

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
INVESTIGATION INTO VERDE ENERGY
USA OHIO, LLC'S COMPLIANCE WITH
THE OHIO ADMINISTRATIVE CODE AND
POTENTIAL REMEDIAL ACTIONS FOR
NON-COMPLIANCE.

CASE NO. 19-958-GE-COI

ENTRY

Entered in the Journal on May 16, 2019

{¶ 1} Verde Energy USA Ohio, LLC d/b/a Verde Energy (Verde Energy) is an electric services company as defined in R.C. 4928.01 and a retail natural gas supplier as defined in R.C. 4929.01; is certified to provide competitive retail electric service (CRES) under R.C. 4928.08 and to supply competitive retail natural gas service (CRNGS) under R.C. 4929.20; and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16 and R.C. 4929.24. Accordingly, Verde Energy is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21, as well as the minimum CRNGS standards set forth in Ohio Adm.Code Chapter 4901:1-29.

{¶ 2} R.C. 4928.08 and 4929.20 allow the Commission to suspend, rescind, or conditionally rescind the certification of any electric services company or retail natural gas supplier issued under these sections if the Commission determines, after reasonable notice and opportunity for hearing, that the electric services company or retail natural gas supplier has failed to comply with any applicable certification standards or has engaged in anticompetitive or unfair, deceptive, or unconscionable acts or practices in this state. Additionally, R.C. 4928.16 and 4929.24 grant the Commission the authority to order any remedy or forfeiture provided under R.C. 4905.54 to 4905.60 and 4905.64, and to order restitution to customers and rescission of customer contracts.

{¶ 3} On April 17, 2019, the Commission issued an Entry in this matter. In the Entry, the Commission stated that Staff of the Commission's Service Monitoring and

Enforcement Department had reviewed customer contacts from October 1, 2018, to April 12, 2019, as well as Verde Energy's responses, and believed that Verde Energy engaged in misleading and deceptive practices to market and enroll customers, as well as violating several requirements of Ohio Adm.Code Chapter 4901:1-21 and 4901:1-29. Based on Staff's findings, the Commission scheduled a hearing in this matter for Verde Energy to show cause why its certification as a CRES provider and its certification as a CRNGS supplier should not be suspended, rescinded, or conditionally rescinded. The Commission also set a procedural schedule for this matter.

{¶ 4} On April 24, 2019, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene pursuant to R.C. 4903.221 and a motion to suspend or rescind Verde Energy's CRES and CRNGS certificates.

{¶ 5} On May 1, 2019, Interstate Gas Supply, Inc. (IGS) moved to intervene in this matter pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11. In its motion, IGS also requests leave to intervene after the intervention deadline of April 26, 2019.

{¶ 6} On May 3, 2019, Verde Energy, joined by IGS, filed a motion and request for an expedited ruling, seeking to temporarily suspend the procedural schedule and stay discovery, pending negotiation of a stipulation between the parties.

{¶ 7} Also on May 3, 2019, Staff filed a report regarding its investigation in this matter. In the report, Staff indicates that Verde Energy is in probable non-compliance with multiple provisions of the Ohio Administrative Code, including Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-05(C), 4901:1-21-11(A), 4901:1-29-03(A), 4901:1-29-05(D), and 4901:1-29-10(A); has not demonstrated its ability to comply with Commission rules; and does not have the managerial capability to be certified as a CRES or CRNGS provider in the state of Ohio. Staff provides various recommendations to the Commission, including that the Commission suspend, conditionally rescind, or rescind Verde Energy's certification and order Verde Energy to pay a forfeiture of \$1,500,000.00.

{¶ 8} By Entry dated May 6, 2019, the attorney examiner granted a brief extension of the procedural schedule, extending the testimony filing deadline from May 10, 2019, to May 17, 2019, and rescheduling the hearing from May 17, 2019, to May 22, 2019.

{¶ 9} On May 7, 2019, Verde Energy filed responses to OCC's and IGS's motions. Although Verde Energy disputes other aspects of the motions, Verde Energy notes that it does not oppose OCC's and IGS's requests to intervene in this proceeding.

{¶ 10} On May 15, 2019, Verde Energy, along with Staff, OCC, and IGS, filed an unopposed motion to extend the procedural schedule. In the motion, Verde Energy explains that its corporate representative, Interim General Counsel for parent company Spark Energy, Inc., Alexis Keene, is unavailable on May 22, 2019. Verde Energy also points out that Staff produced an enormous volume of documents pursuant to a public records act request, with the production totaling more than 16,000 pages. To properly review these records and prepare the necessary testimony, Verde Energy requires additional time to submit testimony. Further, Verde Energy states that discovery issues remain open even though testimony is due in two days. For example, Verde Energy states that it has documents responsive to IGS's document request and vice versa, but they have been unable to exchange those records pending a ruling on a motion filed this week with the Commission to waive certain rules governing the disclosure of customer information. Lastly, Verde Energy states that the extension would allow for the possibility of settlement as discussions have already occurred in this case and the parties need more time to attempt resolve the issues.

{¶ 11} Verde Energy proposes that the testimony deadline in this matter be extended to May 31, 2019, and that hearing be rescheduled for June 10, 2019, with June 14, 2019, being reserved as a second, additional day, if necessary. Verde Energy states that the parties confirm that they are all available on the proposed rescheduled hearing dates.

{¶ 12} Upon review, the attorney examiner finds that the parties' joint motion is reasonable and that it should be granted. As such, the testimony deadline is extended to May 31, 2019, and the hearing is rescheduled to be held on June 10, 2019, with June 14, 2019, reserved as a second day, if necessary.

{¶ 13} With respect to the motions to intervene filed by OCC on April 24, 2019, and IGS on May 1, 2019, the attorney examiner notes that OCC's and IGS's requests for intervention are unopposed. Initially, the attorney examiner finds that IGS's request for leave to file out of time should be granted. After reviewing the criteria contained in R.C. 4903.221 and Ohio Adm.Code 4901-1-11, and OCC's and IGS's interests, the attorney examiner finds that OCC's and IGS's motions to intervene are reasonable and, thus, should be granted.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the parties' joint motion be granted as set forth in Paragraph 12. It is, further,

{¶ 16} ORDERED, That the testimony deadline and hearing date be rescheduled as set forth in Paragraph 12. It is, further,

{¶ 17} ORDERED, That IGS's motion for leave to file out of time and to intervene be granted. It is, further,

{¶ 18} ORDERED, That OCC's motion to intervene be granted. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Stacie Cathcart

By: Stacie E. Cathcart
Attorney Examiner

SJP/sc

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/16/2019 3:48:26 PM

in

Case No(s). 19-0958-GE-COI

Summary: Attorney Examiner Entry granting the parties' joint motion and rescheduling hearing to 06/10/2019 in accordance with Paragraph 12 and granting the motions of IGS and OCC to intervene - electronically filed by Sandra Coffey on behalf of Stacie Cathcart, Attorney Examiner, Public Utilities Commission of Ohio