

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing of Annual	:	Case No. 14-0001-AU-RPT
Reports for the Calendar Year 2014 by all	:	Case No. 15-0001-AU-RPT
Regulated Utilities	:	
	:	
	:	
In the Matter of the Renewal Application of	:	Case No. 13-1379-GA-AGG
Epiq Energy, LLC for Certification as a	:	
Competitive Retail Natural Gas Aggregator	:	
and Broker	:	
	:	
In the Matter of the Renewal Application of	:	Case No. 13-1380-EL-AGG
Epiq Energy, LLC for Certification as a	:	
Competitive Retail Electric Aggregator and	:	
Broker	:	

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**APPLICATION FOR REHEARING, MOTION FOR SPECIAL ORDER OF STAY, AND  
MOTION FOR EXTENSION**

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Epiq Energy, LLC (“Epiq”), by and through counsel and pursuant to Ohio Revised Code 4903.10 and Ohio Administrative Code 4901-1-35(A), hereby applies for rehearing from the Public Utilities Commission of Ohio’s (“Commission”) May 13, 2015, Finding and Order entered in Case Nos. 14-0001-AU-RPT and 15-0001-AU-RPT. More specifically, Epiq requests rehearing of the decision contained in said Finding and Order that revoked Epiq’s Competitive Retail Electric and Competitive Retail Natural Gas Certificates 13-713E(1) and 13-315G(1) for failure to pay the required statutory fiscal assessment. Epiq hereby submits that the Commission’s May 13, 2015, Finding and Order is unlawful and unreasonable for the reasons as set forth below and as are more fully explained in the accompanying Memorandum in Support:

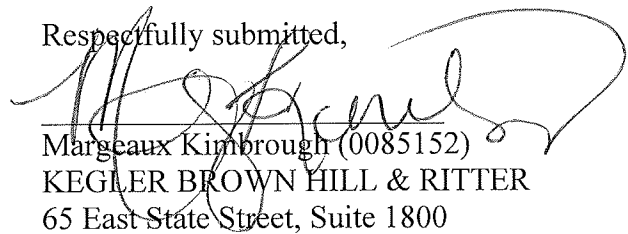
(1) Epiq was unaware, until April of this year, that it was required to pay the statutory assessments; and

(2) Epiq attempted to comply with the Commission's April 8, 2015, Entry by issuing payment before April 30, 2015.

Moreover, Epiq respectfully requests that upon rehearing, the Commission reinstate Epiq's Certificates 13-713E(1) and 13-315G(1) retroactive to May 13, 2015—the date of the revocation Order.

Finally, in order to address immediate concerns relating to Epiq's current certification status and ability to timely file renewal applications, Epiq hereby requests that the Commission: (1) issue a special order staying the revocation of Epiq's Certificates 13-713E(1) and 13-315G(1) until such time as the Commission has an opportunity to consider Epiq's Application for Rehearing; and (2) extend the expiration date of Epiq's Certificates from July 15, 2015, to August 14, 2015.

Respectfully submitted,



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## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION AND BACKGROUND**

Epiq is a limited liability company organized under the laws of the State of Delaware and maintains its principal place of business in Addison, Texas. In 2013, Epiq became certified as a Certified Retail Electric Supplier (“CRES”) and a Competitive Retail Natural Gas Supplier (“CRNGS”) and was issued Certificate Nos. 13-713E(1) and 13-315G(1). Epiq’s electric and gas Certificates both became effective July 15, 2013, and are set to expire July 15, 2015.<sup>1</sup>

On January 22, 2014, the Commission issued an Entry in Case No. 14-0001-AU-RPT directing each reporting company to submit its 2013 report by April 30, 2014. On September 30, 2014, the Commission issued invoices to each reporting company containing the calculated 2014 statutory fiscal assessment amount required to be paid by the company and a directive to remit such payment by October 28, 2014. On December 1, 2014, the Commission issued past due notices to all companies that failed to pay the assessment by October 28<sup>th</sup>.

On April 8, 2015, the Commission issued an Entry (“April 8 Entry”) in Case No. 15-0001-AU-RPT identifying certain regulated entities that failed to pay the 2014 annual assessment to either the Ohio Consumers’ Counsel and/or the Commission. The Commission granted each company until April 30, 2015, to pay the assessment(s), or show cause why its Certificate or operating authority should not be revoked. On May 13, 2015, the Commission issued a Finding

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<sup>1</sup> Page one of Epiq’s gas Certificate No. 13-315G(1), issued by the Commission on July 26, 2013, lists the effective date as “June 15, 2013 through June 15, 2015.” On the other hand, page two of the Certificate lists the effective date of the Certificate as “July 15, 2013” and the expiration date as “July 15, 2015.” Epiq submits that the dates listed on page one are the result of a typographical error, and that the dates listed on page two are accurate. Epiq filed its gas certification application on June 14, 2013, the same date it filed its electric certification application. Yet, Epiq’s electric Certificate, which was issued by the Commission on July 19, 2013, seven days prior to the gas Certificate, lists the effective date as “July 15, 2013” and the expiration date as “July 15, 2015.” Given that the applications were submitted on the same day, it stands to reason that the certification and expiration dates would be the same, if not similar. Further, as Epiq’s gas certification application was filed on June 14, 2013, it is reasonable to conclude that the certification date should be July 15, 2013, rather than June 14, 2013 and, thus, the Certificate should expire on July 15, 2015, rather than June 15, 2015.

and Order (“May 13 Order”) in Case Nos. 14-0001-AU-RPT and 15-0001-AU-RPT ordering each company listed therein to immediately cease providing service in the State of Ohio under the listed Certificate. Epiq was listed in the May 13 Order as one of the entities that had not paid the 2014 annual assessment and, thus, had its Certificates 13-713E(1) and 13-315G(1) revoked.

## **II. GROUNDS FOR ISSUANCE OF A SPECIAL ORDER STAYING THE REVOCATION OF EPIQ’S CERTIFICATES**

As a preliminary matter, Epiq respectfully asks the Commission to issue a special order, pursuant to Rev. Code 4903.10(B), staying the revocation of its Certificates until the Commission has the opportunity to rule on its Application for Rehearing.

Rev. Code 4903.10(B) provides:

Where such application for rehearing has been filed before the effective date of the order as to which a rehearing is sought, the effective date of such order, unless otherwise ordered by the commission, shall be postponed or stayed pending disposition of the matter by the commission or by operation of law. *In all other cases the making of such an application shall not excuse any person from complying with the order, or operate to stay or postpone the enforcement thereof, without a special order of the commission.* (Emphasis added).

The Order revoking Epiq’s Certificates was effective on May 13, 2015—the date of entry. Thus, the foregoing Application for Rehearing is being filed after the effective date, and a special order from the Commission is necessary to stay the revocation.

Epiq hereby seeks a stay of the revocation, because revocation of its Certificates would have a substantial impact on the ability of Epiq to do business in the State of Ohio. Furthermore, the revocation of its Ohio Certificates may have a negative impact on Epiq’s ability to obtain certification in other states. Finally, given the circumstances that gave rise to the revocation of Epiq’s Certificates, as is more fully explained below, granting a stay of the revocation would be appropriate under the circumstances.

### **III. GROUNDS FOR THRITY (30) DAY EXTENSION OF CERTIFICATES**

Ohio Admin. Code 4901:1-24-09 and 4901:1-27-09 provide that a CRES or CRNGS renewal application must be filed “no less than thirty and no more than sixty calendar days prior to the expiration date.” In Epiq’s case, its gas and electric Certificates are set to expire on July 15, 2015.<sup>2</sup> Accordingly, Epiq’s renewal applications must be filed by June 15, 2015. Given the relative uncertainty of Epiq’s certification status, Epiq asks the Commission to extend the expiration date of its gas and electric Certificates by an additional thirty (30) days, until August 14, 2015.

Until the Commission rules on Epiq’s Application for Rehearing and reinstates the Certificates, Epiq is in a unique position, which necessitates either: (1) filing a *new* Application for Certification, which may be unnecessary if the Commission reinstates Epiq’s Certificates; or (2) filing a *renewal* application prior to receiving a final determination from the Commission regarding certification reinstatement. Thus, in order to avoid having periods of time during which Epiq is not certified, hereby respectfully asks the Commission to extend the expiration of its Certificates 13-713E(1) and 13-315G(1), until August 14, 2015.

### **IV. GROUNDS FOR REHEARING AND RETROACTIVE REINSTATEMENT OF CERTIFICATION**

Until recently, Epiq utilized an external consulting company, Energy Choice Consulting, LLC, located in Linwood, New Jersey, for all of its regulatory matters, including the service of any and all filings and notifications from the Commission. *See* Affidavit of Debra Aaron, ¶3, “Aaron Aff.,” attached hereto as Exhibit A. Unbeknownst to Epiq, the principal and sole contact person for Energy Choice Consulting, LLC disappeared at some point after their last contact with him on August 25, 2014. *Id.* at ¶4. Epiq has been unable to determine his whereabouts or

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<sup>2</sup> *See* Footnote 1, above.

otherwise contact him. *Id.* at ¶5. In addition, recent U.S. mail addressed to Energy Choice Consulting, LLC's address has been returned. *See* Notice of failure of service, attached hereto as Exhibit B. Thus, while the Commission served its entries and orders upon Epiq's consultant, those entries and orders were never forwarded to Epiq. *See* Aaron Aff., ¶6.

In April 2015, Epiq received, at its offices in Dallas, Texas, notice from the Commission stating that Epiq had until April 30, 2015, to cure the default in payment of the 2014 fiscal assessments. *Id.* at ¶6. The notice Epiq received in April is the first instance Epiq became aware that it was required to pay the assessments in order to maintain its CRES and CRNGS Certificates. *Id.* at ¶6. On April 13, 2015, Epiq issued a check in the amount of \$400 to the Commission by mail for full payment of its required assessments. *Id.* at ¶7. This check has not been cashed, and Epiq has been unable to determine whether the Commission has received and processed this payment. *Id.* at ¶7.

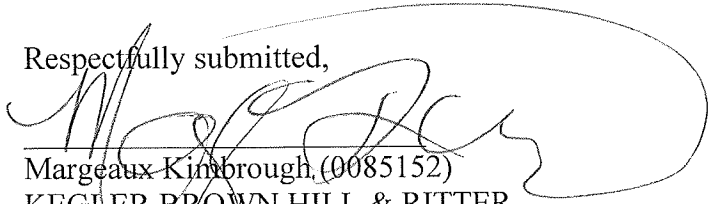
Epiq recognizes that certified retail providers are expected to fully comply with the Commission's regulations, entries and orders. However, Epiq submits that in this instance, the penalty of revoking its Certificates is unreasonable, because: (1) until April of this year, Epiq was unaware it was required to pay the 2014 fiscal assessments, and (2) Epiq attempted to comply with the Commission's April 8 Entry by issuing payment before the April 30, 2015, deadline.

## **V. CONCLUSION**

For all of the foregoing reasons, Epiq Energy, LLC respectfully asks the Commission to: (1) stay the revocation of Epiq's Certificates 13-713E(1) and 13-315G(1) pending the Commission's ruling on the Application for Rehearing; (2) extend the expiration date of Epiq's Certificates by an additional thirty (30) days—until August 14, 2015; (3) grant Epiq's Application

for Rehearing; and (4) retroactively reinstate Epiq's Certificates 13-713E(1) and 13-315G(1) to the date of the May 13 Order.

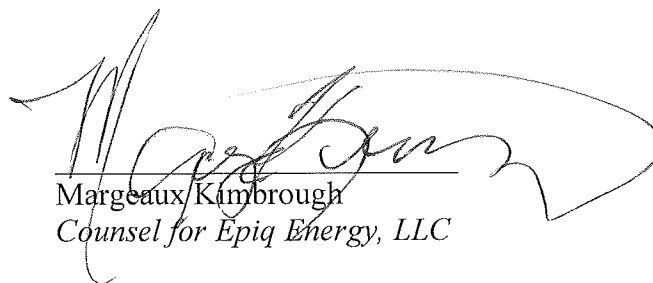
Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Margeaux Kimbrough', is written over the typed name and extends to the right, partially overlapping the contact information.

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*Counsel for Epiq Energy, LLC*

**CERTIFICATE OF SERVICE**

This certifies that the foregoing *Application for Rehearing, Motion for Special Order of Stay, and Motion for Extension* was filed and served electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 10<sup>th</sup> day of June, 2015.

  
Margeaux Kimbrough  
Counsel for Epiq Energy, LLC

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Filing of Annual Reports : Case No. 14-0001-AU-RPT  
for the Calendar Year 2014 by all Regulated :  
Utilities : Case No. 15-0001-AU-RPT  
: **AFFIDAVIT IN SUPPORT OF**  
: **APPLICATION FOR REHEARING**

COUNTY OF DALLAS

SS

STATE OF TEXAS

I, Debra W. Aaron, being duly sworn according to law, hereby depose and state as follows:

1. I am employed as the Sr. VP, Finance of Epiq Energy, LLC, 5080 Spectrum Drive, 600 W, Addison, Texas 75001 ("Epiq").
2. I have personal knowledge regarding the factual statements made in the foregoing Application for Rehearing and Memorandum in Support and as are stated herein.
3. Until recently, Epiq has utilized an external consulting company, Energy Choice Consulting, LLC, located in Linwood, New Jersey, for all of its regulatory matters, including the service of any and all filings and notifications from the Public Utilities Commission of Ohio (the "Commission").
4. Epiq recently discovered that the principal and sole contact person for Energy Choice Consulting, LLC disappeared at some point after Epiq last had contact with him on August 25, 2014.
5. Epiq has been unable to determine his whereabouts or otherwise contact him.

6. Epiq did not receive copies of any of the Commission's entries and invoices issued in connection with the requirement to pay 2014 statutory fiscal assessments. Consequently, Epiq was unaware that any payment was required until it received a notice from the Commission at its offices in Dallas, Texas in April of 2015. The notice stated that Epiq had until April 30, 2015, to cure the default in payment of the 2014 fiscal assessments. The notice Epiq received in April of this year was the first instance Epiq became aware that it was required to pay the assessments in order to maintain its Competitive Retail Electric and Competitive Retail Natural Gas Certificates.
7. On April 13, 2015, Epiq issued a check in the amount of \$400 to the Commission by mail for full payment of its required assessment. This check has not been cashed, and Epiq has been unable to determine whether the Commission has received and processed this payment.
8. I hereby affirm that the statements made in this Affidavit are true and correct, to the best of my knowledge, information, and belief.

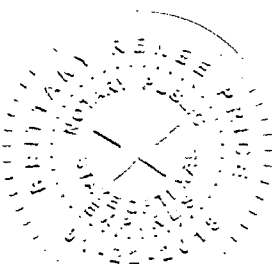
FURTHER AFFIANT SAYETH NAUGHT.

Sworn and subscribed before me, a Notary Public, on this 10<sup>TH</sup> day of June, 2015.

DEBORN W AARON  
Printed Name of Affiant

B Price  
Notary Public State of BRITANNY PRICE  
My Commission Expires: 1/22/2018

Deborn W Aaron  
Signature of Affiant



**COMPLETE THIS SECTION ON DELIVERY**

1. Article Addressed to:

2. Article Number  
(Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

3. Service type

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<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
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4. Restricted Delivery? (Extra Fee)

<input type="checkbox"/> Yes
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D. Is delivery address different from item 1? ☐ Yes  
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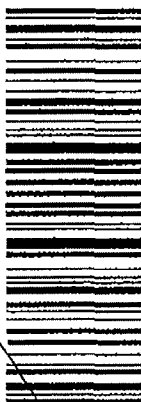
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Public Utilities  
Commission

180 East Broad Street  
Columbus Ohio 43215-3793  
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Epiq Energy LLC  
Sean Morrissey Reg Con  
1049 Shore Rd, Ste A  
Linwood NJ 08221

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**Commission of Ohio Docketing Information System on**

**6/10/2015 5:24:13 PM**

**in**

**Case No(s). 15-0001-AU-RPT, 14-0001-AU-RPT, 13-1379-GA-AGG, 13-1380-EL-AGG**

Summary: Application for Rehearing, Motion for Special Order of Stay, and Motion for Extension of Certificate electronically filed by Ms. Margeaux Kimbrough on behalf of Epiq Energy, LLC