

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Filing of Annual)
Reports for Calendar Year 2013 by all) Case No. 14-01-AU-RPT
Regulated Entities.)

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4905.10 provides an annual assessment based upon the intrastate gross earnings of each railroad and public utility for the purpose of maintaining the operations of this Commission. In order to calculate such assessment, R.C. 4905.14 requires every public utility to file an annual report at the time and in the form prescribed by the Commission. R.C. 4905.02 defines the term "public utility" to include every corporation, company, person, or certain other entities as defined in R.C. 4905.03, but excludes certain municipal utilities, cooperatives, and telecommunications service providers. R.C. 4905.03(A) defines public utility companies to include telephone companies, electric light companies (except regional transmission organizations), heating or cooling companies, natural gas distribution companies, pipeline companies, and water-works and sewage disposal system companies. R.C. 4907.20 requires a railroad company to complete forms submitted to it by the Commission. R.C. 4907.02 defines railroad companies to include bridge and water transportation companies engaged in the conveyance of persons or property within this state.
- (2) R.C. 4928.06 requires every certified competitive retail electric service (CRES) provider and governmental aggregator subject to certification under R.C. 4928.08 to file an annual report of sales and receipts for those services for which it is subject to certification. R.C. 4929.23 requires every certified retail natural gas (CRNG) supplier and governmental aggregator under R.C. 4929.20 to file an annual report of sales and receipts for those services for which it is subject to certification. R.C. 4905.10(D) provides that, for the purpose of annual assessment, "public utility" includes not only electric utilities as defined in R.C. 4928.01, and natural gas companies as defined in R.C. 4929.01, but also CRES and CRNG suppliers subject to certification under R.C. 4928.08 and 4929.20, respectively.

- (3) R.C. 4905.10(A) requires that any reporting entity pay a \$100 minimum assessment regardless of intrastate gross revenues. R.C. 4905.54 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 R.C. Chapter 4905.
- (4) In the Commission's August 7, 2013 Entry in Case No. 13-01-AU-RPT, all reporting companies were put on notice that the Commission intends to begin assessing a \$1,000 civil forfeiture, pursuant to R.C. 4905.54, for any company that fails to comply by the reporting deadline, absent good cause shown. Such an assessment would be in addition to any amounts owed to this Commission or the OCC.
- (5) On January 22, 2014, the Commission issued a Finding and Order (January 22, 2014 Order) in this docket, directing all reporting entities to file its annual report using the new on-line filing system by April 30, 2014, or file for an automatic 30-day extension in this docket. Any reporting company unable to use the on-line system was directed to contact the Commission's Docketing Division to request paper forms and instructions. Appendix A of the January 22, 2014 Order listed all companies holding certificate or operating authority during 2013, and directed such companies to file a report for each certificate or authority held, even if the company did not have intrastate gross earnings during the 2013 calendar year. Further, all certified electric and gas retail suppliers, including brokers and aggregators who do not take title to the power or gas (who were previously permitted to report zero sales), must now report all gross revenues derived from Ohio intrastate transactions.
- (6) On April 30, 2014, the attorney examiner issued an entry granting all entities until May 30, 2014, to submit their reports. The additional time for filing was permitted to ensure that all companies had been apprised of their filing obligations, and that any technical issues with the new system had been resolved.
- (7) Attached to this order is a list of all certificates or operating authorities for which the Commission's records reflect that no annual report has been filed for the 2013 calendar year. We

note that the following companies have filed a request for further time or exemption, or have submitted an incomplete report:

Delta Energy, LLC, Certificate No. 08-138G
 Kelley's Island Ferry Boat Lines Inc., Certificate No. WT-KIS
 Ohio Intrastate Energy LLC, Certificate No. 89-9020
 Pure Discount Energy LLC, Certificate Nos. 13-301G, 13-676E

The foregoing companies are granted until September 1, 2014, to file or complete their reports.

- (8) With respect to Ohio Intrastate Energy LLC (OIE), we note that this company currently is involved in litigation in Case No. 12-2758-GA-CSS which has been delayed due to the medical condition of OIE's principal. Further, OIE's request for extension indicates the company did not have any sales for the 2013 calendar year. In light of these circumstances, OIE will be assessed the statutory minimum amount. A copy of this order will be sent to counsel for OIE in the complaint case, and OIE is directed to file its annual report as soon as circumstances allow.
- (9) Each of the remaining listed companies are hereby assessed a civil forfeiture, pursuant to R.C. 4905.54, in the amount of \$1,000. This forfeiture will be assessed in addition to any fiscal assessment amounts owed to this Commission or the OCC. Further, each must file, by September 1, 2014, its annual report or a motion showing cause why its certificate or authority should not be revoked.
- (10) The January 22, 2014 Order also included a list of all companies that had failed to pay its assessment for 2013, and granted each company until February 3, 2014, to pay the assessed amount or show cause why its certificate or operating authority should not be revoked. The Commission's records indicate that each of the following companies has failed to pay its respective 2013 assessment amount or show cause why its certificate(s) should not be revoked:

<u>Company</u>	<u>Certificate</u>	<u>Address</u>	<u>Balance</u>
Access2Go, Inc.	90-6210	740 Florida Central Pkwy, Ste 2028 Longwood, FL32750	\$100.00
Broadvox-CLEC LLC	90-9302	4 Piedmont Center, Ste 600 Atlanta, GA 30305	\$100.00

Connect One Energy Inc.	12-243G & 12-479E	6225 Madison Rd, Cincinnati, OH 45227	\$100.00
Go Solo Technologies, Inc.	90-5961	740 Florida Central Pkwy, Ste 2028 Longwood, FL 32750	\$100.00
Trans National Communications International, Inc.	90-9177	2 Charlesgate W, Boston, MA 02215	\$2,220.60
Tritium Energy Consulting LLC	12-577E	311 E Nakoma, San Antonio, TX 78216	\$100.00

Each of the foregoing certificates is hereby revoked. Each company listed above must now immediately cease providing regulated service in the state of Ohio under the listed certificate. Further, each listed company must immediately notify any Ohio jurisdictional customers still being served under the revoked certificate that the company is no longer permitted to operate in Ohio under such authority. Any company that continues to provide regulated service under a cancelled certificate or operating authority may be subject to a forfeiture up to \$10,000 per day under R.C. 4905.54. The Docketing Division should issue notice to each listed company of the revocation of its certificate via certified mail in addition to any other means of service, cancel all applicable tariffs, and remove each listed certificate or operating authority from the Commission's regulated company list. Further, any listed entity seeking to restore its revoked certificate or operating authority, or obtain new authority from this Commission, may be assessed a forfeiture of \$1,000 pursuant to R.C. 4905.54, in addition to paying any balance owed.

- (11) The following companies were also included on Appendix C of the January 22, 2014 Order for failure to pay the 2013 assessment, but the Commission's records indicate that the company is no longer in business or has ceased conducting jurisdictional operations in Ohio:

<u>Company</u>	<u>Certificate</u>	<u>Address</u>
Amped Up Sales LLC	12-592E	4425 W Airport Fwy, Ste 220 Irving, TX 75082
Branded Retail Energy Co., LLC	12-544E	2501 N. Harwood St., Suite 2500 Dallas, TX 75201
Power2Switch Inc.	11-413E	650 W Lake St, Ste 320 Chicago, IL 60661

Each of these certificates should now be removed from the Commission's rolls of active certificates and authorities, and excluded from the calculation of any future assessments.

- (12) In prior orders, the Commission has begun publishing a list of all certificate numbers and entities for which the certificate or designated operating authority expired or was cancelled during the prior calendar year. For administrative convenience, the Docketing Division has established the practice of filing notice of any such terminations or cancellations in the current Annual Reports docket, as well as any appropriate cases. In addition, a list of all expired or cancelled certificates for the 2013 calendar year is now available under the Annual Reports link at www.puc.ohio.gov. These certificates have expired by operation of law, or have been cancelled due to mergers, abandonment, termination of the authority holder, or revoked by prior Commission order. Each listed certificate or operating authority has been removed from the rolls of active certificates and authorities on the Commission's records, and will be excluded from the calculation of any future assessments.
- (13) Finally, the Commission will address the requests of Delta Energy, LLC (Delta) and Noble Americas Gas and Power Corp. (Noble) to prorate their 2013 assessment amounts. Finding 14 of the January 22, 2014 Order directed Delta and Noble to file formal motions, which the companies submitted on January 30 and 31, 2014, respectively. Delta states that it sold its natural gas business to Hess Corporation effective November 1, 2012, and fully exited the natural gas business across all states after completing its term as a standard choice offer supplier for the period ending March 31, 2013. Delta asserts that its assessment for 2013 should be reduced from \$54,496 to \$13,624 to reflect only the three months of operations in Ohio. Using this

calculation, Delta has submitted the prorated amounts to both the Commission and the OCC. Similarly, Noble states that it also ceased providing gas under an agreement with Dominion East Ohio effective March 31, 2013. Noble requests that its assessment for 2013 be reduced from \$44,404 to \$11,901.

- (14) As noted above, R.C. 4905.10 provides the statutory funding mechanism for the purpose of maintaining the operations of this Commission. This mechanism is designed to share the burden proportionally among the railroads and various types of public utilities, and expressly includes CRES and CRNG suppliers under R.C. 4905.10(D). In their motions, Delta and Noble view the assessment as being similar to an income tax that should be adjusted according to the company's intrastate revenues. But the movants have failed to cite any statutory basis for such view, and we can not find any authority for making the requested assessment reductions. Accordingly, the motions of Delta and Noble will be denied, and the movants should remit their respective balances within 30 days of the issuance of this Order.

It is, therefore,

ORDERED, That each reporting company listed on the attachment to this Order file its annual report for the 2013 calendar year by September 1, 2014, or show cause why its certificate or authority should not be revoked. It is, further,

ORDERED, That each reporting company listed on the attachment to this Order, except those requesting extensions as noted in Finding 7 of this Order, be assessed a \$1,000 civil forfeiture, pursuant to R.C. 4905.54, in addition to any assessment amounts owed to this Commission or the OCC. It is, further,

ORDERED, That counsel for OIE in Case No. 12-2758-GA-CSS be served with a copy of this Order, and that OIE be assessed and file its report in accordance with Finding 8. It is, further,

ORDERED, That each certificate listed in Finding 10 of this Order be revoked. It is, further,

ORDERED, That each holder of a certificate listed in Finding 10 of this Order immediately cease providing regulated service in the state of Ohio under the listed certificate or operating authority, and notify any Ohio jurisdictional customers still being served under the revoked certificate that it is no longer permitted to operate in Ohio under the listed certificate or operating authority. It is, further,

ORDERED, That each certificate listed in Finding 11 of this Order be removed from the rolls of active certificates and authorities on the Commission's records, and excluded from the calculation of any future assessments. It is, further,

ORDERED, That the motions of Delta and Noble for reductions of their 2013 assessments be denied. It is, further,

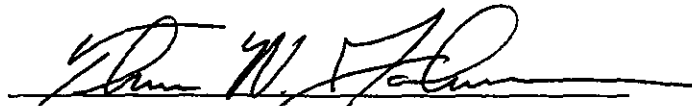
ORDERED, That Delta and Noble pay their respective balances for the full amount assessed within 30 days of the issuance of this Order. It is, further,

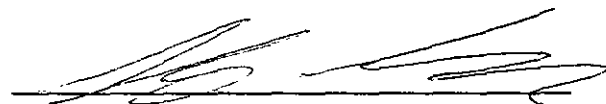
ORDERED, That notice of this Finding and Order be served via the Electric-Energy, Gas-Pipeline, Railroad, Telephone, and Water industry listserves. It is, further,


ORDERED, That the Docketing Division serve a copy of this Finding and Order with the attachment to each company listed thereon, via certified and regular mail, in addition to any electronic service. It is, further,

ORDERED, That the Docketing Division serve a copy of this Finding and Order without the attachment on each company listed in Findings 8 and 9 of this Order, via certified and regular mail, in addition to any electronic service.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman

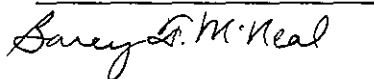

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Entered in the Journal
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Secretary

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