

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	:	
Gasearch, LLC. for Certification to	:	Case No. 15-0866-GA-CRS
Provide Competitive Retail Natural Gas	:	
Service in Ohio.	:	
	:	

**REVIEW AND RECOMMENDATION
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

I. BACKGROUND

Gasearch LLC (“Gasearch”) is certified as a competitive retail natural gas service (“CRNGS”) and a competitive retail electric service (“CRES”) provider in Ohio (See Case Nos. 15-0866-GA-CRS and 19-0704-EL-AGG). On October 28, 2021, the East Ohio Gas Company d/b/a Dominion Energy Ohio (“Dominion”) filed an application requesting authority to terminate or suspend Gasearch from participation in Dominion’s Energy Choice program because Gasearch materially defaulted on its Energy Choice Pooling Service (“ECPS”) agreement with Dominion. On November 2, 2021, Gasearch filed a letter with the Public Utilities Commission of Ohio (“Commission”) explaining its actions leading up to the filing by Dominion including its financial situation and notification to customers that "Gasearch was closing." In its letter, Gasearch also requested Commission approval to continue to operate as both a competitive retail natural gas supplier and a broker.

On November 3, 2021, the Commission issued a finding and order authorizing Dominion to terminate Gasearch's participation in Dominion's Energy Choice program. The Commission further found that "Gasearch should be afforded an opportunity to request a hearing as to whether its certificate, in whole or in part, should be rescinded." On November 12, 2021, Gasearch requested a hearing. On December 17, 2021, the Attorney Examiner issued an entry setting a procedural schedule, establishing a deadline of January 6, 2022 for the Commission's Staff ("Staff") to file its review and recommendation in this case.

II. STANDARD OF REVIEW

For the protection of Ohio consumers, the legislature enacted Ohio Revised Code (R.C.) sections 4929.20 and 4929.22, directing the Commission to adopt rules for the certification of retail natural gas suppliers to provide competitive retail natural gas services to customers in this state. Under R.C. 4929.20(C)(1), the Commission may "suspend, rescind, or conditionally rescind the certification of any retail natural gas supplier or governmental aggregator issued under this section if the commission determines, after reasonable notice and opportunity for hearing, that the retail natural gas supplier or governmental aggregator has failed to comply with any applicable certification standards prescribed in rules adopted pursuant to this section or section 4929.22 of the Revised Code."

In the Commission's rules enacted under the authority of and amplifying R.C. 4929.20, the Commission list several reasons that the Commission may suspend, rescind, or conditionally rescind a retail natural gas supplier's certificate. Reasons listed include:

- A retail natural gas supplier's or governmental aggregator's failure to timely pay any assessment made pursuant to section 4905.10 or section 4911.18 of the Revised Code.¹
- A retail natural gas supplier's failure to timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of gas pursuant to section 4905.10 or section 4911.18, or division (B) of section 4929.23 of the Revised Code.²
- A finding by the Commission that any information reported to the commission subsequent to granting a certificate adversely affects a retail natural gas supplier's or governmental aggregator's fitness or capability to provide any service covered by its certificate.³
- A finding that a retail natural gas supplier or the retail natural gas supplier of a governmental aggregator has failed to maintain appropriate financial security or has otherwise committed an act of default as defined by a natural gas company's tariff or by agreement between the natural gas company and the retail natural gas supplier or governmental aggregator.⁴

III. REVIEW

A. The Commission Found that Gasearch Failed to Timely Pay its 2020 Annual Assessment.

As a certified CRNGS provider, Gasearch is required under R.C. 4905.10 to submit an annual fiscal assessment based on its annual reports of its intrastate gross receipts and sales of hundred cubic feet of gas to the Commission. On January 27, 2021, the Commission directed all regulated entities to file a 2020 annual report by April 30, 2021,⁵ and Gasearch was one of the entities listed on the “2020 Annual Report List”

¹ Ohio Adm.Code 4901:1-27-13(E)(1).

² Ohio Adm.Code 4901:1-27-13(E)(2).

³ Ohio Adm.Code 4901:1-27-13(E)(4).

⁴ Ohio Adm.Code 4901:1-27-13(E)(10).

⁵ *In Re Annual Reports for Calendar Year 2020 for the Fiscal Assessment of All Regulated Entities*, Case No. 21-01-AU-RPT, (2020 Annual Reports), Entry (Jan. 27, 2021) at ¶14.

attached to the Entry. On December 15, 2021, the Commission determined that Gasearch was among those regulated entities that failed to remit its annual assessment by the November 1, 2021 deadline.⁶ The Commission also directed Staff to assess a civil forfeiture of \$1,000 on Gasearch for Gasearch’ failure to timely remit its 2020 annual assessment.⁷ As of the date of this filing, Staff’s review of the Commission’s records indicates that Gasearch has not submitted its 2020 annual assessment to the Commission. Therefore, under Ohio Adm.Code 4901:1-27-13(E)(1), the Commission may suspend, rescind, or conditionally rescind Gasearch’s CRNGS certificate.

B. Gasearch Failed to Timely File its 2020 Annual Report

As a certified CRNGS provider, Gasearch is required under R.C. 4905.10 and R.C. 4929.23(B) to submit annual reports of its intrastate gross receipts and sales of hundred cubic feet of gas to the Commission. On January 27, 2021, the Commission directed all regulated entities to file a 2020 annual report by April 30, 2021,⁸ and Gasearch was one of the entities listed on the “2020 Annual Report List” attached to the Entry. As of the date of this filing, Staff’s review of the Commission’s records indicates that Gasearch has not filed its 2020 annual report to the Commission. Therefore, under Ohio Adm.Code 4901:1-27-13(E)(2), the Commission may suspend, rescind, or conditionally rescind Gasearch’s CRNGS certificate.

⁶ 2020 Annual Reports, Finding and Order (Dec. 15, 2021) at ¶6 and ¶10.

⁷ *Id.* at ¶11.

⁸ 2020 Annual Reports, Entry (Jan. 27, 2021) at ¶14.

C. Recent Information Adversely Affects Gasearch's Fitness and Capability to Provide CRNGS Service.

On October 25, 2021, the Commission's call center began receiving calls from consumers because they received an email from Gasearch, their CRNGS provider, advising the consumers that Gasearch was going out of business and that the customer needed to find a new supplier. Gasearch was authorized to operate only in Dominion Energy Ohio's territory. Gasearch supplied natural gas for approximately 600 customers in that territory. In late October of 2021, Gasearch abruptly sent emails to its customers notifying them that the business was closing and that they needed to choose another supplier by the end of the month. Staff determined through its investigation that the customers had signed fixed rate contracts with Gasearch at an advantageous rate; however, Gasearch was ending the contract prior to the expiration of the contract's term. In email discussions, Gasearch informed Staff that it was financially unable to serve its customers past November of 2021.

Gasearch has not filed any notices of material change to its CRNGS certificate indicating any changes in its managerial, technical, or financial capabilities. As of December 16, 2021, to Staff's knowledge, Gasearch remains in material default and has been terminated from the Dominion's Energy Choice program. Gasearch failed to provide a satisfactory response to Dominion's October 26, 2021 notice of its apparent intent to not perform its obligations under ECPS terms and conditions section 26.7, failure to comply with Dominion's Supplier's Code of Conduct, and provide information related to its current financial condition. In addition, Gasearch indicated to Staff that the

ownership of the company has not changed. With no change in ownership, Staff is concerned that Gasearch's financial hardship that led to the termination of fixed rate contracts has not improved. Further, neither has Gasearch's management changed, which led to the decision to terminate its fixed rate contracts prior to the expiration of their term and led to Gasearch being in material default with Dominion. The customers served by Gasearch were financially harmed because the customer entered a fixed rate contract which allowed them to know the commodity rate that they would pay going into the winter heating season. By Gasearch terminating these fixed rate contracts and returning customers to Dominion's SCO rate and/or its Monthly Retail Rate for the winter months, those customers lost the benefit of their bargain with Gasearch. In addition, those customers who wanted to shop for a new supplier would have had to enter into a contract at a time when natural gas rates were at the highest they had been in years.

Staff believes these factors all indicate that Gasearch lacks the fitness and managerial capabilities necessary to provide CRNGS services in Ohio. Therefore, under Ohio Adm.Code 4901:1-27-13(E)(4), the Commission may suspend, rescind, or conditionally rescind Gasearch's CRNGS certificate.

D. The Commission Found that Gasearch Committed an Act of Default as defined by Dominion's Tariff.

As noted above, on November 3, 2021, the Commission issued a Finding and Order authorizing Dominion to terminate Gasearch's participation in Dominion's Energy Choice program, citing Ohio Adm.Code 4901:1-13-14(J) as the authority for the

termination.⁹ Under Ohio Adm.Code 4901:1-13-14(J), material default is the triggering event for a natural gas company to seek Commission approval to terminate or suspend a retail natural gas supplier from participation with the supplier program. While there is no express statement in the Commission's November 3, 2021 Finding and Order that Gasearch committed an act of default as defined by Dominion's tariff, it is clear that the Commission came to that conclusion. Therefore, under Ohio Adm.Code 4901:1-27-13(E)(10), the Commission may suspend, rescind, or conditionally rescind Gasearch's CRNGS certificate.

IV. RECOMMENDATION

Based on the financial situation of Gasearch, as outlined in Gasearch's letter filed with the Commission as well as email correspondence, its material default of the ECPS agreement with Dominion, and the harm caused to customers, Staff recommends that the certificate in case number 15-0866-GA-CRS should be rescinded. For the reasons set forth above, the Commission has several grounds to rely upon to rescind Gasearch's CRNGS certificate. Staff believes that Gasearch has demonstrated that it does not have the managerial, financial, or technical capability to comply with Ohio laws and rules.

⁹ Finding and Order (Nov. 3, 2021) at ¶10.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Review and Recommendation of the Staff of the Public Utilities Commission of Ohio was served by electronic mail, upon the following parties of record, this 6th day of January, 2022.

/s/ Werner L. Margard III

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Summary: Report Review and Recommendation Submitted on Behalf of the Staff of
the Public Utilities Commission of Ohio electronically filed by Mrs. Kimberly M.
Naeder on behalf of PUCO