

7
FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

2008 JAN 15 PM 4:16

PUCO

In the Matter of the Application of the :
East Ohio Gas Company d/b/a Dominion :
East Ohio for Approval of a General :
Exemption of Certain Natural Gas :
Commodity Sales Services or Ancillary :
Services. :

Case No. 07-1224-GA-EXM

MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.

By the above-styled application, the East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") seeks approval of exemptions from certain provisions of the Ohio Revised Code to permit DEO to implement Phase 2 of its plan to exit the merchant function. *See Dominion East Ohio*, Case No. 05-474-GA-ATA. As a part of its application, DEO seeks authority to conduct auctions for Standard Service Offer ("SSO") and Standard Choice Offer ("SCO") commodity sales services, with the winning competitive retail natural gas service ("CRNGS") suppliers in the SCO auction to be awarded the right to serve specific Choice-eligible customers, as opposed to the tranches of wholesale load awarded to winning wholesale suppliers in the SSO auction.

Dominion Retail, Inc. ("Dominion Retail") is a Commission-certified CRNGS provider authorized to offer competitive retail natural gas service to customers within the area served by DEO. As such, Dominion Retail has a real and substantial interest in this proceeding, and may be adversely affected by the ultimate disposition of the issues involved. Accordingly, Dominion Retail hereby moves to intervene pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code ("OAC").

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician 2 Date Processed 1/15/08

As more fully discussed in the accompanying memorandum, Dominion Retail is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect its interests. Further, Dominion Retail's interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceedings or unjustly prejudicing any existing party.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



Barth E. Royer (Counsel of Record)
BELL &, ROYER CO., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3900
(614) 228-0704 – Phone
(614) 228-0201 – Fax
BarthRoyer@aol.com – Email

Gary A. Jeffries
Senior Counsel
Dominion Resources Services, Inc.
501 Martindale Street, Suite 400
Pittsburgh, PA 15212-5817
412-237-4729 – Phone
412-237-4782 -- Fax
Gary.A.Jeffries@dom.com - Email

Attorneys for Dominion Retail, Inc.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the	:	
East Ohio Gas Company d/b/a Dominion	:	
East Ohio for Approval of a General	:	Case No. 07-1224-GA-EXM
Exemption of Certain Natural Gas	:	
Commodity Sales Services or Ancillary	:	
Services.	:	

MEMORANDUM IN SUPPORT
OF
MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.

Section 4903.221, Revised Code, provides that any "person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding." As a CRNGS provider currently operating on DEO's system, and as a potential bidder in the proposed SCO auction, there can be no question that Dominion Retail may be adversely affected if the processes and procedures ultimately approved by the Commission in this case are not structured to create and sustain a more competitive commodity market in the area served by DEO. Moreover, not only does Dominion Retail satisfy the underlying statutory test, but it also satisfies the standards governing intervention set forth in the Commission's rules.

Rule 4901-1-11(A), OAC, provides, in pertinent part, as follows:

(A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his ability to protect that interest, unless the person's interest is adequately represented by existing parties.

As a CRNGS supplier, Dominion Retail plainly has a real and substantial interest in a proceeding that will impact a market in which it must compete. At this juncture, none of the pending motions to intervene in this proceeding have been granted. Thus, by definition, no existing parties adequately represent Dominion Retail's interest.

Although Dominion Retail does not believe this to be a close question, each of the specific considerations that the Commission, pursuant to Rule 4901-1-11(B), OAC, must take into account in applying the Rule 4901-1-11(A)(2), OAC, standard also fully support granting Dominion Retail's motion to intervene. Rule 4901-1-11(B), OAC, provides as follows:

In deciding whether to permit intervention under paragraph (A)(2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner case shall consider:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties;

First, as previously explained, Dominion Retail's interest in connection with the proposals contained in DEO's application is obviously direct and substantial. Second, although Dominion Retail must necessarily await further developments before determining the specific positions it will adopt with respect to the issues in this proceeding, Dominion Retail will certainly advocate that the processes and procedures ultimately adopted as a result of this application be structured in a manner that does not hinder the development of effective retail

competition in DEO's service area. Third, in view of the fact that the proceeding has just commenced, granting Dominion Retail's motion to intervene will not unduly delay or prolong the proceeding. Fourth, Dominion Retail has been a frequent participant in cases involving the establishment of competitive electric and gas markets in Ohio and the numerous other states in which it does business. Thus, Dominion Retail will bring substantial experience to bear on the issues raised. Finally, not only are there no existing parties that represent Dominion Retail's interest, but it would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its proceedings" (*see, e.g., Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2) to apply the Rule 4901-1-11(B)(5) standard in a manner that would favor certain CRNGS providers or potential bidders over others. Thus, granting Dominion Retail intervenor status is consistent with all the considerations set out in Rule 4901-1-11(B), OAC.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



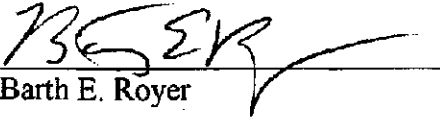
Barth E. Royer (Counsel of Record)
BELL &, ROYER CO., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3900
(614) 228-0704 – Phone
(614) 228-0201 – Fax
BarthRoyer@aol.com – Email

Gary A. Jeffries
Senior Counsel
Dominion Resources Services, Inc.
501 Martindale Street, Suite 400
Pittsburgh, PA 15212-5817
412-237-4729 – Phone
412-237-4782 -- Fax
Gary.A.Jeffries@dom.com

Attorneys for Dominion Retail, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, this 15th day of January 2008.


Barth E. Royer

Mark A. Whitt
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114-1190

Jean A. Demarr
Dominion East Ohio
1201 East 55th Street
Cleveland, Ohio 44101

Janine L. Migden-Ostrander
Joseph P. Serio
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

David C. Rinebolt
Ohio Partners for Affordable Energy
337 South Main St., 4th Fl., Suite 5
P.O. Box 1793
Findlay OH 45839-1793

Daniel J. Neilsen.
McNees Wallace & Nurick LLC
21 East State St., 17th Fl.
Columbus OH 43215