

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
CONSIDERATION OF A SETTLEMENT  
AGREEMENT BETWEEN NATIONAL GAS &  
ELECTRIC, LLC AND THE COMMISSION'S  
STAFF.

CASE No. 19-1464-GE-UNC

### FINDING AND ORDER

Entered in the Journal on July 31, 2019

#### I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by National Gas & Electric, LLC and Staff, which resolves the marketing, enrollment, and contract administration issues identified in a notice of probable noncompliance issued by Staff on September 11, 2018.

#### II. DISCUSSION

{¶ 2} National Gas & Electric, LLC (NGE) is an electric services company as defined in R.C. 4928.01 and a retail natural gas supplier as defined in R.C. 4929.01; is certified to provide competitive retail electric service (CRES) under R.C. 4928.08 and to supply competitive retail natural gas service (CRNGS) under R.C. 4929.20; and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16 and R.C. 4929.24. Accordingly, NGE is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21, as well as the minimum CRNGS standards set forth in Ohio Adm.Code Chapter 4901:1-29.

{¶ 3} Ohio Adm.Code 4901:1-23-04(A) provides that, if Staff and a CRES provider reach agreement regarding the violation of a rule within Ohio Adm.Code Chapter 4901:1-21, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing in a settlement agreement and filed with the Commission for approval. Similarly, Ohio

Adm.Code 4901:1-34-05(A) provides that, if Staff and a retail natural gas supplier reach agreement regarding the violation of a rule within Ohio Adm.Code Chapter 4901:1-27 through 4901:1-29, the violation of any provision of R.C. Chapter 4929, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing and filed with the Commission for approval.

{¶ 4} On September 11, 2018, Staff issued a notice of probable noncompliance to NGE with respect to certain marketing, enrollment, and contract administration practices. In the notice, Staff stated that, over the prior several months, Staff had received consumer complaints regarding these issues. Following an investigation, Staff determined that NGE was using misleading and deceptive practices to solicit and enroll customers; terminating fixed-rate contracts prior to the expiration of the set term; enrolling customers in a contract other than the one agreed upon, charging customers extremely high variable rates, and including additional fees on top of the variable rates; and failing to retain the sales portion of some telephonic enrollments. As a result, Staff found that NGE was in probable noncompliance with Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-05(C), 4901:1-21-11(A), 4901:1-29-03(A), 4901:1-29-05(D), 4901:1-29-06(E), 4901:1-29-06(E)(2)(c), 4901:1-29-06(E)(4), and 4901:1-29-10(A).

{¶ 5} On July 17, 2019, NGE and Staff (Signatory Parties) filed a joint stipulation and recommendation (Stipulation), which would resolve all of the issues identified by Staff in the notice of probable noncompliance issued to NGE. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

- (a) NGE investigated and implemented multiple actions in response to the issues contained in the notice of probable noncompliance. Staff recognizes that, to the best of its knowledge, NGE has performed the following in response to the issues contained in the notice:
- i. NGE has re-rated customers under variable-rate contracts who were charged \$0.1899 per kilowatt hour (kWh) and filed a complaint with the Commission or who were charged \$0.18 or more per kWh for more than one month, and issued them refund checks. The Signatory Parties agree upon the refunds issued by NGE for purposes of reaching a settlement in this matter.
  - ii. NGE has re-rated all customers who agreed to one rate during the telephonic enrollment and third-party verification process but were billed at a different rate, and issued them refund checks. The Signatory Parties agree upon the re-rating approach used by NGE, as well as the refunds issued by NGE.
  - iii. NGE has refunded all customers billed a monthly fee at the conclusion of their fixed-rate contract. The Signatory Parties agree upon the refunds issued by NGE.
  - iv. NGE has released without penalty or early termination fee all customers who were telephonically enrolled with NGE from October 2017 to July 2018 and who contacted NGE alleging they were misled by the sales representative.

- (b) NGE agrees to a forfeiture of \$250,000 upon approval of the Stipulation by the Commission. NGE agrees to submit payment, by certified check or money order made payable to "Treasurer, State of Ohio," to the following address:

Public Utilities Commission of Ohio  
Attention: Fiscal Division  
180 East Broad Street  
Columbus, Ohio 43215-3793

The payment shall be made within 30 days of the entry approving the Stipulation and shall note the docket number assigned to this matter.

{¶ 6} The Commission notes that Ohio Adm.Code 4901:1-23-04(A) and 4901:1-34-05(A) permit NGE and Staff to enter into a stipulation for the purpose of resolving any alleged violations of the CRES and CRNGS minimum standards and service requirements. We will, therefore, consider the Stipulation pursuant to our enforcement authority under Ohio Adm.Code Chapters 4901:1-23 and 4901:1-34. The issue before the Commission in this case is whether the Stipulation, which embodies considerable time and effort by the Signatory Parties, is reasonable and should be adopted. The Stipulation states that NGE has implemented multiple corrective actions in response to the violations alleged in Staff's notice of probable noncompliance. It further states that NGE engaged in numerous discussions with Staff to address the issues raised in the notice and worked cooperatively during those discussions to resolve all of the issues. Accordingly, we find that the Stipulation represents a reasonable resolution of this matter and that it should be approved and adopted in its entirety.

### III. ORDER

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That the Stipulation filed by NGE and Staff be adopted and approved. It is, further,

{¶ 9} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 10} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

Lawrence K. Friedeman

Daniel R. Conway

SJP/sc

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 19-1464-GE-UNC**

Summary: Finding & Order that the Commission adopts the joint stipulation and recommendation filed by National Gas & Electric, LLC and Staff, which resolves the marketing, enrollment, and contract administration issues identified in a notice of probable noncompliance issued by Staff on September 11, 2018 electronically filed by Docketing Staff on behalf of Docketing