

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF  
YOUNGSTOWN THERMAL, LLC AND  
YOUNGSTOWN THERMAL COOLING, LLC.

CASE No. 17-1534-HC-UNC

### FIFTH FINDING AND ORDER

Entered in the Journal on April 25, 2018

#### I. SUMMARY

{¶ 1} The Commission approves the final tariffs filed by the receiver for Youngstown Thermal, LLC, and Youngstown Thermal Cooling, LLC, implementing emergency rates consistent with our Fourth Finding and Order filed January 10, 2018.

#### II. HISTORY

{¶ 2} Youngstown Thermal, LLC and Youngstown Thermal Cooling, LLC (Youngstown Thermal) provides steam and chilled water service for heating and cooling purposes to approximately 40 customers in downtown Youngstown, Ohio. Therefore, Youngstown Thermal is a heating and cooling company as defined in R.C. 4905.03(H) and a public utility under R.C. 4905.02. As such, Youngstown Thermal is subject to the Commission's jurisdiction.

{¶ 3} On June 30, 2017, the Commission issued a Finding and Order in this proceeding concluding that Youngstown Thermal could not ensure adequate service to their customers in violation of R.C. 4905.22 and that Youngstown Thermal was in imminent danger of insolvency. Thus, pursuant to the authority granted by R.C. 4905.60, the Commission directed the Attorney General to seek the appointment of a receiver over Youngstown Thermal. Therefore, the Attorney General initiated proceedings in the Mahoning County Court of Common Pleas, and, on August 1, 2017, the Court placed Youngstown Thermal into receivership.

{¶ 4} On July 21, 2017, the Commission issued a Second Finding and Order in this proceeding concluding that an emergency rate surcharge was necessary to ensure continued heating and cooling service to Youngstown Thermal's customers and directing Youngstown Thermal and Staff to work together on a plan for the necessary emergency rate surcharge. Subsequently, on July 28, 2017, Staff filed its recommendation for an emergency rate surcharge.

{¶ 5} On August 2, 2017, the Commission issued our Third Finding and Order, which established an emergency rate surcharge pursuant to R.C. 4909.16. On August 4, 2017, the receiver filed final tariffs consistent with the Third Finding and Order. Pursuant to the Third Finding and Order, the tariffs were approved upon filing and effective immediately for services rendered on or after the filing date.

{¶ 6} On December 12, 2017, the receiver for Youngstown Thermal filed a letter requesting that the Commission suspend collection of the emergency rate surcharge. The Commission approved this request on December 20, 2017.

{¶ 7} Subsequently, on January 10, 2018, the Commission issued a Fourth Finding and Order granting a January 3, 2018 request by the receiver to establish emergency rates with the Commission. As proposed by the receiver and approved in that Fourth Finding and Order, the emergency rates implemented by the new tariff were equivalent to Youngstown Thermal's expired ordinance rates, but also allowed for a late payment fee.

{¶ 8} On April 11, 2018, the receiver filed new proposed final tariffs in accordance with the Commission's January 10, 2018 Order. The proposed final tariffs would establish emergency rates that replace the existing volumetric charge with rates that encompass both a volumetric and a fixed monthly customer charge. Additionally, the proposed final tariffs allow large heating customers with a projected annual usage of 9,000 lbs or greater at a single location to arrange a monthly budget billing amount for its heating service charges.

{¶ 9} On April 16, 2018, Staff filed its review and recommendations regarding the proposed final tariffs. Staff explains that the rate design of the proposed rates provides Youngstown Thermal the opportunity to recover a monthly budget amount necessary for the continued operation of the company. Upon review, Staff believes that the filed tariffs and proposed rate design will provide Youngstown Thermal the opportunity to collect the necessary monthly budget amount.

### III. CONCLUSION

{¶ 10} Upon consideration of the proposed emergency rates and Staff's recommendation, the Commission finds that the proposed emergency rates will provide the monthly revenue necessary to continue the operation of Youngstown Thermal. Therefore, the Commission finds that the emergency rates contained in the proposed final tariffs are reasonable, are consistent with our Fourth Finding and Order in this matter, and should be approved pursuant to R.C. 4909.16. Additionally, the Commission finds that the emergency rates should be effective with bills rendered after the issuance of this Fifth Finding and Order. However, the Commission notes that, even though Youngstown Thermal is in receivership, Youngstown Thermal may not rely upon emergency rates under R.C. 4909.16 forever. While the record in this proceeding makes clear that Youngstown Thermal's recordkeeping prior to the receivership was an issue, the receiver should be in the process of gathering information in order to file a rate case in conformance with R.C. 4909.18 as soon as practicable.

### IV. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the emergency rates contained in the proposed final tariff be approved. It is, further,

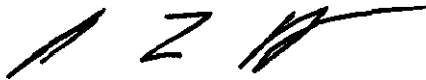
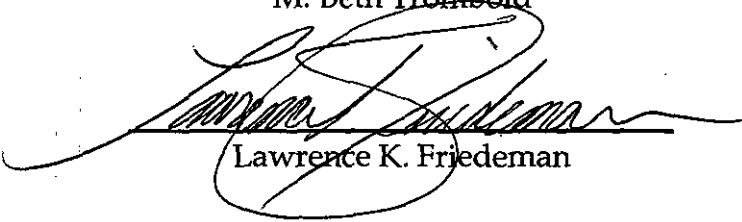
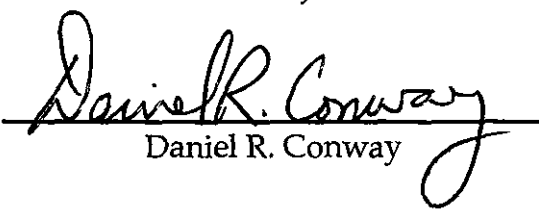
{¶ 13} ORDERED, That the proposed final tariffs be approved, effective bills rendered after the issuance of this Fifth Finding and Order. It is, further,

{¶ 14} ORDERED, That Youngstown Thermal carry out all steps necessary to comply with this Fifth Finding and Order. It is, further,

{¶ 15} ORDERED, That Youngstown Thermal notify their customers of the changes to the tariff via bill message or bill insert within 30 days of the effective date. A copy of this notice shall be submitted to the Commission's Service Monitoring and Enforcement Department at least 10 days prior to its distribution to customers. It is, further,

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

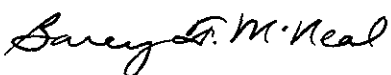
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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**APR 25 2018**

  
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Barcy F. McNeal  
Secretary