

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)	
)	
Interstate Gas Supply, Inc.)	Case No. 19-362-GE-CSS
d/b/a IGS Energy)	
6100 Emerald Parkway)	
Dublin, Ohio 43016)	
)	
Complainant,)	
)	
v.)	
)	
Santanna Natural Gas Corporation)	
d/b/a Santanna Energy Services)	
7701 San Felipe Blvd., Suite 200)	
Austin, TX 78729)	
)	
Respondent.)	

COMPLAINT OF INTERSTATE GAS SUPPLY, INC.

Michael A. Nugent (0090408)
Counsel of Record
E-Mail: mnugent@igsenergy.com
Joseph Olikier (0086088)
E-Mail: joliker@igsenergy.com
Interstate Gas Supply, Inc.
IGS Energy
Regulatory Counsel
6100 Emerald Parkway
Dublin, Ohio 43016
(614) 659-5065

Attorneys for Complainant

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COMPLAINT OF INTERSTATE GAS SUPPLY, INC.

Complainant, IGS Energy (“IGS”) states as follows for its Complaint against
Respondent, Santanna Natural Gas Corporation (“Santanna”):

Parties

1. Complainant IGS is an Ohio corporation with its principal place of business located in Dublin, Ohio. IGS is certified as a “electric services company” as that term is defined in R.C. 4928.01(A)(9), and a “retail natural gas supplier” as defined in R.C. 4929.01(N), in the business of marketing and selling both electricity and natural gas to Ohio industrial, commercial, and

residential consumers as part of Ohio’s customer “choice” program as set forth in R.C. Chapters 4928 and 4929.¹

2. Respondent Santanna is a Texas corporation with its principal offices located in Austin, Texas. Respondent Santanna is a “electric services company” as that term is defined in R.C. 4928.01(A)(9), and a “retail natural gas supplier” as defined R.C. 4929.01(N), in the business of marketing and selling both electricity and natural gas to Ohio industrial, commercial, and residential consumers as part of Ohio’s customer “choice” program as set forth in R.C. Chapters 4928 and 4929.²

3. For purposes of this Complaint, any references to the acts and practices of Santanna shall mean that such acts and practices are by and through the acts of Santanna’s officers, owners, members, directors, employees, salespersons, representatives and/or other agents.

Jurisdiction

4. The Public Utilities Commission of Ohio (“The Commission” or “PUCO”) has jurisdiction over this action pursuant to R.C. 4905.26, 4928.16, and 4929.24.

Background

5. Under Ohio’s consumer “choice” program, electric service companies and retail natural gas suppliers market their products and services to Ohio consumers through direct mail solicitations, online marketing, door-to-door sales, and telemarketing.

6. Upon information and belief, Respondent is certified in Ohio to market its retail electric and natural gas products and services to consumers.

7. Upon information and belief, Respondent advertises its products and services to

¹ See also R.C.4928.01(A)(7); R.C.4905.03(C)

² *Id.*

Ohio consumers via telemarketing.

8. Starting on or about January 9, 2018, Respondent's sales representatives began contacting both IGS' customers, and other individuals, via telephone using the numbers 1-800-429-5708 at ext. 234 and 708-283-0947; and represented to those customers that the caller is an Account Manager employed by "IDS Energy."

9. Upon information and belief, "IDS Energy" is not affiliated with Respondent, nor is it registered with the Ohio Secretary of State or certified by the Commission to conduct business in Ohio.

10. As part of its sales pitch, Respondent'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" regardless of whether either statement is true. The representative then offers that "since [the customer] is a valued customer," Respondent would be willing to "renew" the "low fixed rate" "immediately" so long as the customer contacts Respondent to discuss his or her account in more detail.

11. Upon information and belief, Respondent acts with intent to mislead IGS' customers into believing that Respondent is affiliated with Complainant so that IGS' customers will call Respondent to inquire about the status of their account.

12. Upon information and belief, Respondent then solicits the IGS customer with a different offer to enroll with Respondent's products and services.

13. As described below, Respondent has engaged in acts or practices that violate Ohio law. Respondent's conduct is ongoing, harmful to IGS' business and reputation, and has the potential to adversely impact other IGS customers that may find themselves on Respondent's call list.

FIRST CLAIM

Misrepresentation in Violation of Ohio Admin. Code 4901:1-21-05(C) and R.C. 4928.10

14. Complainant incorporates by reference the above paragraphs as if fully set forth herein.

15. Respondent's representation, whether express or implied, that it was soliciting electric customers on behalf of Complainant constitutes a misleading, deceptive, and unconscionable sales and marketing practice in violation of Ohio Admin. Code 4901:1-21-05(C) and R.C. 4928.10.

16. Accordingly, Complainant has suffered harm to its business and reputation.

SECOND CLAIM

Misrepresentation in Violation of Ohio Admin. Code 4901:1-29-05(D) and R.C. 4929.22

17. Complainant incorporates by reference the above paragraphs as if fully set forth herein.

18. Respondent's representation, whether express or implied, that it was soliciting natural gas customers on behalf of Complainant constitutes a misleading, deceptive, and unconscionable sales and marketing practice in violation of Ohio Admin. Code 4901:1-29-05(D) and R.C. 4929.22.

19. Accordingly, Complainant has suffered harm to its business and reputation.

THIRD CLAIM

Claim That a Specific Price Advantage, Savings, or Guarantee Exists if it Does Not in Violation of Ohio Admin. Code 4901:1-29-05(D)(8)(a), 4901:1-21-05(C)(8)(a), R.C. 4928.10 and R.C. 4929.22

20. Complainant incorporates by reference the above paragraphs as if fully set forth herein.

21. Respondent's representation to customers that the customer's "low fixed rate plan"

has expired and will rollover to a variable rate plan “that can go very high [in] any given month” even when such statement is not true, is a violation of Ohio Admin. Code 4901:1-29-05(D)(8)(a) and 4901:1-21-05(C)(8)(a), which prohibits claiming that a specific price advantage, savings, or guarantee exists if it does not.

FOURTH CLAIM

Engaging in Any Solicitation that will Lead the Customer to Believe that the CRES or CRNG Provider or Its Agent is Soliciting on Behalf of or is an Agent of Any Entity Other Than the CRES or CRNG in Violation of Ohio Admin. Code 4901:1-29-05(D)(5), 4901:1-21-05(C)(10), R.C. 4928.10 and R.C. 4929.22

23. Complainant incorporates by reference the above paragraphs as if fully set forth herein.

24. Respondent’s representation that it is soliciting on behalf of IDS Energy, when no such entity is certified with the Commission, nor registered with the State of Ohio, is a violation of Ohio Admin. Code 4901:1-29-05(D)(5) and 4901:1-21-05(C)(10), which prohibits engaging in any solicitation that will lead the customer to believe that the CRES/CRNGS provider is soliciting on behalf of or is an agent of any entity other than the CRES/CRNGS.

FIFTH CLAIM

Failure to Make a Date and Time-Stamped Audio Recording of the Sales Portion of the Telephonic Solicitation in Violation of Ohio Admin. Code 4901:1-29-06(E)(1) and R.C. 4929.22

25. Complainant incorporates by reference the above paragraphs as if fully set forth herein.

26. Respondent’s failure to record the sales portion of the telephone call that prompted a customer enrollment is a violation of Ohio Admin. Code 4901:1-29-06(E)(1) and 4901:1-21-06(D)(2), which requires a CRNGS/CRES to make a date and time-stamped audio recording of the sales portion of the telephone call that resulted in a customer enrollment.

REQUEST FOR RELIEF

WHEREFORE, Complainant asks the Commission for the following relief:

1. An Order finding that Respondent has violated Chapters 4901:1-21-05, 4901:1-29-05; and 4901:1-29-06 of the Ohio Administrative Code by engaging in the unlawful acts and practices alleged herein;
2. Assessing a civil penalty in the amount of Ten Thousand Dollars (\$10,000) per violation as provided in R.C. 4905.54.
3. Treble damages as provided in R.C. 4905.61.
4. Preliminarily and permanently enjoining Respondent from engaging in the deceptive and unfair practices alleged herein;
5. Providing such other and further equitable relief as Complainant is entitled.

/s/ Michael A. Nugent

Michael A. Nugent (0090408)

Counsel of Record

E-Mail: mnugent@igsenergy.com

Joseph Olikier (0086088)

E-Mail: joliker@igsenergy.com

Interstate Gas Supply, Inc.

IGS Energy

Regulatory Counsel

6100 Emerald Parkway

Dublin, Ohio 43016

(614) 659-5065

Attorneys for Complainant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Complaint has been served upon the following persons, via regular U.S. mail, postage prepaid, this 1st day of February 2019.

/s/ Michael A. Nugent

Michael A. Nugent
Attorney for Complainant
Interstate Gas Supply, Inc.

SERVICE LIST

Santanna Natural Gas Corporation
d/b/a Santanna Energy Services
7701 San Felipe Blvd., Suite 200
Austin, TX 78729

CT Corporation System
4400 Easton Commons Way, Suite 125
Columbus, OH 43219

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Case No(s). 19-0362-GE-CSS

Summary: Application In the Matter of the Complaint of Interstate Gas Supply, Inc. vs. Santanna Natural Gas Corporation electronically filed by Mr. Michael A Nugent on behalf of Interstate Gas Supply, Inc.