

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
ELECTRIC CHOICE, INC. FOR
CERTIFICATION AS A COMPETITIVE
RETAIL ELECTRIC SERVICE POWER
BROKER IN OHIO.

CASE NO. 20-408-EL-AGG

IN THE MATTER OF THE APPLICATION OF
ELECTRIC CHOICE, INC. FOR
CERTIFICATION AS A COMPETITIVE
RETAIL NATURAL GAS BROKER IN OHIO.

CASE NO. 20-412-GA-AGG

ENTRY

Entered in the Journal on June 8, 2020

{¶ 1} R.C. 4928.08 and 4929.20 provide that competitive retail electric service (CRES) providers and competitive retail natural gas service (CRNGS) providers must be certified by the Commission. Pursuant to R.C. 4928.08 and 4929.20, and Ohio Adm.Code 4901:1-24-10 and 4901:1-27-10, an application for certification shall be deemed approved 30 days after the filing of the application, unless the Commission suspends such approval. If the application is suspended, R.C. 4928.08 and 4929.20 provide that the Commission shall act to approve or deny the application within 90 days after the date of suspension.

{¶ 2} On February 20, 2020, as revised on March 2, March 13, March 20, and April 3, 2020, Electric Choice, Inc. (ECI) filed an application in Case No. 20-408-EL-AGG for certification as a CRES power broker in Ohio. Additionally, also on February 20, 2020, as revised on February 21, March 2, March 20, and April 3, 2020, ECI filed an application in Case No. 20-412-GA-AGG for certification as a CRNGS broker in Ohio.

{¶ 3} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order

was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 4} On March 16, 2020, an attorney examiner issued an Entry in Case No. 20-591-AU-UNC, directing that any time period prescribed by order, statute, or rule for the Commission to act upon a pending application or other filing should be tolled during the state of emergency and also during the 14 days thereafter. Further, the attorney examiner indicated that, during the declared emergency, Staff would continue to investigate pending applications and the Commission would act on such applications on a case-by-case basis. *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (Mar. 16, 2020) at ¶ 5.

{¶ 5} The applications filed in the above-captioned proceedings were, thus, subject to the March 16, 2020 Entry and suspended from automatic approval during the state of emergency.

{¶ 6} On May 20, 2020, although the state of emergency remains in effect, the attorney examiner found that the tolling directive in the March 16, 2020 Entry should be modified and lifted, in order to ensure the orderly flow of the Commission's business. Accordingly, the tolling of any time period prescribed by order, statute, or rule for the Commission to act upon a pending application or other filing was terminated effective June 1, 2020. *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC (May 20, 2020) at ¶ 6.

{¶ 7} Ohio Adm.Code 4901:1-24-10 and Ohio Adm.Code 4901:1-27-10 provide that, upon good cause shown, an attorney examiner may suspend consideration of an application to provide CRES and CRNGS, respectively. Further, R.C. 1.14 states that, when a public

office in which an act, required by law, is to be performed is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Sunday or a legal holiday. The Commission's offices were officially closed from June 1, 2020, through June 5, 2020.

{¶ 8} Given that the tolling directive has been lifted as indicated in Paragraph 6, the attorney examiner finds that, for the Commission and Staff to further review the above-captioned cases, ECI's CRES and CRNGS applications should be suspended until the Commission specifically orders otherwise.

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That approval of ECI's CRES and CRNGS applications be suspended until the Commission specifically orders otherwise. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/James M. Lynn

By: James M. Lynn
Attorney Examiner

JRJ/hac

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in

Case No(s). 20-0408-EL-AGG, 20-0412-GA-AGG

Summary: Attorney Examiner Entry ordering approval of ECI's CRES and CRNGS applications be suspended until the Commission specifically orders otherwise electronically filed by Heather A Chilcote on behalf of James M. Lynn, Attorney Examiner, Public Utilities Commission