

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of  
Verde Energy USA Ohio, LLC as a  
Competitive Retail Natural Gas  
Supplier

CASE NO.: 13-2164-GA-CRS

**VERDE ENERGY'S MEMORANDUM CONTRA OCC'S MOTION TO  
REQUIRE VERDE ENERGY TO PROVIDE NOTIFICATION OF A  
MATERIAL CHANGE IN INFORMATION FOR ITS RENEWAL  
APPLICATION OR, IN THE ALTERNATIVE, MOTION FOR  
ADMINISTRATIVE NOTICE OF AN INVESTIGATION INITIATED BY THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

OCC has filed a motion urging the Public Utilities Commission of Ohio (the "Commission") to "require" Verde Energy USA Ohio, LLC ("Verde Energy") to file a material change notice regarding a complaint filed against an affiliate by the Pennsylvania Public Utility Commission. OCC's motion, however, is moot. That is because prior to the filing of this memorandum, Verde Energy filed a material change notice in this natural gas case relating to the Pennsylvania complaint against Verde Energy's affiliate. Further, since the Renewal Application has been timely updated with the information relating to the Pennsylvania investigation, there is no need for the Commission to take administrative notice of that investigation.

**FACTS**

On November 7, 2019, Verde Energy filed an application to renew its natural gas certificate in PUCO Case Number 13-2164-GA-CRS. Although it was not required by the Commission's rules to do so, Verde Energy voluntarily disclosed, as

part of that application, all past and pending regulatory actions in any state against affiliates of Verde Energy. *See Renewal Application for Certification as a Retail Natural Gas Marketer*, at Exhibit B-4, filed Nov. 7, 2019 in PUCO Case No. 13-2164-GA-CRS (the “Renewal Application”).

On January 30, 2020, the Pennsylvania Public Utility Commission filed a formal complaint against Verde Energy USA, Inc., an affiliate of Verde Energy, in Docket Number C-2020-3017229 (the “Pennsylvania Investigation”). A few days later, OCC filed its motion.

## **ARGUMENT**

The Commission’s rules require retail natural gas suppliers to notify the Commission of “any material change to the information supplied in a certification or most recent certification renewal application within 30 days of such material change.” Ohio Adm.Code 4901:1-27-11(A).

The Commission’s rules required Verde Energy to disclose, as part of its Renewal Application, all “pending or past regulatory or judicial actions against the applicant or past rulings finding against the applicant.” Ohio Adm.Code 4901:1-27-05(B)(2)(f). The instructions on the Commission’s renewal application materials further instruct the applicant to disclose “a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations of authority, regulatory investigations, or any other matter that could adversely impact the applicant’s financial or operational status or ability to provide the services for which it is

seeking renewed certification since applicant last filed for certification.” *Renewal Application*, at 4.

Because the rules require disclosure of regulatory actions only when they involve “the applicant,”<sup>1</sup> Verde Energy was not required to disclose investigations of affiliate companies in its Renewal Application. *See* Ohio Adm. Code 4901:1-27-05(B)(2)(f). In the interest of completeness, Verde Energy did so anyway. *Renewal Application*, at Exhibit B-4.

Because Verde Energy has voluntarily disclosed all pending and past regulatory actions against affiliates as part of its Renewal Application, Verde Energy interprets Ohio Adm.Code 4901:1-27-11(A) conservatively to require Verde Energy to update that disclosure with any new regulatory actions against affiliates. Accordingly, prior to filing this memorandum, Verde Energy filed a notice of material change updating its pending Renewal Application. This filing renders the OCC’s motion moot.

Accordingly, the Commission should deny OCC’s motion as moot. Further, since the Renewal Application has been updated with the information relating to the Pennsylvania Investigation against Verde Energy’s affiliate, there is no need for the Commission to take administrative notice of that investigation.

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<sup>1</sup> “Applicant” is defined by the Commission’s rules to mean “a person who files an application for certification or certification renewal.” Ohio Adm.Code 4901:1-27-01(B).

Dated: February 20, 2020

Respectfully submitted,

/s David F. Proaño

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## **CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing document was served by e-mail upon the persons listed below this 20th day of February, 2020.

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/20/2020 2:15:00 PM**

**in**

**Case No(s). 13-2164-GA-CRS**

Summary: Memorandum Contra OCC's Motion to Require Verde Energy to Provide Notification of a Material Change in Information for Its Renewal Application or, in the Alternative, Motion for Administrative Notice of an Investigation Initiated by the Pennsylvania Public Utility Commission electronically filed by Mr. David F. Proano on behalf of Verde Energy USA Ohio, LLC