

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
GASEARCH LLC FOR CERTIFICATION TO
PROVIDE COMPETITIVE RETAIL
NATURAL GAS SERVICE IN OHIO.

CASE NO. 15-866-GA-CRS

FINDING AND ORDER

Entered in the Journal on July 27, 2022

I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by Gasearch LLC and Staff, which resolves the marketing, record keeping, and enrollment issues identified by Staff.

II. DISCUSSION

{¶ 2} Gasearch LLC (Gasearch) is a retail natural gas supplier as defined in R.C. 4929.01; is certified to supply competitive retail natural gas service (CRNGS) under R.C. 4929.20; and is subject to the jurisdiction of this Commission pursuant to R.C. 4929.24. Accordingly, Gasearch is required to comply with the Commission's minimum CRNGS standards set forth in Ohio Adm.Code Chapter 4901:1-29.

{¶ 3} Ohio Adm.Code 4901:1-34-05(A) provides that, if Staff and a retail natural gas supplier reach agreement regarding the violation of a rule within Ohio Adm.Code Chapters 4901:1-27 through 4901:1-29, the violation of any provision of R.C. Chapter 4929, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing and filed with the Commission for approval.

{¶ 4} Gasearch's most recent certification renewal application was filed in this case on March 29, 2021, and stated that Gasearch intended to provide service to residential, commercial, and industrial customers solely in the service area of The East Ohio Gas Company d/b/a Dominion Energy Ohio (Dominion). The application was approved and Gasearch's CRNGS certificate was renewed until June 9, 2023.

{¶ 5} As a CRNGS, Gasearch is subject to the terms of Dominion's supplier agreement and tariff, which includes provisions governing the relationship between Dominion and certified suppliers pursuant to R.C. 4929.22 and Ohio Adm.Code 4901:1-13-14.

{¶ 6} Ohio Adm.Code 4901:1-13-14(J) 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 a CRNGS, the natural gas company shall serve a written notice of such default in reasonable detail and with a proposed remedy to the CRNGS and the Commission. The rule also states that, on 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 CRNGS from participation with the natural gas company's supplier program. The rule specifies that, if the default is due to underdelivery or nondelivery, and, 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 will be deemed authorized on the sixth business day, although all terminations or suspensions are to be authorized by the Commission.

{¶ 7} On October 28, 2021, Dominion filed an application requesting authority to terminate or suspend Gasearch from participation in Dominion's Energy Choice program. In the application, Dominion stated that CRNGSs participating in its Energy Choice program must execute an Energy Choice Pooling Service Agreement (ECPS Agreement) with Dominion, which, among other things, establishes certain conditions of supplier default. Dominion further stated that, in accordance with the Commission's rules, Dominion served, on October 26, 2021, a written notice of material default on Gasearch. Based on the facts known to Dominion at the time of the notice, Dominion believed that Gasearch had defaulted under at least the following conditions: ECPS Agreement Section 26.7 (supplier does not intend to perform its obligations) and ECPS Agreement Section 26.12 (failure to comply with the Code of Conduct). Dominion asserted that Gasearch had not satisfactorily responded to the notice and the proposed remedy and was in material default

of its supplier obligations due to nondelivery. Finally, Dominion stated that it intended to work with Gasearch to the extent practicable to effectuate the orderly transition of Gasearch's customers to other natural gas suppliers or supply options.

{¶ 8} On October 29, 2021, Dominion filed correspondence correcting a filing issue with Attachment A to its application, which is a copy of the notice of material default that Dominion served on Gasearch. As factual background, the notice stated that, on October 20, 2021, Dominion received correspondence from the president of Gasearch stating her intention to retire and to sell or close Gasearch by the end of the month of October and requesting information regarding the necessary steps to do so. The notice further stated that Dominion both advised Gasearch that a transfer of customers could not be completed until December 2021 and provided information to Gasearch regarding the necessary steps. The notice continued to explain that, despite this timeline and the steps required to wind down Gasearch's operations, Dominion received on October 25, 2021, a communication from a third-party energy services company that it was informed that Gasearch would no longer be supplying customers with natural gas, effective October 31, 2021. The notice also emphasized that Gasearch had not formally provided notice of cancellation of its ECPS Agreement, which requires at least 60 days' notice of cancellation, or filed with the Commission a notice of abandonment of its certificate, which requires at least 90 days' notice prior to the cessation of service. Aside from the factual background information, the notice described the alleged conditions of Gasearch's material default; requested notification of any change in Gasearch's financial condition; provided notification of Dominion's intention to exercise its rights under its tariff and the ECPS Agreement; set forth a proposed remedy; and stated that Dominion may seek authority to terminate or suspend Gasearch as an Energy Choice supplier, if Gasearch did not satisfactorily respond to the notice and proposed remedy.

{¶ 9} On November 2, 2021, Gasearch filed correspondence in response to Dominion's application. Gasearch stated that, in August 2021, it signed a letter of intent to sell and transfer the company by the end of September 2021. However, in late October 2021,

Gasearch realized that the sale of the company would not be finalized in the near future, while its other attempts to arrange for sufficient funds to obtain natural gas in the month of November had not materialized. At that point, Gasearch contacted Dominion regarding the necessary steps to close the business, but misunderstood the timing required to complete the process and was not initially aware of any need to involve the Commission. Gasearch noted that it sent a letter to its customers to inform them of the closing of the business, as well as a second letter that was drafted following consultation with Staff and Dominion which provided options for the customers to obtain an alternate source of supply. Gasearch concluded that it agreed with Dominion's plan for transitioning customers to other suppliers during the month of November. As to its certificate, Gasearch noted that it is certified by the Commission as both a CRNGS and a broker. Gasearch stated that it did not intend to resume operations as a CRNGS, although it noted that it may seek to do so if the necessary funding is obtained. Gasearch also requested that it be permitted to maintain its certification to operate as a broker.

{¶ 10} Also on November 2, 2021, Gasearch filed a second letter requesting approval to continue its operations as both a CRNGS and a broker. Gasearch explained that, on November 1, 2021, it was contacted by the company with which it signed the letter of intent. According to Gasearch, that company is now ready to proceed with the proposed merger and acquisition of Gasearch and will be prepared to have any financial requirements to the Commission as soon as November 2, 2021. In light of this recent development, Gasearch rescinded its earlier request to close the company and requested that it be allowed to continue its natural gas operations in Ohio as both a supplier and a broker or, alternatively, that it be permitted to retain its certification as a broker.

{¶ 11} By Finding and Order dated November 3, 2021, the Commission granted Dominion's request to terminate Gasearch's participation in the Energy Choice program. Further, the Commission directed Gasearch and Dominion to work together to effectuate an orderly transition of Gasearch's customers to Dominion or another natural gas supplier, as

well as to continue to advise the Commission's Service Monitoring and Enforcement Department as to their progress.

{¶ 12} Ohio Adm.Code 4901:1-27-13(A) states that, after reasonable notice and the opportunity for a hearing, the Commission may, upon its own motion or upon complaint, suspend, rescind, or conditionally rescind a retail natural gas supplier's certificate, in whole or in part, for good cause shown. Ohio Adm.Code 4901:1-27-13(E)(10) provides that the Commission may suspend, rescind, or conditionally rescind a retail natural gas supplier's certificate if the supplier has committed an act of default as defined by a natural gas company's tariff or by agreement between the natural gas company and the supplier.

{¶ 13} On November 12, 2021, Gasearch filed a request for a hearing, pursuant to Paragraph 11 of the November 3, 2021 Finding and Order, which provided that Gasearch may request a hearing as to whether its certificate should be rescinded in whole or in part, in light of the material default.

{¶ 14} On December 17, 2022, the attorney examiner issued an Entry establishing a procedural schedule in the case.

{¶ 15} On January 6, 2022, Staff submitted its Review and Recommendation, in which it recommended the Commission rescind Gasearch's CRNGS certificate where it failed to timely pay its 2020 annual fiscal assessment, failed to timely file its 2020 annual report of its gross receipts, and various events which culminated in Gasearch's defaulting with Dominion.

{¶ 16} On January 11, 2022, Staff and Gasearch filed a joint motion to suspend the procedural schedule on the grounds that they desired more time to negotiate toward a settlement of the issues in the case.

{¶ 17} On May 23, 2022, Gasearch and Staff (Signatory Parties) filed a Joint Stipulation and Recommendation (Stipulation), which would resolve all of the issues identified by Staff in the Review and Recommendation. The Stipulation notes that the

Signatory Parties engaged in numerous discussions to address the issues raised in the Review and Recommendation and reached a resolution after such discussions. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

1. The Signatory Parties agree that Gasearch may continue to operate as a broker but will not enter into any new broker arrangements or agreements under the authority of Certificate 15-441G issued June 9, 2021. Gasearch will not engage in any operations as a retail natural gas aggregator or marketer pursuant to Ohio Adm.Code 4901:1-27-12(B).
2. Within 30 days of the issuance of an Order by the Commission approving the Stipulation, Gasearch will file an application to abandon Certificate 15-441G issued June 9, 2021.
3. Gasearch may file an application for certification as a retail natural gas broker no sooner than 60 days after the filing of the abandonment application described in paragraph 2 of the Stipulation.
4. Gasearch and all of its principal officers and owners agree that neither it nor any of them will file an application for certification as a retail natural gas aggregator or marketer for a period of five years following issuance of a final Order in this case.

{¶ 18} The Commission notes that Ohio Adm.Code 4901:1-34-05(A) permits Gasearch and Staff to enter into a stipulation for the purpose of resolving any alleged violations of the CRNGS minimum standards and service requirements. We will, therefore, consider the Stipulation pursuant to our enforcement authority under Ohio Adm.Code Chapter 4901:1-34. The issue before the Commission in this case is whether the Stipulation, which embodies considerable time and effort by the Signatory Parties, is reasonable and should be adopted. The Stipulation states that Gasearch will continue to operate as a broker

but will not enter into any new brokerage agreements or arrangements under Certificate 15-441G, which it will apply to abandon within 30 days of the Commission's issuance of this Finding and Order. Further, the Stipulation states that none of Gasearch's current owners or officers will file an application for certification as a CRNGS aggregator or marketer for five years following the issuance of this Finding and Order. Finally, as stated in the Stipulation, Gasearch may file an application for certification as a retail natural gas broker no sooner than 60 days after the filing of the abandonment application. Accordingly, we find that the Stipulation represents a reasonable resolution of this matter and that it should be approved and adopted in its entirety.

III. ORDER

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That the Stipulation filed by Gasearch and Staff be adopted and approved. It is, further,

{¶ 21} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 22} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Daniel R. Conway

Dennis P. Deters

JMD/mef

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 15-0866-GA-CRS

Summary: Finding & Order adopting the joint stipulation and recommendation filed by Gasearch LLC and Staff, which resolves the marketing, record keeping, and enrollment issues identified by Staff electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio