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August 21, 2018

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

RE: Case No. 17-2358-GA-WVR, Joint Application for Waiver of Direct Energy Services, LLC, Direct Energy Business, LLC, Dominion Energy Solutions, Inc., Interstate Gas Supply, Inc., and SouthStar Energy Services, LLC

Dear Docketing Division:

Enclosed please find the Staff Comments to be docketed in case no. 17-2358-WVR.

Respectfully submitted by,

Barbara Bossart

Chief, Reliability and Service Analysis Division
Service Monitoring and Enforcement Dept.

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Technician lmm Date Processed 08/21/18

Joint Application for Waiver

Case No. 17-2358-GA-WVR

SUMMARY

On November 15, 2017, Direct Energy Services, LLC, Direct Energy Business, LLC, Dominion Energy Solutions, Inc., Interstate Gas Supply, Inc., and Southstar Energy Services, LLC (collectively, the "Applicants") submitted an application to the Public Utilities Commission of Ohio ("Commission") requesting a waiver of the provision of Ohio Administrative Code ("Ohio Adm.Code") 4901:1-29-06(E)(1) as it applies to customer-initiated inbound calls (the "Application"). Specifically, the Applicants have requested a waiver of the provision of the rule that requires Third Party Verification (TPV) on in-bound telephonic sales if the entire call is recorded by the supplier or aggregator and the recording is archived and retained in accordance with the Commission's rules.

STAFF REVIEW

After reviewing the Application, Staff has no objection at this time to waiving the requirement for TPV verification of in-bound telephonic enrollments, so long as all other requirements of Ohio Adm.Code 4901:1-29-06(E)(1) remain in place. Thus, the applicants must still record the entire telephone call, including the sales portion of the call, the enrollment portion, and the verification portion, and must ensure that the other specific items listed in the rule are verified by the customer. As such, Staff recommends the waiver would only waive the underlined portion of the rule, as shown below:

(E) Telephonic enrollment

(1) To enroll a customer telephonically, a retail natural gas supplier or governmental aggregator, shall make a date- and time-stamped audio recording of the sales portion of the call, if the customer is enrolled, and before the completion of the enrollment process, a date- and time- stamped audio recording by an independent third-party verifier that verifies, at a minimum, the following...

Staff strongly believes that verifying the enrollment with the consumer in clear, plain language, using a template uniformly followed by all companies, provides a valuable safeguard which protects consumers. The intent of the rule is to make sure that, to the greatest extent possible, the consumer understands the key provisions of their service contract.

Currently, Ohio Adm.Code 4901:1-29-06(E)(1) is under review by Staff not only in response to the Applicant's waiver request, but as part of the Commission's five year rule review in Case No. 17-1847-GA-ORD. Staff believes that the proper venue for evaluating these enrollment rules is the 5 year rule review; however, the requested waiver could service a valuable service

by allowing a field test of the streamlining of the inbound enrollment process. With that in mind, Staff recommends that if the Commission grants the Applicants request for waiver detailed in the application of this docket, the waiver be limited to the pendency of the rule review for Ohio Adm.Code 4901:1-29-06. If the waiver produces the benefits touted by the applicants, the waiver can be integrated into the rules and apply to all. Procedurally, the Staff recommends that the waiver become effective when approved by the Commission. The waiver would then expire when the rule review for Ohio Adm. Code 4901:1-29-06 is completed at which time the waiver would be either incomplete or part of the revised rule or rejected by the Commission. Either way, the revised or reauthorized rule will supersede the waiver. Finally, Applicants should be made aware that the granting of this waiver does not necessarily mean that the TPV requirement in Ohio Adm.Code 4901:1-29-06(E)(1) will be adopted in the revised rule and that the Applicants bear any risk associated with changing back their business practices should the Commission as part of the rule review does not accept elimination of the TPV for incoming calls.

STAFF RECOMMENDATION

Staff recommends that the Commission grant the waiver in this Application, but limited to only the TPV verification process for incoming calls. Further, should the Commission not incorporate elimination of the TPV for incoming calls as part of the final rules in Case No. 17-1847-GA-ORD the waiver should terminate.