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VIA E-MAIL DELIVERY

March 29, 2022

To: Jennifer French, Chair
M. Beth Trombold, Commissioner
Daniel R. Conway, Commissioner
Dennis P. Deters, Commissioner
Lawrence K. Friedeman, Commissioner
Katherine Fleck, Chief of Staff
Tamara Turkenton, Director, Rates and Analysis
Robert Fadley, Director, Service Monitoring and Enforcement
Lori Sternisha, Director, Federal Advocacy Department
Matt Schilling, Director, Public Affairs
Angela Hawkins, Director, Legal Department
John Jones, Chief, Public Utilities Section, Ohio Attorney General's Office
Rick Curnutte, Sr., President, Volunteer Energy Service, Inc.

Re: Notification of Default and Request for Authorization to Terminate Participation

Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) received a letter on March 28, 2022, (Attachment A), from the bankruptcy counsel of Volunteer Energy Services, Inc., (Volunteer Energy), a certified retail natural gas services provider in Ohio, informing the Company that Volunteer Energy had commenced a bankruptcy case on March 25, 2022, Case No. 2:22-bk-50804 (S.D. Ohio Bankr.).

In the same letter, Volunteer Energy informed the Company that it "intends to seek an immediate transition of its customers to default utility service or as otherwise authorized by the Court" and that it "no longer needs or wants the supply and distribution services that [Duke Energy Ohio] . . . historically provided, and as such, those services should immediately cease." Volunteer Energy also declared that it "will not have any resources to pay for such supply and distribution services. . . [provided] after the Petition Date"

Volunteer Energy is a certified retail natural gas services provider in Ohio, serving certain Duke Energy Ohio customers under the terms of the company's P.U.C.O. Gas Tariff No. 18, Sheet No. 44. The Company's tariff provides:

If a Supplier fails to deliver gas in accordance with the full-service requirements of the Gas Supply Aggregation/Customer Pooling Agreement, or otherwise fails to comply with the provisions of this Tariff Sheet, including those specified in the Obligations to the Company section, the Company shall have the discretion to initiate the process to suspend temporarily or terminate such Supplier's further Program participation. To initiate the process, the Company shall serve

a written notice of such failure in reasonable detail and with a proposed remedy to the Supplier and the Commission¹

Pursuant to O.A.C. 4901:1-27-13(F), Duke Energy Ohio hereby notifies Volunteer Energy of its default and attaches its March 28 letter as evidence.

As of this morning, 6,665 Duke Energy Ohio natural gas customers (the Impacted Customers) were being served by Volunteer Energy. The Impacted Customers will continue to receive natural gas service, without interruption. The Company understands that Volunteer Energy may be in the process of arranging for the assignments of some of the Impacted Customers to other supplier(s), but Duke Energy Ohio has not received any specific information regarding which customers are to be assigned.

In light of Volunteer Energy's bankruptcy filing, its explicitly stated intent to fail to comply with the tariff requirements, and its demand for the Company's services to "immediately cease," remedy does not appear feasible. However, Duke Energy Ohio proposes as a remedy that Volunteer Energy (1) withdraw its bankruptcy filing; (2) express its commitment to complying with all tariff provisions going forward; and (3) make Duke Energy Ohio whole for any additional costs that it might incur as a result of this default.

In light of the above-described events, Duke Energy Ohio requests authorization to terminate Volunteer Energy's participation with the Company's natural gas supplier program and return its customers to the Company's default GCR natural gas service. Accordingly, the Company requests Commission authorization to implement termination and to transfer to the default GCR natural gas service any still-remaining Volunteer Energy customers at the time of a Commission order.

The Company will take steps to comply with any order on this request as soon as technically feasible.²

Sincerely,

/s/ Larisa M. Vaysman

Larisa M. Vaysman
Senior Counsel

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¹ P.U.C.O. Gas Tariff No. 18, Sheet No. 44, p. 21.

² As detailed in the March 23, 2022, Finding and Order in Case No. 22-43-GE-WVR, certain of the Company's choice and billing functions will be temporarily unavailable between March 31 and April 6.



March 28, 2022

BY ELECTRONIC MAIL

To whom it may concern:

This firm is bankruptcy counsel to Volunteer Energy Services, Inc. (“VESI”). On March 25, 2022 (the “Petition Date”), VESI commenced a bankruptcy case (the “Chapter 11 Case”) in the United States Bankruptcy Court for the Southern District of Ohio (the “Court”) by filing a voluntary petition for chapter 11 relief under title 11 of the United States Code (the “Bankruptcy Code”).

Under the Court’s supervision, VESI intends to seek an immediate transition of its customers to default utility service or as otherwise authorized by the Court. Accordingly, VESI no longer needs or wants the supply and distribution services that you (“Distribution Company”) have historically provided, and as such, those services should immediately cease. To be clear, VESI will not have any resources to pay for such supply and distribution services that Distribution Company provides to VESI after the Petition Date. For these reasons, it is critical that the transfer of VESI’s customers occurs expeditiously, and we write to request your assistance with such efforts. To that end, VESI has sent or will shortly be sending letters to its customers informing them that their service will be transferred to default utility service (or as otherwise authorized by the Court) as soon as possible. Additionally, VESI has filed an emergency motion with the Court (a copy of which is enclosed herein) to set a deadline by which Distribution Company (and other LDCs) must complete the transition of VESI’s customers. VESI has asked that the Court schedule an expedited hearing on this motion for April 1, 2022.

We also write to provide you with certain information in connection with the Chapter 11 Case.

As a result of filing the Chapter 11 Case, VESI is now protected by the “automatic stay.” Bankruptcy Code section 362(a) provides for a stay of any collection and enforcement actions against the debtor or the debtor’s property, including, without limitation, ***the setoff of any debt owing to the debtor that arose before the commencement of the case.*** See 11 U.S.C. § 362(a)(7) (emphasis added).

As you know, VESI is party to a purchase of receivables agreement with Distribution Company, pursuant to which Distribution Company is obligated to pay VESI on a net basis all amounts billed by VESI on behalf of Distribution Company. Distribution Company is not permitted to setoff any amounts owed by VESI to Distribution Company against any amounts that Distribution Company owes to VESI under the purchase of receivables agreement that accrued prior to the Petition Date. We expect that Distribution Company will continue to pay VESI all such amounts in the ordinary course of business, and we are hopeful to avoid the need to seek Bankruptcy Court intervention to enforce the automatic stay. We note that any willful violation of the automatic stay entitles the debtor to recover “actual

March 28, 2022

Page 2

damages, including costs and attorneys' fees, and, in appropriate circumstances . . . punitive damages.”
11 U.S.C. § 362(k).

VESI reserves all rights and waives none in connection with the matters raised herein. Please do not hesitate to reach out to me if you have any questions or require clarification.

Respectfully,

Darren Azman

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

3/29/2022 5:18:26 PM

in

Case No(s). 02-1786-GA-CRS

Summary: Notification Notification of Default and Request for Authorization to Terminate Participation electronically filed by Mrs. Tammy M. Meyer on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco and Vaysman, Larisa