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Ohio Adm.Code 4901-1-30 provides that two or more parties to a Public Utilities Commission of Ohio (“Commission”) proceeding may enter into a written stipulation concerning the issues presented in the proceeding.¹ This Joint Stipulation and Recommendation (“Stipulation”) sets forth the understanding and agreement of Median Energy Corp. (“Median Energy”) and the Staff of the Commission (“Staff”), each of whom is a “Party” or “Signatory Party” and together constitute the “Parties” or “Signatory Parties.” The Signatory Parties recommend that the Commission approve and adopt this Stipulation, which will resolve all of the issues identified by the Staff in its Notice of Probable Non-Compliance dated November 18, 2019 (“Notice Letter”), attached as Exhibit A.

¹ Pursuant to Ohio Adm.Code 4901-1-1(C), the Staff is considered a party for purposes of Ohio Adm.Code 4901-1-30.

encouraged by this Commission and undertaken by the Parties representing a wide range of interests, to resolve the aforementioned issues. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving all issues raised by this proceeding, the Parties stipulate, agree and recommend as set forth below.

This Stipulation is the product of an open process in which all Parties were represented by able counsel and technical experts. The Stipulation represents a comprehensive compromise of issues raised by Parties with diverse interests. The only parties to the proceeding, Median Energy, and the Commission Staff, have signed the Stipulation and adopted it as a reasonable resolution of all issues. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result.

The Signatory Parties agree that the settlement, as a package, benefits ratepayers and is in the public interest. The Signatory Parties agree that the settlement does not violate any important regulatory principle or practice. Pursuant to said rule, the Signatory Parties hereby stipulate, agree, and recommend that the Commission make the following findings and issue its Opinion and Order in this case approving this Stipulation in accordance with the following:

HISTORY:

1. Median Energy provides competitive retail electric service (CRES), as that term is defined in R.C. 4928.01, and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16.

2. Median Energy provides competitive retail natural gas service (CRNGS), as that term is defined in R.C. 4929.01, and is subject to the jurisdiction of this Commission pursuant to R.C. 4929.24.
3. On November 18, 2019, Staff issued the Notice Letter to Median Energy regarding several issues identified therein (Exhibit A).
4. Median Energy and Staff engaged in numerous discussions to address the issues raised in Staff's Notice Letter and have reached a resolution of all issues.

JOINT RECOMMENDATION OF SIGNATORY PARTIES

The Signatory Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation. The Signatory Parties agree that, for purposes of settlement and in consideration of the terms and mutual promises set forth herein, the Commission should approve this Stipulation without modification as follows:

1. Median Energy has implemented or will implement all of the corrective actions proposed in the Notice Letter. Specifically, the Signatory Parties recognize that, to the best of each party's knowledge, Median Energy has performed the following:
 - a. Provided Staff with a detailed compliance plan so that Median Energy can come into compliance with the Commission's rules. The plan includes additional oversights of its vendors and various other improved processes.
 - b. On its own volition, suspended all marketing before receiving the Notice Letter's request to suspend door-to-door marketing.

- c. Promptly and adequately responded to Staff's requests for additional information.
2. Median Energy agrees to notify Staff at least 30 days prior to resuming marketing. This notification will include a list of areas, including zip codes, in which they will recommence their door-to-door marketing so that Staff can monitor complaints.
3. Median Energy agrees to a forfeiture of \$30,000 upon approval of this Stipulation by the Commission. The payment shall be paid within thirty (30) days of the entry approving this Stipulation and shall note the docket number assigned to this matter.

PROCEDURAL MATTERS

1. Except for purposes of enforcement of the terms of this Stipulation, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Signatory Party or the Commission itself. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken if these issues had been fully litigated.
2. This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification. Should the Commission reject or materially modify all or any part of this Stipulation, the Signatory Parties shall have the right, within thirty days of issuance of the Commission's Order, to file an

application for rehearing. Should the Commission, in issuing an entry on rehearing, not adopt the Stipulation in its entirety and without material modification, any Signatory Party may withdraw from the Stipulation. Such withdrawal shall be accomplished by filing a notice with the Commission, including service to all Parties, in the docket within thirty days of the Commission's entry on rehearing. Prior to the filing of such a notice, the Signatory Party wishing to withdraw agrees to work in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes the Signatory Party wishing to withdraw, then the new agreement shall be filed for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes all Signatory Parties to the present Stipulation, and a Signatory Party files a notice to withdraw from the Stipulation, then the Commission will convene an evidentiary hearing such that the withdrawing party will be afforded the opportunity to contest the Stipulation by presenting evidence through witnesses and cross-examination, presenting rebuttal testimony, and briefing all issues that the Commission shall decide based upon the record and briefs.

3. The Signatory Parties will support the Stipulation if the Stipulation is contested, and no Signatory Party will oppose an application for rehearing designed to defend the terms of this Stipulation. If the Stipulation is adopted by the Commission, the Signatory Parties will support the Stipulation in any appeal of the decision.

CONCLUSION

WHEREFORE, the Signatory Parties agree and recommend this 3rd day of April 2020 that the Commission find that the Stipulation represents a reasonable resolution of this matter, and that the Stipulation should be adopted and approved.

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

/s/ Robert Eubanks

Robert Eubanks

Assistant Attorney General

Public Utilities Section

30 East Broad Street, 16th Floor

Columbus, Ohio 43215

614.644.8669

Robert.Eubanks@ohioattorneygeneral.gov

Counsel for Staff

On behalf of Median Energy Corp.
Henry Bennett

/s/ Henry Bennett

Henry Bennett

Median Energy Corp

1 Lethbridge Plaza, Suite 2

Mahwah, NJ 07430

hbennett@medianenergy.com

*Representative for Median Energy
Corp.*

CERTIFICATE OF SERVICE

I certify that a true copy of the Stipulation filed on behalf of the Staff of the Public Utilities Commission of Ohio was served by regular U.S. mail, postage prepaid, hand-delivered, and/or electronic service this 3rd day of April, 2020 upon the following:

/s/ Robert Eubanks

Robert Eubanks

Assistant Attorney General

Henry Bennett

Median Energy Corp

1 Lethbridge Plaza, Suite 2

Mahwah, NJ 07430

hbennett@medianenergy.com



**Public Utilities
Commission**

Mike DeWine, Governor
Sam Randazzo, Chairman

Commissioners

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

November 18, 2019

Henry Bennett
Median Energy Corp
1 Lethbridge Plaza, Suite 2
Mahwah, NJ 07430

Dear Mr. Bennett:

Pursuant to Ohio Administrative Code ("Ohio Adm.Code") 4901:1-23-02 and 4901:1-34-03, this letter is a notice of probable non-compliance to Median Energy Corp ("Median"). Based on our investigation of customer complaints, Staff of the Public Utilities Commission of Ohio ("Staff") finds that Median is in probable non-compliance with certain sections of the Ohio Administrative Code. Staff's review of results from consumer investigations has revealed a pattern of deceptive behavior from agents representing Median.

Staff reviewed investigation records in response to complaints to the Public Utilities Commission of Ohio ("PUCO") by customers disputing their enrollment with Median. After reviewing contracts, third-party verification (TPV) recordings, and responses from Median, Staff determined that enrollments are being completed by someone other than the customer. Information given during the TPV does not match the information of the account holder. For example, on some of the TPV recordings, the person acting as the customer gives a name that is not the account holder, and when asked, responds that the account is in their name. In addition, telephone numbers do not match the customer's information, and, in some cases, the address given varies from the actual address of the account holder.

During the investigation, Staff identified more than twenty unique representatives involved with deceptively enrolling customers. The enrollments reviewed were conducted on various dates covering at least a thirteen month time span, and occurred in multiple geographic locations. The range of enrollment dates and locations indicates that this is a widespread problem for Median Energy.

Probable Non-Compliance Violations

1. Ohio Adm.Code 4901:1-21-03(A) "Competitive retail electric service (CRES) providers shall not engage in unfair, misleading, deceptive or unconscionable acts or practices related to, without limitation the following activities: (1) Marketing, solicitation, or sale of a CRES. (2) Administration of contracts for CRES (3) Provision of CRES, including interactions with consumers."

2. Ohio Adm.Code 4901:1-29-03(A) “A retail natural gas supplier [“CRNGS”] or governmental aggregator shall not engage in unfair, misleading, deceptive, or unconscionable acts of practices related to, without limitation, the following activities: (1) Marketing, solicitation, or sale of a competitive retail natural gas service. (2) Administration of contracts for such service. (3) Provision of such service, including interactions with customers.”
3. Ohio Adm.Code 4901:1-21-03(C) “CRES providers shall not change or authorize the changing of a customer’s supplier of retail electric service without the customer’s prior consent, as provided for under rule 4901:1-21-06 of the Administrative Code.”
4. Ohio Adm.Code 4901:1-29-03(D) “A retail natural gas supplier or governmental aggregator shall not change or authorize the changing of a customer’s supplier of competitive retail natural gas service without the customer’s prior consent, as provided for under rule 4901:1-29-06 of the Administrative Code.
5. Ohio Adm.Code 4901:1-21-06(C) “CRES providers are prohibited from enrolling potential customers without their consent proof of that consent as delineated in paragraph (D) of this rule.”
6. Ohio Adm.Code 4901:1-29-06(B) “A retail natural gas supplier and governmental aggregator is prohibited from enrolling potential customers without consent and proof of that consent as delineated in paragraphs (C), (D), and (E) of this rule.”
7. Ohio Adm.Code 4901:1-21-06(D)(1)(a) “Where enrollment occurs by mail, facsimile, or direct solicitation, the customer’s signature on a contract shall constitute consent.”
8. Ohio Adm.Code 4901:1-29-06(D)(1)(a) “Where enrollment occurs by mail, facsimile, or direct solicitation, the customer’s signature on a contract shall constitute consent.”
9. Ohio Adm.Code 4901:1-21-06(D)(1)(h) Residential customers enrolled through door-to-door solicitation shall complete an independent TPV.
10. Ohio Adm.Code 4901:1-29-06(D)(6)(b) Residential customers enrolled through door-to-door solicitation shall complete an independent TPV.

Proposed Corrective Actions

To address these issues of probable non-compliance, Staff proposes that Median take the following corrective actions:

1. Provide Staff with a plan to come into compliance with Commission rules. The plan should address, at least, enrollment practices, an auditing process for enrollments, and any corrective actions to be implemented by Median.
2. Provide a list of agents who have, within the last 12 months, enrolled customers on behalf of Median. This list should include the following:
 - a. The agents’ name and company if they are not an employee of Median;
 - b. The dates each agent was representing Median; and,

- c. Per agent, the number of attempted enrollments for gas and electric, including how many accounts were rescinded prior to the service start date.

Additionally, Staff recommends that Median cease all door-to-door marketing and enrolling activities in the State of Ohio until this matter is resolved. In accordance with R.C. 4905.54 and Ohio Adm.Code 4901:1-21-15(A)(1), Staff will view any continuation in Median's door-to-door marketing or enrollments that result in violations to constitute additional offenses, which may result in additional enforcement actions, including rescission of Median's CRES and CRNGS certificates and forfeitures to the state of up to ten thousand dollars (\$10,000) per offense.

Proposed Forfeiture

Finally, Staff is proposing a forfeiture of two hundred thousand dollars (\$200,000) against Median for the above mentioned failures to comply with the requirements found in the Ohio Administrative Code.

By Tuesday, December 3, 2019, please respond to this notice of probable non-compliance with Median's plan to address the above proposed corrective actions.

Sincerely,



Melissa Scarberry
Public Utilities Commission of Ohio
Service Monitoring and Enforcement
Utility Specialist 2
614-644-7960
Melissa.Scarberry@puco.ohio.gov

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Case No(s). 20-0700-GE-UNC

Summary: Stipulation Joint Stipulation and Recommendation electronically filed by Mrs. Kimberly M Naeder on behalf of PUCO