

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. 17-2452-GE-CSS

TITAN GAS LLC D/B/A TITAN GAS &
POWER,

RESPONDENT.

ENTRY

Entered in the Journal on July 25, 2018

I. SUMMARY

{¶ 1} The Commission grants the motion for waiver filed by Interstate Gas Supply, Inc. d/b/a IGS Energy.

II. DISCUSSION

A. *Procedural History*

{¶ 2} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory. Pursuant to R.C. 4928.16 and 4929.24, the Commission has jurisdiction under R.C. 4905.26, upon complaint of any person, regarding the provision by an electric services company and retail natural gas supplier subject to certification under R.C. 4928.08 and 4929.20 of any service for which it is subject to certification.

{¶ 3} Complainant, Interstate Gas Supply, Inc. d/b/a IGS Energy (IGS), and Respondent, Titan Gas LLC d/b/a Titan Power & Gas (Titan), are retail natural gas

suppliers, as defined in R.C. 4929.01, and electric services companies, as defined in R.C. 4928.01, and, as such, are subject to the jurisdiction of this Commission.

{¶ 4} On December 1, 2017, IGS filed a complaint against Titan alleging that Titan violated Ohio law by contacting IGS' customers and engaging in misleading and deceptive sales and marketing practices. Specifically, IGS states that, starting on or about August 9, 2017, Titan's sales representatives began contacting IGS' customers via telephone, and represented to those customers that the caller is an account manager employed by "IDS Energy." However, according to IGS, "IDS Energy" is not affiliated with Titan, nor is it registered with the Ohio Secretary of State or certified by the Commission to conduct business in Ohio. Further, IGS states that, as part of its sales pitch to IGS' customers, Titan's representatives inform the customer that his or her low fixed rate plan has expired and will rollover to a variable rate plan that can go very high in any given month. IGS states that the representative then offers to renew the low fixed rate so long as the customer contacts Titan immediately to discuss his or her account in more detail. IGS claims that Titan acts with intent to mislead IGS' customers into believing that Titan is affiliated with IGS so that IGS' customers will call Titan to inquire about the status of their account. IGS further claims that Titan then solicits IGS' customers with a different offer to enroll with Titan's products and services.

{¶ 5} Titan filed its answer on December 22, 2017, along with a motion to dismiss the complaint. In its answer, Titan admits some and denies other allegations in the complaint. Titan also sets forth in the answer several affirmative defenses.

{¶ 6} A settlement conference was held on March 8, 2018.

B. *Consideration of the Motion for Waiver*

{¶ 7} On June 4, 2018, as amended on June 6, 2018, IGS filed a motion for waiver, seeking to exchange natural gas customer information pursuant to Ohio Adm. Code 4901:1-29-09(A)(1). As stated by IGS in the motion for waiver, Titan has indicated that it does not oppose the request for waiver.

{¶ 8} In the motion for waiver, IGS states that the discovery process as it relates to the exchange of natural gas customer information has been constrained due to concerns that the Commission's rules may prohibit disclosure of such information in certain circumstances. Specifically, IGS states that Ohio Adm.Code 4901:1-29-09(A)(1) prohibits the disclosure and use of any natural gas customer information except as provided in the rule. IGS further states that Ohio Adm.Code 4901:1-29-09(A)(1) clearly recognizes the need to provide protective treatment to natural gas customer information; however, by setting forth an exception in the rule that authorizes the sharing of that information subject to a Commission order, Ohio Adm.Code 4901:1-29-09(A)(1) also contemplates that disclosure between entities may be necessary and permissible in certain circumstances.

{¶ 9} IGS explains that, in this case, a waiver of Ohio Adm.Code 4901:1-29-09(A)(1) is necessary to facilitate the open exchange of natural gas customer names, addresses, and telephone numbers through discovery so that the parties can determine the IGS customers that were enrolled with Titan and whether such enrollments were proper. IGS states that, if the waiver is granted, the natural gas customer information disclosed shall be limited to those customers that were solicited or enrolled with, or by, Titan and its agents, either telephonically or through direct solicitation, from the period of January 1, 2017, through December 31, 2017, and that any account numbers associated with the customers identified during that period will be redacted or withheld from disclosure. IGS states that this information is critical to assist the parties in resolving this proceeding.

{¶ 10} IGS also states that any customer information that the parties might disclose shall be subject to the rules on discovery, and would be strictly protected and disclosed pursuant to a protective agreement. IGS states that a protective agreement covering the disclosure of customer information is consistent with the intended purpose of Ohio Adm.Code 4901:1-29-09(A)(1), which is not to allow the disclosure or use of customer information in such a way that would enable the sale of customer account information or slamming. Further, IGS states that the natural gas customer information exchanged between the parties will be held in confidence in the normal course of business and will be made available only to those personnel that are actively involved in this proceeding. IGS,

therefore, requests that the Commission grant a waiver of the requirements set forth in Ohio Adm.Code 4901:1-29-09(A)(1) related to the disclosure of natural gas customer names, addresses, and telephone numbers.

{¶ 11} Ohio Adm.Code 4901:1-29-09(A)(1) states, in part, that:

A retail natural gas supplier or governmental aggregator (and/or its agent) shall: Not disclose or use a customer's account number or any customer information for any purpose other than for operation, maintenance, assignment, and transfer of a customer's account, or for performing collection and credit reporting activities, and not disclose or use a customer's social security number for any purpose other than to perform a credit check, without the customer's express written or electronic authorization on a release form or pursuant to a court or commission order.

{¶ 12} Pursuant to Ohio Adm.Code 4901:1-29-09(A)(1) and based upon the circumstances presented in the motion for waiver, the Commission concludes that IGS' request for waiver is reasonable and should be granted. However, this grant of the requested waiver is subject to the following conditions. First, the waiver is applicable only to this complaint case. Upon conclusion of this matter, whether through the Commission's hearing process or a settlement that is reached between the parties, the waiver will expire. Second, the parties shall execute a protective agreement that covers the customer information that is sought by the parties and that is consistent with the intended purpose of Ohio Adm.Code 4901:1-29-09(A)(1). In addition, the Commission would note that if customers' social security or account numbers are included in the parties' records with the sought-after customer information, then those social security or account numbers should be redacted or withheld from disclosure before the parties engage in an open exchange of the information through discovery.

III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That, in accordance with the above findings, IGS' motion for waiver of Ohio Adm.Code 4901:1-29-09(A)(1) be granted. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party and interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



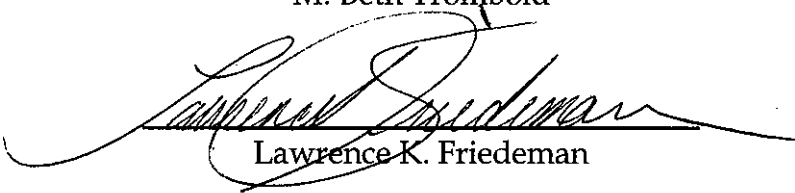
Asim Z. Haque, Chairman



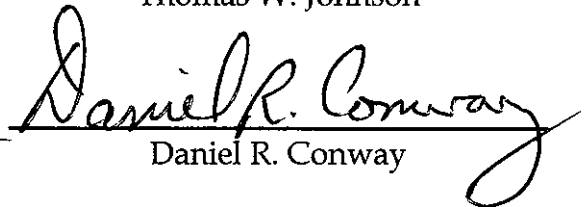
M. Beth Trombold



Thomas W. Johnson



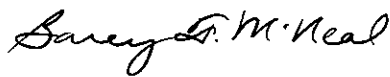
Lawrence K. Friedeman



Daniel R. Conway

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Barcy F. McNeal
Secretary