

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.)

ENTRY ON REHEARING

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. 4905.03(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. Railroad, bridge and water transportation companies are included in the annual reporting requirement under R.C. 4907.02 and 4907.20. All certified retail electric and natural gas suppliers and aggregators are also subject to this reporting requirement under R.C. 4928.06 and 4929.23; while R.C. 4905.10(D) provides that, for the purpose of annual assessment, "public utility" includes electric and gas suppliers and aggregators subject to certification under R.C. 4928.08 and 4929.20, respectively. R.C. 4905.10(A) sets a minimum assessment of \$100 per company, 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.
- (2) On August 20, 2014, the Commission issued a Finding and Order in this docket, which directed each listed (non-reporting) company to file its 2013 report by September 1, 2014, or show cause why its certificate or authority should not be revoked. In addition, unless otherwise noted, each non-reporting company was assessed a \$1,000 civil forfeiture, pursuant to R.C. 4905.54,

in addition to any amounts owed to the Commission or the Ohio Consumers Counsel. *See Findings 7-9 of the August 20, 2014 Order, at 2-3.*

- (3) On December 10, 2014, the Commission issued an Entry on Rehearing in this docket which revoked the certificates of twelve companies for failure to file their 2013 annual reports for fiscal assessment. *See December 10, 2014 Entry on Rehearing, Finding 8 at 3 and Attachment.*
- (4) R.C. 4903.10 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.
- (5) On December 17, 2014, Alpha Gas & Electric, LLC (Alpha or Company) filed an application for rehearing, pursuant to R.C. 4903.10, requesting a stay of the revocation of Certificate No. 13-701E, and reconsideration of the December 10, 2014 Entry on Rehearing.¹ In support of its request, the Company states that Alpha is a new competitive electric and gas supplier based in Pomona, New York. Alpha, which also holds gas supplier certification from this Commission under Certificate No. 13-308G, states that the Company did not have any jurisdictional customers in the 2013 reporting period, and did not begin marketing its services in Ohio until 2014. Alpha asserts that it was unfamiliar with the Commission's requirement to file an annual report for each certificate held, but has now filed both reports and has paid the statutory minimum assessment. Alpha indicates that it will implement measures to assure this oversight does not occur in the future, and submits that it is unreasonable to revoke its electric supplier certification for this transgression. Alpha argues that such revocation would result in irreparable harm to the Company, and the disruption of service to its customers. Finally, Alpha requests waiver of any forfeiture since its error was unintentional and the Company has timely paid its statutory assessment.
- (6) On December 23, 2014, the attorney examiner issued an entry granting Alpha's request for stay of the revocation of its electric supplier certification to allow the Company to continue service

¹ The application for rehearing incorrectly cites Alpha's Certificate No. as 13-620E instead of 13-701E.

to jurisdictional customers pending the Commission's consideration of the application for rehearing.

- (7) As Alpha did not begin operations until 2014, and its failure to file a report for its electric certificate appears to have been unintentional, its application for rehearing will be granted. Accordingly, Certificate No. 13-701E will be restored to good standing on the records of the Commission. Further, Alpha's request for waiver of the civil forfeiture assessed by the August 20, 2014 Order in this docket will be granted. The Company is, however, directed to adopt best practices, such as the use of generic electronic mail addresses and subscription of multiple accounts, to ensure that communications from the Commission are timely received and noted.

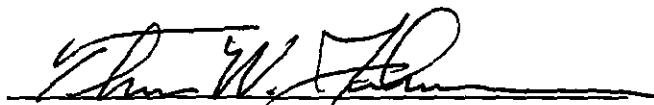
It is, therefore,

ORDERED, That Alpha's application for rehearing be granted, and Certificate No. 13-701E be reinstated in good standing on the Commission's records. It is, further,

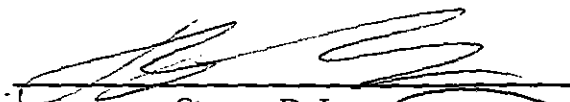
ORDERED, That the request for waiver of the civil forfeiture against Alpha be granted. It is, further,

ORDERED, That notice of this Entry be served upon Alpha, and via the Electric-Energy and Gas-Pipeline industry electronic mail lists.

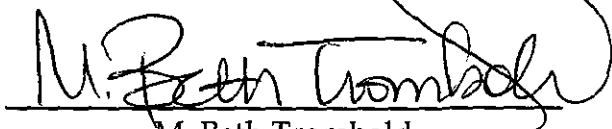
THE PUBLIC UTILITIES COMMISSION OF OHIO



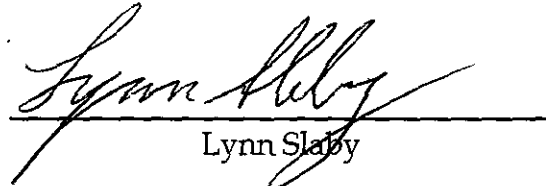
Thomas W. Johnson, Chairman



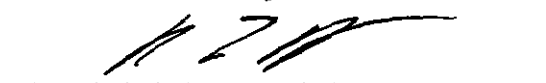
Steven D. Lesser



M. Beth Trombold



Lynn Slaby




Asim Z. Haque

RMB/dah

Entered in the Journal

JAN 07 2015



Barcy F. McNeal
Secretary