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March 31, 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
Angela Hawkins, Director, Legal Department
John Jones, Chief, Public Utilities Section, Ohio Attorney General's Office
Rick Curnutte, Sr., President, Volunteer Energy Services, Inc.
John L. Einstein, IV, General Counsel, Volunteer Energy Services, Inc.

VIA ELECTRONIC MAIL

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

To Whom It May Concern:

In accordance with the General Terms and Conditions of Energy Choice Pooling Service ("ECPS T&Cs") of The East Ohio Gas Company d/b/a Dominion Energy Ohio ("DEO") and the associated Service Agreement dated September 20, 2006 ("ECPS Agreement"), DEO hereby files the following notice of material default by Volunteer Energy Services, Inc. ("Volunteer" or "VESI") and request for authority to transition customers and wind down Volunteer's participation in the Energy Choice program. This notice is being filed with the Public Utilities Commission of Ohio ("Commission") concurrent with its service upon Volunteer.

On March 28, 2022, at 10:59 P.M., DEO received correspondence from Volunteer (Exhibit A), informing DEO among other things that Volunteer had commenced bankruptcy proceedings in the U.S. Bankruptcy Court for the Southern District of Ohio; that "VESI intends to seek an immediate transition of its customers to default utility service or as otherwise authorized by the Court"; that "VESI no longer needs or wants the supply and distribution services that [DEO had] historically provided, and as such, those services should immediately cease"; that "VESI will not have any resources to pay for such supply and distribution services that Distribution Company provides to VESI after [March 25, 2022]"; and that "it is critical that the transfer of VESI's customers occurs expeditiously." Volunteer also indicated that it "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." Volunteer also stated that it had "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." Per the motion, Volunteer is requesting this transition to occur by April 15, 2022.

Given Volunteer's initiation of bankruptcy proceedings and expressly stated intention to cease fulfilling its supply or payment obligations to DEO effective immediately, DEO considers Volunteer to be, as of March 26, 2022, in material default of its ECPS Agreement pursuant to Ohio Adm. Code 4901:1-27-13(F)(1). Under that rule, DEO is to propose a remedy to Volunteer in conjunction with its notice of material default. Given Volunteer's intentions stated by counsel in the March 28, 2022 letter, DEO does not believe that Volunteer has any intention to remain in business as an Energy Choice supplier or to exercise any remedy that could be devised or available to remedy the defaults. If Volunteer disagrees, it should contact DEO immediately to discuss potential remedies.

Given Volunteer's stated intention not to fulfill its supply obligations, DEO files this request with the Commission to seek immediate authority to begin transitioning Volunteer's customers to alternate supply options as soon as DEO deems it feasible. DEO also requests authorization to terminate Volunteer's ECPS Agreement and its participation in the Energy Choice program when appropriate in conjunction with and subject to the bankruptcy proceeding. DEO believes these requests are necessary to protect the company and its customers, and are also to the benefit of Volunteer given its intentions as stated in the March 28 correspondence.

Given that Volunteer has indicated it intends to cease fulfilling service and payment obligations as of March 25, 2022, and during a period in which the ECPS Agreement remains in effect, DEO considers the material default to be "due to underdelivery or nondelivery." OAC 4901:1-29-13(F)(4). Therefore, "if the commission, or an attorney examiner, does not act within five business days after receipt of the request, [DEO's] request to terminate or suspend shall be deemed authorized on the sixth business day." *Id.* This date will fall on April 8, 2022, given today's filing. To enable prompt action for the benefit of Volunteer and to reduce the impact of Volunteer's default on other suppliers and customers, DEO requests that the Commission issue an order before the automatic-approval date.

Notwithstanding anything to the contrary contained in this notice, DEO reserves the right to exercise any and all rights and remedies that it possesses, including under the ECPS T&Cs, to the extent permissible under the law.

Sincerely,

/s/ Andrew J. Campbell

Andrew J. Campbell, Senior Counsel

The East Ohio Gas Company d/b/a Dominion Energy Ohio

EXHIBIT A



mwe.com

Darren Azman
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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

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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
3/31/2022 9:22:15 AM**

in

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

Summary: Notice Notice of Material Default and Request for Authorization to Terminate or Suspend electronically filed by Christopher T. Kennedy on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio