

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission-Ordered)
Investigation of Marketing Practices in) Case No. 14-568-EL-COI
the Competitive Retail Electric Service)
Market.)

ENTRY ON REHEARING

The Commission finds:

- (1) R.C. 4928.02 provides, in pertinent part, that it is the policy of the state to “[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;” “[e]nsure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;” “ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers[.]” “recognize the continuing emergence of competitive electricity markets through the development and implementation of flexible regulatory treatment;” and “ensure retail electric service consumers protection against unreasonable sales practices[.]” Additionally, R.C. 4928.06 requires the Commission to ensure that the state policies enumerated in R.C. 4928.02 are effectuated and to adopt rules to carry out and enforce these policies. Consequently, the Commission finds that it has the authority, and the duty, to examine competitive retail electric service (CRES) contracts in order to ensure the availability of reasonably priced CRES, diversity of CRES supplies and suppliers, and protection for customers against unreasonable sales practices.
- (2) In March 2014, the Commission became aware, through consumer inquiries and informal complaints, that CRES suppliers have included pass-through clauses in the terms

and conditions of fixed-rate or price contracts and variable contracts with a guaranteed percent off the standard service offer (SSO) rate. Such pass-through clauses allow the CRES supplier to pass through to the customer the additional costs of certain pass-through events.

- (3) By Entry issued April 9, 2014, the Commission opened an investigation to determine whether it is unfair, misleading, deceptive, or unconscionable for a CRES provider to market contracts as fixed-rate contracts or as variable contracts with a guaranteed percent off the SSO rate when the contracts include pass-through clauses (collectively referred to herein as "fixed-rate" contracts).
- (4) Timely comments were filed in this proceeding by multiple stakeholders.
- (5) By Finding and Order issued November 18, 2015 (Order), the Commission determined that, in all CRES contracts, whether residential, commercial, or industrial, fixed should mean fixed. Consequently, the Commission ordered that, on a going-forward basis, CRES providers may not include a pass-through clause in a contract labeled as "fixed-rate," although CRES providers could continue to include regulatory-out clauses available in limited circumstances. The Commission further held that CRES providers would have until January 1, 2016, to bring all marketing for contracts being marketed into compliance with the "fixed-means-fixed" guidelines set forth in the Order. The Commission further found that changes to the Commission's current rules should be initiated in order to provide clearer guidance to customers and CRES providers in the future, and directed the Commission's Staff to draft proposed rules and commence a rules proceeding.
- (6) R.C. 4903.10 provides that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

- (7) On December 15, 2015, the Retail Energy Supply Association (RESA) filed a motion for a stay of the January 1, 2016 deadline established by the Commission for all CRES providers to bring existing marketing materials into compliance with the Order.
- (8) On December 18, 2015, applications for rehearing were filed by Ohio Consumers' Counsel (OCC), Noble Americas Energy Solutions LLC (Noble), FirstEnergy Solutions Corp. (FES), RESA, and Interstate Gas Supply, Inc. (IGS Energy).
- (9) On December 22, 2015, OCC and the Ohio Manufacturers' Association Energy Group (OMAEG) filed memoranda contra RESA's motion for a stay.
- (10) Memoranda contra applications for rehearing were filed by OCC; RESA; The Ohio Schools Council, Ohio School Boards Association, Buckeye Association of School Administrators, and Ohio Association of School Business Officials (collectively, Power4Schools), IGS Energy, and FES.
- (11) The Commission believes that sufficient reason has been set forth by OCC, Noble, FES, RESA, and IGS Energy to warrant further consideration of the matters specified in the applications for rehearing. Accordingly, the applications for rehearing by OCC, Noble, FES, RESA, and IGS Energy should be granted.

It is, therefore,

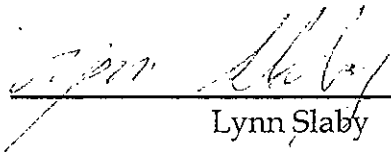
ORDERED, That the applications for rehearing filed by OCC, Noble, FES, RESA, and IGS Energy should be granted for further consideration of the matters specified in the applications for rehearing. It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon all competitive retail electric service providers, Ohio Consumers' Counsel, and all other interested parties of record. It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon the Electric-Energy List Serve.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Andre T. Porter, Chairman



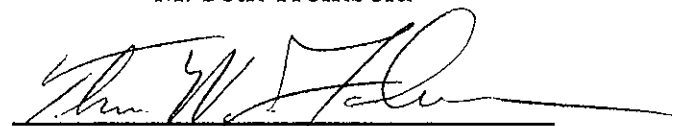
Lynn Slaby



M. Beth Trombold



Asim Z. Haque

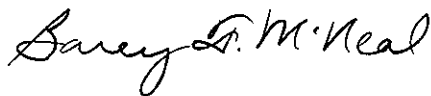


Thomas W. Johnson

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Entered in the Journal

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Barcy F. McNeal
Secretary