

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Reports for )	
Fiscal Assessment of all Regulated Entities )	Case No. 14-01-AU-RPT
for Calendar Years 2013 and 2014. )	Case No. 15-01-AU-RPT

ENTRY

The attorney examiner finds:

- (1) R.C. 4905.10 provides an annual assessment based upon the intrastate gross earnings of each railroad and public utility for the purpose of maintaining the operations of this Commission. In order to calculate such assessment, R.C. 4905.14 requires each public utility to file an annual report at the time and in the form prescribed by the Commission. R.C. 4905.03(A) defines public utility companies to include telephone companies, electric light companies (except regional transmission organizations), heating or cooling companies, natural gas distribution companies, pipeline companies, and water-works and sewage disposal system companies. Railroad, bridge and water transportation companies are included in the annual reporting requirement under R.C. 4907.02 and 4907.20. All certified retail electric and natural gas suppliers and aggregators are also subject to this reporting requirement under R.C. 4928.06 and 4929.23; while R.C. 4905.10(D) provides that, for the purpose of annual assessment, "public utility" includes electric and gas suppliers and aggregators subject to certification under R.C. 4928.08 and 4929.20, respectively. R.C. 4905.10(A) sets a minimum assessment of \$100 per company, regardless of their intrastate gross revenues in the reporting year.
- (2) On January 22, 2014, the Commission issued an Entry in Case No. 14-01-AU-RPT directing each reporting company to submit by April 30, 2014 its 2013 annual report, which details the company intrastate gross revenues for the 2013 operating year. The Commission's Fiscal Division then calculated the 2014 statutory fiscal assessment amount for each company based on the 2013 annual fiscal reports, and sent an invoice to each company on September 30, 2014, with payment due by October 28, 2014. On December 1, 2014, past due notices were sent to all companies for which payment had not been received.

- (3) On April 8, 2015, the Commission issued an Entry in Case No. 15-01-AU-RPT directing the 42 listed companies to pay the 2014 annual fiscal assessments owed to the Commission and/or OCC by April 30, 2015, or show cause why their certificates or operating authorities should not be revoked.
- (4) On May 13, 2015, the Commission issued a Finding and Order in Case Nos. 14-01-AU-RPT and 15-01-AU-RPT (May 13, 2015 Order), rescinding the certificates of 22 companies for failure to pay the assessed amounts.
- (5) R.C. 4903.10 provides that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days of the issuance of the order. R.C. 4903.10(B) states that, unless an application for rehearing has been filed before the effective date of the order, the filing of such application will not automatically stay the enforcement of the order, without a special order staying such enforcement.
- (6) Shortly after the issuance of the May 13, 2015 Order, Staff was informed that the \$100 assessment owed by ConocoPhillips Company (ConocoPhillips), one of the 22 companies identified in the May 13, 2015 Order, had been paid several days earlier, but notice of such payment had not been received through the State of Ohio's new payment processing system. Accordingly, the rescission of Certificate No. 13-717E issued to ConocoPhillips should be stayed until otherwise ordered by the Commission. ConocoPhillips is, however, advised to file a renewal application for Certificate No. 13-717E in accordance with Ohio Adm.Code 4901:1-24-09, as this certification is scheduled to expire on July 27, 2015.
- (7) On June 10, 2015, Epiq Energy, LLC (Epiq), another company identified in the May 13, 2015 Order as owing the minimal statutory assessments, filed an application for rehearing and request for a special order, pursuant to R.C. 4903.10, staying the rescission of Certificates Nos. 13-315G and 13-713E. Epiq also seeks to extend the expiration of these certificates which would otherwise expire on July 15, 2015, until August 14, 2015, in order to determine whether they should file for renewal of their current certificates, or apply for new certificates. In support of its request, Epiq provided evidence that payment of the full

assessment amounts was sent on April 13, 2015, but that a third-party regulatory compliance service had failed to respond or advise Epiq of the Commission's notices and prior orders. Epiq submits that it is unreasonable to revoke these certificates as the company had attempted to comply with the Commission's orders, and was unaware that payment of its annual assessments had not been received.

- (8) As Epiq has provided evidence that payment of the assessment amounts was timely submitted, the rescission of Certificate Nos. 13-315G and 13-713E should be stayed until otherwise ordered by the Commission. Moreover, Epiq's motion to extend the effective date for these certificates until August 14, 2015, should be granted to allow for the filing of renewal applications after the Commission ruling on Epiq's application for rehearing.
- (9) On June 12, 2015, American Phone Services Corporation (American Phone) filed for rehearing of the May 13, 2015 Order as a listed company owing the minimal statutory assessment. American Phone also requests a special order, pursuant to R.C. 4903.10(B), staying rescission of Certificate No. 90-5955, pending the Commission's reconsideration of the May 13, 2015 Order. In support of its request, American Phone states that it filed its 2014 annual report on April 20, 2015 and in doing so, mistakenly believed it had complied with May 13, 2015 Order. The Company argues that it is unreasonable to revoke its certificate since its failure to remit payment of its annual assessment was an oversight, particularly where the amount due was nominal. Further, American Phone asserts that such an extraordinary sanction would result in irreparable harm to its customers.
- (10) In order to prevent disruption of service to jurisdictional customers, American Phone's request for stay of the Commission's May 13, 2015 Order should be granted. Accordingly, certification of American Phone under Certificate No. 90-5955 to serve jurisdictional customers should be extended until such time as the Commission acts upon the Company's application for rehearing.

It is, therefore,

ORDERED, That the rescission of Certificate No. 13-717E issued to ConocoPhillips should be stayed until otherwise ordered by the Commission. It is, further,

ORDERED, That Epiq's request for stay of rescission of Certificate Nos. 13-315G and 13-713E be granted until otherwise ordered by the Commission. It is, further,

ORDERED, That Epiq's motion for an extension for Certificate Nos. 13-315G and 13-713E be granted, and the effective date of such certificates to be extended through August 14, 2015. It is, further,

ORDERED, That American Phone's request for stay of rescission of Certificate No. 90-5955 be extended until otherwise ordered by the Commission. It is, further,

ORDERED, That notice or a copy of this Entry be served upon ConocoPhillips, Epiq, and American Phone, and via the Electric-Energy, Gas-Pipeline, and Telephone industry listserves.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Richard M. Bulgrin

By: Richard M. Bulgrin  
Attorney Examiner

JRJ/dah

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 14-0001-AU-RPT, 15-0001-AU-RPT**

Summary: Attorney Examiner Entry that the rescission of Certificate No. 13-717E issued to ConocoPhillips should be stayed until otherwise ordered by the Commission; that Epiq's request for stay of rescission of Certificate Nos. 13-315G and 13-713E be granted until otherwise ordered by the Commission; that Epiq's motion for an extension for Certificate Nos. 13-315G and 13-713E be granted, and the effective date of such certificates to be extended through August 14, 2015; and that American Phone's request for stay of rescission of Certificate No. 90-5955 be extended until otherwise ordered by the Commission; electronically filed by Debra Hight on behalf of Richard M. Bulgrin, Attorney Examiner.