption under R.C. 4929.04.

Rather than encouraging innovations and market access for cost effective demand-side natural gas services and goods, DEO complained that “company funded DSM programs will merely represent a cross-subsidy of some customers by others, and do nothing to affect innovation or market access.”¹⁰ Instead, DEO implies that the Company **need not encourage innovations**. DEO states that it need not do so because “customers will naturally be encouraged to conserve energy.”¹¹

Contrary to DEO’s interpretation, R.C. 4929.02(A)(4) states that it is the policy of this state to **encourage** innovations and market access for cost-effective demand-side natural gas services and goods. The promise of a “more accurate price signal” as stated

⁹ *Id.* at 13.

¹⁰ DEO Reply Brief at 11.

¹¹ *Id.* at 11-13.

in the Opinion and Order does not in and of itself encourage innovation and market access to cost-effective demand-side natural gas services and goods.¹² As pointed out in OCC's Initial Brief, deviations between the GCR and BGC have narrowed following the move to a monthly GCR so that the price signal to the consumer will be basically the same.¹³ DEO's proposal does not attempt to modify the fundamental tightness of the supply and demand for the natural gas market as a comprehensive regional DSM program would.

And after years of neglect¹⁴ toward demand-side programs, the current infrastructure is not sufficient to provide access to cost-effective demand-side products and services. The only way that DEO can meet the requirements necessary for the Commission to grant it an exemption under R.C. 4929.04 is if it meets the clear requirement under R.C. 4929.02(A)(4) to **encourage** access and innovation for cost-effective demand-side products. That is what OCC has proposed in detail and that is what DEO should be required to provide.

The Commission concluded that DSM or weatherization does not provide the best means to mitigate the perceived risks to consumers associated with the proposal.¹⁵ To the contrary, DSM is the best means to mitigate the risks of moving to a competitive market when prices are high because demand is high relative to supply.

¹² Opinion and Order, page 25.

¹³ OCC Initial Brief at 50.

¹⁴ As pointed out by OP&E in its Initial Brief at page 12, "The purchasing power of the \$3 – \$3.5 million provided by DEO for low income weatherization has been significantly eroded since 1994 by inflation."

¹⁵ Opinion and Order at 19.

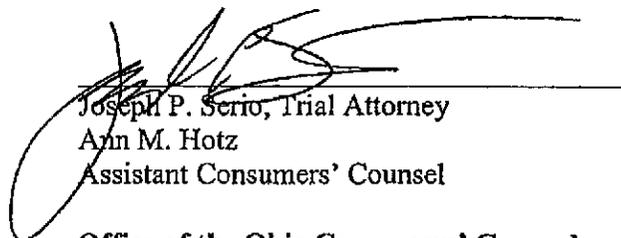
DEO's Phase 1 proposal is one that moves the commodity market from a purely regulated one to a more competitive one. Traditionally, in regulated markets, demand tends to be inelastic relative to unregulated markets. Both DSM and weatherization will reduce demand and increase the elasticity of demand by providing a consumer with more substitutes and thereby make the market more appropriate for competition. In that way, DSM and weatherization directly mitigates the perceived risks to consumers of moving to a competitive market when demand is high relative to supply. The availability of a significant DSM or Weatherization program will provide customers with alternatives to using natural gas and will increase the elasticity of demand.

III. CONCLUSION

For the reasons set forth above, the OCC respectfully requests that the Commission grant rehearing of its May 26, 2006 Opinion and Order and incorporate OCC's recommendations as part of the Phase 1 DEO plan to exit the merchant function.

Respectfully submitted,

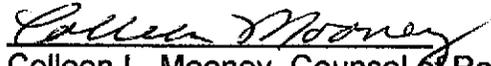
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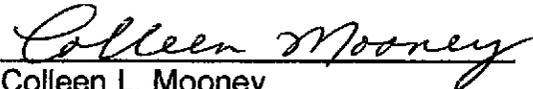


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Supplement of Appellant, Ohio Partners for Affordable Energy, was served upon all parties to this proceeding by hand delivery or regular U. S. Mail this 7th day of November 2006.



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