

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
ONE SOURCE ENERGY, LLC FOR
AUTHORITY TO OPERATE AS AN OHIO
NATURAL GAS COMPANY.

CASE NO. 16-1181-GA-ACE

ENTRY

Entered in the Journal on March 11, 2019

{¶ 1} R.C. 4905.04, 4905.05, and 4905.06 vest the Commission with the power and jurisdiction to supervise and regulate natural gas companies as defined in R.C. 4905.03 and public utilities as defined in R.C. 4905.02. R.C. 4905.03(E) defines a natural gas company as a company that is engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within this state.

{¶ 2} Pursuant to its statutory mandate under R.C. 4905.04, 4905.05, and 4905.06, the Commission reviews applications for certification as a natural gas company to determine if the applicant has the managerial, technical, and financial capability to provide natural gas service and whether there are reasonable financial assurances sufficient to protect customers.

{¶ 3} On May 24, 2016, One Source Energy, LLC (One Source or Company) filed an application, pursuant to R.C. 4905.02, 4905.03(E), and 4905.63, for authority to operate as an intrastate natural gas distribution company in Ohio and for approval of a proposed tariff.

{¶ 4} On January 27, 2017, One Source amended the tariff contained within its application.

{¶ 5} On March 23, 2017, One Source filed a motion for protection of financial information contained within Exhibit D and a memorandum in support. On March 24, 2017, and April 14, 2017, One Source filed the financial information related to Exhibit D.

{¶ 6} On September 28, 2017, Staff filed its review and recommendation. In the report, Staff noted that One Source was providing local distribution natural gas service to

approximately 19 customers without Commission authority. According to Staff, One Source's application, amended application, and supplemental information were incomplete because One Source did not provide financial statements for review. Based on the lack of financial information, Staff recommended that the Commission issue an order directing One Source to file the financial information requested by Staff within 30 days. If One Source failed to do so, Staff recommended that the Commission order One Source to either relinquish or sell its distribution assets to another party that has the capability to provide adequate service or direct its customers to find alternative service before a date certain and cease and desist providing natural gas service to its customers.

{¶ 7} On December 22, 2017, Staff filed an updated review and recommendation. In the updated report, Staff indicated that it contacted One Source four separate times, but One Source had failed to provide the requested financial information. Consequently, Staff renewed its request that the Commission order One Source to either provide the financial information to Staff within 30 days or relinquish or sell its distribution assets to another party that has the capability to provide adequate service, or direct its customers to find alternative service before a certain date and cease and desist providing natural gas service to its customers.

{¶ 8} On April 11, 2018, the Commission issued a Finding and Order in this matter, directing One Source to file the financial information requested by Staff within 30 days of the date of the Order. In the alternative, the Commission directed One Source to file a pleading, within 30 days, explaining why the Company believed that it was properly and legally operating as a natural gas company within the state, in the absence of authority from the Commission. Further, the Commission directed One Source to cease solicitation or enrollment of any new customers until the Company was granted authority by the Commission to operate as a natural gas company in the state. Finally, the Commission noted that if One Source failed to comply with the Commission's directives or failed to cooperate with Staff's efforts to review the Company's operations, the Commission would take

appropriate action, including, but not limited to, directing the Ohio Attorney General to take all permissible legal action pursuant to Title 49 of the Revised Code.

{¶ 9} On May 22, 2018, Staff filed a notice informing the Commission that One Source failed to file the requested financial information or a pleading pursuant to the Commission's April 11, 2018 Finding and Order.

{¶ 10} On July 27, 2018, the Ohio Attorney General, on behalf of Staff, filed a motion pursuant to Ohio Adm.Code 4901-1-25(A) requesting that the Commission issue subpoenas duces tecum requiring Mr. David J. McElrath, the owner and operator of One Source, and Sabrina Urick, the manager of One Source, to attend and give testimony at a deposition. The deposition was scheduled for August 22, 2018, at the Commission offices. Mr. McElrath and Ms. Urick were also instructed to bring the previously requested financial information.

{¶ 11} Neither Mr. McElrath nor Ms. Urick appeared for the deposition on August 22, 2018.

{¶ 12} On March 8, 2019, Staff filed an updated review and recommendation. In it, Staff reiterates that it has still not received the requested financial information. Furthermore, Staff notes that, in September 2018, it conducted a safety inspection of One Source's natural gas pipeline facilities located in Trumbull County, Ohio and reviewed One Source's pipeline safety records at One Source's main office located in Niles, Ohio. As a result of the inspection and review, Staff determined that One Source was missing required records, failed to submit required records, and failed to follow required plans. On October 10, 2018, Staff issued a notice of probable noncompliance, which required a written response from One Source within 30 days. Staff did not receive a response to the notice. Additionally, Staff notes that One Source now has approximately 89 customers. Based on the facts, Staff states that it has serious concerns on whether One Source's management is capable of properly operating a natural gas company. Therefore, Staff recommends that the Commission deny One Source's application for certification and order it to relinquish or sell its distribution assets to another party with the capability to provide adequate service.

Alternately, Staff recommends that the Commission set a deadline for One Source's customers to find alternative service and direct One Source to cease and desist providing natural gas service.

{¶ 13} Upon review of the procedural history of this matter, the attorney examiner finds that an evidentiary hearing on One Source's application should be held. Therefore, a hearing in this matter is scheduled for April 8, 2019, at 11:00 a.m. in Hearing Room 11-D at the Commission offices, 180 East Broad Street, Columbus, Ohio 43215. Visitors should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing.

{¶ 14} At the hearing, it will be the responsibility of One Source to appear and be prepared to present evidence regarding whether the Company has the managerial, technical, and financial capability to provide natural gas service to the public and whether there are reasonable financial assurances sufficient to protect customers. One Source should also present evidence at the hearing as to why it should not be found to be in violation of the Commission's April 11, 2018 Finding and Order.

{¶ 15} The attorney examiner notes that, pursuant to Ohio Adm.Code 4901-1-08, One Source should be represented by an attorney-at-law authorized to practice before the courts of this state.

{¶ 16} Direct expert testimony in this matter will be due April 1, 2019, in accordance with Ohio Adm.Code 4901-1-29.

{¶ 17} If Staff receives additional information to warrant an updated review and recommendation, it should be filed by March 25, 2019.

{¶ 18} Lastly, as noted in the Commission's April 11, 2018 Finding and Order, One Source is directed to cease solicitation or enrollment of any new customers until the Company has been granted authority by the Commission to operate as a natural gas company in the state.

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That a hearing be scheduled to commence on April 8, 2019, pursuant to Paragraph 13. It is, further,

{¶ 21} ORDERED, That direct expert testimony in this matter be filed by April 1, 2019. It is, further,

{¶ 22} ORDERED, That an updated Staff review and recommendation, if needed, be filed by March 25, 2019. It is, further,

{¶ 23} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Anna Sanyal

By: Anna Sanyal
Attorney Examiner

JRJ/mef

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Summary: Attorney Examiner Entry setting a hearing for 4/8/19 at 11:00am with expert testimony due by 4/1/19 and ordering Staff to file an updated review and recommendation by 3/25/19 electronically filed by Ms. Mary E Fischer on behalf of Anna Sanyal, Attorney Examiner, Public Utilities Commission