

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of
Vectren Energy Delivery of Ohio, Inc.
for Approval of a General Exemption of
Certain Natural Gas Commodity Sales
Services or Ancillary Services from
Chapters 4905, 4909, and 4935 except
Sections 4905.10, 4935.01, and 4935.03,
and from specified sections of Chapter 4933
of the Revised Code.

Case No. 07-1285-GA-EXM

REPLY OF
DOMINION RETAIL, INC.
TO
COMMENTS OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

By its opinion and order in this docket of April 30, 2008, this Commission approved a Joint Stipulation and Recommendation ("Stipulation") executed by the applicant, Vectren Energy Delivery of Ohio, Inc. ("VEDO"), and numerous other stakeholder participants in this proceeding. The Stipulation, which was not opposed by any party to the case, provided, *inter alia*, for a Standard Sales Offer ("SSO") auction, to be followed by two Standard Choice Offer ("SCO") auctions. Based on experience gained from the VEDO SSO auction and an assessment of SCO auctions that had been conducted by other companies, VEDO and a majority of the signatories to the Stipulation submitted an Amendment to Joint Stipulation and Recommendation ("Stipulation Amendment") on September 23, 2009 proposing certain limited refinements to the administrative, procedural, and operational aspects of the SCO as originally approved.

On October 26, 2009, the Office of the Ohio Consumers' Counsel ("OCC"), which was a signatory to the original Stipulation, filed a document styled "Comments on the Standard

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Contract Offer Modification” (the “OCC Comments”). However, rather than addressing any of the specific changes proposed in the Amended Stipulation, the OCC Comments urge the Commission to “reject the SCO modification and instead direct Vectren to conduct its next scheduled auction as an SSO or wholesale auction.”¹ Dominion Retail, Inc. (“Dominion Retail”), an intervenor in this proceeding, hereby submits its reply to the OCC Comments.

Dominion Retail fully supports the arguments advanced by VEDO and the Ohio Gas Marketers’ Group (“OGMG”) in their respective replies to the OCC Comments filed herein on October 28, 2009 and November 2, 2009, and will not repeat those arguments here. However, there are two points raised by VEDO and OGMG that warrant additional emphasis.

First, as suggested above, the basis for OCC’s request that the Commission order VEDO to conduct its next auction as an SSO auction rather than and SCO auction – a concern regarding the impact of the difference between the gross receipts tax rate applicable in the SSO setting and the sales tax rate applicable in the SCO scenario – is totally unrelated to any change proposed in the Stipulation Amendment. Rather, OCC is requesting the Commission to undo the Stipulation itself, notwithstanding that OCC was a signatory to that document. Plainly, this is procedurally improper, and is tantamount to an untimely application for rehearing. Although OCC cites excerpts from the Stipulation, the Commission’s April 30, 2008 opinion and order, and the testimony of staff witness Puican for the proposition that the Commission has the authority to prevent the SCO auction from proceeding,² nothing in these passages can conceivably be construed as authority for the Commission to reject the SCO auction process it has already approved before the results of an SCO auction are known.

¹ OCC Comments, 8.

² OCC Comments, 2-4.

Second, although OCC is obviously correct that the sales tax associated with SCO service will result in higher bills to customers than if the sales tax did not apply, the fact that the sales tax rate may be higher than the gross receipts tax applicable to VEDO in the SSO setting does not mean, as OCC would have it, that customers will necessarily pay more for SCO service than for SSO service. The example bill calculations that OCC offers to support this claim are based on the unfounded assumption that an SSO auction price and an SCO auction price will be identical.³ Although the SCO auction price cannot be known in advance, as OGMG correctly points out, the Dominion East Ohio (“DEO”) SCO auction produced considerable savings for customers, notwithstanding the fact that the SCO service was subject to the sales tax.⁴ Indeed, in attempting to brush aside this clear evidence, OCC merely states that the DEO SCO auction “resulted in a lower Retail Price Adjustment (“RPA”) for residential customers; however, the lower RPA was in part offset by the higher sales tax rate imposed by the SCO auction.”⁵ Would SCO customer bills be lower if no sales tax applied? Of course, but this is not something within this Commission’s control.

In any event, the point is that the Commission has the authority to reject the results of the SCO auctions if it believes those results are not in the public interest. However, OCC is now asking the Commission to scuttle the SCO auction process in its entirety without knowing whether the customers it purports to represent will realize the savings from it. Not only is the OCC request untimely for the reasons explained above, but the arguments in support of the remedy sought are not supported by fact or logic.

³ OCC Comments, 6-7.

⁴ OGMG Reply, 3.

⁵ OCC Comments, 2.

WHEREFORE, Dominion Retail urges the Commission to reject the OCC request that the SCO auction not be permitted to proceed in accordance with the Stipulation and the Commission's April 30, 2008 opinion and order in this matter.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following parties by first-class US mail, postage prepaid, and by electronic mail, this 3rd day of November 2009.


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