

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's	)	
Review of its Rules for Competitive Retail	)	Case No. 12-0925-GA-ORD
Natural Gas Service Contained in	)	
Chapter 4901:1-27 Through 4901:1-34 of	)	
the Ohio Administrative Code.	)	

**INITIAL COMMENTS OF INTERSTATE GAS SUPPLY, INC.**

Pursuant to the Commission's November 7, 2012 Entry in this matter, Interstate Gas Supply, Inc. ("IGS Energy") respectfully submits these Initial Comments to the proposed amended rules. It should be noted that for the majority of its responses, IGS Energy has joined with OGMG and RESA in the comments filed, so this document only includes issues not specifically addressed by OGMG and RESA. IGS Energy will not be responding independently, therefore, to the questions that were asked by the Commission, since it is filing responses to those questions with OGMG and RESA.

Further, IGS has filed similar comments in the 12-1924-EL-ORD proceeding which relate to the Commission rules for competitive retail electric suppliers. In order to maintain consistency in the CRES and CRNG rules, IGS requests that the Commission adopt both IGS' recommendations filed in Case No. 12-1924-EL-ORD and the recommendations made herein.

**I. COMMENTS**

- 1. Rule 4901:1-29-06 "Customer Enrollment and Consent" should be modified to make it clear that governmental aggregations must have affirmative consent from customers to charge cancellation fees.**

OAC 4901:1-29-06 should be modified to clearly state that no cancellation or early termination fees are permissible for opt-out aggregation programs without affirmative

consent of each customer. Such a provision would protect customers from unknowingly being subject to cancellation fees, promote competition, and is consistent with existing Ohio law.

Currently pursuant to OAC 4901:1-29-06, suppliers are required to include disclosure of all material terms, and are precluded from enrolling a customer without consent to those material terms. For instance, the current version of 29-06(B) specifies that suppliers and governmental aggregators must have verified consent of all the material terms in order to enroll the customer (although the current rule 29-06(B) further states that this does not apply to opt out governmental aggregations, contradicting the earlier portion of 29-06(B)). Staff in the November 7 Entry proposes changes to 29-06(B) that would clarify the inconsistency in the current rule: Unfortunately the clarification makes it more likely that opt-out governmental aggregations will charge cancellation fees without express consent from the customer.

Governmental opt-out aggregation is permitted under ORC 4929.26, as long as the provisions of the statute are followed. That said, nothing in the Revised Code states that governmental aggregation should be a favored sales channel that is advantaged or otherwise superior to organic enrollment of customers (organic enrollment is where the customer affirmatively consents to all material terms and conditions). Nor does the Ohio Revised code authorize aggregation suppliers to bind opt-out customers to terms beyond what is required to provide natural gas service to those customers. Simply put, although the law does permit aggregations to enroll customers without their affirmative consent, the law *does not* permit an opt-out governmental aggregation to charge cancellation fees without affirmative consent from the customer.

There is good reason to require opt-out aggregations to receive affirmative consent to charge cancellation fees. Customers that are served under opt-out aggregation are less likely to be aware of the terms of service they are being served under, compared to organically enrolled customers that must give affirmative consent to all terms before beginning service. As such, opt-out customers will likely be unpleasantly surprised when they are told they must pay a cancellation fee to switch from a service they did not affirmatively consent to in the first place.

Further, allowing opt-out aggregations to charge cancellation fees hinders the competitive market. In an organic relationship the supplier must obtain consent of the customer to all material terms, including (and especially) terms involving fees for early termination of a contract. Without this affirmative consent a supplier would, under the rules, be precluded from charging a cancellation fee. This same requirement should be made applicable to government aggregations. If a governmental aggregation wants to charge a cancellation fee for a customer to terminate early, the aggregation should have to obtain affirmative consent of the customer to the early termination provision or be precluded, like an organic supplier, from charging an early termination fee.

As such, IGS Energy suggests that 4901:1-29-06(B) should be revised as follows:

(B) ~~Retail~~ A retail natural gas suppliers and governmental aggregators ~~are~~ is prohibited from enrolling potential customers without ~~their~~ consent and proof of that consent as delineated in paragraphs (D), (E) and (F) of this rule. This requirement does not apply to opt-out governmental aggregation and for the percentage of income payment program although this exclusion regarding consent does not relieve a governmental aggregator from obtaining affirmative consent by each customer of early termination fee provisions if such provisions are included in the terms of the program.

**2. Rule 4901:1-29-13 “Coordination Between Natural Gas Companies and Retail Natural Gas Suppliers and Governmental Aggregators” and Proposed Rule 4901:1-29-09 “Customer Information” should be modified to require customer lists to include account numbers.**

Under the current rules natural gas companies are required to provide to natural gas suppliers customer information, including names, service and mailing addresses, load profile reference category, meter read date or schedule, and historical consumption data for each of the most recent twelve months. (Rue 4901:1-20-13(C)). In other states such as Pennsylvania, the Commission recognized that providing customer’s account number to competitive suppliers reduces the costs of enrollment, makes it less likely that the wrong customer account is enrolled with a supplier, and generally makes it easier for consumers to enroll with competitive suppliers.

Certainly a concern could be that with account numbers a nefarious supplier could simply “slam” customers, enrolling customers without obtaining customer consents. However, the rules require customer clear consent before a customer could be enrolled in a suppliers program, with retained and reproducible verification of that consent. Several other rules address the requirements that suppliers provide within a very short timeframe proven verification of the customer intent to enroll. Failure to do so is grounds for fines as well as forfeiture of a supplier’s certificate to operate in Ohio. Given all of the requirements regarding the need to obtain, retain, and produce to the commission staff proven verification of the customer’s intent to enroll with the supplier, providing the customer account number would not put customers at additional risk. Rather, providing account numbers, in addition to the other information that is already required in customer lists, would simply make the customer experience better and reduce costs.

Further, providing account numbers to all suppliers would create some parity in the standard choice offer (SCO) programs that supplies the default service in three of the four main utility service territories where account numbers are already provided to the winning (SCO) suppliers.

Simply stated, unlike social security numbers and birth dates, customers do not typically memorize their utility account numbers. Although a customer might see an offer or product that they would like to enroll in in multiple forums, as well as at home, getting the account number makes it more cumbersome for the customer to enroll, making it less likely customers will enroll on products they would otherwise select. Making the enrollment process as simple as possible makes it a more positive experience for the consumer. Further, providing the supplier with the account number makes it easier for suppliers to provide products that can easily be enrolled in by customers. The easier it is for a customer to enroll in a product, the easier it is for the customer to find products and services that meet their needs, the lower the cost is for the product, and the more vibrant competitive markets will become. Accordingly, IGS Energy suggests the commission modify 4901:1-29-13(C) as follows:

(C) Natural gas companies shall make eligible-customer lists available to certified retail natural gas suppliers and governmental aggregators via electronic media. Such lists shall be updated quarterly and shall, at a minimum, contain customer name, service and mailing addresses, load profile reference category, meter read date or schedule, account number(s), and historical consumption data for each of the most recent twelve months.

**3. 4901:1-29-09(B) and (C) should not be preclude the utility from disclosing customer account numbers to CRNG providers.**

In addition, Staff suggests several new rules that are inconsistent in part with the above rule requiring the utility to provide customer information. Nothing in these comments is intended to suggest any changes to the current rule that allows customers to periodically opt out of any customer lists provided by the utility. In fact, the existence of that rule further illustrates the wisdom of requiring the utilities to provide the account number along with the other information that is already provided. The utility has the information and unless the consumer expressly requests that the utility not provide the information, the rules already contemplate the suppliers being granted equal access to such information.

Account number access simply enhances the customer experience and makes competitive products and services more accessible to consumers. The new rules proposed in 4901:1-29-09(B) and (C) appear to contradict the existing rules regarding access to information, in that it appears to prohibit a natural company from disclosing a customer's information without the customer's express written consent. It also expressly precludes disclosure of the account number. Subsection (B) would require the customer to provide the supplier with his or her account number prior to enrollment. As stated above, a supplier is not permitted to enroll a customer without their expression of consent to the terms of the agreement in a verifiable and retrievable form. For the reasons above, IGS Energy suggests that the proposed new rule 4901:1-29-09(B) & (C) be modified as follows:

(B) Customer account numbers obtained from participation in a natural gas company's standard choice offer program shall not be used by retail natural gas suppliers in the marketing materials of competitive retail natural gas service.

~~Account numbers must be provided by the customer prior to enrollment in any alternative offer to the standard choice offer.~~

(C) A natural gas company shall:

(1) Except as provided for in rule 4901:1-13-12 of the Administrative Code, not disclose or use a customer's social security number, ~~account number or any customer information,~~ without the customer's express written or electronic authorization on a release form or pursuant to a court or commission order.

(5) Prior to issuing any eligible-customer lists and at least four times per calendar year, provide all customers clear written notice, in billing statements or other communications, of their right to object to being included on such lists. Such notice shall include instructions for reporting such objection. This notice shall read as follows: "We are required to include your name, address, account number, and usage information on a list of eligible customers that is made available to other retail natural gas suppliers or governmental aggregators. If you do not wish to be included on this list, please call or write, or complete the appropriate form on website".

## II. CONCLUSION

Interstate Gas Supply, Inc. commends the Staff for their excellent approach in proposing amendments to these rules. We urge the Commission to adopt its recommendations which will fine tune the rules.

Respectfully submitted,

/s/ Matthew White

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Summary: Comments electronically filed by Mr. Matthew White on behalf of IGS Energy