Ortho Clinical Diagnostics

PART OF THE Johnson & Johnson FAMILY OF COMPANIES

April 23, 2013

Via Electronic Filing

Jeffrey Cohen, Acting Secretary
State of New York Public
Service Commission
Three Empire State Plaza, 14th Floor
Albany, New York 12223-1350

Re: Case 13-M-0028

Petition of Eastman Kodak Company and RED-Rochester, LLC for an Order Approving the Transfer of Regulated Utility Assets, Certificates of Public Convenience and Necessity, and Related Transactions and Motion for Expedited Proceedings

Dear Secretary Cohen:

Eastman Kodak Company ("Kodak") and RED-Rochester, LLC ("RED") filed a Petition with the New York Public Service Commission ("PSC") on January 22, 2013, requesting approval of the transfer of regulated utility assets (the "Transfer"), certificate of public convenience and necessity (the "CPCN") and related matters and also requesting expedited proceedings (the "Petition").

Ortho-Clinical Diagnostics, Inc. ("OCD") owns property and operates a business in Eastman Business Park ("EBP"). OCD is therefore greatly interested in the long-term viability of EBP. While OCD generally supports the Transaction and believes that, based on its track record, RED will be a dedicated and successful operator of the EPB utilities, OCD has a number of concerns relating to the Amended and Restated Utilities Service Agreement (the "ARUSA") and the proposals stated in the State of New York Public Service Commission's Notice of Technical Conference, issued April 10, 2013 (the "NTC").

A) Concerns Related to the ARUSA

1) OCD supports the position asserted by Exelis, Inc. ("Exelis") in its comments dated April 1, 2013 that the 2004 CPCN granted to Kodak should not be transferred to RED without a re-assessment of the terms. The transfer of the CPCN warrants a review and perhaps even a new request by RED. It is OCD's belief that the CPCN and corresponding order were issued to Kodak based on its operations at the time of issuance. Since RED will be operating under a different business model, the CPCN and order with

respect to RED should be reviewed and modified accordingly.

2) The PSC should review the regulated oversight of RED. It should not be seen as a transfer from Kodak. The PSC should be active in overseeing proposed rate changes, as they are in connection with the operations of other public utility companies, to insure adequate and just oversight along with continuity of supply.

3) OCD shares in the concerns raised by other business owners with facilities in EBP regarding rates:

   a) There is a good deal of confusion concerning RED's methodology for calculating rates. RED has circulated numerous spreadsheets in connection with its rate calculations, which contain inconsistencies in how the rates are calculated. It is also unclear whether any of the spreadsheets circulated to date can be considered final versions.

   b) It is not clear how RED's rate calculations are being applied among the various business owners in EBP. OCD received information earlier in the process that showed that OCD's rates were higher than another business owner with a lower level of consumption. If anything, one would believe the higher volume consumers of RED's services would benefit from lower rates based on the volume of consumption and support of the load across the total utility network.

   c) Kodak's receipt of lower rates in perpetuity should be capped, perhaps at 5 years. At some point, Kodak needs to become a balanced tenant/property owner, in a position similar to all other business owners in EBP. For example, as noted by Exelis in its April 1, 2013 comments, the RED-Kodak deal is structured in such a way that Kodak is exempt from significant charges (e.g., capital). Kodak's lower rates should not be assignable in the event Kodak sells its interests to another party.

   d) Kodak's existing environmental liabilities (including its obligations to address the environmental Consent Decree and remediation) should not be allowed to become part of RED's cost structure, or charged to the EBP property owners and tenants. This restriction or limitation is a key term in all of OCD's current agreements with Kodak and should be maintained in any agreement with RED.

   e) Current provisions allowing OCD to audit Kodak's calculation for rate structure and charges should be included in any new ARUSA with RED.

f) Peak demand charges should not be implemented until proper metering has been installed and customers have been given at least 6-12 months of demand history. If any customer's rates will change by greater than 10% due to the implementation of new demand rate changes, RED should provide at least 6 months of notice before the rate structure takes effect, so that appropriate measures can be implemented by the customer. RED should also provide customers with a simple cost model that show how customers' rates change throughout the year, based on a customer's peak usage.

g) Pass through costs related to Kodak employee severance should not be included as a part of the ARUSA.

4) The clauses in OCD's existing Utility Service Agreement specifying mutual notification periods for the cessation of the purchase or supply of each service or utility must continue to be included in the new ARUSA contract. This is especially critical if the new contract term is 20 years. Should RED announce the discontinuation of regulated services, OCD needs to be assured that PSC can become involved to ensure continuity and lessen any impact to businesses.

5) Many factors can change over the course of a 20 year contract term. Therefore, having access to alternative sources of power is important. As the owner of property and facilities in B313 in EBP, OCD needs to reserve the right to access alternative utility services, and to self-generate utility services. OCD requestes that the PSC clarify the ability of other service providers to service EBP business owners, as this was a key agreement between OCD and Kodak, and one that enabled the retention of jobs in upstate New York.

6) Currently, OCD pays a premium rate to be last on the load shedding priority grid. This is due to the fact that OCD is the sole supplier to customers providing critical medical services to patients. A disruptive supply chain could be life threatening to those patients in need of our products.

7) OCD believes that representation on the committee should be weighted by utility usage and OCD agrees that no one member should have more than a 25% voting interest. OCD would also like to gain a clearer understanding of what the Coordination Committee's powers are.

In addition to the above, OCD has reviewed, and is generally very supportive of, the comments previously set forth by Exelis, Acquest South Park, LLC, Carestream Health, Inc., E.I. du Pont de Nemours and Company, and the other property owners and tenants of EBP.

B) Concerns Related to the NTC Proposals. The NTC sets forth seven proposals which may form the basis for conditions modifying the relief that Kodak and RED request in the Petition. OCD's comments on each proposal are as follows:

1) With respect to proposal number one, OCD believes the Commission and the Coordination Committee should be involved in proposed rate increases. The increases should be in line with, and not more than, public utility rate changes. The proposed 2.5% cap on rates, excluding fuel costs, appears reasonable.

2) With respect to proposal number two, OCD believes that representation on the committee should be weighted by utility usage and OCD agrees that no one member should have more than a 25% voting interest.

3) With respect to proposal number three, OCD believes RED should clarify the methodology used in its profit sharing calculation and present a final rate calculation process as well. There have been indications that different property owners and tenants in EBP are being charged different rates for the same utility. Users of the utilities should be balanced in the rates being paid. The profit sharing model should also be changed as stated above (i.e., as more profits are generated, a larger proportional share should go to the property owners).

4) With respect to proposal number four, OCD believes rate shock can and should be avoided by allowing a 6-12 month period for business owners to learn RED's rate structure. In other words, if peak rates will be a feature of RED's rate structure, then, before implementing such rates, RED should work with the individual users for a period of time to help them understand how the peak charges will impact their businesses, and allow the users an opportunity to refine and improve their practices prior to instituting peak rates.

5) With respect to proposal number five, OCD believes that the lower rates charged to Kodak's initial successors should have a defined life of no more than 5 years. Kodak's beneficial rate structure during the 5 year period should not be assignable. All companies could argue the need for lower rates to maintain fiscal viability. More equitable rates among all users are a way to attract new opportunities to the EBP. We would not want to see new businesses receiving sweetheart deals at the expense of the current occupants.

6) With respect to proposal number six, OCD does not believe that RED should have exclusivity as a provider to EBP. Our property was purchased with the understanding we have the option to self-generate or seek access to a public grid. We would like to maintain alternative options going forward.

7) With respect to proposal number seven, OCD believes there should be a right to

negotiate additional terms, and modify the current terms of existing agreements, if the property owner so wishes. In addition, the rights and powers of the Coordinating Committee should be clearly defined.

OCD is confident that an agreement can be reached with RED that will result in a more suitable and equitable ARUSA, and OCD hereby requests the help of the PSC in facilitating such an agreement.

Thank you for your consideration.

Sincerely,

Stacey Antar
Vice President, Law

Enclosures:

cc: David W. Dykhouse, Esq.
Kenneth L. Sankin, Esq.