BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Energy Cooperative of Ohio for Certification as a Competitive Retail Natural Gas Supplier	)))	Case No. 02-1891-GA-CRS

APPLICATION REQUESTING AUTHORITY TO TERMINATE AND REQUEST FOR EXPEDITED TREATMENT

In accordance with Ohio Adm.Code 4901:1-27-13(F), The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) files this application requesting authorization to terminate Energy Cooperative of Ohio (Energy Cooperative) from participation in DEO's Energy Choice supplier program. For reasons explained below, DEO requests expedited treatment of this Application and an order from the Commission on or before April 12, 2022, which is one day before DEO's request would be automatically deemed authorized, pursuant to Ohio Adm.Code 4901:1-27-13(F)(4). In support of this Application, DEO states:

1. Ohio law grants the Commission broad discretion to determine whether competitive retail natural gas (CRNG) suppliers have complied with their duties under statute and under the Commission's rules. R.C. 4929.24(A)(2) grants the Commission general jurisdiction "upon complaint of any person . . . to determine whether a retail natural gas supplier . . . has violated or failed to comply with any provision of sections 4929.20 to 4929.23 of the Revised Code regarding a competitive retail natural gas service for which it is subject to certification or any rule or order adopted or issued by the commission for purposes of those sections."

2. In accordance with R.C. 4929.10 and R.C. 4929.22, the Commission has adopted rules governing the certification of CRNG suppliers, as well as minimum service requirements

concerning the marketing, solicitation, sale, or provision of CRNG service. Under this authority, the Commission promulgated Ohio Adm.Code 4901:1-27-13, which provides a range of remedies for various forms of supplier misconduct.

3. As contemplated by Ohio Adm.Code 4901:1-27-13(F)(1), suppliers participating in DEO's Energy Choice program must execute Energy Choice Pooling Service (ECPS) Service Agreements with DEO, and these agreements establish certain Conditions of Supplier Default. See Gen. Terms & Conditions of Energy Choice Pooling Service (ECPS Terms), § 26.

4. Ohio Adm.Code 4901:1-27-13(F)(1) provides that, "In the event of a material default, as defined by a natural gas company's tariff or by an agreement between the natural gas company and the retail natural gas supplier . . . [t]he natural gas company shall serve a written notice of such default in reasonable detail and with a proposed remedy to the retail natural gas supplier . . . and the commission."

5. On April 1, 2022, in accordance with Ohio Adm.Code 4901:1-27-13(F)(1), DEO served a written notice of material default (Notice) to Energy Cooperative, a supplier participating in DEO's Energy Choice Program. In accordance with Ohio Adm.Code 4901:1-27-13(F)(1) & (6), a copy of the Notice was also sent to the Commission and Staff and has been included herein as Attachment A.

6. The Notice sets forth the facts underlying Energy Cooperative's material default, as DEO understood them. As explained in the Notice, Energy Cooperative's failure to meet gas delivery requirements and its associated statements necessarily disclose that Energy Cooperative is not performing its obligations under the ECPS Agreement, including meeting its delivery requirements. The Notice also provides DEO's proposed remedy.

7. On April 5, 2022, counsel for Energy Cooperative responded to DEO's Notice, confirming that Energy Cooperative remains without a new source of supply for its existing customers in DEO's service territory, that it is financially unable to migrate its customers to a new supplier, and that it is currently working on notices of material change and to abandon its certificate. Energy Cooperative requested that its customers be assigned directly to DEO.

8. Ohio Adm.Code 4901:1-27-13(F)(2) provides that "[o]n or after the date the default notice has been served, the natural gas company may file with the commission a written request for authorization to terminate or suspend the retail natural gas supplier or governmental aggregator from participation with the natural gas company's supplier program."

9. As of the filing of this request, DEO does not believe that Energy Cooperative either intends or is able to remain in business or to arrange for supply for its customers. Given these facts, DEO considers Energy Cooperative to be in material default of its supplier obligations. Accordingly, DEO requests authorization to terminate Energy Cooperative as an Energy Choice supplier and to begin serving Energy Cooperative's customers under DEO's default service provisions.

10. Ohio Adm.Code 4901:1-27-13(F)(3) provides that "[i]f the material default is due to reasons other than underdelivery or nondelivery, and if the commission, or an attorney examiner, does not issue an entry to suspend or reject the action proposed by the natural gas company within ten business days after receipt of the request, the natural gas company's request to terminate or suspend shall be deemed authorized on the eleventh business day." If, however, "the default is due to underdelivery or nondelivery," Ohio Adm.Code 4901:1-27-13(F)(4) provides that "if the commission, or an attorney examiner, does not act within five business days after receipt of the request, the natural gas company's request to terminate or suspend shall be

deemed authorized on the sixth business day."

11. As set forth herein and in the attached Notice, DEO considers Energy Cooperative's default to be due to nondelivery. 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." Ohio Adm.Code 4901:1-27-13(F)(4). DEO's understanding is that the sixth business day from this request will fall no later than April 13, 2022.

12. Notwithstanding the automatic approval process, DEO requests expedited treatment of this Application and an order from the Commission on or before April 12, 2022. DEO requests this relief to ensure that DEO may timely transition all of Energy Cooperative's customers to DEO's provider-of-last-resort supply service effective with April billing. This would permit a more orderly transition of Energy Cooperative's customers back to DEO's standard default service offerings effective with May billing.

WHEREFORE, DEO respectfully requests that the Commission approve DEO's request to terminate Energy Cooperative from participation in DEO's Energy Choice Program, on or before effective April 12, 2022, and grant it all other necessary and proper relief.

Dated: April 5, 2022

Respectfully submitted,

/s/ Christopher T. Kennedy

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(All counsel are willing to accept service by email)

ATTORNEYS FOR THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO

CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail, to the following addresses on this 5th day of April, 2022:

jzornes@ohioenergycoop.org
acf@columbuslawyer.net
jeinstein@volunteerenergy.com

/s/ Christopher T. Kennedy
One of the Attorneys for The East Ohio Gas Company d/b/a Dominion Energy Ohio

ATTACHMENT A

Andrew J. Campbell
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April 1, 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
John M. Zornes, President, Energy Cooperative of Ohio
John L. Einstein, IV, General Counsel, Volunteer Energy Services, Inc.

VIA ELECTRONIC MAIL

Re: Notification of Default

Dear Mr. Zornes:

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 ("ECPS Agreement"), DEO hereby serves the following notice of material default by Energy Cooperative of Ohio ("Energy Cooperative"). This notice is being served upon the Public Utilities Commission of Ohio ("Commission") concurrent with its service upon Energy Cooperative.

This notice should be forwarded to and discussed with Energy Cooperative's legal counsel. If Energy Cooperative does not timely and completely respond to and comply with these demands, DEO will exercise any and all rights and remedies that it possesses under the ECPS T&Cs, including but not limited to those set forth below, in order to protect its interests and those of its customers.

A. Energy Cooperative Material Defaults

Section 26 of the ECPS T&Cs defines various Conditions of Supplier Default. Based on the facts known to DEO at this time, Energy Cooperative appears to be in material default, in accordance with Ohio Adm.Code 4901:1-27-13(F)(1)

Since March 26, 2022, Energy Cooperative has failed to meet its delivery requirements in breach of its obligation under the ECPS T&Cs and the ECPS Agreement. In addition, Energy Cooperative has stated to DEO that it has no supplier of natural gas as of April 1, 2022. It is

DEO's understanding that all supply services had been provided to Energy Cooperative by Volunteer Energy Services, Inc. ("VESI"), that VESI is unable to provide those services because of its initiation of bankruptcy proceedings, and that Energy Cooperative will continue to be unable to make their daily delivery requirements, on and after April 1, 2022, until another supplier has been secured.

Energy Cooperative's failure to meet gas delivery requirements and its associated statements necessarily disclose that Energy Cooperative is not performing and may not presently have a plan to perform its obligations under the ECPS Agreement. The ECPS Agreement has not yet been cancelled and remains in effect at this time. While the ECPS Agreement is in effect, Energy Cooperative is required to supply customers with gas and to fulfill numerous related obligations under the ECPS Agreement.

B. Notification of Financial Condition

DEO also demands that Energy Cooperative immediately notify DEO of (1) any events or actions described under Sections 23.5, 23.6, and 23.7 of the ECPS T&Cs and (2) any change in Energy Cooperative's financial condition that has occurred since the execution of Energy Cooperative's ECPS Agreement. If any such events, actions, or changes have occurred, provide a detailed description of same, including the date on which the event, action, or change first occurred.

If Energy Cooperative fails to respond to this demand for notice by 4:00 p.m., Tuesday, April 5, 2022, its failure to respond shall be considered an additional Supplier Default and an additional material default for purposes of Section 26 of the ECPS T&Cs, further supporting the termination or suspension of Energy Cooperative from participation with DEO's supplier program.

C. Notification of Exercise of Remedies

Without limiting the foregoing, Energy Cooperative is hereby informed that DEO intends to exercise any and all rights it may hold against Energy Cooperative under the ECPS T&Cs, including but not limited to the use of Energy Cooperative's assets to secure the payment and performance of Energy Cooperative's obligations under the ECPS Agreement and service to Energy Cooperative's customers.

Under ECPS Section 23.14, "East Ohio reserves the right to use Supplier's assets associated with the Agreement, including without limitation financial instruments required of Supplier to meet creditworthiness standards of this or any other agreement with Supplier; Accounts arising from East Ohio's billing of commodity service on behalf of Supplier, Supplier's On-System Storage Inventory held by East Ohio pursuant to this or any other agreement with Supplier; and any other gas in kind, As-Extracted or otherwise, delivered to East Ohio by Supplier, to offset or recoup any costs owed to and/or incurred by East Ohio."

Without limiting DEO's foregoing rights, Energy Cooperative is hereby notified that effective immediately, DEO intends to (1) withhold any payments to Energy Cooperative arising from its billing of commodity service on behalf of Energy Cooperative and (2) retain any storage inventory or other gas-in-kind of Energy Cooperative's. These restrictions will remain in effect

until such time as the issues described in this notice are satisfactorily resolved. DEO will consider the proportional release of such withheld payments, storage inventory, or other gas-in-kind (1) if DEO determines that Energy Cooperative is committed to meeting its supply obligations and has a valid supply plan in place until such time as all of its customers have been transitioned to other gas suppliers or commodity sales services, and (2) to the extent DEO determines that Energy Cooperative is in fact meeting such supply obligations.

In addition, if necessary, DEO may use the proceeds of any financial instrument provided by or on behalf of Energy Cooperative to satisfy any Energy Cooperative obligations under its ECPS Agreement or any related agreement, any claims DEO determines that it may have, or the costs of securing additional gas supplies (including of the gas supplies themselves, the costs of transportation, storage, gathering, taxes, and other related costs incurred in bringing those gas supplies into DEO's system).

D. Proposed Remedy

Under OAC 4901:1-27-13(F), DEO is to propose a remedy to Energy Cooperative in conjunction with its notice of material default. In accordance with this provision, DEO hereby proposes that Energy Cooperative take all of the following actions no later than 4:00 P.M., Tuesday, April 5:

- Provide to DEO in writing a supply plan designed to meet delivery requirements for the month of April 2022 and continuing for so long as Energy Cooperative intends to do business as an Energy Choice supplier.

- Provide to DEO in writing an explanation of how Energy Cooperative intends to remedy any under-deliveries of gas or other imbalances for the March 2022 supply period.

- Provide payment for Energy Cooperative's outstanding balance of $36,500 associated with January and February DEO invoices.

E. Request for Authorization to Terminate Energy Cooperative's Participation in DEO's Supplier Program.

If Energy Cooperative does not satisfactorily respond to this notice and proposed remedy, DEO will file this notice with the PUCO and request authorization to terminate or suspend Energy Cooperative as an Energy Choice supplier. Without waiving the right to file this notice at an earlier time, DEO currently intends to file with the PUCO after 4:00 PM April 5, 2022.

Given that Energy Cooperative has not met its daily delivery requirements beginning March 26, while the ECPS Agreement remains in effect, DEO considers the material default to be "due to underdelivery or nondelivery." OAC 4901:1-27-13(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*. If DEO files its request April 5, 2022, this date will fall no later than April 13, 2022.

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

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

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Case No(s). 02-1891-GA-CRS

Summary: Application Application Requesting Authority to Terminate and Request for Expedited Treatment electronically filed by Christopher T. Kennedy on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio