

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Notice of Material )  
Default Served by The East Ohio Gas ) Case No. 15-1894-GA-UNC  
Company d/b/a Dominion East Ohio upon )  
Energy 95, LLC d/b/a Quake Energy, LLC. )

ENTRY

The Commission finds:

- (1) The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.
- (2) Energy 95, LLC d/b/a Quake Energy, LLC (Quake) is a retail natural gas supplier as defined in R.C. 4929.01, is certified to provide competitive retail natural gas service (CRNGS) under R.C. 4929.20, and is subject to the jurisdiction of this Commission pursuant to R.C. 4929.24.
- (3) Pursuant to Ohio Adm.Code 4901:1-27-13(F), the Commission has the authority to consider whether a CRNGS supplier has committed a material default, as defined by a natural gas company's tariff or by an agreement between a natural gas company and a CRNGS supplier. If a natural gas company believes a material default has occurred, it is to serve a written notice of such default in reasonable detail and with a proposed remedy to the Commission and the CRNGS supplier.
- (4) Pursuant to Ohio Adm.Code 4901:1-29-13(C), natural gas companies are required to make eligible customer lists available to certified CRNGS suppliers on a quarterly basis. For good cause shown, the Commission may waive this requirement, among others, in accordance with Ohio Adm.Code 4901:1-29-02(C).
- (5) On November 9, 2015, Dominion filed and served a notice of material default upon Quake and a motion for a temporary waiver of Ohio Adm.Code 4901:1-29-13(C). Regarding possible acts of material default by Quake, Dominion alleges it has

received numerous complaints regarding Quake's solicitation and enrollment of customers. Upon reviewing the complaints, Dominion addresses concern that, among other things, Quake may have failed to comply with minimum standards set by the Commission for CRNGS suppliers. Dominion's concerns regard possible violations of record-retention requirements; third-party verification requirements; and marketing, solicitation, and sales practices. To remedy the issues, Dominion proposes Quake participate in a collaborative process with Staff and other interested parties in order to identify and correct problems.

Because of its concerns, Dominion requests a temporary waiver from the requirement to provide Quake a list of eligible customers, as necessitated by Ohio Adm.Code 4901:1-29-13(C). In order to ensure customers are adequately protected, Dominion asserts there is good cause to waive this requirement until the issues in this proceeding are resolved.

- (6) On November 16, 2015, Quake filed responses to both of Dominion's filings. In response to the notice of material default, Quake notes it uses a third-party solicitation provider that makes approximately 100,000 calls per year. Of those calls, Quake states only a small number result in complaints, and only a portion of those complaints are substantiated. According to Quake, it quickly addressed and corrected any identifiable issues. Further, Quake asserts it is willing to participate in a collaborative process with Staff and other parties.

In response to the motion for temporary waiver, Quake argues it should be denied. As noted above, Quake contends the issues have been minimal and all of them were quickly and properly addressed. Quake states Dominion has refused to provide the customer lists since April 2015, even though it did not file the notice of material default until November 2015. According to Quake, Dominion cannot withhold the customer list from Quake without Commission approval. Quake notes Dominion's refusal to provide the eligible customer lists in response to Quake's pending requests is unlawful, as those requests should have already been satisfied pursuant to Ohio Adm.Code 4901:1-29-13(C).

- (7) On November 23, 2015, Dominion filed a reply in support of the notice of material default and a reply in support of the motion for temporary waiver.
- (8) On November 25, 2015, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this proceeding. OCC asserts it represents Dominion's residential customers and has an interest in ensuring those customers' rights are protected. No one filed memoranda contra to OCC's motion. The Commission finds OCC's motion is reasonable and should be granted.
- (9) On January 22, 2016, Staff filed a report addressing Dominion's proposal for a collaborative process involving Dominion, Quake, and other interested parties. In its report, Staff asserts it has no objection to participating in the process and states discussions have already started.
- (10) Upon consideration of the notice of material default, the Commission finds that Dominion's proposed remedy is reasonable and should be approved. Specifically, we direct Quake to collaborate with Dominion, Staff, and OCC to identify specific, reasonable, and measurable steps to cure the alleged violations and avoid the repetition of future complaints. We note that the parties appear to be in agreement on working together, with Staff, in a collaborative process to identify and resolve any issues. At this time, the Commission finds this collaborative process is reasonable, appropriate, and should continue until otherwise ordered by the Commission. By March 17, 2016, the parties should file a status update in this docket summarizing the progress that has been made.
- (11) In regards to Dominion's motion for a temporary waiver from the requirement to make eligible customer lists available to Quake pursuant to 4901:1-29-13(C), the Commission finds the motion is reasonable and should be granted. As Dominion's concerns are being addressed and considered through the collaborative process, the Commission finds the waiver is reasonable in order to ensure customers are sufficiently protected, and should remain in effect on a temporary basis, until otherwise ordered by the Commission.

It is, therefore,

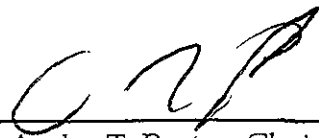
ORDERED, That Dominion's request for a collaborative process between Dominion, Quake, Staff, and OCC be approved, as discussed in Finding (10). It is, further,

ORDERED, That Dominion's motion for a temporary waiver from the requirements of Ohio Adm.Code 4901:1-29-13(C) be granted. It is, further,

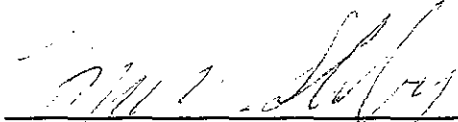
ORDERED, That OCC's motion to intervene be granted. It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

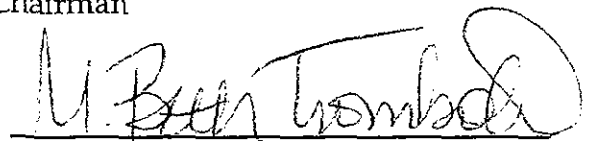
THE PUBLIC UTILITIES COMMISSION OF OHIO



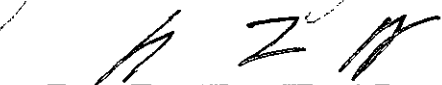
Andre T. Porter, Chairman



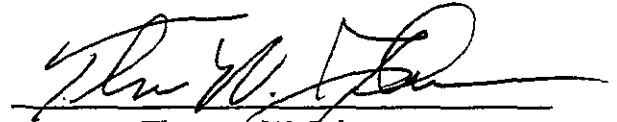
Lynn Slaby



M. Beth Trombold



Asim Z. Haque

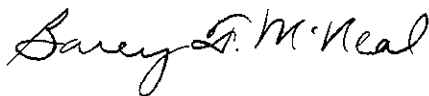


Thomas W. Johnson

NW/vrm

Entered in the Journal

**FEB 10 2016**



Barcy F. McNeal  
Secretary