

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
CONSIDERATION OF A SETTLEMENT
AGREEMENT BETWEEN RELIANT ENERGY
NORTHEAST LLC DBA NRG BUSINESS,
NRG HOME, AND NRG RETAIL
SOLUTIONS, AND THE COMMISSION'S
STAFF.

CASE NO. 20-1758-GE-UNC

FINDING AND ORDER

Entered in the Journal on March 24, 2021

I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by Reliant Energy Northeast LLC dba NRG Business, NRG Home, and NRG Retail Solutions, and Staff, which resolves the marketing and enrollment issues identified in a notice of probable noncompliance issued by Staff on November 27, 2019.

II. DISCUSSION

{¶ 2} Reliant Energy Northeast LLC dba NRG Business, NRG Home, and NRG Retail Solutions (NRG 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, NRG 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 Chapters 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 November 27, 2019, Staff issued a notice of probable noncompliance (Notice Letter) to NRG with respect to certain marketing and enrollment practices and billing issues. In the Notice Letter, Staff stated that the complaints involved customers disputing their enrollment with NRG, claiming to have received misleading and incomplete information from the Company, and complaining of high bills received from NRG. After reviewing the information and the responses from the Company, Staff determined that customers were not receiving complete information regarding enrollment with NRG and that some customers were enrolled without their consent. Additionally, Staff determined that customers were not being supplied with a copy of the contract to which they were agreeing. Staff further stated in the Notice Letter that not all customers were knowingly enrolling with NRG. For instance, multiple customers stated that they agreed to receive additional information from NRG but ultimately declined enrollment. Later, however, those customers received a rescission notice from their utility or discovered NRG appearing on their utility bill. Staff noted that some enrollment documents provided in response to consumer investigations included false email addresses or incorrect physical addresses. Staff also determined during its investigation that signatures captured electronically were copied or transferred onto other documents, which indicated to Staff that the customer did not read and sign all documents required to complete enrollment. As a result, Staff found NRG in probable noncompliance with Ohio Adm.Code 4901:1-21-03(A), 4901:1-29-03(A), 4901:1-21-03(C), 4901:1-29-03(D), 4901:1-21-05(C), 4901:1-29-05(D), 4901:1-21-06(C), 4901:1-29-06(B), 4901:1-21-06(D)(1)(a), 4901:1-29-06(D)(1), 4901:1-21-06(D)(1)(b), 4901:1-29-06(D)(2), 4901:1-21-06(D)(1)(c), 4901:1-29-06(D)(3), 4901:1-21-06(D)(1)(i), and 4901:1-29-06(D)(6)(c).

{¶ 5} In its Notice Letter, Staff proposed corrective actions to address the issues of probable noncompliance and instructed NRG to: (1) provide Staff with a plan to come into compliance with Commission rules, with such plan to include, at a minimum, enrollment practices, an auditing process for enrollments, and any corrective actions to be implemented by NRG; (2) review all enrollments completed in the six months prior to the date of the Notice Letter and (a) review each contract, sales call, third-party verification, and other enrollment documentation for completeness and customer consent, (b) contact each customer where enrollment documents are not complete or the customer's consent is not certain, (c) give customers where enrollment and/or consent is uncertain the option to cancel without penalty or to re-enroll with NRG with proper consent and documentation, and (d) for each customer enrolled without consent, return those customers to their utility and re-rate the last six months of their supply with NRG back to the utility's price-to-compare; and (3) provide Staff with a list of all customers and associated agents identified with enrollments where documents are incomplete or customer's consent is uncertain. Additionally, Staff recommended that NRG cease all retail marketing and enrollment activities in the state of Ohio until the issues addressed in the Notice Letter are resolved and warned that any continuation of such activities by NRG that result in violations would be considered additional offenses and could result in additional enforcement actions. Finally, Staff proposed a forfeiture of \$100,000 against NRG for the alleged violations outlined in the Notice Letter. Staff instructed NRG to respond to Staff by December 17, 2019, regarding its plan to address the corrective actions outlined in the Notice Letter.

{¶ 6} On December 7, 2020, NRG and Staff (Signatory Parties) filed a joint stipulation and recommendation (Stipulation), which would resolve all of the issues identified by Staff in the Notice Letter. The Stipulation notes that the Signatory Parties engaged in numerous discussions to address the issues raised in the Notice Letter and reached a resolution after such discussions. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

1. For a period of one year from the date of Commission approval of the Stipulation, NRG agrees to use, without material modification, its contact-free enrollment process, as approved by the Commission in Case No. 20-1008-GE-WVR. The Signatory Parties understand and acknowledge that, at the conclusion of the one-year period, NRG may elect, at its own discretion, to continue using its contact-free enrollment process for in-store enrollments.
2. For a period of six months from the date of Commission approval of the Stipulation, NRG will provide Staff with a list of all of its retail marketing locations and will use its best efforts to update the list at least seven calendar days prior to marketing at a different location. The list will include the date, time, and location of the marketing agent, subject, however, to acknowledgement by the Signatory Parties that NRG will be unable to specify the hours on specific dates when NRG sales agents are working in-store because NRG's retail partners set the hours for the sales agents.
3. NRG agrees to a forfeiture of \$100,000 upon approval of the Stipulation by the Commission. NRG agrees to submit payment within 30 days of the issuance of this Finding and Order. Payment shall be made pursuant to the instructions provided in the Stipulation and the payment shall note the docket number assigned to this matter.

{¶ 7} In reviewing the Stipulation during the January 13, 2021 Commission meeting, the Commission requested that information be filed in this case docket describing the curative actions afforded by NRG to customers impacted by the Company's alleged noncompliance. The Commission voted to postpone ruling on the Stipulation until such information is filed.

{¶ 8} On February 9, 2021, Staff filed correspondence to provide the additional information requested by the Commission. In the letter, Staff states that NRG provided

refunds of approximately \$9,000 to 62 customers as part of its review and response to customer complaints it received from the Commission in 2019.

{¶ 9} The Commission notes that Ohio Adm.Code 4901:1-23-04(A) and 4901:1-34-05(A) permit NRG 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 NRG has implemented multiple corrective actions in response to the violations alleged in the Notice Letter. It further states that NRG engaged in numerous discussions with Staff to address the issues raised in the Notice Letter and worked cooperatively during those discussions to resolve all of the issues. As clarified by Staff's correspondence, NRG also provided approximately \$9,000 in refunds to 62 customers in response to complaints made to the Commission. 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

{¶ 10} It is, therefore,

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

{¶ 12} 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,

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

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

DMH/kck

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Summary: Finding & Order adopting the joint stipulation and recommendation filed by Reliant Energy Northeast LLC dba NRG Business, NRG Home, and NRG Retail Solutions, and Staff, which resolves the marketing and enrollment issues identified in a notice of probable noncompliance issued by Staff on November 27, 2019 electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio