BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of Tariff Revisions	)))	Case No. 22-0179-GA-ATA
In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of Carbon Offset Program	)))	Case No. 22-0180-GA-UNC

REPLY COMMENTS

I. BACKGROUND

On March 11, 2022, The East Ohio Gas Company d/b/a Dominion Energy Ohio (hereinafter, DEO or Company) filed an application seeking approval from the Public Utilities Commission of Oho (PUCO or Commission) for a voluntary carbon offset program, tariff revisions, and bill format changes.

On March 22, 2022, SFE Energy Ohio, Inc. and Statewise Energy Ohio, LLC (SFE) filed for intervention in this proceeding.

On March 25, 2022, NRG retail companies (NRG) and Interstate Gas Supply, Inc. (IGS) filed for intervention in this proceeding.

On March 28, 2022, the Environmental Law & Policy Center (ELPC) filed for intervention in this proceeding.

On March 31, 2022, the attorney examiner ordered that the automatic approval process for DEO's proposed bill format application be suspended.

On May 10, 2022, the Retail Energy Supply Association (RESA) filed for intervention in this proceeding.

On May 11, 2022, The Office of the Ohio Consumers' Counsel (OCC) filed for intervention in this proceeding.

On May 13, 2022, Northeast Ohio Public Energy Council (NOPEC) filed for intervention in this proceeding.

On May 13, 2022, Commission Staff (Staff), IGS, NOPEC, RESA, NRG, SFE, and OCC filed initial comments in this proceeding.

The Company's application proposes that DEO would provide customer education on the importance of sustainability and the availability of carbon-offsetting rate offerings; administer the review of Competitive Retail Natural Gas Service (CRNGS) suppliers' compliance with Carbon offset offers and maintenance of customer portals; and validate that participating CRNGS suppliers obtained sufficient carbon offsets to fully offset emissions associated with enrolled customers.[1]

<u>II. REPLY COMMENTS</u>

Staff's initial comments highlighted five Staff concerns with the Company's carbon offset application. These concerns included: the program design, the confusion

[1] Application at 2.

regarding who is benefiting from the carbon offsets and what exactly is the purpose of the program, the role of the Company in reviewing CRNGS suppliers marketing offers, the lack of accountability and required mandates, and the limited opportunities to participate in the program. In addition, Staff is concerned that the use of rate payer money will be used to create and operate the program.

Staff is not opposed to voluntary carbon offset programs, but natural gas prices have reached decade highs recently, more than doubling last year's prices, and are giving Staff additional apprehension over any service that increases the utility bill. CRNGS offers that include carbon offsets are more likely to cost consumers more than offers without carbon offsets.

Staff's approach to carbon offset programs, whether provided by CRNGS suppliers or the local distribution company, is to consider the products to be voluntary and non-jurisdictional products that both the competitive suppliers and the regulated utility may offer to customer. Staff believes that until carbon offsets are mandated by the state or federal government, an approach which neither encourages nor hinders the opportunities of ratepayers to participate is best.

Carbon offset programs do not have similar safeguards and processes as electric renewable energy credit (REC) programs. Ohio Administrative Code Chapter 4901:1-42 addresses green pricing programs in electric providing definitions, purpose and scope and requirements. Ohio Administrative Code Chapter 4901:1-25 addresses the reporting of participation in green-pricing programs in number of customer and megawatt hours to the Commission. There are no administrative rules on the gas side to provide the same or similar type of protection provided by these administrative rules on the electric side. Carbon offsets also are not mandated by state or federal law.

The biggest difference between RECs and carbon offsets is the of lack clarity on carbon offset credits themselves. The rush to label activities or non-activities as carbon capture, storage, or offset has created some dubious results. Unlike RECs, carbon offset programs are created outside of an exchange making price discovery, the tracing of transfers, and the retirement of credits difficult.

Intervenors' initial comments provide a wide perspective on how carbon offsets and any associated program should be treated by the Commission. A fundamental element of many comments focuses on the jurisdictional treatment of carbon offsets and associated programming. The CRNGS suppliers support the idea that carbon offsets are a commodity and exclusive to them. OCC supports the idea that it is not a regulated product or service. Staff agrees with OCC that carbon offsets paid for by individual customers to offset their carbon emission are not a regulated product or service. Staff, however, disagrees with some of the CRNGS suppliers that carbon offsets are a commodity and only to be offered in competitive rates. Staff believes that carbon offsets without a federal or state requirement or mandate are non-jurisdictional products and services that both CRNGS suppliers can include in offers and local distribution companies can include as optional non-jurisdictional services.

Although some intervenors expressed general support for DEO's proposal, all intervenors have a concern with the Company's role as a facilitator of carbon offset offers. Staff's initial comments expressed concern that DEO's carbon offset program was an overreach as their role as a local distribution company into the marketing and regulation of competitive offers. The Company' proposal included an education campaign for customers without input from CRNGS suppliers or Commission Staff. The Company's proposal also included validation of the carbon offset credits without clarification of which registries or carbon offset programs/credits are eligible. The Company's proposal provided the Company with administrative rights including the ability to expel a supplier from its territory if the credits are short of the total usage for the supplier's enrolled customers.

Further, the Company's proposal favors some CRNGS suppliers over others. NOPEC and other governmental aggregators with carbon offset programs are not initially included and it is unclear the impact the program will have on governmental aggregators. Non-shopping customers utilizing default service would not be eligible for carbon offsets. Only CRNGS suppliers with 100% carbon offsets may participate.

Although all intervenors expressed concern with the Company as a facilitator for carbon offset credits, positions on just who should validate, monitor, and administer carbon offset programs vary widely. Commission Staff, the local distribution company, or no one, all were suggested to administer carbon offset programs. Today, customers can participate in competitive agreements that include carbon offsets with no administration. No central entity validates the credits, monitors the programs from cradle to the grave for actual GHG reduction, or monitors for compliance ensuring that credits are actual and not provided to more than one customer. With changes, some of the CRNGS suppliers supported the Company as the administrator of a carbon offset program., whereas other CRNGS suppliers saw no need for administration at all or the inclusion of the Commission in the administration.

Staff believes that, under the current landscape of state and federal requirements, the administration and enforcement of deceptive acts or practices in marketing claims for carbon off-set programs is the jurisdiction of the Ohio Attorney General or the Federal Trade Commission (FTC), which prohibits deceptive acts and practices[2] and has a guide for the use of carbon off-set marketing claims to avoid such acts[3]. Neither the State of Ohio nor the Commission have established regulations, rules, or a structure to validate, monitor, and enforce claims of carbon offsets in gas. Likewise, Staff is unaware of another local distribution company validating, monitoring, and enforcing compliance of CRNGS supplier carbon offsets while defining which carbon offsets qualify. Furthermore, Staff believes that the Company's proposed carbon offset program would be an unnecessary administrative burden to CRNGS suppliers, the Commission, customers, and the Company.

The Company's proposed carbon offset program design limits participation. Only CRNGS suppliers who have operated in DEO's territory for one year with qualified carbon offsets that offset 100% of GHG emissions and have a certain volume of sales may participate in the program. New or small CRNGS suppliers would not be able to participate. The participation of governmental aggregators is uncertain. CRNGS suppliers with less than 100% carbon offsets would not be able to participate.

---

[2] FTC ACT, 15 U.S.C. 45.

[3]See https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf

In addition, default service customers would not be able to participate. Staff believes that the program limitations to a small number of suppliers is unfairly discriminatory.

Environmental sustainability goals are the impetus for the Company's proposed carbon offset program.[4] Staff fails to see how the proposed carbon offset program will provide any increased environmental sustainability benefits not currently available to customers. In addition, Staff fails to see how customers purchasing products through CRNGS suppliers demonstrates that the Company itself is proactively addressing its environmental sustainability goals. DEO's program is not an energy efficiency or demand-side management strategy to reduce consumption. The program does not encourage the use of renewable energy sources. The program does not address unwanted emissions from the distribution system itself. And the program makes no requirement for the carbon offsets or storage to be based in Ohio. It is the CRNGS supplier who would offer the carbon offset program by investing or taking action to decrease their own GHG emissions. It is unclear to Staff whether, under the Company's proposed carbon offset program, customers retain and retire the carbon offset credits, the CRNGS suppliers retain and retire the carbon offset credit as part of their environmental sustainability, or if a credit is ever transferred to the customer to claim and retire to prevent double counting.

The Company's application does not seek to recover costs associated with the program or increase DEO's rates in this proceeding. However, the Company is

[4] Application pages 1-2.

requesting recovery for all costs in a future rate case or a deferral to another proceeding. The Company estimated start-up costs for the program of $100,000 with ongoing costs of $45,000 annually, excluding costs for education. Most intervenors remained silent on cost recovery. OCC did not, expressing that this is not a regulated service to be recovered from ratepayers. Staff agrees with OCC, as customers may also be unknowingly paying for other customers' carbon offset choices through the Company's base rates, its purchase of CRNGS suppliers' receivables, and eventually the Company's uncollectible rider in the event customers never pay for the offsets. The Company will be passing all these costs to all customers whether they participate or not.

III. RECOMMENDATIONS

For the following reasons, Staff recommends that the Commission deny the Company's application for a carbon offset program. The Company's application is an overreach into the education, marketing, and control of CRNGS services and products. The proposed program would bar new CRNGS suppliers and small CRNGS suppliers from participation, which is unreasonable and discriminatory. Non-choice customers are not provided a carbon offset option, yet all ratepayers will be responsible for costs associated with the program. And finally, the Company wishes to be the program administrator for CRNGS suppliers' carbon offsets but takes no accountability for CRNGS suppliers' failures to deliver carbon offsets to customers.

David Yost

Respectfully submitted,

Dave Yost
Ohio Attorney General

John Jones
Section Chief

/s/Shaun Lyons
Shaun Lyons
Counsel of Record

Shaun P. Lyons (093815)
Werner L. Margard (0024858)
Assistant Attorney General
Public Utilities Section
30 E. Broad Street, 16th Floor
Columbus, OH 43215
Telephone: (937) 768-5312
E-mail:
Werner.Margard@ohioago.gov
Shaun.Lyons@ohioago.gov

On Behalf of the Staff of the Public Utilities Commission of Ohio

(Willing to accept service by e-mail)

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to these cases. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons below via electronic mail this 13th day of June 2022.

/s/Shaun Lyons
Shaun Lyons
Counsel of Record

Parties of Record:

kennedy@whitt-sturtevant.com
fykes@whitt-sturtevant.com
andrew.j.campbell@dominionenergy.com
mjsettineri@vorys.com
glpetrucci@vorys.com
jweber@elpc.org
michael.nugent@igs.com
evan.betterton@igs.com
stacie.cathcart@igs.com
dporano@bakerlaw.com
tathompson@bakerlaw.com
william.michael@occ.ohio.gov
ambrosia.wilson@occ.ohio.gov