

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Motion to)	
Modify the June 18, 2008 Opinion and)	Case No 12-1842-GA-EXM
Order in Case No. 07-1224-GA-EXM.)	

**OHIO GAS MARKETERS GROUP AND
RETAIL ENERGY SUPPLY ASSOCIATION
REPLY COMMENTS**

Pursuant to the July 27, 2012 Entry, the Ohio Gas Marketers Group and the Retail Energy Supply Association “(OGMG/RESA”) respectfully submits these Reply Comments to the August 30, 2012 comments of the Ohio Partners for Affordable Energy (“OPAE”).

I. INTRODUCTION

The June 18, 2008 Opinion and Order in Case No. 07-1224-GA-EXM (“Exemption Order”) granted an exemption, pursuant to Section 4929.04, Revised Code, authorizing The East Ohio Gas Company d/b/a Dominion East Ohio (“DEO”) to implement Phase 2 of DEO’s plan to exit the merchant function.

On June 15, 2012, DEO and OGMG filed a joint motion requesting that the Commission modify the Exemption Order pursuant to Section 4929.08(A), Revised Code to allow DEO, beginning in April 2013, to discontinue the availability of Standard Choice Offer (“SCO”) service to Choice-eligible General Sales Service – Non-Residential, Large Volume General Sales Service, Energy Choice Transportation Service – Non-Residential and Large Volume Energy Choice Transportation Service customers (collectively “Non-Residential Customers”). Both DEO and OGMG/RESA propose that such Non-Residential Customers receive commodity

service from the next available competitive retail natural gas (“CRNG”) supplier on a rotating list maintained by DEO pursuant to the CRNG Supplier’s then-applicable monthly variable rate (“MVR”).

On June 28, 2012, the Ohio Partners for Affordable Energy (“OPAE”) filed a motion seeking leave to intervene in this matter as well as a motion to dismiss the June 15, 2012 joint motion. On July 13, 2012, Dominion East Ohio and the Ohio Gas Marketers Group each filed a memorandum contra. The Ohio Partners for Affordable Energy filed its reply on July 19, 2012.

On July 27, 2012, the attorney examiner issued an Entry setting forth a procedural schedule. It established August 30, 2012 as the deadline for filing motions to intervene and for filing of comments and/or memorandum contra the June 15, 2012 motion. The Attorney Examiner also established the deadline for filing reply comments, replies to memorandum contra and direct testimony by the joint movants on September 13, 2012. The deadline for filing testimony on behalf of the staff and intervenors was established as September 27 with the hearing scheduled for October 9. The July 27 Entry also granted the motion to intervene of OPAE.

Comments were filed by the staff and OPAE on August 30, 2012. OCC, Direct Energy Services/Direct Energy Business, and the Retail Energy Supply Association each filed motions to intervene on August 30.

The Ohio Gas marketers Group and the Retail Energy Supply Association submit these reply comments in response to the August 30, 2012 comments of OPAE.

II. ARGUMENT

A. The Joint Motion is authorized by Section 4929.08(A), Revised Code.

Section 4929.08(A), Revised Code provides in part:

The public utilities commission has jurisdiction over every natural gas company that has been granted an exemption or alternative rate regulation under section 4929.04 or 4929.05 of the Revised Code. As to any such company, the commission, upon its own motion or upon the motion of any person adversely affected by such exemption or alternative rate regulation authority, and after notice and hearing and subject to this division may abrogate or modify any order granting such an exemption or authority only under both of the following conditions:

- (1) The commission determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest;
- (2) The abrogation or modification is not made more than eight years after the effective date of the order, unless the affected natural gas company consents.

At page 5 of its August 30 Comments, OPAE argues that neither the East Ohio Gas Company d/b/a Dominion East Ohio (DEO) nor the Marketers have demonstrated that they are adversely affected by the current alternative regulation plan as approved by the Commission. When one considers that OPAE is not a competitive retail natural gas suppliers, that it has relatively little contact with the Marketers who are on the Joint Application, and that OPAE's pleading fails to even allege any expertise it has in running a competitive supply business, the Commission must find that OPAE simply is not qualified to determine whether DEO and OGMG are adversely affected by the current order.

In sharp contrast to OPAE statement, DEO and OGMG are directly involved in supplying natural gas to retail customers. DEO as well as member companies of OGMG participated in the auctions of 2010, 2011 and 2012. Thus, DEO and OGMG are in a position to offer their professional opinion that the modification to the SCO auction offered in the Stipulation are

required to continue the transition to a competitive market and thus they are adversely affected. In fact, in the application, DEO and OGMG go on to state that the continued existence of default SCO service for non-residential customers prevents a fully-competitive market from developing.¹

Since DEO and OGMG has made a showing in the application that they are adversely affected by the existing Exemption Order; OPAE's argument must be rejected.

B. The Joint Motion does comport with Ohio's energy policy as set forth in Section 4929.02(A)(7), Revised Code.

One of the energy policies of this state that the Commission must consider in this case is set forth in Section 4929.02(A)(7), Revised Code which provides:

- (7) 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.

OPAE argues that the promotion of competition requires an SCO option that gives customers the choice not to choose a marketer. See OPAE Comments, pp. 7-8. First, Customers do indeed have the right not to contract with competitive retail natural gas supplier, or opt out of a governmental aggregation, and to do so does not require an SCO auction. Thus, the Joint Application does not change the right of a retail customer to nothing and yet still receive full bundled gas service. The Joint Application merely amends the manner in which default gas supplies for customers who choose to do nothing is procured. The Joint Application seeks a more efficient method – the MVR – which is in place now and does not create the same barriers to full competition. Nowhere in the energy policy of this state is there a goal or objective that

¹ Ibid., at 4.

promotes the use of less efficient procurement methods for the default natural gas supplies needed to assure bundled service.

C. Joint Exhibit 1 attached to the Joint Motion of June 15, 2012 is valid and should be approved.

At page 10 of its August 30 Comments, OPAE argues that the Commission should be concerned that no customer group affected by the Joint Motion has signed the Stipulation. It goes on to argue that because Ohio Consumers Counsel (“OCC”) represents residential customers and because this Joint Motion does not affect residential customers, OCC should not be considered a party of interest in this matter.

On August 30, 2012, OCC exercised its statutory right to intervene. Regardless of the identity of the signatory parties or their interests, the fact that the Stipulation has been reduced to writing and is signed by two parties allows it to be considered by the Commission to review it in light of the evidence presented. There is no rule that prescribes the character of signatories to a stipulation. Many examples of stipulations that are signed by a utility company and the Staff but by no customer group exist; yet, such stipulations are subsequently approved. Finally, the Staff of the Commission who have a mandate to protect non residential customers has filed comments supporting the Joint Application. For these reasons this ground must also be rejected.

III. CONCLUSION

The Joint Motion is authorized by Section 4929.08(A), Revised Code. It does comport with Ohio’s Energy Policy as set forth in Section 4929.02(A)(7), Revised Code. Joint Exhibit 1 attached to the Joint Motion is valid and should be approved. The arguments advanced by OPAE in its August 30 Comments should be rejected.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served by electronic mail on the following persons this 13th day of September, 2012:

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Summary: Comments Reply Comments electronically filed by M HOWARD PETRICOFF on behalf of Ohio Gas Marketers Group and Retail Energy Supply Association