

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Filing of Annual)	
Reports for Calendar Year 2011 by:)	
)	
Certified Competitive Retail Electric Service)	Case No. 12-03-GE-RPT
Providers, Natural Gas Suppliers, and)	
Governmental Aggregators.)	
)	
Competitive and Wireless Telecommunica-)	Case No. 12-05-TP-RPT
tions Service Providers.)	

SECOND ENTRY ON REHEARING

The Commission finds:

- (1) Section 4905.14, Revised Code, requires that every public utility, as defined by Sections 4905.02 and 4905.03, Revised Code, shall file an annual report at the time and in the form prescribed by the Commission. Section 4928.06, Revised Code, requires every certified competitive retail electric service provider and governmental aggregator subject to certification under Section 4928.08, Revised Code, to file an annual report of sales and receipts for those services for which it is subject to certification. Section 4929.23, Revised Code, requires every retail natural gas supplier and governmental aggregator subject to certification under Section 4929.20, Revised Code, to file an annual report of sales and receipts for those services for which it is subject to certification. Section 4905.54, Revised Code, empowers the Commission to assess a forfeiture of not more than \$10,000 per day for each violation or failure of a public utility or railroad, or an officer of a public utility or railroad, to comply with an order, direction, or requirement of the Commission made under authority of Chapter 4905, Revised Code.
- (2) On February 14, 2012, the Commission issued an entry in both of the above-captioned cases directing the filing of reports by April 30, 2012, in accordance with the sample or on-line form and instructions posted on the Commission's website. Each reporting entity was directed to file an annual report with the Commission even if the company was not in business or did

not have intrastate gross earnings during calendar year 2011. Furthermore, entities were apprised that failure to file an annual or assessment report might result in revocation of a company's operating authority or certificate; and that any public utility's failure to comply may result in the assessment of penalties, pursuant to Section 4905.54, Revised Code. Finally, all reporting companies were advised that the Commission will implement a \$100 minimum assessment per reporting entity, pursuant to Section 4905.10(A), Revised Code, for all reporting entities, including brokers and governmental aggregators who have no intrastate gross revenues.

- (3) On June 13, 2012, the Commission issued an entry directing that each reporting entity, with several exceptions, that had not yet filed its annual report, do so or request a waiver by June 25, 2012.
- (4) By entry issued on August 8, 2012, each reporting entity that had not yet filed its annual report was granted until August 20, 2012, to show cause why its certification or operating authority should not be revoked, or assessed a forfeiture of not more than \$10,000 per day for failure to comply with the February 14, 2012, and June 13, 2012 Orders. A copy of the entry was served upon each listed delinquent entity by both regular and certified mail, in addition to any service via electronic mail.
- (5) On December 19, 2012, the Commission issued a finding and order that revoked the certificates of nine electric suppliers and 11 telephone service suppliers for failure to file an annual report for 2011. The order also identified 26 regulated entities that had failed to pay their respective 2012 assessments, but granted these companies until December 31, 2012, to show cause why their certificates or operating authorities should not be revoked.
- (6) The City of Canton was inadvertently included on the attachment listing certificates to be revoked for the December 19, 2012 order, even though the city was not issued Certificate No. 12-430E until after the 2011 reporting year. Accordingly, Certificate No. 12-430E should be reinstated on the Commission's records.

- (7) Section 4903.10, Revised Code, provides that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days of the issuance of the order.
- (8) Applications for rehearing of the December 19, 2012 order were filed by three small brokers in Case No. 12-03-GE-RPT, two of which were granted by the entry on rehearing issued on January 9, 2013. This entry on rehearing also denied an application for rehearing where the company had failed to timely file for renewal of its certificate or request an extension. In addition, the entry revoked the authority of ten entities who had failed to pay their assessments or show cause why their certificates should not be revoked by December 31, 2012.
- (9) Concurrent with the issuance of the January 9, 2013 entry, Buckeye Energy Brokers, Inc. filed documentation that payment was submitted by it on behalf of the City of Canal Fulton, Ohio. As the Commission's records reflect that such payment was received, Certificate No. 05-095G, issued to the City of Canal Fulton, should be reinstated.
- (10) On January 11, 2013, an application for rehearing of the December 19, 2012 order was filed by Optimum Group, LLC, (Optimum Group) to reinstate Certificate No. 11-356E, which became effective on May 8, 2011, in Case No. 11-2348-EL-AGG. Further, Optimum Group has now filed its annual report and paid a \$100 assessment for 2012. Given its relative inexperience as an Ohio broker, Optimum Group's application for rehearing should be granted, and Certificate No. 11-356E should be reinstated for good cause shown.
- (11) Applications for rehearing of the January 9, 2013 entry on rehearing were filed by Arcelormittal USA, LLC (Arcelormittal) on January 11, 2013, and Tiger Natural Gas, Inc., (Tiger) on January 22, 2013, to reinstate their respective certificates. Both suppliers indicate that they are recently certified and that the failure to timely pay the assessment was due to an administrative oversight. Given their relative inexperience as Ohio suppliers and the implementation of the statutorily-mandated minimum assessment, the applications for rehearing of Arcelormittal and Tiger should be granted, and Certificate

Nos. 11-364E and 10-187G should be reinstated for good cause shown.

- (12) Applications for rehearing of the January 9, 2013 entry on rehearing were also filed by Commonwealth Energy LTD (Commonwealth), and BCE Nexxia Corporation (BCE Nexxia) on January 16, and 24, 2013, respectively. Commonwealth's application for rehearing was filed by Stedson R. McIntyre while BCE Nexxia's was filed by Jonathan Blakey. Both of these filings appear to be made on behalf of corporations by company officers who are not attorneys licensed to practice in Ohio. Rule 4901-1-08(A), Ohio Administrative Code (O.A.C.), requires that any party not appearing in propria persona shall be represented by an attorney-at-law authorized to practice before the courts of this state, and that corporations must be represented by an attorney-at-law. The Commission finds that the filing of an application for rehearing constitutes the practice of law in Ohio, and consequently, neither of these applications for rehearing can be considered. If either company wishes to retain its certificate, it should have an attorney licensed to practice in Ohio duly file an application for rehearing on its behalf by February 8, 2013.
- (13) Finally, as noted in our previous orders, all regulated entities should note that the Commission intends to implement a simplified, uniform report form and process across all industry segments for the 2012 reporting year. Further information, including sample forms, will be made available as soon as possible through the industry listserves. All reporting entities are directed to subscribe to the appropriate industry list(s) or contact the Docketing Division at (614) 466-4095.

It is, therefore,

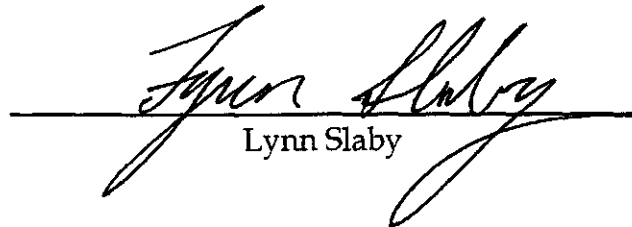
ORDERED, That the applications for rehearing filed by Optimum Group, Arcelormittal, and Tiger be granted, and Certificate Nos. 11-356E, 11-364E, and 10-187G be reinstated. It is, further,

ORDERED, That Certificate Nos. 05-095G, issued to the City of Canal Fulton, and 12-430E, issued to the City of Canton, be reinstated. It is, further,

ORDERED, That Commonwealth and BCE Nexxia comply with finding (12) if either wishes the Commission to consider its request for rehearing of our January 9, 2013 entry on rehearing. It is, further,

ORDERED, That notice of this entry be served via the Electric-Energy, Gas-Pipeline, Railroad, Telephone, and Water industry listserves, and upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Shitchler, Chairman
Steven D. Lesser
Andre T. Porter
Lynn Slaby

RMB/vrm

Entered in the Journal

JAN 30 2013Barcy F. McNeal
Secretary