

**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. 22-0179-GA-ATA
Ohio for Approval of Tariff Revisions)

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

**INITIAL BRIEF
OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

I. Introduction

The stipulated resolution of the issues in these proceedings, as recommended by the applicant, the Retail Energy Supply Association (“RESA”)¹ and numerous other parties is reasonable and should be approved by the Public Utilities Commission of Ohio without modification. The record establishes that the Stipulation and Recommendation (“Stipulation”) satisfies the Commission’s three-part test because the settlement is a product of serious bargaining among capable, knowledgeable parties; as a package, benefits ratepayers and the public interest; and does not violate any important regulatory principle or practice. The Stipulation resolves issues raised by RESA and others in these proceedings and results in multiple benefits to customers, competitive retail natural gas service (“CRNGS”) suppliers and the competitive market. In addition, the Stipulation supports development of the competitive market and is consistent with several important regulatory principles, including natural gas policies in Ohio Revised Code

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.

Section 4929.02. The Commission should approve the Stipulation as presented and without modification, and reject all arguments from the sole party who opposes the Stipulation.

II. Standard of Review

The Commission's three-part test for determining if a stipulation is reasonable is as follows: (1) is the settlement a product of serious bargaining among capable, knowledgeable parties; (2) does the settlement, as a package, benefit ratepayers and the public interest; and (3) does the settlement violate any important regulatory principle or practice. The Supreme Court of Ohio endorses an analysis of stipulations using those three criteria. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.* (1994), 68 Ohio St.3d 559 (citing *Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St.3d 123, 126).

III. Decarbon Ohio Program Proposal

The East Ohio Gas Company d/b/a Dominion Energy Ohio ("Dominion" or "DEO") applied in March 2022 for approval of a new program called "Decarbon Ohio Program" that would enhance awareness of carbon offset natural gas products and respond to customers and others who desire to address environmental and sustainability concerns.² Comments regarding the application were filed in May and June 2022. Settlement discussions were held, which ultimately resulted in the filing of the Stipulation on March 28, 2023.

The Stipulation proposes to resolve all issues in the proceedings by establishing the Decarbon Ohio Program as a non-tariffed program pursuant to which Dominion and the voluntary participating CRNGS suppliers enhance the visibility of carbon offset products through a cooperative education-and-offer program. The customer education will generally address the importance of sustainability and availability of offers in the marketplace.³ The participating

² Dominion Ex. 2.0 at 1-2.

³ Joint Ex. 1.0 at 3; Dominion Ex. 2.0 at 2.

CRNGS suppliers will offer and provide their carbon offset products to customers who enroll.⁴ Dominion will facilitate customer education, administer the program, and use a verification process.⁵ The Stipulation resolved several other issues – agreeing that governmental aggregations can participate in the program, carbon offset acquired through certain registries are considered verified, the existing supplier funding and Energy Choice Collaborative may be used for customer education, and Dominion will pay startup costs and participating CRNGS suppliers will pay administrative and IT costs.⁶ An agreed-upon, modified bill format is also proposed, in which a Decarbon Ohio logo and corresponding term explanation are added when a customer is being billed for a participating CRNGS supplier’s carbon offset product.⁷ The Stipulated Program will be a first-of-its-kind in Ohio.⁸

Some but not all parties signed the Stipulation. The Stipulation was signed by Dominion, RESA, Interstate Gas Supply LLC (“IGS”), the NRG Retail Companies,⁹ SFE Energy Ohio Inc., and Statewise Energy Ohio LLC. Commission Staff and the Northeast Ohio Public Energy Council (“NOPEC”) do not oppose the Stipulation.¹⁰ The Office of the Ohio Consumers’ Counsel (“OCC”) is the sole party who opposes the Stipulation.¹¹

⁴ Dominion Ex. 2.0 at 2.

⁵ Joint Ex. 1.0 at 5-7.

⁶ *Id.* at 4-7.

⁷ Joint Ex. 2.0.

⁸ IGS/RESA Ex. 1.0 at 4.

⁹ The NRG Retail Companies are: Direct Energy Business LLC; Direct Energy Services LLC; Direct Energy Business Marketing LLC; Energy Plus Natural Gas LLC; Reliant Energy Northeast LLC; Stream Ohio Gas & Electric, LLC; and XOOM Energy Ohio, LLC.

¹⁰ Dominion Ex. 1.0 at 2, 5; IGS/RESA Ex. 1.0 at 6.

¹¹ OCC Ex. 1.0 at 3.

IV. Argument

A. The Stipulation was seriously negotiated by capable, knowledgeable parties.

OCC presented no testimony contesting that the Stipulation was seriously negotiated by capable, knowledgeable parties.¹² Any such argument from OCC on brief should be rejected because all evidence in the record regarding this test criteria is unanimous, confirming that the Stipulation is the product of serious bargaining among capable and knowledgeable parties. IGS¹³ and RESA members are engaged in selling carbon-neutral or carbon offset products, and thus have experience with environmentally sustainable natural gas products and have knowledge related to the market for them. IGS/RESA witness White further explained in his testimony how the first criteria is met.¹⁴

With respect to the first component, my understanding is that the bargaining was serious because the parties convened on several occasions and conducted several rounds of negotiations over an approximately 11-month period to reach the final settlement.

Regarding the second component, it is my opinion that the parties who engaged in the settlement negotiations were knowledgeable and capable. Given that the Stipulation establishes a Program in which suppliers will sell and market environmentally sustainable natural gas products to customers, it was paramount that CRNGS suppliers and other parties with expertise in retail markets and retail market design had a seat at the bargaining table. IGS, RESA, and other CRNGS suppliers participated in the negotiations
* * *

PUCO Staff, the Ohio Consumers' Counsel ("OCC"), and Northeast Ohio Public Energy Council ("NOPEC"), a governmental aggregator, were present at the negotiations. No party was excluded during the negotiation process. It is my understanding that all parties were represented by attorneys, many of whom have years of experience in regulatory matters before this Commission.

¹² OCC witness Tinkham recommended that the Stipulation be rejected only on the basis of the second and third criteria of the Commission's test. OCC Ex. 1.0 at 3.

¹³ IGS/RESA Ex. 1.0 at 1.

¹⁴ *Id.* at 5-6.

The testimony from Dominion’s witness Hochstetler and the NRG Retail Companies’ witness Hutchinson¹⁵ similarly confirm that capable and knowledgeable parties negotiated this Stipulation. The record is clear that the Stipulation is a product of serious bargaining among capable and knowledgeable parties. The Commission should find that the first criteria is met.

B. The Stipulation will benefit customers and the public interest.

The Stipulation will benefit customers and the public interest because it will establish a program that brings greater visibility to sustainability and carbon offsets. Multiple witnesses acknowledge this benefit, specifically:

- IGS/RESA witness White stated the Stipulated Program will inform customers concerning “the importance of sustainability and the general availability of carbon-offsetting rate offerings.”¹⁶
- Dominion witness Hochstetler testified that the framework will, among other things, help increase customer awareness of sustainability and sustainable rate offerings.¹⁷
- The NRG Retail Companies’ witness Hutchinson stated that the Stipulated Program will raise awareness among customers about the availability and benefits of carbon neutral natural gas products.¹⁸

The Stipulation will also benefit customers and the public interest because it will help with society’s broader goals of reducing the emissions associated with consumption.¹⁹ As Ms. Hochstetler testified:²⁰

The availability and use of carbon offset rates will directly support these goals by offsetting customer carbon emissions. In addition, such offerings generally increase customer awareness of environmental concerns, which in combination with customer education can further encourage conservation-related activities.

¹⁵ Dominion Ex. 1.0 at 5-6; NRG Ex. at 1, 3-4.

¹⁶ IGS/RESA Ex. 1.0 at 6, citing ¶ 2 of Dominion Ex. 2.0, which also states that the joint approach will bring additional visibility to such offerings.

¹⁷ Dominion Ex. 1.0 at 11.

¹⁸ NRG Ex. 1.0 at 5.

¹⁹ Dominion Ex. 1.0 at 8.

²⁰ *Id.*

Mr. Hutchinson explained that matching carbon offsets with natural gas usage reduces the environmental impact of the consumers' gas usage because the carbon dioxide-equivalent emissions of the gas usage are offset through the purchase and retirement of carbon offset credits from U.S.-based projects, allowing "the consumer to reduce their carbon footprint, and to support projects that prevent greenhouse gas emissions from entering the atmosphere."²¹ Even OCC's witness concedes that carbon offset opportunities are beneficial.²²

The Stipulation will also benefit customers and the public interest because it will directly respond to concerns and requests from interested customers and other segments of the public who have urged sustainability and clean-energy initiatives. Although many customer are still not aware of the availability of carbon-neutral natural gas offerings,²³ there are concerns for sustainability and desires for initiatives. Ms. Hochstetler testified that Dominion's customers, investors, and locally elected officials have expressed an interest in and support for sustainability and clean-energy initiatives.²⁴ A 2020 study of residential customers referenced by Mr. Hutchinson reported that 68% of consumers were very concerned about climate change and their personal carbon footprint, while 81% of millennials were very concerned.²⁵ The Stipulation is directly responsive to these concerns and wishes of customers and the public.

Additionally, the Stipulation will benefit customers and the public interest because it promotes competition. Again, multiple witnesses identified this important benefit of the Stipulation, but IGS/RESA witness White's testimony encapsulates this point:²⁶

* * * [T]he Program promotes competition and serves the public interest by leveraging the competitive market and its participants to serve as the provider of carbon offsets and/or other environmentally sustainable offerings to customers in the DEO service territory. Since DEO did not seek

²¹ NRG Ex. 1.0 at 5.

²² OCC Ex. 1.0 at 3.

²³ IGS/RESA Ex. 1.0 at 6.

²⁴ Dominion Ex. 1.0 at 2, 7-8.

²⁵ NRG Ex. 1.0 at 6.

²⁶ IGS.RESA Ex. 1.0 at 7.

authority through the Stipulation to offer carbon offsets directly to customers, the agreement, as filed, should encourage market participants to develop and offer a host of environmentally sustainable rate and product offerings that are currently unavailable in the market today.

Ms. Hochstetler agreed, stating that the Stipulation will encourage existing and new suppliers to offer additional carbon offset products and provide an avenue for interested customers to enroll in such products.²⁷ Importantly, the Stipulation will facilitate effective customer choice through voluntary enrollments.

A final benefit of the Stipulation for customers and the public interest is that the startup costs and ongoing administrative and IT costs of the Stipulated Program will not be recovered from ratepayers. Dominion will pay for the startup costs and expressly agreed to not recover those costs from ratepayers.²⁸ And, participating suppliers will pay for the ongoing administrative and IT costs of the Stipulated Program.²⁹ Ms. Hochstetler and Mr. White both recognized these benefits of the Stipulation.³⁰

Given all of these benefits from the Stipulation, the Commission should find that the second criteria is met.

C. The Stipulation is consistent with regulatory principles and policies.

The Stipulation does not violate any important regulatory principle or practice. The majority of the witnesses testified that, rather than violate any regulatory principle or practice, the Stipulation promotes the state of Ohio natural gas policies in Ohio Revised Code Section

²⁷ Dominion Ex. 1.0 at 11. *Accord*, NRG Ex. 1.0 at 2-3.

²⁸ Joint Ex. 1.0 at 7.

²⁹ *Id.*

³⁰ Dominion Ex. 1.0 at 10; IGS/RESA Ex. 1.0 at 8.

4929.02(A). Specifically, the witnesses testified that the Stipulation will promote multiple policies:

- R.C. 4929.02(A)(3): The Stipulation promotes diversity of natural supplies and suppliers because it proposes to bring additional visibility to carbon offset offers.³¹
- R.C. 4929.02(A)(4): The Stipulation encourages innovation because it encourages suppliers to develop new rate offerings, and will put into place a first-of-its-kind program in Ohio.³²
- R.C. 4929.02(A)(6): The Stipulation recognizes the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment because, through a collaborative approach, it will establish a non-tariffed program that promotes continued development of the competitive market.³³
- R.C. 4929.02(A)(11): The Stipulation facilitates additional choices for the supply of natural gas because it provides additional education and awareness of carbon offset offers.³⁴

In contrast, the Stipulated Program will not establish Dominion as a promoter of specific suppliers or as an advertiser of specific offers, or create a new customer service from Dominion. As IGS/RESA witness White testified, “the Stipulation establishes a Program in which **suppliers will sell and market** environmentally sustainable natural gas products to customers.”³⁵ The Stipulated Program will build upon the existing competitive market and Dominion’s actions related thereto, in order to provide additional visibility to sustainability and carbon offsets.³⁶

The Stipulated Program will educate customers on carbon offset products, as Dominion witness Hochstetler explained:³⁷

DEO has worked with the Commission, competitive suppliers, and other stakeholders to give customers effective choices for their natural gas supply service, including the supervision and administration of numerous customer education campaigns. DEO’s approach for customer education for the

³¹ IGS/RESA Ex. 1.0 at 8; Dominion Ex. 1 at 11; NRG Ex. 1.0 at 6.

³² IGS/RESA Ex. 1.0 at 8; Dominion Ex. 1 at 11; NRG Ex. 1.0 at 6.

³³ Dominion Ex. 1 at 11.

³⁴ IGS/RESA Ex. 1.0 at 8-9; Dominion Ex. 1 at 11.

³⁵ IGS/RESA Ex. 1.0 at 5 (emphasis added).

³⁶ Dominion Ex. 1.0 at 8; IGS/RESA Ex. 1.0 at 6.

³⁷ Dominion Ex. 1.0 at 9.

program will build on its approach to Energy Choice education in general—the necessary tools will be made accessible to interested customers to enable them to identify participating suppliers, investigate available rate offerings, and make informed decisions when choosing a natural gas commodity supplier and rate. Here, DEO’s goal would be to increase awareness of the available rate offers under the Program and how to contact participating suppliers.

The Stipulation is thus also consistent with the Commission’s policy of educating customers regarding available products and services.³⁸

The record establishes that the Stipulation is consistent with important regulatory principles or practices, and no violation will occur. The Commission should find that the third criteria is met.

V. Conclusion

The Stipulation provides benefits to customers, the public interest and CRNGS suppliers in a number of ways – bringing greater visibility to sustainability and carbon offsets, reducing the emissions associated with consumption, responding to concerns and requests for sustainability and clean-energy initiatives, promoting competition, all while not imposing costs on the ratepayers. The Stipulation is the result of serious negotiations and bargaining that took place in these proceedings and the Stipulation does not violate any important regulatory principle or practice. The Commission should approve the Stipulation without modification, and at the same time reject the arguments presented in opposition to the Stipulation.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

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³⁸ IGS/RESA Ex. 1.0 at 8.

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 2nd day of August 2023.

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Summary: Brief -- Initial Brief electronically filed by Mrs. Gretchen L. Petrucci on behalf of Retail Energy Supply Association.