

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|----------------------------------------------|---|------------------------|
| In the Matter of the Complaint of Interstate |) | |
| Gas Supply, Inc. d/b/a IGS Energy, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | Case No. 19-362-GE-CSS |
| |) | |
| Santanna Natural Gas Corporation d/b/a |) | |
| Santanna Energy Services, |) | |
| |) | |
| Respondent. |) | |

ANSWER OF SANTANNA NATURAL GAS CORPORATION

On February 1, 2019, Interstate Gas Supply, Inc. (IGS or Complainant) filed a complaint (Complaint) with the Public Utilities Commission of Ohio (Commission) against Santanna Natural Gas Corporation d/b/a Santanna Energy Services (Santanna or Respondent), which alleged that Santanna has engaged in acts or practices that violate Ohio law in advertising its products and soliciting customers.

Pursuant to R.C. 4905.26 and Ohio Adm. Code 4901-9-01, Santanna hereby answers the statements and allegations of the Complaint filed by IGS and asserts its affirmative defenses to the same as follows:

PARTIES

1. Santanna is without sufficient knowledge or information to form a belief as to the truth of the statements contained in Paragraph 1 of the Complaint. As for the cited provisions of the Ohio Revised Code, Santanna avers that those provisions speak for themselves.

2. Santanna admits the statements contained in Paragraph 2 of the Complaint. As for the cited provisions of the Ohio Revised Code, Santanna avers that those provisions speak for themselves.

3. The statements or allegations in Paragraph 3 of the Complaint are not in a form that allows Santanna to admit or deny the statements or allegations contained therein. However, Santanna denies that all actions of all of its purported officers, owners, members, directors, employees, salespersons, representatives, contractors, and/or other agents can be imputed to Santanna and considered an act or practice of Santanna under Ohio law.

JURISDICTION

4. Santanna denies that the Commission has jurisdiction over all claims and relief asserted in the Complaint. Specifically, Santanna denies that the Commission has statutory authority to afford IGS all of the relief that it seeks through this Complaint and the Commission lacks statutory authority over agency law. As for the cited provisions of the Ohio Revised Code, Santanna avers that those provisions speak for themselves.

BACKGROUND

5. Santanna is without sufficient knowledge or information to form a belief as to the truth of the statements contained in Paragraph 5 of the Complaint. Different electric suppliers and natural gas suppliers market their products and services in different ways. As for the reference to “Ohio’s consumer ‘choice’ program,” the program speaks for itself and how each supplier implements the program will vary with supplier.

6. Santanna admits the statements or allegations contained in Paragraph 6 of the Complaint.

7. The statements or allegations in Paragraph 7 of the Complaint are not in a form that allows Santanna to admit or deny the statements or allegations contained therein.

8. Santanna denies the allegations contained in Paragraph 8 of the Complaint.

9. Santanna admits that it is not affiliated with any entity named “IDS Energy.” Santanna is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 9 of the Complaint.

10. Santanna denies the allegations in Paragraph 10 of the Complaint.

11. Santanna denies the allegations in Paragraph 11 of the Complaint.

12. Santanna denies the allegations in Paragraph 12 of the Complaint.

13. Santanna denies the allegations in Paragraph 13 of the Complaint.

DEFENSE OF FIRST CLAIM

14. Santanna incorporates by reference its admissions and denials contained in the previous sections of this answer and asserts them in response to the allegations in Paragraph 14 of the Complaint as if fully set forth herein.

15. Santanna denies the allegations in Paragraph 15 of the Complaint.

16. Santanna denies the allegations in Paragraph 16 of the Complaint.

DEFENSE OF SECOND CLAIM

17. Santanna incorporates by reference its admissions and denials contained in the previous sections of this answer and asserts them in response to the allegations in Paragraph 17 of the Complaint as if fully set forth herein.

18. Santanna denies the allegations in Paragraph 18 of the Complaint.

19. Santanna denies the allegations in Paragraph 19 of the Complaint.

DEFENSE OF THIRD CLAIM

20. Santanna incorporates by reference its admissions and denials contained in the previous sections of this answer and asserts them in response to the allegations in Paragraph 20 of the Complaint as if fully set forth herein.

21. Santanna denies the allegations in Paragraph 21 of the Complaint. As for the referenced rules contained in the Ohio Administrative Code, Santanna avers that those rules speak for themselves.

22. There is no allegation set forth in Paragraph 22 as the Complaint does not contain a Paragraph 22.

DEFENSE OF FOURTH CLAIM

23. Santanna incorporates by reference its admissions and denials contained in the previous sections of this answer and asserts them in response to the allegations in Paragraph 23 of the Complaint as if fully set forth herein.¹

24. Santanna denies the allegations in Paragraph 24 of the Complaint. As for the referenced rules contained in the Ohio Administrative Code, Santanna avers that those rules speak for themselves.

DEFENSE OF FIFTH CLAIM

25. Santanna incorporates by reference its admissions and denials contained in the previous sections of this answer and asserts them in response to the allegations in Paragraph 25 of the Complaint as if fully set forth herein.

¹ Santanna notes that the Complaint does not contain a Paragraph 22.

26. Santanna denies the allegations in Paragraph 26 of the Complaint. As for the referenced rules contained in the Ohio Administrative Code, Santanna avers that those rules speak for themselves.

AFFIRMATIVE DEFENSES

1. IGS's claims are barred, in whole or part, for failure to state claims upon which relief can be granted by the Commission or under Ohio law. See R.C. 4905.26, 4928.16, and 4929.24.

2. IGS's claims are barred, in whole or part, for failure to set forth reasonable grounds for a Complaint as required by R.C. 4905.26 and Ohio Adm. Code 4901-9-01.

3. IGS's claims are barred, in whole or in part, for failure to demonstrate how any service rendered by Santanna is unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law as required by R.C. 4905.26.

4. IGS's claims are barred, in whole or in part, for failure to assert factual allegations that sustain its claims as required by Ohio Adm. Code 4901-9-01(B).

5. Santanna asserts as an affirmative defense that IGS failed to produce any evidence to substantiate its claims.

6. Santanna asserts as an affirmative defense that it has never conducted business, or authorized another party to conduct business on its behalf, using the telephone numbers listed in Paragraph 8 of the Complaint.

7. Santanna asserts as an affirmative defense that it has never conducted business, or authorized another party to conduct business on its behalf, using the name IDS Energy or any other name that is not Santanna.

8. Santanna asserts as an affirmative defense that it has not solicited customers, or authorized another party to solicit customers on its behalf, using misleading, deceptive, or unconscionable sales and marketing practices that violate Ohio law.

9. Santanna asserts as an affirmative defense that IGS has not sustained damages.

10. Even assuming that a third party vendor of Santanna's acted in a misleading or deceptive manner, Santanna asserts as an affirmative defense that it is not responsible for the intentional torts committed by rogue contractors to further their own personal interests in explicit violation of agreements between Santanna and those rogue contractors. See, e.g., *Clark v. Southview Hospital and Family Health Center*, 68 Ohio St.3d 435, 438, 628 N.E. 46 (1994).

11. Santanna asserts as an affirmative defense the "doctrine of unclean hands" and avers that IGS has engaged in deceptive, misleading, fraudulent, and/or retaliatory conduct in an attempt to persuade Santanna's customers to accept offers from IGS. Thus, IGS has engaged in reprehensible conduct regarding the subject matter of this Complaint and is barred from asserting these claims under the doctrine of unclean hands. See *State ex rel. Coughlin v. Summitt Cty. Bd. of Election*, 2013-Ohio-3867, 136 Ohio St.3d 371, 995 N.E.2d 1194, ¶ 16.

12. IGS's claims are barred, in whole or part, because the Commission does not have legal authority to award the relief, including equitable relief, that IGS seeks. See *Columbus S. Power Co. v. Pub. Util. Comm.*, 67 Ohio St.3d 535, 537, 620 N.E.2d 835 (1993) (The Commission is "a creature of statute and may exercise only that jurisdiction conferred upon it by the General Assembly." (internal citations omitted)).

13. IGS's claims are barred, in whole or part, because the Commission does not have legal authority to award treble damages as the Complaint requests. See R.C. 4905.61.

14. IGS's claims are barred, in whole or part, because IGS's Complaint is essentially a form replication of a complaint it filed against another entity in 2017.² The Complaint does not "clearly explain[] the facts which constitute the basis for the complaint" in violation of Ohio Adm. Code 4901-9-01, and is rather an attempt by IGS to eliminate competition through a frivolous Complaint. Accordingly, the Commission should assess sanctions against IGS pursuant to Ohio Adm. Code 4905.54.

15. Santanna asserts as an affirmative defense that IGS' frivolous, cookie-cutter complaint has or will harm its reputation, causing a decline in its Ohio sales and revenue.

² See *In the Matter of the Complaint of Interstate Gas Supply, Inc. v. Titan Gas LLC*, Case No. 17-2452-GE-CSS, Complaint of Interstate Gas Supply, Inc.

PRAYER FOR RELIEF

WHEREFORE, Santanna respectfully requests that the Commission grant the following relief:

1. Deny IGS the relief that it seeks.
2. Dismiss the Complaint for its failure to state a claim upon which relief can be granted.
3. Assess sanctions against IGS for its frivolous actions.
4. Award any other just and equitable relief to Santanna that the Commission deems to be appropriate.

Respectfully submitted,



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Attorneys for Santanna Natural Gas Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on February 21, 2019.



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Summary: Answer Of Santanna Natural Gas Corporation electronically filed by Mrs. Kimberly W. Bojko on behalf of Santanna Natural Gas Corporation