

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
VERDE ENERGY USA OHIO, LLC FOR  
CERTIFICATION AS A COMPETITIVE  
RETAIL ELECTRIC SERVICE SUPPLIER.

CASE NO. 11-5886-EL-CRS

IN THE MATTER OF THE APPLICATION OF  
VERDE ENERGY USA OHIO, LLC FOR  
CERTIFICATION AS A COMPETITIVE  
RETAIL NATURAL GAS SERVICE  
SUPPLIER.

CASE NO. 13-2164-GA-CRS

### ENTRY

Entered in the Journal on March 24, 2020

{¶ 1} Verde Energy USA Ohio, LLC d/b/a Verde Energy (Verde or Company) 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, Verde 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.

{¶ 2} R.C. 4928.08 states that no electric services company shall provide a CRES to a consumer in this state without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing a financial guarantee sufficient to protect customers and electric distribution utilities from default. Similarly, R.C. 4929.20 states that no retail natural gas supplier shall provide a CRNGS to a consumer without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing reasonable financial assurances sufficient to protect customers and natural gas companies from default.

{¶ 3} On March 28, 2012, the Commission granted Verde's application for certification as a CRES provider in this state. *In the Matter of the Application of Verde Energy USA Ohio, LLC for Certification as a Competitive Retail Electric Service Provider*, Case No. 11-5886-EL-CRS. Verde timely filed renewal applications for certification as a CRES provider every two years pursuant to Ohio Adm.Code 4901:1-24-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4928.08. Verde's most recent renewal application as a CRES supplier in this state was filed on February 27, 2020.

{¶ 4} Additionally, on December 9, 2013, the Commission granted Verde's application for certification as a CRNGS supplier in this state. *In the Matter of the Application of Verde Energy USA Ohio, LLC for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 13-2164-GA-CRS. Verde timely filed renewal applications for certification as a CRNGS provider every two years pursuant to Ohio Adm.Code 4901:1-27-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4929.20. Verde's most recent renewal application as a CRNGS supplier in this state was filed on November 7, 2019, and was suspended on December 4, 2019, in order to permit the Commission to review the matter further.

{¶ 5} On April 16, 2019, Staff of the Commission's Service Monitoring and Enforcement Department (Staff) filed a letter in Verde's certification dockets, stating that, after reviewing customer contacts from October 1, 2018, to April 12, 2019, as well as Verde's responses, Staff believed that Verde had engaged in misleading and deceptive practices to market and enroll customers, as well as violating several requirements of Ohio Adm.Code Chapter 4901:1-21 and 4901:1-29. Staff stated that it had received 481 customer contacts regarding Verde's provision of CRES and CRNGS. Of the 481 customer contacts, 231 customer contacts (approximately 57 percent) were related to enrollment disputes, misleading information, and false representations wherein Verde allegedly purported to be another utility. Further, as reported by Staff, 18 percent of supplier-related investigations open for review and resolution with Staff were in reference to Verde as of April 15, 2019.

{¶ 6} By Entry dated April 17, 2019, the Commission opened an investigation into alleged unfair, deceptive, or unconscionable acts or practices in this state by Verde and issued a procedural schedule which set the matter for hearing. Subsequently, on February 26, 2020, the Commission approved a joint stipulation and recommendation entered into by Staff and Verde (Stipulation). *In the Matter of the Commission's Investigation into Verde Energy USA Ohio, LLC's Compliance with the OAC and Potential Remedial Actions for Non-Compliance*, Case No. 19-958-GE-COI, Opinion and Order (Feb. 26, 2020). The Stipulation purported to resolve all outstanding issues presented in Case No. 19-958-GE-COI. According to the Stipulation, Verde voluntarily ceased all marketing and customer enrollment activities in Ohio, and Staff and Verde agreed that this suspension by Verde of all marketing activities and customer enrollment in Ohio will continue until October 30, 2020, for a total of 18 months. *Id.* at ¶¶ 17-18.

{¶ 7} Both R.C. 4928.08 and 4929.20 allow the Commission to suspend, rescind, or conditionally rescind the certification of any electric services company or retail natural gas supplier issued under these sections if the Commission determines, after reasonable notice and opportunity for hearing, that the electric services company or retail natural gas supplier has failed to comply with any applicable certification standards or has engaged in anticompetitive or unfair, deceptive, or unconscionable acts or practices in this state.

{¶ 8} By Entry issued March 3, 2020, the attorney examiner, among other things, set a procedural schedule in the above matters and suspended Verde's February 27, 2020 renewal certification application filed in Case No. 11-5886-EL-CRS.

{¶ 9} Subsequently, on March 23, 2020, Verde, Staff, and the Ohio Consumers' Counsel (collectively, Movants) filed a joint motion for extension of time for all case deadlines and a request for an expedited ruling. In support of their request, the Movants represent that good cause exists to extend all case deadlines due to the respiratory disease, Coronavirus (COVID-19) and the current state of emergency. Specifically, the Movants aver that the public health crisis has resulted in severe disruptions to the ordinary course of

government business and workers are required or encouraged to work remotely to avoid in-person contact. Under these circumstances, the Movants contend that it is not practical to attempt to meet the current case deadlines, as there is significant disruption to the operations of government agencies and businesses. The Movants request a 60-day extension for all case deadlines; however, the Movants clarify that the 60-day extension does not apply to the November 1, 2020 expiration of Verde's current CRES and CRNGS certificates.

{¶ 10} After review and in light of the current situation with respect to COVID-19, the attorney examiner finds that the Movants' unopposed request for an extension of all case deadlines is reasonable and shall be granted in part. The attorney examiner finds that a 30-day extension of all case deadlines is appropriate. Additionally, this extension does not affect Verde's CRES and CRNGS certificates—Verde's certificates expire on November 1, 2020. Accordingly, the following procedural schedule shall take effect:

- (a) Motions to intervene shall be filed by May 2, 2020.
- (b) Comments from the Company and intervenors regarding Verde's renewal applications shall be filed by May 2, 2020.
- (c) Reply comments from the Company and intervenors shall be filed by May 17, 2020.
- (d) Staff's review and recommendation regarding Verde's renewal certification applications shall be filed by June 14, 2020.
- (e) Discovery requests shall be served by June 21, 2020, with the exception of notices of deposition.

{¶ 11} If, upon review of the comments and Staff's recommendation, the attorney examiner finds that this matter should be set for hearing, such hearing is rescheduled to commence at 10:00 a.m. on July 23, 2020, at the offices of the Commission, 11th Floor,

Hearing Room 11-D, 180 East Broad Street, Columbus, Ohio 43215. All parties or interested persons should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing. If the examiner determines that this matter should be set for hearing, the schedule for pre-filing testimony will be set by subsequent entry.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the Movants' joint motion for extension of time be granted in part. It is, further,

{¶ 14} ORDERED, That the procedural schedule in Paragraph 10 be adopted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Lauren L. Augostini

By: Lauren L. Augostini  
Attorney Examiner

GAP/hac

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**Case No(s). 11-5886-EL-CRS, 13-2164-GA-CRS**

Summary: Attorney Examiner Entry granting motion for extension of time and adopting new procedural schedule electronically filed by Heather A Chilcote on behalf of Lauren L. Augustini, Attorney Examiner, Public Utilities Commission of Ohio