

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The East)
Ohio Gas Company d/b/a Dominion Energy) Case No. 23-107-GA-UNC
Ohio for Approval of Revised Bill Format.)

**MOTION TO INTERVENE,
MOTION TO SUSPEND THE AUTOMATIC APPROVAL PROCESS
AND
MOTION FOR A PROCEDURAL SCHEDULE**

The Retail Energy Supply Association (“RESA”),¹ pursuant to Ohio Revised Code Section 4903.221 and Ohio Administrative Code 4901-1-11, moves to intervene in the above proceeding as a full party of record. RESA members will be directly and substantially affected by the proposed change related to the price-to-compare message. No other intervening party represents RESA’s or its members’ interests in this matter. Therefore, RESA should be made a full party of record.

In addition, should the Commission not outright reject Dominion’s application—which it has the discretion to do and should do for the reasons discussed below—RESA moves to suspend the automatic approval process under Ohio Administrative Code 4901:1-13-11(D), and moves for a procedural schedule that will allow interested stakeholders ample time to present their positions

¹ The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

on the pending application. The reasons supporting these motions are contained in the accompanying Memorandum in Support.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

Michael J. Settineri (0073369), Counsel of Record

Gretchen L. Petrucci (0046608)

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43215

614-464-5462

mjsettineri@vorys.com

glpetrucci@vorys.com

(Both are willing to accept service by email)

Counsel for the Retail Energy Supply Association

**MEMORANDUM IN SUPPORT OF
THE MOTION TO INTERVENE,
MOTION TO SUSPEND THE AUTOMATIC APPROVAL PROCESS
AND
MOTION FOR A PROCEDURAL SCHEDULE**

I. Introduction

The East Ohio Gas Company d/b/a Dominion Energy Ohio (“Dominion”) believes its existing placement of the price-to-compare (“PTC”) message is compliant with Ohio Administrative Code (“Rule”) 4901:1-13-11(B)(13).² The placement is consistent with bill formats previously approved by the Public Utilities Commission of Ohio (“Commission”).³ Dominion’s application, however, proposes to change the display of the PTC message by permanently adding the PTC message a second time on certain customers’ bills. That text states:

Energy Choice – When shopping for a natural gas supplier, it may be useful to compare supplier offers with the standard choice offer (SCO) rate available to eligible customers, which varies monthly based on the market price of natural gas. Price represents one feature of any offer; there may be other features which you consider of value. More information about the SCO and other suppliers’ offer is available at EnergyChoice.ohio.gov or by contacting the PUCO.

RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. Many of RESA’s members are certified as competitive retail natural gas service (“CRNGS”) providers and are active in the Ohio retail markets providing service to residential, commercial, industrial and governmental customers. In addition, some of RESA’s

² Application at ¶ 6.

³ The current placement of the PTC message is in the “Billing, Service Inquiries or Concerns” section of Dominion’s bill, which is where the previously required “Apples-to-Apples” language was located before the PTC language replaced it. That location was part of previously approved bill format application proposals. See *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a Revised Bill Format, etc.*, Case Nos. 17-926-GA-UNC, Finding and Order (May 3, 2017); and *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a Revised Bill Format*, Case No. 12-889-GA-UNC, Finding and Order (April 11, 2012).

members currently provide CRNGS to retail customers in the service area of Dominion. RESA should be granted intervention in this proceeding because its interests will be affected by the application.

In addition, if the Commission does not outright reject Dominion's application, RESA moves to suspend the automatic approval process under Rule 4901:1-13-11(D), and moves for a procedural schedule that will allow RESA a reasonable opportunity to respond to the application. Further details on these requests are set forth below.

II. Motion to Intervene

A. RESA meets the Commission's standard for intervention in this proceeding.

The standard for intervention at the Commission is governed by Ohio Revised Code Section ("R.C.") 4903.221 and Rule 4901-1-11. When deciding a motion to intervene, the Commission considers the following factors: the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. *See* R.C. 4903.221(B). Similarly, Rule 4901-1-11 states in part:

- (A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

* * *

- (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

A review of the intervention criteria in light of the following facts supports granting RESA's intervention.

B. RESA has a real and substantial interest in this proceeding that is not represented by others.

Dominion's proposal is problematic and will affect RESA's interests and those of its members for several reasons including the following. First, the proposed change will interject Dominion into the customer's shopping decision, and materially threaten suppliers' relationships with their customers. The message will invite customers to reconsider their relationship with their supplier via a permanent and repeated monthly message from Dominion telling customers that it may be useful for them to compare their offer with the standard choice offer. As proposed, the message will be stated twice on the specified customer bills. Placing the message on the first page of every month's bill would hinder shopping and affect the supplier-customer contractual relationship. Second, Ohio does not permit Dominion to use its unique power and position as a local distribution company and the billing company to interfere or discriminate against shopping selections or harm the market. For example, R.C. 4929.02 states among other things it is the policy to "promote the availability of unbundled and comparable natural gas services and goods," "promote effective competition," and "promote diversity of natural gas supplies and suppliers." Dominion's use of its position will discriminate and interfere with the shopping customers' decision and harm the market.

Third, Dominion believes its current PTC message placement is compliant with Rule 4901:1-13-11(B)(13). Application at ¶ 6. Dominion's application states that it was "after discussions with Staff" that Dominion agreed to propose the change related to the PTC message. *Id.* Dominion's application raises serious concerns regarding Dominion's "agreement" to present this PTC message proposal. Finally, if Dominion's application was approved, Dominion would be required indefinitely to list the PTC message twice on the monthly bills of certain customers. It

would be unable to use the upfront message area otherwise – without first applying for and receiving express Commission permission.

Neither Dominion nor Staff – the only others in this proceeding – represent RESA’s interests. Also, neither Dominion nor Staff will adequately represent RESA’s interests. No other entity has been granted intervention.

C. RESA can contribute and will not unduly delay this proceeding.

RESA can contribute to a just and expeditious resolution of the issues involved. RESA is knowledgeable and has participated in numerous Commission proceedings, including bill-related matters.⁴ Its members are experienced, long-time participants in the Ohio competitive markets. RESA and its members have significantly contributed to the Commission’s full and complete consideration of the issues for many years and can contribute again in this proceeding. Also, RESA’s intervention request is timely and its intervention would not result in an **undue** delay of the proceeding.

For all of these reasons, RESA respectfully requests that the Commission conclude that RESA meets the standard for intervention, grant this motion to intervene and make RESA a full party of record.

III. If the Commission does not reject the PTC message proposal outright, the Commission should suspend the automatic approval process to allow sufficient time for all stakeholders to be heard.

Dominion’s application is a utility-consolidated bill format application filed by a natural gas company. Unless the Commission rules within 45 days of the application’s filing, the proposed bill format sample is deemed approved on the forty-sixth day after filing. Rule 4901:1-13-11(D).

⁴ See e.g. *In the Matter of the Application of Ohio Power Company for Approval of a Change in Bill Format*, Case No. 20-1408-EL-UNC.

If the Commission does not reject the PTC message proposal outright in light of the multiple arguments listed above, the Commission should suspend the automatic approval process applicable to this application and not allow the proposed bill format sample to be deemed approved automatically.

RESA has raised multiple initial concerns with the PTC message proposal. If the Commission does not opt to reject the PTC message proposal based on these concerns, the Commission should allow all interested stakeholders ample opportunity to present concerns and arguments without the press of a short automatic-approval process. Dominion's application is not time sensitive and the Commission would benefit from comments related to the significant issues raised by the application if the Commission does not reject the PTC message proposal outright. The Commission or its Attorney Examiner should suspend the automatic approval process if the Commission does not opt to reject the PTC message proposal outright.

IV. If the Commission does not reject the PTC message proposal outright, the Commission should issue a reasonable procedural schedule in this proceeding.

If the Commission does not outright reject the PTC message proposal, RESA requests that the Commission issue a procedural schedule, as follows:

- Intervention deadline three weeks after issuance of the entry;
- Initial comments from Dominion, Staff and all intervenors be due no sooner than June 1, 2023 (to allow for meaningful discovery); and
- Reply comments due three weeks after initial comments are filed.

RESA reminds the Commission that this application is not time sensitive, and there are multiple other proceedings to which RESA and others are parties that involve significant time and effort to meet their deadlines in the near future.

V. Conclusion

Dominion's proposal seeks to inappropriately interfere with the relationship of suppliers and their customers, would violate Ohio law, and would allow Dominion to improperly use its LDC position. RESA's substantial interests will be harmed and its intervention is warranted here. RESA will not unduly delay the proceeding, no other party represents RESA's interest, and RESA will contribute significantly to this proceeding.

If the Commission does not reject Dominion's PTC message proposal outright, RESA requests the Commission suspend the automatic approval process, and issue a reasonable procedural schedule as set out above that will allow parties and the Commission a reasonable opportunity to present their positions about Dominion's application in this proceeding.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

Michael J. Settineri (0073369), Counsel of Record

Gretchen L. Petrucci (0046608)

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

614-464-5462

mjsettineri@vorys.com

glpetrucci@vorys.com

(Both are willing to accept service by email)

Counsel for the Retail Energy Supply Association

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 3rd day of March 2023.

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

kennedy@whitt-sturtevant.com
andrew.j.campbell@dominionenergy.com

Staff of the Public Utilities Commission of Ohio

john.jones@ohioago.gov

/s/ Gretchen L. Petrucci
Gretchen L. Petrucci

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

3/3/2023 4:15:24 PM

in

Case No(s). 23-0107-GA-UNC

Summary: Motion to Intervene, Motion to Suspend the Automatic Approval Process
and Motion for a Procedural Schedule electronically filed by Mrs. Gretchen L.
Petrucci on behalf of Retail Energy Supply Association