

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Notice of Material)	
Default Served by The East Ohio Gas)	15-1894-GA-UNC
Company d/b/a Dominion East Ohio upon)	
Energy 95, LLC d/b/a Quake Energy, LLC)	

**MOTION FOR TEMPORARY WAIVER AND MEMORANDUM IN SUPPORT
OF THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO**

I. MOTION FOR TEMPORARY WAIVER

In accordance with Ohio Adm. Code 4901-1-12(A) and Ohio Adm. Code 4901:1-29-02(C), The East Ohio Gas Company d/b/a Dominion East Ohio (DEO or the Company) requests that the Commission grant a temporary waiver from the following provision of Ohio Adm. Code 4901:1-29-13(C): “Natural gas companies shall make eligible-customer lists available to certified retail natural gas suppliers . . . via electronic media.” DEO seeks this waiver only with respect to pending or future requests received from Energy 95, LLC d/b/a Quake Energy, LLC (Quake) for the eligible-customer list and only until the resolution of the proceeding initiated by DEO’s filing today of its Notice of Material Default, unless such waiver is further extended by the Commission.

II. MEMORANDUM IN SUPPORT

Under Ohio Adm. Code 4901:1-29-02(C), “The 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.” Both elements of this rule are satisfied here: there is good cause for waiver, and the requirement to provide the eligible-customer list upon request is not mandated by statute.

A. There is good cause to temporarily waive the rule.

Good cause exists to grant a temporary waiver. As explained in greater detail in DEO's Notice of Material Default, also filed today in this docket, DEO has received numerous customer complaints concerning Quake's marketing, solicitation, and sales practices. DEO investigated those complaints and determined that Quake may have violated the Commission's minimum standards for competitive-retail-natural-gas (CRNG) service, the Service Agreement between DEO and Quake under DEO's Energy Choice Pooling Service tariff, and Quake's own stated policies and customer-enrollment guidelines. Accordingly, DEO filed its Notice of Material Default.

While DEO was in the process of finalizing its investigation and preparing its filing, Quake requested that DEO provide it with an eligible-customer list. Given that DEO's investigation of the complaints regarding Quake revealed the possibility of systemic issues affecting Quake's sales, verification, and record-keeping or -retention practices, DEO was concerned that it would not be reasonable or prudent at this time to provide the list of DEO's approximately one million eligible customers, most of whom are residential. DEO's concern is to protect customers and to ensure that Quake's solicitation and sales practices comply with the Commission's standards for CRNG service.

For these reasons, there is good cause to grant DEO's waiver. Additionally, DEO has also requested in the Notice of Material Default filed today that Quake not be permitted to request the eligible-customer list until further conditions have been satisfied. If the Commission denies DEO's motion for waiver, DEO will presume unless the Commission provides otherwise that it expects DEO to provide the list to Quake at such time.

B. The requested waiver is consistent with statutory requirements.

The requirement to provide an eligible-customer list is not mandated by statute and thus may be waived. Although R.C. 4929.22(F) requires the Commission to adopt rules that “make customer information available to a [CRNG] supplier . . . on a comparable and nondiscriminatory basis,” this does not prohibit the Commission from granting the requested waiver.

By its terms, the statute grants the Commission discretion to establish by rule appropriate requirements and standards concerning the provision of customer information. The statute does *not* create an absolute duty to provide eligible-customer lists to requesting suppliers, only that customer information be made available “on a comparable and nondiscriminatory basis.” *Id.* It is not “discriminatory” to withhold a customer list when good cause exists to do so, such as when an investigation of numerous customer complaints has disclosed potential violations of the Commission’s rules. DEO represents that if another supplier requested an eligible-customer list under similar circumstances, DEO would respond in a similar manner. Accordingly, this rule may be waived by the Commission.

For the foregoing reasons, DEO respectfully requests that the Commission grant its motion for waiver.

Dated: November 9, 2015

Respectfully submitted,

/s/ Andrew J. Campbell

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail this 9th day of
November, 2015 to the following:

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One of the Attorneys for The East Ohio Gas
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Summary: Motion for Temporary Waiver and Memorandum in Support electronically filed by Ms. Rebekah J. Glover on behalf of The East Ohio Gas Company d/b/a Dominion East Ohio