



Public Utilities Commission

Mike DeWine, Governor
Sam Randazzo, Chairman

Commissioners

M. Beth Trombold
Lawrence K. Friedeman
Dennis P. Deters
Daniel R. Conway

FILE

April 16, 2016

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

RE: *In the Matter of the Commission's Investigation into Verde Energy USA Ohio, LLC's Compliance with the Ohio Administrative Code and Potential Remedial Action.*

Dear Docketing Division:

Enclosed please find the Staff letter to be filed in case Nos. 11-5886-EL-CRS and 13-2164-GA-CRS.

Respectfully submitted by,

Rob Fadley
Director, Service Monitoring and Enforcement Dept.
Public Utilities Commission

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RE: In the Matter of the Commission's Investigation into Verde Energy USA Ohio, LLC's Compliance with the Ohio Administrative Code and Potential Remedial Action.

Dear Docketing Division:

On March 29, 2018, Verde Energy USA Ohio, LLC (Verde) received a renewal certificate as a competitive retail electric service (CRES) provider to provide retail generation and power marketer services within the State of Ohio. *See* case number 11-5886-EL-CRS. On December 11, 2017, Verde received a renewal certificate as an Ohio competitive retail natural gas service (CRNGS) marketer. *See* case number 13-2164-GA-CRS. Therefore, Verde is subject to the jurisdiction the Public Utilities Commission of Ohio (Commission) pursuant to R.C. 4928.16 and 4929.24.

Between October 1, 2018 and April 12, 2019, Staff of the Commission's Service Monitoring and Enforcement Department (Staff) received 481 customer contacts regarding Verde's provision of CRES and CRNGS. Of these 481 customer contacts, 231 customer contacts (approximately 57 percent) are related to enrollment disputes, misleading information, and false representations wherein Verde purported to be another utility. Several of these customer contacts involve particularly egregious behavior by Verde. For instance, on January 7, 2019, Verde contacted a customer using inaccurate caller identification information portraying Verde on the customer's caller identification as AEP Ohio and purporting the customer would save 20 percent on their AEP Ohio electric bill and 40 percent on their Dominion East Ohio natural gas bill. On March 12 and 26, 2019, Verde contacted consumers through automated messages (i.e. robo-calls) stating the consumers qualified for 30 percent discounts on utility bills.

Furthermore, as of April 15, 2019, 18 percent of supplier-related investigations open for review and resolution with Staff are in reference to Verde. Upon review of these investigations and following receipt of responses from Verde, Staff believes that Verde was using misleading and deceptive practices to market and enroll customers and did not comply with multiple requirements of the Ohio Administrative Code (Ohio Adm.Code) 4901:1-21 and 4901:1-29.

Specifically, Staff determined the following:

1. Verde used inaccurate caller identification information indicating to customers that Verde's outgoing calls are instead originating from Duke Energy Ohio, AEP Ohio, and/or the Internal Revenue Service, a practice also known as spoofing, in violation of Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-05(C)(8)(h), 4901:1-21-05(C)(10), 4901:1-29-03(A), 4901:1-29-05(D), and 4901:1-29-10(A);
2. Verde used a technology known as robo-calling with automated messages which included misleading and deceptive information to entice a customer to speak to a sales representative, in violation of Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-05(C), 4901:1-29-03(A), 4901:1-29-05(D), and 4901:1-29-10(A);
3. Verde sales representatives provided misleading information during telemarketing solicitations, in violation of Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-04, 4901:1-21-05(C), 4901:1-29-03(A), 4901:1-29-05(D), and 4901:1-29-10(A), and which did not follow the sales script Verde provided to Staff;
4. Verde was unclear in the terms and conditions applicable to its offer for sale when marketing to a customer, in violation of Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-05(C), 4901:1-29-03(A), 4901:1-29-05(D), and 4901:1-29-10(A);
5. Verde could not provide signed contracts for customers who were enrolled via door to door enrollment, in violation of Ohio Adm.Code 4901:1-21-04, 4901:1-21-06(D)(1)(a), 4901:1-21-11(C), 4901:1-29-04(A), 4901:1-29-06(D), and 4901:1-29-10(B);
6. Verde's completed third-party verifications did not contain all of the elements required by Ohio Adm.Code 4901:1-21-04, 4901:1-21-06(D)(1)(h), 4901:1-21-06(D)(2), and 4901:1-29-06(E)(1); and
7. Verde failed to send expiration notices to customers as required by Ohio Adm.Code 4901:1-21-11(G).

Based on the aforementioned findings, Staff recommends that a case be opened with a case code of "Commission Ordered Investigation" (COI) in order for Staff to file its Staff Report, which will provide further detail and context regarding Staff's investigation and findings. In addition, Staff recommends that the Commission consider one of the following actions while Verde is under investigation: a suspension of its certificates; conditional rescission of its certificates; or rescission of its certificates, in accordance with Ohio Adm.Code 4901:1-21-15(A)(2), 4901:1-24-13, 4901:1-27-13 and 4901:1-34-08(D).

Sincerely,

A handwritten signature in black ink, appearing to read "R. Fadley". The signature is fluid and cursive, with the first name "R." and the last name "Fadley" clearly distinguishable.

Robert Fadley
Director, Service Monitoring and Enforcement Department