

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE APPLICATION
TO MODIFY, IN ACCORDANCE
WITH R.C. 4929.08, THE EXEMPTION
GRANTED TO THE EAST OHIO GAS
COMPANY D/B/A DOMINION EAST
OHIO IN CASE NO. 07-1224-GA-EXM.**

CASE No. 12-1842-GA-EXM

**IN THE MATTER OF THE MOTION TO
MODIFY THE EXEMPTION GRANTED TO
THE EAST OHIO GAS COMPANY D/B/A
DOMINION ENERGY OHIO.**

CASE No. 18-1419-GA-EXM

ENTRY

Entered in the Journal on September 13, 2018

{¶ 1} The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or Company) 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} R.C. 4929.04 authorizes the Commission, upon the application of a natural gas company, to exempt any commodity sales service or ancillary service from all provisions of R.C. Chapters 4905, 4909, and 4935, with certain exceptions; from specified sections of R.C. Chapter 4933; and from any rule or order issued under those chapters or sections, including the obligation under R.C. 4905.22 to provide the commodity sales service or ancillary service, and subject to certain requirements.

{¶ 3} R.C. 4929.08 provides that the Commission, upon the motion of any person adversely affected by an exemption granted under R.C. 4929.04, and after notice and hearing, may abrogate or modify any order granting an exemption, if the Commission determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest. Further, the abrogation or modification must not be made more than eight years after the effective date of the order, unless the affected natural gas company consents.

{¶ 4} On December 28, 2007, in Case No. 07-1224-GA-EXM, DEO filed an application, pursuant to R.C. 4929.04, for approval of a general exemption of certain natural gas commodity sales from specified provisions contained in R.C. Chapters 4905, 4909, 4933, and 4935.

{¶ 5} On June 18, 2008, in Case No. 07-1224-GA-EXM, the Commission approved the terms of a stipulation and recommendation filed by various parties on April 10, 2008, in response to DEO's application. The Commission authorized DEO to implement phase two of its plan to exit the merchant function, in which DEO implemented a standard choice offer (SCO), wherein suppliers bid for the right to supply gas in tranches to choice-eligible customers at a retail level. On January 9, 2013, in Case No. 12-1842-GA-EXM, the Commission granted DEO's motion to modify the exemption approved in Case No. 07-1224-GA-EXM and adopted a stipulation and recommendation that authorized DEO to discontinue the availability of its SCO to choice-eligible nonresidential customers beginning in April 2013.

{¶ 6} On March 9, 2018, in Case No. 12-1842-GA-EXM, the Ohio Consumers' Counsel (OCC) filed a motion, pursuant to Ohio Adm.Code 4901:1-19-11, to modify the exemption granted by the Commission on January 9, 2013. Specifically, OCC seeks to re-establish the SCO as the default service for all choice-eligible residential customers and to eliminate the monthly variable rate (MVR) applicable to certain residential customers who have not selected a supplier, governmental aggregation program, or the SCO. OCC contends that the findings upon which the exemption was granted are no longer valid and the approved structure is no longer a reasonable approach for pricing natural gas for residential customers. OCC notes that, in some instances, the MVR has been significantly higher than the SCO.

{¶ 7} On March 12, 2018, Ohio Partners for Affordable Energy (OPAE) supported OCC's motion and filed separately to move the Commission to re-establish the SCO as the default service for non-residential customers.

{¶ 8} On March 23, 2018, in response to the motions filed by OCC and OPAE, DEO moved to intervene to the extent the Commission determines that intervention is necessary. DEO also states that, consistent with Ohio Adm.Code 4901:1-19-11, it will wait for further guidance from the Commission regarding the procedures to be applicable in this case, before DEO offers substantive comments on OCC's and OPAE's motions.

{¶ 9} On March 23, 2018, Direct Energy Business Marketing, LLC and Direct Energy Services, LLC (collectively, Direct Energy) moved to intervene in Case No. 12-1842-GA-EXM. OCC filed a memorandum contra on March 30, 2018, and Direct Energy filed a reply on April 6, 2018.

{¶ 10} On March 26, 2018, Retail Energy Supply Association (RESA) and Direct Energy filed a joint motion for an extension of time, with a request for an expedited ruling. Noting that OCC's and OPAE's motions were filed on March 9 and March 12, 2018, respectively, RESA and Direct Energy calculate that their memoranda contra are due, according to Ohio Adm.Code 4901-1-12(B), on March 26 and March 27, 2018. RESA and Direct Energy seek an extension of the deadlines so that memoranda contra may be filed on the same day, March 30, 2018. In support of their motion, RESA and Direct Energy argue that the additional time will allow one pleading in response to both motions and may have the further advantage of allowing RESA and Direct Energy to file a joint response. RESA and Direct Energy state that they have contacted OCC and OPAE and note that they neither oppose the request for an extension of time to March 30, 2018, nor object to an expedited ruling.

{¶ 11} On March 30, 2018, DEO filed a response to OCC's and OPAE's motions, reiterating that the Commission should establish a process for full consideration of the motions. DEO also states that the Company is willing to take part in a collaborative process and seek to identify reasonable solutions to address the concerns raised in the motions. On that same date, RESA and Direct Energy filed joint memoranda contra OCC's and OPAE's motions.

{¶ 12} OCC and OPAE filed replies in support of their motions on April 6, 2018.

{¶ 13} On April 9, 2018, Dominion Energy Solutions, Inc. (DES) filed a motion to intervene in Case No. 12-1842-GA-EXM. OCC filed a memorandum contra on April 24, 2018, and DES filed a reply on May 1, 2018.

{¶ 14} Ohio Adm.Code 4901:1-19-11 provides that the Commission shall order such procedures as it deems necessary, consistent with Ohio Adm.Code Chapter 4901:1-19, in its consideration of whether to modify an order granting an exemption.

{¶ 15} The attorney examiner notes that the Commission has issued a final exemption order in Case No. 12-1842-GA-EXM and that additional filings in the case after issuance of the final order have been primarily for the purpose of considering and implementing DEO's auctions. The attorney examiner, therefore, directs OCC and OPAE to refile, in a new docket, their motions for modification of the exemption order, pursuant to R.C. 4929.08 and Ohio Adm.Code 4901:1-19-11. Case No. 18-1419-GA-EXM has been opened for this purpose. Further, consistent with Ohio Adm.Code 4901:1-19-11, a procedural schedule, including an opportunity for responding to the motions of OCC and OPAE, will be established in Case No. 18-1419-GA-EXM, after OCC and OPAE refile their motions in that case.

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That OCC and OP&E refile, in Case No. 18-1419-GA-EXM, their motions for modification of the Commission's exemption order. It is, further,

{¶ 18} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

JRJ/sc

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in

Case No(s). 12-1842-GA-EXM, 18-1419-GA-EXM

Summary: Attorney Examiner Entry ordering refiling of motions for modification in new docket
- electronically filed by Sandra Coffey on behalf of L. Douglas Jennings, Attorney Examiner,
Public Utilities Commission of Ohio