

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 that 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* Order, Findings 7-9, at 2-3.

- (3) On December 10, 2014, the Commission issued an Entry on Rehearing in this docket which revoked the certificates of 12 companies for failure to file their 2013 annual reports for fiscal assessment. *See* 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 January 7, 2015, U.S. South Communications, Inc. (U.S. South) filed an application for rehearing, pursuant to R.C. 4903.10, requesting a stay of the revocation of Certificate No. 90-6065, and reconsideration of the Entry on Rehearing. In support of its request, the company states that U.S. South, based in Atlanta, Georgia, has held Certificate No. 90-6065 for more than 12 years, and that past filings were made by a third party who unexpectedly died early last year. U.S. South asserts that it will implement measures to assure this oversight does not occur in the future, and submits that it is unreasonable to revoke its certification for this transgression. U.S. South argues that such revocation would result in irreparable harm to its customers, and requests waiver of any forfeiture since its error was unintentional, and the company immediately filed its report upon learning of this matter.
- (6) On January 8, 2015, Choose Energy Inc. (Choose Energy) also filed an application for rehearing, requesting a stay of the revocation of Certificate No. 13-331G, and reconsideration of the December 10, 2014 Entry on Rehearing. In support of its request, the company states that Choose Energy, located in San Francisco, California, is a broker/aggregator that also holds electric supplier certification from this Commission under Certificate No. 12-588E, for which it did file the appropriate annual report. Further, Choose Energy states that it did not have any jurisdictional gas retail sales during the 2013 reporting period, and that it was unfamiliar with the Commission's requirement to file an annual report for each

certificate held. Choose Energy states that it has now filed reports for both certificates and has paid the statutory assessment. The company argues that it is unreasonable to revoke its gas supplier certification for this transgression and requests waiver of any forfeiture since its error was unintentional.

- (7) The applications for rehearing of both U.S. South and Choose Energy set forth sufficient grounds and should be granted. Accordingly, Certificate Nos. 90-6065 and 13-331(G) will be restored, retroactive to December 10, 2014, to good standing on the records of the Commission. Further, the requests of both companies for waiver of the civil forfeitures assessed by the August 20, 2014 Order in this docket will be granted. Both companies are, 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 U.S. South's application for rehearing be granted, and Certificate No. 90-6065 be reinstated in good standing on the Commission's records. It is, further,

ORDERED, That Choose Energy's application for rehearing be granted, and Certificate No. 13-331G be reinstated in good standing on the Commission's records. It is, further,

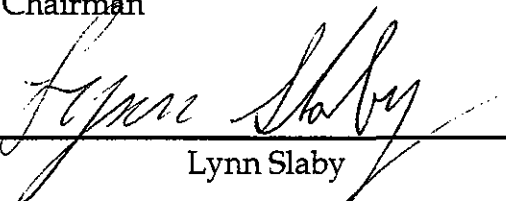
ORDERED, That the requests for waiver of the civil forfeiture against U.S. South and Choose Energy be granted. It is, further,

ORDERED, That notice of this Entry be served upon U.S. South, Choose Energy, 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

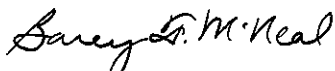

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