

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Joint Application of :
Direct Energy Services, LLC, :
Direct Energy Business, LLC, :
Dominion Energy Solutions, Inc., :
Interstate Gas Supply, Inc., and : Case No. 17-2358-GA-WVR
SouthStar Energy Services, LLC :
for a Waiver of a Provision of :
Rule 4901-29-06(E)(1) of the Ohio :
Administrative Code. :

APPLICANTS' JOINT MOTION FOR A PROTECTIVE ORDER

Pursuant to Rule 4901-1-24, Ohio Administrative Code ("OAC"), Direct Energy Services, LLC, Direct Energy Business, LLC, Dominion Energy Solutions, Inc., Interstate Gas Supply, Inc., and SouthStar Energy Services, LLC (collectively, "Applicants") hereby move for a protective order from the discovery served upon them on December 29, 2017 by the Office of the Ohio Consumers' Counsel ("OCC"), whose motion to intervene in this proceeding is pending before the Commission. As more fully explained in the accompanying memorandum, Applicants respectfully submit that discovery is premature at this juncture and, thus, seek an order pursuant to Rule 4901-1-24(A)(1), OAC, that discovery not be had until the Commission determines the procedural course the above-styled joint application will take.

Rule 4901-1-24(B)(2), OAC, requires that a motion for a protective order be accompanied by copies of the discovery requests that are subject to the request for a protective order. Because Applicants' motion relates to all the interrogatories and requests for production contained in OCC's first set of discovery dated December 29, 2017, the entire first set of discovery has been attached hereto as Attachment A. The discovery served upon each of the

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Applicants is substantively identical. Thus, in the interests of economy and efficiency, Attachment A includes only a copy of the discovery requests served upon Dominion Energy Solutions, Inc.

As required by Rule 4901-1-24(B)(3), OAC, an affidavit of counsel setting forth the efforts that have been made to resolve this discovery issue with OCC is attached hereto as Attachment B.

Nothing in this motion shall be construed as a waiver of each individual Applicant's right to object to and/or seek protection from any discovery request contained in OCC's first set of discovery if and when the Commission determines that the discovery process should proceed.

WHEREFORE, Applicants respectfully request that their motion for a protective order be granted and that the Commission issue an order providing that Applicants are not required to respond to OCC's first set of discovery dated December 29, 2017 until such time as the Commission orders otherwise.

Respectfully submitted,

/s/ Scott Dismukes

(By BER per 1/16/18 Email Authorization)
Scott Dismukes (0071769)
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-6000 – Phone
(412) 566-6099 – Fax
sdismukes@eckertseamans.com – Email

Attorney for
Direct Energy Services, LLC and
Direct Energy Business, LLC



Barth E. Royer (0016999)
Barth E. Royer, LLC
2740 East Main Street
Bexley, Ohio 43209
(614) 817-1331 – Phone
(614) 817-1334 – Fax
BarthRoyer@aol.com – Email

Attorney for
Dominion Energy Solutions, Inc.

/s/ Michael A. Nugent

(By BER per 1/17/18 Email Authorization)

Michael A. Nugent (0090408)

6100 Emerald Parkway

Dublin, Ohio 43016

(614) 659-5065 – Phone

(614)-659-5070 – Fax

mnugent@igsenergy.com – Email

Attorney for

Interstate Gas Supply, Inc.

/s/ Andrew Emerson

(By BER per 1/16/18 Email Authorization)

Andrew Emerson (0071994)

Porter, Wright, Morris & Arthur

41 South High Street

Columbus, Ohio 43215

(614) 227-2104 – Phone

(614) 227-2100 – Fax

aemerson@porterwright.com – Email

Attorney for

SouthStar Energy Services, LLC

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of	:	
Direct Energy Services, LLC,	:	
Direct Energy Business, LLC,	:	
Dominion Energy Solutions, Inc.,	:	
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Rule 4901-29-06(E)(1) of the Ohio	:	
Administrative Code.	:	

MEMORANDUM IN SUPPORT
OF
APPLICANTS' JOINT MOTION FOR A PROTECTIVE ORDER

By the above-styled joint application filed November 15, 2017, Applicants seek a waiver of the provision of Rule 4901:1-29-06(E)(1), OAC, that appears to require third-party verification ("TPV") for telephonic enrollments by retail natural gas suppliers and governmental aggregators even if the entire call is recorded by the supplier or aggregator and the recording is archived and retained as required by Rule 4901:1-29-06(E)(2)(b), OAC. As indicated in the foregoing motion, OCC has served discovery on each of the Applicants, the responses to which are due January 18, 2018. For the reasons set forth below, this discovery is, at best, premature, and responding would subject Applicants to an undue burden and expense that may well prove unnecessary if the Commission determines that no evidentiary hearing is required in this matter.

The Commission rule governing applications for a waiver of a competitive retail natural gas service ("CRNGS") rule does not specify the process the Commission must follow in acting upon the waiver request. Rather, Rule 4901:1-29-02(C), OAC, merely states that "(t)he commission may, upon an application or a motion filed by a party, waive any requirement of this

chapter, other than a requirement mandated by statute, for good cause shown.” Thus, the process to be utilized for acting upon a waiver request is within the discretion of the Commission, an outcome consistent with the well-settled principle that the Commission has broad discretion to manage its dockets, including the discretion to determine how to best manage and expedite the orderly flow of its business, avoid undue delay, and eliminate unnecessary duplication of effort.¹ Accordingly, the Commission has multiple options for determining how an application for waiver should proceed, and has, in fact, utilized various different procedural tracks in the past.

First, the Commission may grant (or deny) an application for a waiver of a rule based solely on the contents of the application. Indeed, most rule waiver applications are handled in this fashion, with the Commission determining whether the application shows good cause for granting the waiver without the need for input from other parties.² Second, the Commission may call for comments on the application from interested parties to assist the Commission in determining if there is good cause granting the waiver request.³ Third, even if the Commission does not call for comments, the Commission may, nonetheless, consider matters raised in motions for leave to intervene and unsolicited comments filed in the docket in assessing whether good cause has been shown for granting a waiver.⁴ Finally, on those rare occasions where the

¹ See *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560 (1982); see also *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case No. 14-1693-EL-RDR (Opinion and Order dated March 31, 2016, at 10).

² See, e.g., *In the Matter of the Application of The Northeast Ohio Public Energy Council for a Waiver of Ohio Admin.Code 4901:1- 21-17(F)*, Case No. 16-2177-EL-WVR (Entry Dated November 9, 2016); *In the Matter of the Application of Swickard Gas Company for Waiver of the Requirement of Rule 4901:1-18-02(B)(3) of the Ohio Administrative Code*, Case No. 13-1452-GA-WVR (Finding and Order dated July 31, 2013).

³ See, e.g., *In the Matter of the Application of Ohio Power Company for a Waiver*, Case No. 16-1773-EL-WVR (Entry dated December 14, 2016).

⁴ See, e.g., *In the Matter of the Application of Columbia Gas of Ohio, Inc. for a Waiver of Ohio Administrative Code Section 4901:1-13-11(B)*, Case No. 16-653-GA-WVR (Entry dated July 20, 2016); *In the Matter of the Application of Duke Energy Ohio, Inc. for a Waiver*, Case No. 16-1017-EL-WVR (Entry dated June 13, 2016).

Commission deems that there are factual issues that must be resolved to determine if good cause exists for granting the waiver, the Commission may schedule an evidentiary hearing on the waiver request.⁵

The process selected by the Commission for acting upon a waiver request necessarily impacts the role of discovery in the proceeding. Discovery mechanisms are intended to permit parties to develop evidence in preparation for hearing.⁶ However, a party may seek Commission protection pursuant to Rule 4909-1-24, OAC, from discovery requests that would impose an undue burden or expense. Paragraph (A) of this rule provides:

(A) Upon motion of any party or person from whom discovery is sought, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order that is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that:

(1) Discovery not be had.

* * *

In this instance, the Commission has yet to determine the procedural course for this case. If the Commission ultimately finds that there is no need for a hearing – which is the norm in rule waiver request proceedings – responding to discovery, by definition, creates an unnecessary burden and expense for the Applicants. Simply stated, there is no need for discovery to prepare for a hearing if there is not going to be a hearing. Thus, the OCC discovery is premature at this juncture and Applicants should not be required to respond.

⁵ *In the Matter of the Application of Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio for 20018-2020*, Case Nos. 17-1398-EL-POR and 17-1399-EL-WVR (Entry dated September 29, 2017).

⁶ See Rule 4901-1-16(A)-(B), OAC.

Applicants would also point out that the primary thrust of their request for a waiver does not turn on any factual allegations that need to be explored in an evidentiary hearing. As discussed in detail in the application, there are numerous reasons to believe that the Commission did not actually intend to include a TPV requirement for telephonic enrollment in Rule 4901:1-29-06(E)(1), OAC, where the representations and customer acknowledgements have already been recorded by the supplier or aggregator.⁷ A finding that this rule, as adopted, is inconsistent with the Commission's intent and has unintended consequences would constitute good cause for granting the requested waiver. However, not only is this a question that only the Commission itself can answer, but no additional input or factual evidence is required to inform its answer. In this connection, it is important to note that nothing in OCC's filings in this docket address the question of whether the version of the telephonic enrollment rule that emerged from Case No. 12-925-GA-ORD was, in fact, consistent with the Commission's intent. Rather, notwithstanding that no participant in the rulemaking, including OCC, ever suggested that TPV should be required where the supplier or aggregator records the entire call, OCC now takes the position that the TPV requirement provides important additional protection to consumers. Although Applicants adamantly disagree with this assertion, this is an entirely separate question from the question of whether the adopted rule was actually consistent with the Commission's intent. If the answer to that question is no, good cause exists for granting the requested waiver, and no discovery is necessary.

The application also posits, in the alternative, that it may well be that the Commission never intended the TPV requirement to apply to enrollments generated by customer-initiated inbound calls because such calls would not include a sales pitch component, the recording of

⁷ See Joint Application, 5-10.

which was the objective of the rule change as described by the Commission in Case No. 12-925-GA-ORD.⁸ If this is the case, the application asks the Commission simply to clarify the point, which would mean that no waiver of the rule would be required and, thus, discovery would be unnecessary.

The application goes on to state that, even if the Commission did intend to impose a TPV requirement where the required verifications and customer acknowledgements had already been recorded by the supplier or aggregator, and even if the Commission did intend that the TPV requirement would apply to customer-initiated inbound calls, the Commission should still find that good cause exists for granting the requested waiver.⁹ In support of this proposition, the application alleges that the TPV requirement inconveniences prospective customers, adds significant costs to the enrollment process without adding any corresponding customer benefit, increases the chances that the enrollment will not be completed despite the customers stated desire to enter into a contract with the supplier, and has generated numerous customer complaints.¹⁰ Although many of OCC's interrogatories and requests for production of documents are objectionable on a variety of grounds, Applicants acknowledge that those that seek to elicit information relating to these allegations are within the scope of discovery contemplated by Rule 4901-1-16, OAC. However, unless and until the Commission determines that a hearing is required to provide evidence to support these allegations, Applicants should not be required to respond to these discovery requests.

⁸ See Joint Application, 11; *In the Matter of the Commission's Review of its Rules for Competitive Retail Natural Gas Service Contained in Chapters 4901:1-27 through 4901:1-34 of the Ohio Administrative Code*, Case No. 12-1925-GA-ORD (Finding and Order dated December 18, 2013, at 45) (Entry on Rehearing dated February 26, 2014, at 22).

⁹ See Joint Application, 10-11.

¹⁰ See Joint Application, 11-14.

As discussed above, the Commission has several procedural options for acting upon Applicants' application for a waiver. The Commission can determine that the application itself shows good cause for granting the waiver request and grant the waiver without further ado. The Commission can clarify that the TPV requirement was never intended to apply to customer-initiated enrollments via inbound calls, which would render the application for waiver moot. The Commission can call for comments by interested parties, and rule upon the application based on its evaluation of those comments.¹¹ Or, the Commission can find that there are factual issues that must be explored before acting upon the application and schedule the matter for hearing. Of these options, the last is the only one that triggers a need for discovery. Under these circumstances, it is unreasonable to expect Applicants to shoulder the burden of responding to discovery until the Commission determines the process it will utilize for acting upon the application.

WHEREFORE, Applicants respectfully request that their motion for a protective order be granted and that the Commission issue an order providing that Applicants are not required to respond to OCC's first set of discovery dated December 29, 2017 until such time as the Commission orders otherwise.

¹¹ In so stating, Applicants would point out that, although the application has been pending for two months, only OCC has moved to intervene, which would suggest that a call for comments may not be productive. OCC has stated its position in both its December 1, 2017 motion to intervene and its December 21, 2017 reply to Applicant's response to its motion to intervene. The Commission can, of course, consider the arguments made by OCC in those filings, but, because no other parties have expressed interest in the proceeding, it appears unlikely that a call for comments will generate additional information for the Commission's consideration.

Respectfully submitted,

/s/ Scott Dismukes

(By BER per 1/16/18 Email Authorization)

Scott Dismukes (0071769)
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-6000 – Phone
(412) 566-6099 – Fax
sdismukes@eckertseamans.com – Email

Attorney for
Direct Energy Services, LLC and
Direct Energy Business, LLC



Barth E. Royer (0016999)
Barth E. Royer, LLC
2740 East Main Street
Bexley, Ohio 43209
(614) 817-1331 – Phone
(614) 817-1334 – Fax
BarthRoyer@aol.com – Email

Attorney for
Dominion Energy Solutions, Inc.

/s/ Michael A. Nugent

(By BER per 1/17/16 Email Authorization)

Michael A. Nugent (0090408)
6100 Emerald Parkway
Dublin, Ohio 43016
(614) 659-5065 – Phone
(614)-659-5070 – Fax
mnugent@igsenergy.com – Email

Attorney for
Interstate Gas Supply, Inc.

/s/ Andrew Emerson

(By BER per 1/16/18 Email Authorization)

Andrew Emerson (0071994)
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215
(614) 227-2104 – Phone
(614) 227-2100 – Fax
aemerson@porterwright.com – Email

Attorney for
SouthStar Energy Services, LLC

ATTACHMENT A

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of)	
Direct Energy Services, LLC,)	Case No. 17-2358-GA-WVR
Direct Energy Business, LLC,)	
Dominion Energy Solutions, Inc.,)	
Interstate Gas Supply, Inc., and)	
SouthStar Energy Services, LLC)	
for a Waiver of a Provision of Rule)	
4901:1-29-06(E) of the Ohio)	
Administrative Code.)	

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED UPON
DOMINION ENERGY SOLUTIONS, INC. BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

**FIRST SET
(December 29, 2017)**

The Office of the Ohio Consumers' Counsel, in the above-captioned proceeding before the Public Utilities Commission of Ohio, submits the following Interrogatories and Requests for Production of Documents under Ohio Adm. Code 4901-1-19, 4901-1-20, and 4901-1-22 for response from Dominion Energy Solutions, Inc. ("Dominion" or "Company") within 20 days. An electronic, non-pdf (e.g., Microsoft Word) response should be provided to the Office of the Ohio Consumers' Counsel at the following address:

Terry L. Etter
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4213
Telephone: (614) 466-7964 (Etter direct)
Terry.etter@occ.ohio.gov

Additionally, Dominion must follow the instructions provided herein in responding to the inquiries. Definitions used in the Office of the Ohio Consumers' Counsel's discovery are provided below.

DEFINITIONS

As used herein, the following definitions apply:

1. "Document" or "Documentation," when used herein, is used in its customary broad sense and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control, regardless of where located, including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or

reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced, but drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. "Communication" shall mean any transmission of information by oral, graphic, written, pictorial, electronic, or otherwise perceptible means, including, but not

limited to, telephone conversations, emails, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.

3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” and “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. “You,” “Your,” and “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders and vice versa. Words expressing the past tense shall be deemed to express the present tense and vice versa.
8. “Person” includes any firm, corporation, partnership, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” “the identity of,” and “identified” mean as follows:

- A. When used in reference to an individual, to state his full name, his present or last known position and business affiliation, and his position and business affiliation at the time in question;
- B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
- C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;
- D. When used in reference to a communication, (i) to state the type of communication (e.g., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto; and (ii) in the case of a conversation, to state the substance, place, and approximate time thereof and identity of other persons in the presence of each party thereto;
- E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
- F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (e.g., a room number, file cabinet, and/or file designation).

10. The terms “PUCO” and “Commission” refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General’s Office), and offices.
11. The term “e.g.” connotes illustration by example, not limitation.
12. “OCC” means the Office of the Ohio Consumers’ Counsel.
13. “Dominion” or “Company” means Dominion Energy Solutions, Inc.
14. “Application” means the application filed in this case on November 15, 2017.
15. “Applicants” refers to Direct Energy Services, LLC, Direct Energy Business, LLC, Dominion Energy Solutions, Inc., Interstate Gas Supply, Inc., and SouthStar Energy Services, LLC.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged that is in your possession or control or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization is requested to produce responsive materials and information within its physical control or custody, as well as materials and information physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. Other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files;
 - D. Such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in Ccf may be provided in Bcf or Dth as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2004 through and including the date of your response.
9. Responses must be complete when made and must be supplemented with subsequently-acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (*i.e.*, provide a privilege log). Respondent to the discovery must (a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, (b) identify all persons to whom the information has

already been revealed, and (c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

11. To the extent that any interrogatory requests the production of documents, such interrogatory shall be treated as a request for the production of documents, and such documents shall be produced as if the interrogatory were designated a request for the production of documents.
12. To the extent that any request the production of documents seeks an interrogatory response (in addition to, or in place of, a request for a document), such request for the production of a documents shall be treated as an interrogatory, and such request shall be responded to as if it were designated an interrogatory.
13. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Application.

INTERROGATORIES

*In accordance with Ohio Adm. Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently acquired information at the time such information is available.

INT-1-001. Is Dominion one of the Applicants referenced in the first sentence of paragraph 7 of the Application?

RESPONSE:

INT-1-002. If the response to INT-1-001 is affirmative, when did Dominion first notice that Ohio Adm. Code 4901:1-29-06(E) could be interpreted to mean that third party verification was required for telephonic enrollment even if the competitive retail natural gas supplier had recorded the entire call involving telephonic enrollment of a customer?

RESPONSE:

INT-1-003. If the response to INT-1-001 is negative, when did Dominion first notice that Ohio Adm. Code 4901:1-29-06(E) could be interpreted to mean that third party verification was required for telephonic enrollment even if the competitive retail natural gas supplier had recorded the entire call involving telephonic enrollment of a customer?

RESPONSE:

INT-1-004. Referring to paragraph 7 of the Application, has Dominion engaged an independent third-party verifier to corroborate that the representations and customer acknowledgements required by Ohio Adm. Code 4901:1-29-06(E)(1) are made during telephonic enrollment of a customer?

RESPONSE:

INT-1-005. If Dominion's response to INT-1-004 is affirmative, what is the name of each third-party verifier engaged by Dominion to corroborate that the representations and customer acknowledgements required by Ohio Adm. Code 4901:1-29-06(E)(1) are made during telephonic enrollment of a customer?

RESPONSE:

INT-1-006. Regarding each third-party verifier identified in Dominion's response to INT-1-005, when did Dominion engage the third-party verifier to corroborate that the representations and customer acknowledgements required by Ohio Adm. Code 4901:1-29-06(E)(1) are made during telephonic enrollment of a customer?

RESPONSE:

INT-1-007. Regarding each third-party verifier identified in Dominion's response to INT-1-005, was the third-party verifier already under contract with Dominion? If the answer is affirmative, what other services does the third-party verifier provide for Dominion?

RESPONSE:

INT-1-008. Regarding each third-party verifier identified in Dominion's response to INT-1-005, does the third-party verifier provide verification services for Dominion in any of the other states in which Dominion markets its service? If the answer is affirmative, in which states or provinces does the third-party verifier provide verification services for Dominion?

RESPONSE:

INT-1-009. Regarding each third-party verifier identified in Dominion's response to INT-1-005, how much does Dominion pay the third-party verifier to corroborate that the representations and customer acknowledgements required by Ohio Adm. Code 4901:1-29-06(E)(1) are made during telephonic enrollment of a customer? If the third-party verifier is under contract with Dominion to provide other services or third-party verification in other states, please provide the cost that is allocated to corroborating that the representations and customer acknowledgements required by Ohio Adm. Code 4901:1-29-06(E)(1) are made during telephonic enrollment of a customer.

RESPONSE:

INT-1-010. Regarding the dollar amounts identified in Dominion's response to INT-1-009, does Dominion collect the cost of the third-party verifier(s) from its Ohio customers?

RESPONSE:

INT-1-011. If Dominion's response to INT-1-010 is affirmative, how does Dominion collect the cost identified in its response to INT-1-009 from its Ohio customers (i.e., as a usage charge, as a per-customer charge, etc.)?

RESPONSE:

INT-1-012. Regarding Dominion's response to INT-1-011, what is the amount that Dominion collects from each of its Ohio customers to offset the cost identified in its response to INT-1-009?

RESPONSE:

INT-1-013. Referencing paragraph 13 of the Application, what "internal protocols" did Dominion have to revise in order to comply with Ohio Adm. Code 4901:1-29-06(E)(1)?

RESPONSE:

INT-1-014. What revisions did Dominion make to the "internal protocols" identified in its response to INT-1-013?

RESPONSE:

INT-1-015. What was the cost of the revisions to Dominion's "internal protocols" identified in its response to INT-1-014?

RESPONSE:

INT-1-016. Does Dominion collect the cost of the revisions to its “internal protocols” identified in its response to INT-1-015 from its Ohio customers?

RESPONSE:

INT-1-017. If Dominion’s response to INT-1-016 is affirmative, how does Dominion collect the cost identified in its response to INT-1-015 from its Ohio customers (i.e., as a usage charge, as a per-customer charge, etc.)?

RESPONSE:

INT-1-018. Regarding Dominion’s response to INT-1-017, what is the amount that Dominion collects from each of its Ohio customers to offset the cost identified in its response to INT-1-015?

RESPONSE:

INT-1-019. Regarding paragraph 18 of the Application, how many complaints concerning the third-party verification process in Ohio Adm. Code 4901:1-29-06(E)(1) has Dominion received from residential consumers who called Dominion in response to a marketing offer since the rule became effective on December 1, 2016?

RESPONSE:

INT-1-020. Regarding paragraph 18 of the Application, how many residential consumers who called Dominion in response to a marketing offer became disenchanted with the third-party verification process and terminated the call since December 1, 2016?

RESPONSE:

INT-1-021. How many residential consumers who called Dominion in response to a marketing offer have gone through the third-party verification process since December 1, 2016?

RESPONSE:

INT-1-022. Paragraph 19 of the Application identifies two call center processes for complying with Ohio Adm. Code 4901:1-29-06(E)(1) if a company provides both natural gas and electric service: equipping the call center representatives to manage two sets of pre-enrollment protocols; or applying third-party verification to both natural gas and electric enrollments. Does Dominion use one of these processes? If so, which one? If not, what process does Dominion use?

RESPONSE:

INT-1-023. What additional costs did Dominion incur in using the process identified in its response to INT-022?

RESPONSE:

INT-1-024. What was the amount of cost incurred by Dominion in using the process identified in its response to INT-022?

RESPONSE:

INT-1-025. Does Dominion collect the cost identified in its response to INT-1-024 from its Ohio customers?

RESPONSE:

INT-1-026. If Dominion's response to INT-1-025 is affirmative, how does Dominion collect the cost identified in its response to INT-1-024 from its Ohio customers (i.e., as a usage charge, as a per-customer charge, etc.)?

RESPONSE:

INT-1-027. Regarding Dominion's response to INT-1-026, what is the amount that Dominion collects from each of its Ohio customers to offset the cost identified in its response to INT-1-024?

RESPONSE:

INT-1-028. Are there any other costs involved in complying with the third-party verification requirements of Ohio Adm. Code 4901:1-29-06(E) that have not been addressed in INT-1-001 through INT-1-027?

RESPONSE:

INT-1-029. If the response to INT-1-028 is affirmative, please provide the following information for each cost:

- a. The nature of the cost.
- b. The dollar amount of the cost.
- c. Whether Dominion collects the cost from its Ohio customers.
- d. How Dominion collects the cost from its Ohio customers (e.g., as a usage charge, as a per-customer charge, etc.).
- e. The amount that Dominion collects from each of its Ohio customers to offset the cost identified in INT-1-029.b.

RESPONSE:

INT-1-030. Does Dominion track on a monthly basis the number of its customers who are being billed natural gas prices that exceed the Standard Choice Offer (“SCO”) rate being charged by the natural gas company?

RESPONSE:

INT-1-031. Does Dominion contact its customers who are paying rates that exceed the SCO and offer lower rates for its competitive natural gas services?

RESPONSE:

INT-1-032. Does Dominion charge an early termination fee for its customers who are being charged natural gas prices that exceed the SCO and wish to return to the SCO?

RESPONSE:

INT-1-033. Does Dominion charge an early termination fee for its customers who are being charged natural gas prices that exceed the SCO and wish to switch to another Dominion offer?

RESPONSE:

REQUESTS FOR THE PRODUCTION OF DOCUMENTS

*In accordance with Ohio Adm. Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently acquired information at the time such information is available.

- RPD-1-001. Please provide copies of all formal and informal requests (e.g., interrogatories, requests for documents and informal data requests) propounded upon Dominion with respect to this proceeding, by the PUCO, PUCO Staff, and/or the PUCO's Attorneys, and Dominion's response to each request.
- RPD-1-002. Please provide a copy of all discovery requests received by Dominion from parties other than the PUCO, PUCO Staff, or the PUCO's Attorneys in this proceeding, and Dominion's response to each request.
- RPD-1-003. Please provide a copy of the contract between Dominion and each third-party verifier identified in Dominion's response to INT-1-005.
- RPD-1-004. Please provide all documentation that supports the cost of the revisions to Dominion's "internal protocols" identified in the response to INT-1-015.
- RPD-1-005. Please provide all documentation Dominion used as a basis for its response to INT-1-019.

- RPD-1-006. Please provide all documentation Dominion used as a basis for its response to INT-1-020.
- RPD-1-007. Please provide all documentation Dominion used as a basis for its response to INT-1-021.
- RPD-1-008. Please provide all documentation Dominion used as a basis for its response to INT-1-024.
- RPD-1-009. For each cost identified in Dominion's response to INT-1-29.a., please provide all documentation Dominion used as a basis for its response to INT-1-029.b.
- RPD-1-010. Please provide a copy of the marketing materials that are sent to consumers via direct mail that prompt customers to contact Dominion to establish a contract for competitive natural gas service.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Interrogatories and Requests for Production of Documents Propounded Upon Dominion Energy Solutions, Inc. by the Office of the Ohio Consumers' Counsel, First Set, was served upon the persons listed below via electronic transmission this 29th day of December 2017.

/s/ Terry L. Etter
Terry L. Etter
Assistant Consumers' Counsel

SERVICE LIST

William.wright@ohioattorneygeneral.gov	sdismukes@eckertseamans.com
	BarthRoyer@aol.com
	mnugent@igsenergy.com
	aemerson@porterwright.com

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of :
Direct Energy Services, LLC, :
Direct Energy Business, LLC, :
Dominion Energy Solutions, Inc., :
Interstate Gas Supply, Inc., and : Case No. 17-2358-GA-WVR
SouthStar Energy Services, LLC :
for a Waiver of a Provision of :
Rule 4901-29-06(E)(1) of the Ohio :
Administrative Code. :

AFFIDAVIT OF COUNSEL

State of Ohio :
: SS
County of Franklin :


I, Barth E. Royer, being first duly sworn, hereby state and aver as follows:

1. I am counsel of record for Dominion Energy Solutions, Inc. ("DES"), an applicant in the above-styled proceeding.
2. On December 29, 2017, the Office of the Ohio Consumers' Council ("OCC"), served substantively identical discovery on DES and each of the other named applicants in this matter (collectively, with DES, "Applicants").
3. Applicants have taken the position that, because the Commission has not yet established the process to be followed in acting upon the application, discovery is premature at this juncture.
4. I was authorized by the Applicants to contact OCC to attempt to secure its agreement that Applicants should not be required to respond to the OCC discovery until the Commission determines the procedural course for the case.
5. I spoke by telephone with Terry L. Etter, counsel of record for OCC in this matter, on January 17, 2018 to determine if OCC would agree that Applicants should not be required to respond to its discovery at this juncture.

6. Attorney Etter advised me advised me that OCC was not receptive to Applicants' proposal.
7. I have prepared this affidavit for submission with the foregoing motion for a protective order as required by Rule 4901-1-24(B)(3), Ohio Administrative Code.


Barth E. Royer

Sworn to and subscribed before me a Notary Public for said County and State, on this 17th day of January 2018.


Notary Public
JOHN C. BARRIO
Notary Public, State of Ohio
My Commission Has No Expiration

Certificate of Service

I hereby certify that a copy of the foregoing was served by electronic mail on the following parties this 17th day of January 2018.


Barth E. Royer

Terry L. Etter
Assistant Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4213
terry.etter@occ.ohio.gov