

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 October 1, 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} R.C. 4905.22 provides that every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate and in all respects just and reasonable. The statute also requires that all charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the Commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the Commission.

{¶ 3} R.C. 4905.30 provides that a public utility shall print and file with the Commission schedules showing all rates, joint rates, rentals, tolls, classifications, and charges for service of every kind furnished by it, as well as all rules and regulations affecting them. The Commission may prescribe the form of every such schedule, and may prescribe, by order, changes in the form of such schedules. Additionally, R.C. 4905.32 specifies that no public utility shall charge or collect a different rate, rental, toll, or charge for any service rendered, or to be rendered, than that applicable to such service as specified in its schedule filed with the Commission and as is in effect at the time.

{¶ 4} R.C. 4905.37 authorizes the Commission to determine whether the rules, regulations, measurements, or practices of any public utility with respect to its public service are unjust or unreasonable, or that the equipment or service of such public utility is inadequate, inefficient, improper, insufficient, or cannot be obtained, and, if necessary, to fix and prescribe regulations, practices, and service to be installed, observed, used, and rendered by the public utility.

{¶ 5} Finally, R.C. 4905.54 provides that every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the Commission made under authority of R.C. Chapters 4901, 4903, 4905, 4907, and 4909. The statute authorizes the Commission to assess a forfeiture of not more than \$10,000 for each violation or failure against a public utility or railroad that violates a provision of those chapters or that, after due notice, fails to comply with an order, direction, or requirement of the Commission that was officially promulgated. The statute also specifies that each day's continuance of the violation or failure is a separate offense.

{¶ 6} The Supreme Court of Ohio has found that the Commission has authority to determine whether an entity's activities constitute those of a public utility, whether it has complied with the applicable laws, and whether it should be subject to regulation. *Atwood Resources, Inc. v. Pub. Util. Comm.*, 43 Ohio St.3d 96, 538 N.E.2d 1049 (1989).

{¶ 7} Consistent with its statutory mandate and prior precedent, the Commission reviews applications for approval to operate 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. *See, e.g., In re Generation Pipeline LLC*, Case No. 15-1104-GA-ACE, Finding and Order (Sept. 23, 2015); *In re Power Energy Distribution, Inc.*, Case No. 97-746-GA-ATA, Opinion and Order (Sept. 24, 1998).

{¶ 8} This matter has been pending before the Commission since May 24, 2016, when 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 the state of Ohio and for approval of a proposed tariff. Based on Commission Staff's investigation, the Commission has determined that One Source is in violation of R.C. 4905.30 for failure to timely update its application with tariff corrections and R.C. 4905.93 for its failure to comply with gas pipeline safety standards and requirements, as set forth in R.C. 4905.90 to R.C. 4905.96. The Commission has also determined that One Source lacks the managerial, technical, and financial capability to provide adequate natural gas service to its customers. Because of these findings, the Commission denied One Source's application, finding that One Source, despite not having approval of its application from the Commission, is operating as a public utility and natural gas company, pursuant to R.C. 4905.02 and 4905.03, by engaging in the business of supplying natural gas for lighting, power, or heating purposes to at least 89 and as many as 118 customers in Southington Township, Ohio. The Commission, therefore, ordered The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO) to cease transportation service to One Source on September 6, 2019, unless otherwise ordered by the Commission.

{¶ 9} Based on filings made on the docket on August 21, 2019, August 23, 2019, August 30, 2019, and September 4, 2019, One Source is in the process of transferring its natural gas pipeline system to Northeast Ohio Natural Gas Corporation (NEO), a natural gas company and public utility regulated by the Commission.

{¶ 10} On September 11, 2019, the Commission issued an Entry granting an extension of the September 6, 2019 deadline and directing DEO to continue providing transportation service to One Source until September 20, 2019. The Commission directed One Source and NEO to complete the transfer of One Source's assets and its natural gas system to NEO on or before that date and to immediately notify the Commission.

{¶ 11} On September 20, 2019, DEO filed correspondence on the docket, advising the Commission that it did not intend to disconnect service to One Source's natural gas system as of September 20, 2019, until further guidance from the Commission.

{¶ 12} By Entry dated September 24, 2019, the attorney examiner scheduled a status conference for September 25, 2019, to allow the parties to inform the Commission about the status of the pending transfer of One Source's assets and natural gas system to NEO.

{¶ 13} During the conference, counsel for One Source indicated that the transfer was still pending and that One Source would provide the Commission with a status update regarding four outstanding items by September 27, 2019. These items included: proof of ownership from David McElrath, the owner of One Source; a signed asset purchase agreement; outstanding distribution integrity management plan (DIMP) records; and follow-up regarding three customers who may have check valves on back-up wells.

{¶ 14} On September 27, 2019, One Source filed a document entitled "Suggestion for the Record." In the document, One Source indicates that, as of that day, it had faxed to NEO's counsel the outstanding DIMP records; customer identification for the check valves at issue; and documents regarding proof of ownership. One Source also indicated that it had emailed the asset purchase agreement to NEO's counsel on September 25, 2019.

{¶ 15} Upon review, the attorney examiner notes that an additional telephonic conference would be beneficial to ensure that the transfer is proceeding timely. Consequently, the attorney examiner schedules a telephonic status conference for October 2, 2019, at 2:00 p.m. At the scheduled date and time, the parties shall participate in the conference by dialing 1-866-209-2820 and entering the conference code 4172579639 followed by #. David McElrath, the owner of One Source, and his attorney are directed to participate in this status conference, and representatives from NEO and DEO are also expected to participate in this status conference. Representatives from One Source and NEO should be prepared to inform the Commission regarding the completion date of the transfer.

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That David McElrath, his attorney, and representatives from NEO and DEO participate in the telephonic status conference on October 2, 2019, as described in Paragraph 15. It is, further,

{¶ 18} ORDERED, That a copy of this Entry be served upon all parties of record, NEO, and DEO. It is, further,

{¶ 19} ORDERED, That David McElrath be served by regular and certified mail, to David McElrath's home address, a copy of this Entry.

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 teleconference for 10/2/19 at 2:00 pm
electronically filed by Ms. Mary E Fischer on behalf of Anna Sanyal, Attorney Examiner, Public
Utilities Commission