

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Price :
Protection Energy Service, LLC, for :
Certification as a Power Marketer to : Case No. 17-650-EL-CRS
provide Retail Electric Competitive :
Service. :

**MOTION TO STAY AND REQUEST FOR HEARING TO RESCIND
CERTIFICATION AND REQUEST FOR EXPEDITED TREATMENT
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Staff of the Public Utilities Commission of Ohio (“Staff”) moves to stay and requests a hearing to rescind the recent certification of Price Protection Energy Service, LLC (“PPES”) as a Power Marketer to provide competitive retail electric service (“CRES”). The reasons for this motion are set forth more fully in the attached memorandum.

Respectfully submitted,

Michael DeWine
Ohio Attorney General

/s/ John H. Jones

John H. Jones
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th floor
Columbus, OH 43215
john.jones@ohioattorneygeneral.gov

**On behalf of the Staff of
The Public Utilities Commission of Ohio**

MEMORANDUM IN SUPPORT

On March 6, 2017, PPES filed its application for certification as a Power Marketer to provide retail electric competitive service pursuant to R.C. 4928.08 and Chapter 4901:1-24, Ohio Adm. Code. Staff timely reviewed PPES's application and determined it was incomplete. Staff notified PPES of its incomplete application and specified the deficiencies.¹ However, PPES never responded to Staff's notice, so the informational deficiencies remain.² As a result, PPES's application is not compliant with the Commission's rules.

The deficiencies listed in the attached affidavit are provided as a sample and do not represent the entire list of deficiencies that Staff discovered in its review of PPES's application. For example, the application is also missing some applicant information (A-6, A-7 and A-15), applicant managerial capability and experience information (B-2 and B-4), and applicant technical capability information (D-1 through D-4).

On April 5, 2017, thirty days after the application was filed, PPES's application was deemed automatically approved pursuant to the rules of the Public Utilities Commission of Ohio ("Commission").³ Although approved, no CRES provider certificate has been issued yet to PPES.

¹ Affidavit of Michael Palkowski attached as Exhibit 1.

² *Id.*

³ Rule 4901:1-24-10(A), Ohio Adm. Code.

Due to PPES not responding to Staff's notice and supplementing its application to address the specified deficiencies, Staff seeks a stay and hearing on whether PPES's certification to be a Power Marketer and CRES provider should be rescinded.⁴ Staff has provided just cause for its motion to stay PPES's certification as a CRES provider until such time as the matter can be set for hearing so the Commission can decide whether PPES's certification should be rescinded.

Ohio Adm. Code 4901-1-12(C) allows a party to request that the Commission consider a motion on an expedited basis. Accordingly, Staff respectfully requests an expedited ruling on its motion to stay and request for hearing to rescind PPES's certification as a CRES provider. Staff is unable to certify whether PPES objects to the issuance of such a ruling. Staff respectfully requests that the Commission approve its motion to stay PPES's certification as a CRES provider until this matter can receive a hearing and decision by the Commission on whether its certificate should be rescinded.

Respectfully submitted,

**On behalf of the Staff of the Public
Utilities Commission of Ohio:**

/s/John H. Jones

John H. Jones

Assistant Attorney General

Public Utilities Section

30 East Broad Street, 16th floor

Columbus, OH 43215

john.jones@ohioattorneygeneral.gov

⁴ Rule 4901:1-24-13, Ohio Adm. Code.

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Motion to Stay and Request for Hearing to Rescind Certification and Request for Expedited Treatment** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic and regular U.S. mail upon the following Parties of Record, this 19th day of April, 2017.

/s/John H. Jones

John H. Jones
Assistant Attorney General

Parties of Record:

Gary L. Hamilton, Jr.
President
Price Protection Energy Service, LLC
2403 River Road
Maumee, Ohio 43537
84maven@gmail.com

STATE OF OHIO)
)
 COUNTY OF FRANKLIN)

AFFIDAVIT OF MICHAEL PALKOWSKI

I, Michael Palkowski, being first duly sworn, depose and state as follows:

1. My name is Michael Palkowski and I am employed in the Rates and Analysis Department, Financial Analysis Section, as a Specialist in Forecasting, Markets and Corporate Oversight for the Public Utilities Commission of Ohio ("Commission"), a state regulatory agency. I have personal knowledge of the substance of this affidavit.

2. I have been employed by the Commission for 6 years. As a Specialist for the Commission, I am charged with reviewing competitive retail electric service provider ("CRES") applications for certification to determine whether applications are in compliance with the Commission's rules under Chapter 4901:1-24, Ohio Adm. Code. As an employee of the Commission, I enforce the rules of that Chapter. If I find any information deficiencies in a CRES provider application, I notify the applicant either verbally, in writing or both and provide a list of items, cross reference to exhibits, and provide comments to specify any non-compliance. The method(s) of notification depends on the number and type of non-compliant items and the estimated timeframe in which the applicant can cure their deficiencies.

3. Attached to this affidavit is a true and accurate copy of the warning email I sent to Price Protection Energy Service, LLC ("PPES") on March 10, 2017 to inform the Company that its application failed to meet certain requirements for compliance (Exhibit A). In the email, I gave PPES until noon on March 28, 2017, to amend its application and include the necessary information to comply with the filing requirements. I generated this email after I reviewed PPES's application for certification as a Power Marketer to provide retail electric competitive

service. On the afternoon of March 28, 2017, I completed a second financial review that showed no change to the non-compliant items I previously noted for PPES's application, which is also attached to this affidavit (Exhibit B). I emailed this checklist of financial items with my recommendation that the application be denied for non-compliance to the Service Monitoring and Enforcement Department of the Commission. The checklist includes six items identified for non-compliance (Item No. 5 is highlighted on the checklist; however the applicant is compliant with Item No. 5).

4. To date, PPES has not responded to my email notice. These non-compliance items remain outstanding, which make its CRES provider application incomplete or not in compliance with the Commission's rules for certification.

FURTHER, Affiant sayeth naught.


MICHAEL PALKOWSKI

SWORN TO AND subscribed before me this 19th day of April, 2017.



Notary Public
THOMAS W. MCNAMEE
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION NEVER EXPIRES

Exhibit A

From: Palkowski, Michael
Sent: Friday, March 10, 2017 9:17 AM
To: '84maven@gmail.com' <84maven@gmail.com>
Cc: Scarberry, Melissa <melissa.scarberry@puco.ohio.gov>; Palkowski, Michael <michael.palkowski@puco.ohio.gov>
Subject: Your Ohio Application fails to meet requirements

Mr. Hamilton,

The certification application for Price Protection Energy Service (Case Number 17-0650-ELA-CRS) was received by the PUCO Docketing Division on March 6, 2017. However, the application failed to meet the requirements of Exhibits C-3, C-4, C-5, C-7, C-8 and C-9.

Please return to the PUCO website and review the requirements for these exhibits. You need to amend your application by properly completing all of the previously mentioned exhibits.

In order to avoid suspension and/or denial of your application, please send the above referenced Exhibits to the PUCO Docketing Division with a note to include them as amendments to your application for Case Number 17-0650-ELA-CRS. The required amendments must be received **by NOON Tuesday, March 28, 2017** and comply with filing content requirements in order for staff to have sufficient time to review the information and for you to avoid suspension or denial of your application.

Please let me know if you have any questions.

Michael J. Palkowski
Public Utilities Commission of Ohio
Rates and Analysis Department
Specialist, Forecasting, Markets and Corporate Oversight
3rd Floor, 180 East Broad Street, Columbus, Ohio 43215

(614) 466-5353
PUCO.ohio.gov



This message and any response to it may constitute a public record and thus may be publicly available to anyone who requests it.

COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDER CERTIFICATION**Financial Review Checklist****Applicant's Name: Price Protection Energy Service****Case No: 17-0650-EL-CRS****Filing Date: 03/06/2017****Auto Date: 04/05/2017****Electric Generator () Power Marketer (X) Broker () Aggregator ()****Application in Compliance: NO****Recommended Action: Recommended for Denial of Certification based on review of Section C of the Application and Exhibits**

No.	Checklist Items	Exhibit Cross Reference	Yes/No	Comments
(1)	Did applicant provide annual reports, 10-K, 10-Q, or 8-K?	C1 C-2	N/A	
(2)	Did applicant provide its two most recent years of its financial statements?	C-3	No	Applicant did not include exhibit
(3)	Did Applicant provide copies of applicant's financial arrangements to conduct CRES as a business activity?	C-4	No	Applicant responded "N/A"
(4)	Did Applicant provide forecasted financial statements for its CRES operation?	C-5	No	Applicant responded "N/A"
(5)	Did Applicant provide its credit rating from two rating agencies, if applicable?	C-6	No	Applicant responded "N/A"
(6)	Did Applicant provide its credit report?	C-7	No	Applicant responded "N/A"
(7)	Did applicant disclose any reorganization or any form of bankruptcy proceedings?	C-8	No	Applicant responded "N/A"
(8)	Did applicant disclose any dissolution, mergers, or acquisitions?	C-9	No	Applicant responded "N/A"
(9)	Did Applicant provide a chart of the corporate structure of the parent and all its subsidiaries?	C-10	No	Provided written description

Reviewer: Michael Palkowski, Financial Analysis Section, Rates & Analysis Department – 03/28/2017

Applicant Contact Info: Gary Hamilton (419) 304-7778 / 84maven@gmail.com

Sent warning email on Mar 10 at 9:71

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/19/2017 1:52:05 PM

in

Case No(s). 17-0650-EL-CRS

Summary: Motion to Stay and Rescind Certificate electronically filed by Ms. Tonnetta Scott on behalf of PUC