

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Verde       )  
Energy USA Ohio, LLC for Certification       ) Case No. 11-5886-EL-CRS  
as a Competitive Retail Electric Supplier.       )

In the Matter of the Renewal Application       )  
of Verde Energy USA Ohio, LLC for       ) Case No. 13-2164-GA-CRS  
Certification as a Retail Natural Gas       )  
Marketer.       )

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**INITIAL COMMENTS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The PUCO Staff said Verde is “managerially unfit to provide competitive services in the state.”<sup>1</sup> With great understatement, the PUCO Commissioners described Verde as not a “sympathetic actor.”<sup>2</sup> Over the past two years, Verde has misled, deceived, and conned Ohioans into signing up for Verde’s unreasonably high electric and natural gas rates, typically without their informed consent, and sometimes without any consent at all. Even customers of other marketers were not safe from Verde, given the claims of IGS that “some of IGS’s customers were victims of Verde’s potentially misleading and deceptive sales tactics.”<sup>3</sup>

The law provides that a marketer may only operate in Ohio if it has the managerial, technical, and financial capability to provide retail electric or natural gas service. And a marketer must be able to show that it can comply with state law and PUCO regulations. It is hard to imagine a company being less “capable” than Verde (other than, perhaps, PALMco).

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<sup>1</sup> Case No. 19-0958-GE-COI, PUCO Staff Report (May 29, 2019)) (“Staff Report”).

<sup>2</sup> Case No. 19-958-GE-COI, Opinion & Order ¶ 64 (Feb. 26, 2020) (the “Investigation Case”).

<sup>3</sup> Investigation Case, Motion to Intervene of Interstate Gas Supply, Inc. at 5 (May 1, 2019).

Verde has earned getting the boot from this state many times over. It had its chance—and it blew it. And now, with the suffering of Ohioans from the coronavirus emergency and their ensuing financial emergency, there could hardly be a worse time to allow the worst of corporate greed (Verde) to continue any business with the good people of this state. The PUCO should see to it that Verde exits the state for good, no later than when its certificates expire on November 1, 2020.

## **II. LEGAL STANDARD**

The PUCO is considering whether Verde qualifies for PUCO certificates to market energy to Ohioans. The PUCO should give greater weight to the interest of Ohioans in consumer protection than to the interest of Verde in a business opportunity. And with Verde, the words “business opportunity” should be used with trepidation.

Under the legal standard (per R.C. 4928.08 and R.C. 4929.20), Verde must show it has the “managerial, technical, and financial capability” to provide retail electric and natural gas service to Ohio consumers.<sup>4</sup> Verde is also required to show that it is capable of complying with all PUCO rules and orders.<sup>5</sup>

R.C. 4928.08 and 4929.20 provide guidance on what it means to have such capabilities for providing service to Ohioans. Under R.C. 4928.08(C), having managerial, technical, and financial capability includes, but is not limited to, an electric marketer’s ability to comply with R.C. 4928.10 when serving consumers. R.C. 4928.10, in turn, requires the PUCO to adopt rules “[f]or the protection of consumers in this state.” Such rules “shall include a prohibition against unfair, deceptive, and unconscionable acts and practices in the marketing, solicitation, and sale

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<sup>4</sup> R.C. 4928.08; R.C. 4929.20.

<sup>5</sup> See Ohio Adm. Code 4901:1-24-10(C)(2) (electric); Ohio Adm. Code 4901:1-27-10(C)(2) (gas).

of such a competitive retail electric service and in the administration of any contract for service.”<sup>6</sup>

R.C. 4928.10 also provides a list of requirements that an electric marketer must comply with. For example, the marketer must, among other things, (1) “[p]rovide consumers with adequate, accurate, and understandable pricing and terms and conditions of service,” (2) “[d]isclose the conditions under which a customer may rescind a contract without penalty,” and (3) disclose to the consumer “terms identifying how customers may switch or terminate service, including any required notice and any penalties.”<sup>7</sup> The law also prohibits marketers from enrolling customers without their consent.<sup>8</sup>

The relevant laws for gas marketers are similar. Under the legal standard, (R.C. 4929.20(B)), Verde must show it has the requisite managerial, technical, and financial capability which includes, but is not limited to, a natural gas marketer’s ability to comply with R.C. 4929.22. R.C. 4929.22, in turn, requires the PUCO to adopt rules “[f]or the protection of consumers in this state.” Such rules “shall include additional consumer protections.”<sup>9</sup> Such additional consumer protections, include, but are not limited to, requirements that the natural gas marketer (1) “[p]rovide consumers with adequate, accurate, and understandable pricing and terms and conditions of service,” (2) “[d]isclose the conditions under which a customer may rescind a contract without penalty,” and (3) disclose to the consumer “terms identifying how customers may switch or terminate service, including any required notice and any penalties.”<sup>10</sup>

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<sup>6</sup> R.C. 4928.10.

<sup>7</sup> R.C. 4928.10(A) – (C).

<sup>8</sup> R.C. 4928.10(D)(4).

<sup>9</sup> R.C. 4929.22.

<sup>10</sup> R.C. 4929.22(A)-(B).

The law also prohibits natural gas marketers from enrolling customers without their consent.<sup>11</sup>

The PUCO's rules, as the law mandates, adopt these requirements and others.<sup>12</sup>

Therefore, in the PUCO's evaluation of whether Verde has shown the "managerial, technical, and financial capability" to provide retail electric and natural gas service to Ohio consumers, any violation of these statutes and rules would be evidence that Verde lacks such capabilities. And indeed, as OCC explains through the remainder of these comments, Verde has violated these statutes and rules numerous times, including at least 17 violations that the PUCO determined were proven by a preponderance of the evidence in the recent investigation of Verde.

### **III. BACKGROUND**

#### **A. Verde's history does not support a showing that it complied or can comply with regulations for consumer protection**

In April 2019, the PUCO opened a case (the "Investigation Case") "to investigate alleged unfair, deceptive, or unconscionable acts or practices in this state by Verde Energy USA Ohio LLC d/b/a Verde Energy."<sup>13</sup> According to the PUCO, its Staff had received 481 customer contacts regarding Verde from October 1, 2018 to April 12, 2019, 57% of which were "related to enrollment disputes, misleading information, and false representations wherein Verde Energy allegedly purported to be another utility."<sup>14</sup>

Following its investigation, the PUCO Staff filed a 30-page report outlining numerous unfair, deceptive, misleading, and unconscionable marketing and sales practices by Verde.<sup>15</sup> The PUCO Staff described what it believed to be "systemic" issues with Verde's marketing to

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<sup>11</sup> R.C. 4929.22(D)(3).

<sup>12</sup> See Ohio Adm. Code Chapters 4901:1-21, 4901:1-24, 4901:1-27, 4901:1-29.

<sup>13</sup> Case No. 19-958-GE-COI, Entry ¶ 1 (Apr. 17, 2019).

<sup>14</sup> *Id.* ¶ 7.

<sup>15</sup> Investigation Case, Staff Report (May 3, 2019; updated May 29, 2019) (the "Investigation Case Staff Report").



consumers. This included the PUCO Staff's conclusion that Verde violated numerous PUCO rules found in the Ohio Administrative Code, based on Verde's "unfair, misleading, deceptive, or unconscionable tactics in relation to the marketing, solicitation, sale of, administration of, contracts for, or provision of" competitive retail electric and natural gas service.<sup>16</sup>

Among other things, the PUCO Staff concluded that Verde (i) repeatedly made promises that its rate was lower than the customers' current rate, which was false, (ii) engaged in caller ID "spoofing" where the caller ID falsely shows that someone other than Verde is calling, including the IRS and various Ohio distribution utilities, (iii) made misleading offers for sale, (iv) asked consumers for their address and account numbers without making any offer of sale and without informing the customer that they would be enrolling with Verde, (v) failed to adhere to the PUCO's third-party-verification rules, which are designed to protect consumers by ensuring their informed consent to a marketer's offer, and (vi) provided false information to consumers about their right to rescind acceptance of Verde's offer.<sup>17</sup> Ultimately, the PUCO Staff concluded that "Verde (1) is in probable non-compliance with multiple provisions of the Ohio Administrative Code, (2) has not demonstrated its ability to comply with Commission rules; and (3) does not have the managerial capability to be certified as a [competitive retail electric service] or [competitive retail natural gas service] provider in the state of Ohio."<sup>18</sup>

Ultimately, the PUCO Staff and Verde entered into a settlement. In that settlement, Verde did not admit to any violations or liability but did agree, among other things, to (i) cease marketing to and enrolling new customers in Ohio from May 3, 2019 through October 30, 2020, (ii) withdraw from Dominion's monthly variable rate program for one year, (iii) provide refunds

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<sup>16</sup> Investigation Case Staff Report at 5.

<sup>17</sup> Investigation Case Staff Report 5-24.

<sup>18</sup> Investigation Case Staff Report at 25.

to electric customers, estimated at \$1,068,000, (iv) notify all customers that they could cancel their contracts without penalty, (v) pay a forfeiture of \$675,000, and (vi) submit an “action plan” for compliance prior to resuming marketing and customer enrollment in Ohio.<sup>19</sup> Verde’s settlement with the PUCO Staff did not say anything about whether Verde’s certificates would or would not be renewed in the future. And the PUCO did not address the certificate renewal issue in its Order.

Over OCC’s objections, the PUCO approved the settlement.<sup>20</sup> In evaluating OCC’s objections to the settlement, the PUCO ruled that OCC was required to prove any rule violations by a preponderance of the evidence, as if OCC had filed a complaint case against Verde under R.C. 4905.26.<sup>21</sup> And although the PUCO approved the settlement without modification, it also adopted portions of the Staff Report (which OCC put into evidence), ruling that 17 violations were proven by a preponderance of the evidence:

We find that the record in this case, including the Staff Report, contains sufficient evidence to establish a limited number of discrete violations, as alleged by Staff in the Staff Report, of which there were approximately 17. The Staff Report specifies the rule, which was allegedly broken, provides information identifying which complaint the violations reference, and provides a description of the evidence supporting the violation (OCC Ex. 5 at 9-13, 15, 23, footnotes 4-8, 11-14, 17-21, 22-23, 27). Moreover, Verde did not dispute the violations set forth in the Staff Report. Thus, the evidence in the record demonstrates, by a preponderance of the evidence, that 17 violations occurred, as alleged in the Staff Report.<sup>22</sup>

**B. Verde has not shown that it satisfies regulatory standards for renewing its PUCO operating certificates.**

On the heels of the PUCO-ordered investigation where the PUCO found that Verde violated PUCO rules, Verde is seeking renewal of its certificates to continue operating in Ohio

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<sup>19</sup> Investigation Case, Stipulation at 3-4 (Sept. 6, 2019).

<sup>20</sup> Investigation Case, Opinion & Order (Feb. 26, 2020).

<sup>21</sup> Investigation Case, Opinion & Order ¶¶ 60.

<sup>22</sup> Investigation Case, Opinion & Order ¶¶ 60.

for serving consumers as an electric and natural gas marketer. On November 7, 2019, Verde filed an application to renew its natural gas certificate.<sup>23</sup> Typically, such applications are automatically approved by PUCO rule, but the PUCO suspended automatic approval of this application in light of the Investigation Case.<sup>24</sup> Verde then filed an application to renew its electric certificate on February 27, 2020.<sup>25</sup> The PUCO suspended automatic approval of that application as well.<sup>26</sup> The PUCO also extended Verde's current natural gas and electric certificates until November 1, 2020, solely to allow Verde to serve current customers and not to allow Verde to enroll or market to new customers.<sup>27</sup>

The PUCO also invited parties to file comments and reply comments. OCC appreciates the opportunity to file these comments on behalf of Ohio residential consumers.

**C. Verde revealed that it is under investigation by the Ohio Attorney General.**

For its purposes, the PUCO should note the relevance of the following information. Verde earlier revealed that in 2019, the Ohio Attorney General opened an investigation of it.<sup>28</sup> Verde is required by Ohio Adm. Code 4901:1-24-05(B) and 4901:1-27-05(B) to disclose such matters to the PUCO. When Verde filed its natural gas renewal application in November 2019, Verde described this investigation as an “[a]lleged violation of the Consumer Sales Practice Act Ohio Rev. Code Sec. 1345.01.”<sup>29</sup> Subsequently, Verde retracted that description, asserting

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<sup>23</sup> Case No. 13-2164-GA-CRS, Application (Nov. 6, 2019).

<sup>24</sup> Case No. 13-2164-GA-CRS, Entry (Dec. 4, 2019).

<sup>25</sup> Case No. 11-5886-EL-CRS, Application (Feb. 27, 2020).

<sup>26</sup> Case No. 11-5886-EL-CRS, Entry (Mar. 3, 2020).

<sup>27</sup> Case No. 11-5886-EL-CRS, Entry ¶ 9 (Mar. 3, 2020).

<sup>28</sup> Case No. 13-2164-GA-CRS, Application, Ex. B-4, Entry #16 (Nov. 7, 2019) (citing Ohio Attorney General Investigation No. 577403 (2019)).

<sup>29</sup> Case No. 13-2164-GA-CRS, Application, Ex. B-4, Entry #16 (Nov. 7, 2019).

through discovery that there is no allegation of a violation of the Consumer Sales Practice Act but does not deny that the Attorney General is investigating Verde in connection with the Act.<sup>30</sup>

Under the Consumer Sales Practice Act (codified in Revised Code Chapter 1345), the Attorney General may investigate an entity if, “by the attorney general’s own inquiries or as a result of complaints, the attorney general has reasonable cause to believe that a person has engaged or is engaging in an act or practice that violates Chapter 1345 of the Revised Code.”<sup>31</sup> And as Verde originally acknowledged, the Attorney General is investigating Verde, and its investigation is related to the Consumer Sales Practices Act.<sup>32</sup>

The Consumers Sales Practices Act is designed to protect consumers. It provides that sellers shall not commit an “unfair or deceptive act or practice in connection with a consumer transaction.”<sup>33</sup> This includes instances where a seller is representing that the product has benefits that it does not have and where a seller claims that a specific price advantage exists, even though it does not.<sup>34</sup>

Thus, even if it might be true, as Verde now says, that the Attorney General has not *formally* alleged violations of the Consumer Sales Practices Act, it is known (per Verde’s 2019 natural gas renewal application) that the Attorney General has issued a subpoena to Verde under that Act and is investigating Verde under that Act. And the types of actions that would violate the Act are precisely the types of conduct that the PUCO found Verde guilty of in the Investigation Case. As the Attorney General’s practice is to not disclose such investigations, one

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<sup>30</sup> Case No. 11-5886-EL-CRS, Amended Application, Ex. B-4 (Apr. 24, 2020); Case No. 13-2164-GA-CRS, Amended Application, Ex. B-4 (Apr. 24, 2020).

<sup>31</sup> R.C. 1345.06(A).

<sup>32</sup> See Case No. 11-5886-EL-CRS, Amended Application, Ex. B-4 (Apr. 24, 2020) (noting that Attorney General has issued subpoenas under the Consumer Sales Practices Act); Case No. 13-2164-GA-CRS, Amended Application, Ex. B-4 (Apr. 24, 2020) (noting that Attorney General has issued subpoenas under the Consumer Sales Practices Act).

<sup>33</sup> R.C. 1345.02(A).

<sup>34</sup> R.C. 1345.02(B).

is left in the uncomfortable position of relying on Verde as the source of information about the highly relevant matter.

**D. Verde Energy has been and is being investigated for similar bad acts against consumers in numerous other jurisdictions.**

Verde Energy, through other affiliates, operates in jurisdictions other than Ohio.<sup>35</sup>

Unfortunately for consumers in other jurisdictions, it appears that Verde's inability to follow rules and laws is not unique to Ohio. In its November 2019 natural gas renewal application, Verde revealed that its affiliates are under or have been investigated at least 19 times recently in other jurisdictions.

In Texas, there were five separate investigations involving Verde Energy USA Texas, LLC or Spark Energy, LLC. These included allegations related to, among other things, consumer protection standards, customer safeguards, credit requirements and deposits, general retail requirements and information disclosures, bill issuance and formatting, disconnection of service, and alternate payment programs or payment assistance.<sup>36</sup> In one investigation, the Public Utilities Commission of Texas "found that Spark Energy, LLC ... failed to obtain the required account access verification data when enrolling customers; charged different rates than the rate listed in the electricity facts label (EFL) provided in the customers' contract expiration notices; and issued disconnection notices with a disconnection date on a holiday or weekend date."<sup>37</sup>

In Connecticut, Verde identified three investigations involving Spark Energy, LLC.<sup>38</sup> These involved proposals for substantial civil penalties: \$900,000 in one and \$750,000 in

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<sup>35</sup> See Renewal Applications, Exhibit B-1 (Apr. 24, 2020).

<sup>36</sup> Case No. 13-2164-GA-CRS, Renewal Application, Ex. B-1, Entries 1-4 (Nov. 7, 2019).

<sup>37</sup> *Id.*, Entry 8.

<sup>38</sup> *Id.*, Entries 5, 9, 15.

another.<sup>39</sup> Separately, there was a joint investigation involving four Verde affiliates: Verde Energy USA, LLC; HIKO Energy, LLC; Major Energy Services, LLC; and Spark Energy, LLC.<sup>40</sup>

In Illinois, Verde identified two investigations of its affiliates. The Illinois Attorney General investigated Major Energy Electric Services, LLC for alleged violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, the Illinois Telephone Solicitation Act, the Illinois Automatic Contract Renewal Act, and the Illinois Prize and Gifts Act, recommending a \$2 million penalty.<sup>41</sup> The Illinois Commerce Commission is investigating National Gas & Electric, LLC regarding numerous alleged violations of Illinois regulatory rules, including making “false, misleading, materially inaccurate and otherwise deceptive language in solicitations.”<sup>42</sup>

In Maine, Verde affiliate Electricity Maine, LLC was accused of consumer protection violations including “deceptive or misleading acts or solicitations.”<sup>43</sup>

And Verde identified four separate actions in New York: (i) allegations that Verde Energy USA New York, LLC was overcharging consumers, brought by the Department of Public Service, (ii) an investigation by the Public Service Commission of Spark Energy, LLC for an “excessive number of complaints,” (iii) an investigation by the Public Service Commission of Major Energy Services, LLC for an “excessive number of complaints,” and (iv) allegations by

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<sup>39</sup> *Id.*, Entries 5, 9.

<sup>40</sup> *Id.*, Entries 17-20.

<sup>41</sup> *Id.*, Entry 6.

<sup>42</sup> *Id.*, Entry 11.

<sup>43</sup> *Id.*, Entry 7.

the Department of State, Division of Consumer Protections against Verde Energy USA New York, LLC for telemarketing violations.<sup>44</sup>

Verde is also being investigated in Pennsylvania. There, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement filed a complaint against Verde Energy USA, seeking a nearly \$9 million fine, refunds to customers, and a revocation of the company's license to do business as a marketer in Pennsylvania.<sup>45</sup>

Verde's conduct in Ohio is not an anomaly. These affiliates in other states—who are generally managed by the same individuals in charge of Verde's Ohio operations—have been and are being investigated for the same kind of deceptive behavior that Verde has been found to have engaged in here in Ohio. These other investigations speak, and not well, to Verde's managerial and technical capability to provide retail electric and natural gas service to consumers in Ohio.

And, of course, the PUCO Staff said Verde is “managerially unfit to provide competitive services in the state.”<sup>46</sup> So true.

#### IV. RECOMMENDATIONS

- A. The PUCO should protect Ohioans by denying Verde's applications to renew its PUCO certificates for electric and natural gas marketing, because Verde failed to show it qualifies for those certificates and because Verde is not qualified for those certificates.**

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<sup>44</sup> *Id.*, Entries 10, 12-14.

<sup>45</sup> See <https://www.inquirer.com/business/pennsylvania-puc-charges-verde-energy-deceptive-marketing-fine-20200131.html>; <https://www.powermarketstoday.com/members/Pennsylvania-PUC-staff-seeks-fine-ban-on-Verde-Energy.cfm>.

<sup>46</sup> Case No. 19-0958-GE-COI, PUCO Staff Report (May 29, 2019)) (“Staff Report”).

- 1. Verde failed to show that it has the managerial, technical, and financial capability to provide retail electric and natural gas services to Ohio consumers, as required by R.C. 4928.08(B) and R.C. 4929.20(A). But OCC has shown that Verde lacks the capabilities to meet those regulatory standards.**

By law (R.C. 4928.08(B) and 4929.20(A)), a marketer may only serve Ohio customers if it has the “managerial, technical, and financial capability” to provide competitive retail electric or natural gas service. The PUCO’s rules for electric and natural gas marketers likewise state that the PUCO will only approve a marketer’s application if the applicant is “managerially, financially, and technically fit and capable of performing the service it intends to provide” and is “managerially, financially, and technically fit and capable of complying with all applicable commission rules and orders.”<sup>47</sup> Verde lacks the managerial and technical capability to provide competitive retail electric and natural gas service because it has demonstrated a consistent and widespread inability or unwillingness to follow PUCO rules.

- a. Verde’s failure to show it qualifies for certificate renewals includes that the PUCO found Verde violated PUCO rules approximately 17 times in seven months from October 1, 2018 to April 12, 2019.**

As Verde itself has asserted, “the Commission has already heard and made findings on the evidence in the [Investigation Case], and those findings must be respected.”<sup>48</sup> One of those findings—which, as Verde says, must be respected—is the PUCO’s finding that Verde violated the PUCO’s rules multiple times over a seven month period from October 1, 2018 to April 12, 2019:

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<sup>47</sup> Ohio Adm. Code 4901:1-24-10(C)(1)-(2); Ohio Adm. Code 4901:1-27-10(C)(1)-(2).

<sup>48</sup> Verde Energy’s Brief in Opposition to OCC’s Motion to Intervene in the Electric Recertification Case at 3 (Mar. 23, 2020).



We find that the record in this case, including the Staff Report, contains sufficient evidence to establish a limited number of discrete violations, as alleged by Staff in the Staff Report, of which there were approximately 17. The Staff Report specifies the rule, which was allegedly broken, provides information identifying which complaint the violations reference, and provides a description of the evidence supporting the violation.<sup>49</sup>

In support of this factual finding (which, as Verde concedes, is subject to *res judicata* and therefore no longer in dispute<sup>50</sup>), the PUCO cited 17 footnotes found in the Investigation Case Staff Report (footnotes 4-8, 11-14, 17-23, and 27), which ostensibly form the basis of the PUCO's conclusion that there were approximately 17 violations.<sup>51</sup> The evidence described by the PUCO Staff in these 17 footnotes, and adopted by the PUCO as findings of fact, demonstrates Verde's violation of no fewer than 10 different statutory provisions and PUCO rules.<sup>52</sup>

- 1) Verde called a consumer and told her that she was currently paying 12 to 13 cents per kWh, even though the consumer was actually paying 5.4 cents per kWh. Verde also told the consumer that she was currently paying 80 to 85 cents per Ccf, even though the consumer was actually paying 48.5 cents per Ccf. Verde offered rates of 8.99 cents per kWh and 80 to 90 cents per Ccf and claimed that this was a "discount for up to 30% off."<sup>53</sup>
  - a. This violated R.C. 4928.10 (requiring rules that prohibit "unfair, deceptive, and unconscionable acts and practices in the marketing, solicitation, and sale of ... competitive retail electric service").
  - b. This violated 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 ... Marketing, solicitation, or sale of a CRES").

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<sup>49</sup> Investigation Order ¶ 60.

<sup>50</sup> Verde Energy's Brief in Opposition to OCC's Motion to Intervene in the Electric Recertification Case at 3 (Mar. 23, 2020).

<sup>51</sup> *Id.*

<sup>52</sup> These rules violation also constitute a violation of the affidavit that Verde signed under Ohio Adm. Code 4901:1-24-06(D) and Ohio Adm. Code 4901:1-27-06(D), attesting that it would "comply with all applicable commission rules."

<sup>53</sup> Investigation Case Staff Report at 9 (footnotes 4-5).

- c. This violated Ohio Adm. Code 4901:1-21-05(C)(8)(a) (electric marketers prohibited from “advertising or marketing offers that claim that a specific price advantage, savings, or guarantee exists if it does not”).
  - d. This violated Ohio Adm. Code 4901:1-29-03(A) (“A retail natural gas supplier or governmental aggregator shall not engage in unfair, misleading, deceptive, or unconscionable acts or practices related to ... Marketing, solicitation, or sale of a competitive retail natural gas service.”).
  - e. This violated Ohio Adm. Code 4901:1-29-05(D)(8)(a) (natural gas marketers prohibited from “advertising or marketing offers that claim that a specific price advantage, savings, or guarantee exists if it does not”).
- 2) Verde called a consumer and told the consumer he or she would “qualify to get these reductions on your bill” and to “write down your new low rates.” The PUCO Staff determined that these were “misleading statements.”<sup>54</sup>
- a. This violated 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 ... Marketing, solicitation, or sale of a CRES”).
  - b. This violated Ohio Adm. Code 4901:1-21-05(C)(8)(a) (electric marketers prohibited from “advertising or marketing offers that claim that a specific price advantage, savings, or guarantee exists if it does not”).
- 3) Verde told a customer that he would save 20% on this AEP bill and 40% on his Dominion bill if he switched to Verde.<sup>55</sup>
- a. This violated R.C. 4928.10 (requiring rules that prohibit “unfair, deceptive, and unconscionable acts and practices in the marketing, solicitation, and sale of ... competitive retail electric service”).
  - b. This violated 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 ... Marketing, solicitation, or sale of a CRES”).

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<sup>54</sup> Investigation Case Staff Report at 10 (footnote 6).

<sup>55</sup> Investigation Case Staff Report at 10 (footnote 7).

- c. This violated Ohio Adm. Code 4901:1-21-05(C)(8)(a) (electric marketers prohibited from “advertising or marketing offers that claim that a specific price advantage, savings, or guarantee exists if it does not”).
  - d. This violated Ohio Adm. Code 4901:1-29-03(A) (“A retail natural gas supplier or governmental aggregator shall not engage in unfair, misleading, deceptive, or unconscionable acts or practices related to ... Marketing, solicitation, or sale of a competitive retail natural gas service.”).
  - e. This violated Ohio Adm. Code 4901:1-29-05(D)(8)(a) (natural gas marketers prohibited from “advertising or marketing offers that claim that a specific price advantage, savings, or guarantee exists if it does not”).
- 4) A Verde sales representative called consumers and asserted that if they enrolled with Verde, they would have three business days to rescind the enrollment.<sup>56</sup>
- a. This violated either Ohio Adm. Code 4901:1-21-06(D)(2)(a)(viii) (electric customers have seven calendar days to rescind) or Ohio Adm. Code 4901:1-29-06(E)(1)(h)(ii) (natural gas customers have seven business days to rescind). The Investigation Case Staff Report does not state whether this was an electric or natural gas solicitation (or both), but the statement is a violation either way.
- 5) Verde sales representatives engaged in “spoofing,” which is where the caller uses a fake caller ID number or name to deceive a consumer into thinking that someone other than Verde is calling. Verde spoofed consumers with calls seemingly from (i) the IRS and (ii) distribution utilities, including AEP, Duke Energy, and the Cleveland Electric Illuminating Company.<sup>57</sup>
- a. This violated Ohio Adm. Code 4901:1-21-05(C)(8)(h) (“unfair, misleading, deceptive, or unconscionable acts or practices include ... [a]dvertising or marketing offers that ... [l]ead the customer to believe that the [competitive retail electric service] provider is soliciting on behalf of or is an agent of an Ohio electric utility when no such relationship exists”).
  - b. This violated Ohio Adm. Code 4901:1-21-05(C)(10) (“unfair, misleading, deceptive, or unconscionable acts or practices include ... [e]ngaging in any solicitation that will lead the customer to believe that the [competitive retail electric service] provider is

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<sup>56</sup> Investigation Case Staff Report at 10 (footnote 8), 15 (footnotes 21, 22, 23).

<sup>57</sup> Investigation Case Staff Report at 10-11 (footnotes 11, 12, 13, and 14).

soliciting on behalf of or is an agent of any entity other than the [competitive retail electric service] provider”).

- c. This violated Ohio Adm. Code 4901:1-29-05(D)(5) (“unfair, misleading, deceptive, or unconscionable acts or practices include ... [e]ngaging in any solicitation that leads the customer to believe that the retail natural gas supplier ... or its agent is soliciting on behalf of or is an agent of any entity other than the competitive retail natural gas supplier”).
  - d. This also potentially violated the Federal Truth in Caller ID Act of 2009, which provides that it is unlawful “for any person within the United States ... to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.”<sup>58</sup>
- 6) Verde called customers and began asking them for personal information, including their name, address, and distribution utility account number without making any offer for sale and without informing the customers that they would be enrolling with Verde.<sup>59</sup>
- a. This violated Ohio Adm. Code 4901:1-21-03(A) and/or Ohio Adm. Code 4901:1-29-03(A), which prohibit electric and natural gas marketers, respectively, from engaging in “unfair, misleading, deceptive, or unconscionable acts or practices related to ... [m]arketing, solicitation, or sale of” competitive retail electric or natural gas service.
- 7) Verde called customers and told them, with respect to Verde’s rate, that “Verde will be a lower rate,” the offer from Verde would “keep your electric and gas bill down,” Verde’s offer would be “more affordable,” and that “your price will be dropped down to 9.29 cents/kWh.”<sup>60</sup>
- a. This violated Ohio Adm. Code 4901:1-21-05(C)(8)(a) and Ohio Adm. Code 4901:1-29-05(D)(8)(a), which prohibit marketers from making offers that “[c]laim that a specific price advantage, savings, or guarantee exists if it does not.”

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<sup>58</sup> See <https://www.govtrack.us/congress/bills/111/s30>.

<sup>59</sup> Investigation Case Staff Report at 12 (footnote 17).

<sup>60</sup> Investigation Case Staff Report at 12-13 (footnote 18).

- 8) Verde called customers and rather than allowing the customer to provide an informed response to the required third-party verification questions, instructed the customer to respond “yes” to them.<sup>61</sup>
  - a. This violated Ohio Adm. Code 4901:1-21-06(D)(2) and/or Ohio Adm. Code 4901:1-29-06(E)(1), which require a marketer, on a telephone solicitation, to obtain the customer’s verbal agreement to a variety of questions designed to show that the customer understands his or her rights and the terms of the contract.
- 9) Verde failed to send a customer a copy of her contract until nine days after enrollment.<sup>62</sup>
  - a. This violated Ohio Adm. Code 4901:1-21-06(D)(2)(b)(i) or Ohio Adm. Code 4901:1-29-06(E)(2)(a), which require an electric or natural gas marketer to send the customer a written contract within one business day of a telephone enrollment.

These violations alone are more than sufficient for the PUCO to deny Verde the right to continue serving Ohio consumers. They demonstrate a consistent pattern of at best, gross incompetence, and at worst, willful disregard for the PUCO’s rules. Either way, these confirmed rules violations prove that Verde lacks the “managerial, technical, and financial capability” to provide retail electric or natural gas service, as required by R.C. 4928.08(B) and 4929.21(A). And they prove that Verde is not “managerially, financially, and technically fit and capable of complying with all applicable commission rules and orders,”<sup>63</sup> as required by Ohio Adm. Code 4901:1-24-10(C)(1)-(2) and 4901:1-27-10(C)(1)-(2).

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<sup>61</sup> Investigation Case Staff Report at 13 (footnote 19).

<sup>62</sup> Investigation Case Staff Report at 23 (footnote 27).

<sup>63</sup> Ohio Adm. Code 4901:1-24-10(C)(1)-(2); Ohio Adm. Code 4901:1-27-10(C)(1)-(2).

But those are not the only violations that Verde has committed. Far from it.

- b. Verde's failure to show it qualifies for certificate renewals includes that it spoofed caller ID information when calling customers, deceiving them into thinking they were receiving calls from their distribution utility or the IRS.**

At the hearing in the Investigation Case, Attorney Examiner Price stated that Verde was guilty of spoofing. He said: "I think the record is clear there was spoofing."<sup>64</sup>

The Federal Communications Commission (FCC) explains that caller ID spoofing is "when a caller deliberately falsifies the information transmitted to your caller ID display to disguise their identity."<sup>65</sup> According to the FCC, a scammer might "spoof a number from a company or a government agency that you may already know and trust" and then "use scam scripts to try to steal your money or valuable personal information, which can be used in fraudulent activity."<sup>66</sup> Federal law (the Truth in Caller ID Act of 2009) provides that it is unlawful "for any person within the United States ... to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value."<sup>67</sup>

Among the 17 violations that the PUCO already found proven by the preponderance of the evidence in the Investigation Case were violations for spoofing. Verde spoofed consumers with calls seemingly from (i) the IRS and (ii) distribution utilities, including AEP, Duke Energy, and the Cleveland Electric Illuminating Company.<sup>68</sup>

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<sup>64</sup> Investigation Case, Hearing Tr. Vol. I at 219 (Oct. 16, 2019 hearing, transcript filed Oct. 30, 2019).

<sup>65</sup> See <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id>.

<sup>66</sup> *Id.*

<sup>67</sup> See <https://www.govtrack.us/congress/bills/111/s30>.

<sup>68</sup> Investigation Case Staff Report at 10-11 (footnotes 11, 12, 13, and 14).

This violated Ohio Adm. Code 4901:1-21-05(C)(8)(h), 4901:1-21-05(C)(10), and 4901:1-29-05(D)(5), as described above. And if Verde's telemarketers were located in the United States, it may have violated the Federal Truth in Caller ID Act of 2009.

There should be zero tolerance for spoofing what Ohioans see on their Caller ID from energy marketers. Any spoofing at all should be grounds for revocation of the right to serve Ohio consumers.

- c. Verde's failure to show it qualifies for certificate renewals includes that it violated statutes and PUCO rules at least 125 times in an effort to deceive and harm customers for its own financial gain.**

Although the PUCO found that approximately 17 violations were proven by a preponderance of the evidence in the Investigation Case, a reasonable interpretation of the Staff Report from the Investigation Case is that more than 17 violations occurred. And indeed, there were far more than 17 violations.

Verde produced documents in the current cases in response to OCC discovery revealing no fewer than 127 rules and statute violations. And there can be little dispute about these violations. These are not close calls. On numerous occasions, in fact, Verde plainly admitted its rules violations in communications with the PUCO Staff, even citing the exact section of the Ohio Administrative Code that it violated. OCC has attached evidence of these 127 violations as Exhibit B to these comments. Exhibit A summarizes these documents and identifies the relevant statutes and rules that were violated each time.

The following are just a sample of the more than 100 times that Verde has demonstrated an inability or unwillingness to follow the PUCO's rules. Each of these is a direct quote from a Verde representative in an email to the PUCO Staff regarding a customer contact or complaint:

- “Verde acknowledges the TPV is not in compliance with OAC 4901:1-29-06(E)(1)(f)(ii).”<sup>69</sup>
- “Verde acknowledges non-compliance to O.A.C. 4901:1-29-05(A)(1)(a) and 4901:1-29-06(E)(1)(f)(ii).”<sup>70</sup>
- “Verde has no record of notifying [the customer] of her contract expiration...”<sup>71</sup>
- “[T]he TPV was not in compliance with O.A.C. rule: 4901:1-21-06(D)(2)(a)(vii).”<sup>72</sup>
- “Verde acknowledges the TPV completed 1/2/2019 does not comply with O.A.C. 4901:1-29-06(E)(1)(f)(ii) and O.A.C. 4901:1-29-06(E)(1)(g).”<sup>73</sup>
- “Verde has no record of the Sales Call.”<sup>74</sup>
- “Verde did not comply with O.A.C. 4901:1-21-06(D)(2)(b)(i).”<sup>75</sup>
- “[A] Contract Expiration Notice was not sent before the fixed rate expired.”<sup>76</sup>
- “[T]he TPV was not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(viii) and O.A.C. 4901:1-29-06(E)(1)(h)(ii).”<sup>77</sup>
- “[T]he electric TPV is not in compliance with Rule O.A.C. 4901:1-21-06(D)(2)(a)(vii) and the gas account TPV is not in compliance with Rules O.A.C. 4901:1-29-06(E)(1)(g) and O.A.C. 4901:1-29-06(E)(1)(h)(ii).”<sup>78</sup>
- “Verde did not properly notify [customer] that her account would auto renew to a monthly variable rate plans [sic].”<sup>79</sup>
- “[A] Contract Expiration Notice was not sent before the contract expired.”<sup>80</sup>

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<sup>69</sup> See OCC Ex. B, Page 002113.

<sup>70</sup> See OCC Ex. B, Page 002126.

<sup>71</sup> See OCC Ex. B, Page 002131.

<sup>72</sup> See OCC Ex. B, Page 002252.

<sup>73</sup> See OCC Ex. B, Page 002273.

<sup>74</sup> See OCC Ex. B, Page 002292.

<sup>75</sup> See OCC Ex. B, Page 002307.

<sup>76</sup> See OCC Ex. B, Page 002389.

<sup>77</sup> See OCC Ex. B, Page 002422.

<sup>78</sup> See OCC Ex. B, Page 002464.

<sup>79</sup> See OCC Ex. B, Page 002514.



- “[T]he TPV is not in compliance with O.A.C. 4901:1-29-06(E)(1)(g).”<sup>81</sup>
- “Verde confirms that Contract Expiration Notices were not sent before the contract expired.”<sup>82</sup>
- “[T]he electric TPV is not in compliance with Rule O.A.C. 4901:1-21-06(D)(2)(a)(vii) and the gas account TPV is not in compliance with Rules O.A.C. 4901:1-29-06(E)(1)(g) and O.A.C. 4901:1-29-06(E)(1)(h)(ii).”<sup>83</sup>
- “Verde agrees the TPV does not comply with O.A.C. 4901:1-29-06(E)(1)(f)(ii) and O.A.C. 4901:1-29-06(E)(1)(g).”<sup>84</sup>
- “Verde no longer has record of the TPV, signed agreement or has record of any contract expiration notices mailed to the customer.”<sup>85</sup>
- “Verde has no record of the terms and conditions or the renewal notifications.”<sup>86</sup>
- “Verde has identified the unit of measure quoted for the renewal completed on 4/24/19 is not in compliance with O.A.C. 4901:1-29-06(E)(1)(f)(ii).”<sup>87</sup>
- “Verde was able to determine that it was not in compliance with the following O.A.C. rules: “O.A.C. 4901:1-29-06(E)(1)(f)(ii), O.A.C. 4901:1-29-06(E)(1)(f)(ii), O.A.C. 4901:1-21-06(D)(1)(a), O.A.C. 4901:1-21-06(D)(2)(a)(viii), O.A.C. 4901:1-29-06(E)(1)(g), O.A.C. 4901:1-21-06(D)(2)(d).”<sup>88</sup>
- “Verde has no record of the signed agreement for the electric enrollment completed on 9/19/2018.”<sup>89</sup>

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<sup>80</sup> See OCC Ex. B, Page 002525.

<sup>81</sup> See OCC Ex. B, Page 002599.

<sup>82</sup> See OCC Ex. B, Page 002638.

<sup>83</sup> See OCC Ex. B, Page 002650.

<sup>84</sup> See OCC Ex. B, Page 002765.

<sup>85</sup> See OCC Ex. B, Page 002770.

<sup>86</sup> See OCC Ex. B, Page 002796.

<sup>87</sup> See OCC Ex. B, Page 002908.

<sup>88</sup> See OCC Ex. B, Page 002922.

<sup>89</sup> See OCC Ex. B, Page 003608.

- “After careful review of the TPV, Verde acknowledges noticeable discrepancies and agrees the enrollment should be deemed as a ‘No Sale’. Furthermore, Verde acknowledges that the account holder ... did not give consent to have the electric service at [address redacted] switched to third party supplier, CenStar. In addition, Verde acknowledges the discrepancy of the electric rate listed on the CenStar Welcome Letter.”<sup>90</sup>
- “After review of the attached TPV conducted on 01/09/2019, Verde agrees that it’s not in compliance with the following O.A.C. Rules: “O.A.C. 4901:1-29-06(E)(1)(g). O.A.C. 4901:1-29-06(E)(1)(h)(ii). O.A.C. 4901:1-21-06(D)(2)(a)(viii). O.A.C. 4901:1-29-06(E)(1)(f)(ii).”<sup>91</sup>
- “[B]ecause the rate was offered and billed in the incorrect unit of measure, we agree the enrollment should be deemed as a ‘No Sale’.”<sup>92</sup>
- “[U]pon review of the TPV, Verde acknowledges that it is not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(viii).”<sup>93</sup>
- “Verde acknowledges discrepancies in the rate quoted to the customer as being a fixed rate instead of the actual variable month-to-month rate for Verde's Guaranteed Renewable 12 plan, which resulted in Verde not issuing any contract expiration notices to the customer. In addition, Verde acknowledges non-compliance of O.A.C. 4901:1-21-06(D)(1)(e)(ii) and O.A.C. 4901:1-21-06(D)(2)(vi)(j)(viii); for these reasons, Verde agrees the enrollment should be deemed as a 'No Sale'. Furthermore, Verde acknowledges that we have no record of the sales call....”<sup>94</sup>
- “[D]ue to noticeable discrepancies within the TPV and because has no record of a signed agreement, we agree the enrollment should be deemed as a 'No Sale'.”<sup>95</sup>
- “[A]fter review of the TPV, Verde acknowledges that it's not in compliance with the following O.A.C. rules: O.A.C. 4901:1-21-06(D)(2)(a)(vii), O.A.C. 4901:1-29-06(E)(1)(g), O.A.C. 4901:1-29-06(E)(1)(h)(ii), O.A.C. 4901:1-21-06(D)(2)(a)(viii), O.A.C. 4901:1-21-06(D)(2)(a)(viii)”<sup>96</sup>

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<sup>90</sup> See OCC Ex. B, Page 003658.

<sup>91</sup> See OCC Ex. B, Page 003771.

<sup>92</sup> See OCC Ex. B, Page 003964.

<sup>93</sup> See OCC Ex. B, Page 004168.

<sup>94</sup> See OCC Ex. B, Page 004474.

<sup>95</sup> See OCC Ex. B, Page 004481.

<sup>96</sup> See OCC Ex. B, Page 004515.

- “Verde acknowledged noticeable discrepancies between the email address provided along with the voice of the person and the telephone number used to authorize the enrollments in comparison to the account holders. For these reasons, Verde agreed the enrollment should be deemed as a "No Sale". ... Furthermore, Verde has no record of the signed agreement.”<sup>97</sup>
- “After careful review of the TPV, we would like to acknowledge that it is not in compliance with the following O.A.C. rules: 1. O.A.C. 4901:1-21-06(D)(2)(a)(vii). 2. O.A.C. 4901:1-29-06(E)(1)(g). 3. O.A.C. 4901:1-29-06(E)(1)(h)(ii).”<sup>98</sup>
- “We'd like to confirm that the person who authorized the electric account to Verde on 3/4/2019 is not the account holder...”<sup>99</sup>

In the vast majority of these cases, the relevant admission of a violation occurred *after* the Staff Report was filed in the Investigation Case (with some as recent as March 2020). Thus, most of these violations are in addition to the many violations alleged in the Staff Report and the 17 violations that the PUCO found to be proven by a preponderance of the evidence in the Investigation Case.

Again, the law (R.C. 4928.08(B) and 4929.20(A)) requires a marketer to show that it has the “managerial, technical, and financial capability” to provide retail electric or natural gas service. Any entity that violates the PUCO’s rules again and again and again, as Verde did, lacks such managerial and technical capability. The PUCO’s rules similarly provide that it will only approve a marketer’s application if the applicant is “managerially, financially, and technically fit and capable of complying with all applicable commission rules and orders.”<sup>100</sup> Verde has shown that it is utterly incapable of or unwilling to comply with the PUCO’s rules.

These 100 plus violations surely are sufficient to show that Verde lacks the managerial and technical capability to serve as a marketer in Ohio. Otherwise, it is hard to imagine how any

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<sup>97</sup> See OCC Ex. B, Page 005177.

<sup>98</sup> See OCC Ex. B, Page 005530.

<sup>99</sup> See OCC Ex. B, Page 005782.

<sup>100</sup> Ohio Adm. Code 4901:1-24-10(C)(1)-(2); Ohio Adm. Code 4901:1-27-10(C)(1)-(2).

marketer, no matter how incompetent or unscrupulous, could ever be denied a certificate to serve Ohio retail electric or natural gas customers.

**2. Verde's failure to show it qualifies for certificate renewals includes that it repeatedly engaged in unfair, deceptive, and unconscionable acts and practices against Ohio consumers, in violation of consumer protection laws (R.C. 4928.08, 4928.10) and rules (Ohio Adm. Code 4901:1-21-02(A)(2)(c), 4901:1-21-03(A), 4901:1-21-11(B), 4901:1-29-02(A)(3)(c), 4901:1-29-03(A), 4901:1-29-05(D)).**

The General Assembly saw fit to protect consumers from marketer abuse. R.C. 4928.08 allows the PUCO to suspend or rescind an electric marketer's certificate if the marketer "has engaged in anticompetitive or unfair, deceptive, or unconscionable acts or practices in this state." R.C. 4928.10 similarly requires the PUCO to enact rules "[f]or the protection of consumers in this state" that "shall include a prohibition against unfair, deceptive, and unconscionable acts and practices in the marketing, solicitation, and sale of ... competitive retail electric service and in the administration of any contract for service." The PUCO has enacted such rules to protect consumers of both electric and natural gas marketers.

Ohio Adm. Code 4901:1-21-02(A)(2)(c) states that the PUCO's rules for electric marketers are intended to "[p]rotect consumers against misleading, deceptive, unfair, and unconscionable acts and practices in the marketing, solicitation, and sale of [competitive retail electric service] and in the administration of any contract for that service." Ohio Adm. Code 4901:1-21-03(A) explicitly prohibits such conduct: "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." Ohio Adm. Code 4901:1-21-05(C) again provides that electric marketers shall not "engage in marketing, solicitation, or sales acts, or practices which are unfair, misleading,

deceptive, or unconscionable in the marketing, solicitation, or sale of a [competitive retail electric service].” And Ohio Adm. Code 4901:1-21-11(A) likewise protects consumers: “In their administration of such contracts, CRES providers are prohibited from engaging in unfair, deceptive, misleading, and unconscionable acts and practices.”

The PUCO’s natural gas marketer rules provide the same consumer protections. Ohio Adm. Code 4901:1-29-02(A)(3)(c) states that the PUCO’s rules for natural gas marketers are intended to “[p]rotect consumers against misleading, deceptive, unfair, and unconscionable acts and practices in the marketing, solicitation, and sale of competitive retail natural gas service and in the administration of any contract for that service.” Ohio Adm. Code 4901:1-29-03(A) explicitly prohibits such conduct: “A retail natural gas supplier or governmental aggregator 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 competitive retail natural gas service. (2) Administration of contracts for such service. (3) Provision of such service, including interactions with consumers.” Ohio Adm. Code 4901:1-29-05(D) again provides that natural gas marketers shall not “engage in marketing, solicitation, sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a competitive retail natural gas service.” And Ohio Adm. Code 4901:1-29-10(A) likewise protects consumers: “In its administration of such contracts, a retail natural gas supplier ... is prohibited from engaging in unfair, deceptive, misleading, and unconscionable acts and practices.”

As these laws and rules are in place to protect consumers, there should be zero tolerance for marketers who are continuously abusing consumers through unfair, misleading, deceptive, and unconscionable acts. Verde is precisely the type of marketer who has done precisely the

types of things that require consumer protection. Verde has repeatedly misled customers, deceived them, and taken advantage of them for profit.

As explained above, the PUCO found 17 violations of the PUCO's marketer rules, most of which related to misleading and deceiving customers, including making false promises of savings, spoofing customers by pretending to be the IRS or the local distribution utility, providing inaccurate information about customers' rights under the PUCO's rules, enrolling customers without their consent, enrolling customers despite discrepancies in the third party verification, failing to notify the customer that the contract would renew at a monthly variable rate, and renewing customers' contracts without sending them the required notice of expiration.<sup>101</sup> And OCC has now identified more than 100 additional examples of the same type of behavior.

The PUCO should enforce its rules, which are intended to "[p]rotect consumers against misleading, deceptive, unfair, and unconscionable acts and practices in the marketing" or competitive retail electric and natural gas service.<sup>102</sup> And the only way to protect consumers from future abuse is to deny Verde's applications to renew its electric and natural gas marketer certificates.

**3. Verde's failure to show it qualifies for certificate renewals includes that it violated Ohio Adm. Code 4901:1-21-05(C)(4) and 4901:1-29-05(D)(4) by telemarketing to customers without obtaining the list of Ohioans who are on the Federal Trade Commission's Do Not Call Registry and failing to obtain monthly updates of that list.**

Ohio Adm. Code 4901:1-21-05(C)(4) provides that it is unfair, misleading, deceptive, or unconscionable for an electric marketer to solicit customers by telephone without first "[o]btaining the list of Ohio individuals who have requested to be placed on the federal trade

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<sup>101</sup> See *supra* § IV.A.1.b.

<sup>102</sup> Ohio Adm. Code 4901:1-21-02(A)(2)(c); Ohio Adm. Code 4901:1-29-02(A)(3)(c).

commission's 'do not call' registry by the appropriate area code" and "[o]btaining monthly updates of the federal trade commission's 'do not call' registry for the appropriate area code." Ohio Adm. Code 4901:1-29-05(D)(4) provides the same for natural gas marketers.

OCC asked Verde to produce copies of the do not call lists, including monthly updates. Verde was unable to produce even a single document in response to this request. Thus, while Verde might claim that it has processes in place to prevent calling customers on the do not call list, its inability to produce such lists makes this claim questionable, at best. This violates Ohio Adm. Code 4901:1-21-05(C)(4) and 4901:1-29-05(D)(4), thus putting Ohioans at risk of receiving marketing calls from Verde, even if they are on the federal do not call registry. This again demonstrates Verde's continued inability to comply with the PUCO's rules and its lack of managerial and technical capability.

**4. Verde's failure to show it qualifies for certificate renewals includes that, by failing to perform required criminal background checks, Verde may have allowed convicted criminals to solicit products and services to Ohio consumers at their homes.**

Ohio Adm. Code 4901:1-21-05(D) requires electric marketers to perform criminal background checks on "all employees and agents engaged in door-to-door marketing and enrollment." The background check must be done by an independent contractor, and the marketer must "confirm that the independent contractor has performed a comprehensive criminal background check on its employees or agents in accordance with this rule." Ohio Adm. Code 4901:1-29-05(E)(1) requires the same thing for natural gas marketers.

Through discovery, Verde has identified more than 500 individuals who solicited to consumers door-to-door in Ohio. To date, however, Verde has been unable to provide documentation showing that it hired an independent contractor to perform a comprehensive criminal background check on each of these individuals. In fact, out of these more than 500

individuals, Verde was unable to produce copies of criminal background checks for more than 85 of them.

And while Verde might claim that its practice is to perform background checks on all door-to-door salesman, the evidence does not bear this out. Because Verde cannot prove that it performed a criminal background check on these door-to-door salespeople, it is possible that Verde put Ohioans in danger by allowing convicted criminals to solicit consumers at their homes in an effort to sell them Verde's overpriced electricity and natural gas. This further demonstrates that Verde is unable to comply with the PUCO's rules and that it lacks the managerial and technical capability to market retail electric and natural gas service in Ohio.

**5. Verde's failure to show it qualifies for certificate renewals includes that, by allowing Verde to continue serving Ohioans, state policy under R.C. 4928.02 and 4929.02 would be violated.**

R.C. 4928.02 and 4929.02 outline various state policies for retail electric and natural gas service. The PUCO is required to consider these policies in regulating marketers.<sup>103</sup> Allowing Verde to continue serving retail electric and natural gas customers in Ohio would violate many of these policies. To protect consumers, therefore, Verde's electric and natural gas certificates should not be renewed. Verde should be required to exit the state.

Under R.C. 4928.02(I), it is state policy to "ensure retail electric service consumers protection against unreasonable sales practices...." Verde's sales practices are the very definition of unreasonable. Consumers need protection in the form of banning Verde from the state.

Under R.C. 4928.02(A) and 4929.02(A)(1), it is state policy to ensure or promote "the availability to consumers ... of reasonably priced" retail electric and natural gas service. As

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<sup>103</sup> See R.C. 4928.06 ("the public utilities commission shall ensure that the policy specified in section 4928.02 of the Revised Code is effectuated"); R.C. 4929.02(B) ("The public utilities commission and the office of the consumers' counsel shall follow the policy specified in this section in exercising their respective authorities relative to sections 4929.03 to 4929.30 of the Revised Code.").



explained above, Verde deceived customers into paying rates higher than their current rates, thus denying them reasonably priced retail electric and natural gas service.

Under R.C. 4928.02(B), it is state policy to “[e]nsure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs.” R.C. 4929.02(A)(2) similar provides that it is state policy to “[p]romote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs.” R.C. 4929.02(A)(7) also provides that it is state policy for “effective competition and transactions between willing buyers and willing sellers.” As explained above, Verde deceived customers into signing up with Verde by providing false information about Verde’s rates. On numerous occasions, Verde violated the PUCO’s third party-verification rules. Any such customers did not “elect” to sign up with Verde nor to pay Verde’s unreasonable and unjust high rates. Nor would any such consumers be considered “willing” for purposes of R.C. 4929.02(A)(7).

Under R.C. 4928.02(L), it is state policy to “[p]rotect at-risk populations.” Such at-risk populations could include low-income customers, senior citizens, and the disabled.<sup>104</sup> These at-risk customers are frequently the targets of scams. According to the FBI, individuals over the age of 60 “may be a special target of people who sell bogus products and services by telephone.”<sup>105</sup> This is because, among other things, they are often better off financially, they were raised in a generation where people were more trusting, they are less likely to report fraud, and they may

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<sup>104</sup> See, e.g., *In re Application of Dayton Power & Light Co.*, Case No. 16-395-EL-SSO, Opinion & Order ¶ 82 (Oct. 20, 2017) (at-risk populations include low-income customers).

<sup>105</sup> <https://www.fbi.gov/scams-and-safety/common-scams-and-crimes/seniors>.

not realize they were scammed until weeks or months later.<sup>106</sup> These factors make such populations much more likely to be scammed by energy marketers like Verde who make false promises of energy savings and fail to obtain customers' informed acceptance of Verde's offers.

**B. There are currently 122 marketers serving electric consumers and 99 marketers serving natural gas consumers. Verde will not be missed if the PUCO denies its renewal certificates.**

Serving Ohioans is a privilege that Verde has abused. It does not deserve the right or opportunity to continue serving consumers. A review of the PUCO's apples-to-apples web page shows that electric consumers can choose from 122 marketers<sup>107</sup> and natural gas customers can choose from 99 natural gas marketers.<sup>108</sup> Should the PUCO deny Verde's renewal requests (which it should), Verde will not be missed. And consumers will be better off without Verde bringing its abusive tactics to the market. If the PUCO is not strict in its response to Verde, it will send the wrong message to other marketers who might consider employing Verde's abusive marketing tactics against consumers.

**C. Verde's failure to show it qualifies for certificate renewals includes that there is no reason to believe Verde's "action plan" will adequately protect consumers. The only reliable action plan for consumer protection is where Verde's action is to leave the state after a PUCO denial of the renewal of Verde's operating certificates.**

In support of its applications, Verde will likely point to the approved settlement in the Investigation Case, which requires Verde to "submit an action plan for compliance at least ninety (90) days prior to resuming marketing and customer enrollment in Ohio."<sup>109</sup> That means Verde's action plan is due by August 2, 2020. But that is literally all that the settlement says. It

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<sup>106</sup> *Id.*

<sup>107</sup> See <https://www.puco.ohio.gov/docketing/regulated-company-list/?IndId=30> (as of Apr. 30, 2010).

<sup>108</sup> See <https://www.puco.ohio.gov/puco/index.cfm/docketing/regulated-company-list/?IndId=14> (as of Apr. 30, 2020).

<sup>109</sup> Investigation Case, Joint Stipulation and Recommendation, § III.5 (Sept. 6, 2019).

does not say what will be included in the action plan, who will draft it, how it will be enforced (if at all), or what penalties Verde will face (if any) if it fails to comply with the action plan.

In any event, whatever Verde puts on paper shouldn't be believed. There already was an action plan for Verde, to obey state law and rule, when it obtained its original certificates. Regulatory belief in Verde's original plans hurt Ohioans plenty.

Indeed, it is hard to believe that any such action plan will adequately protect consumers from future Verde abuse. After all, the law (R.C. Chapter 4928 and 4929) and PUCO rules (Ohio Adm. Code Chapters 4901:1-21, 4901:1-24, 4901:1-27, 4901:1-29) contain numerous provisions that are already designed to protect consumers. And Verde repeatedly violated those laws and rules to the detriment of consumers. If Verde was unable to follow consumer protection laws and administrative rules, what reason is there to believe that Verde will follow an "action plan" that might not even penalize Verde for non-compliance?

And of course, until such action plan is revealed—which to date, it has not been—any assertions about it by Verde should be discounted. Indeed, Verde's assertions about its forthcoming plan should be discounted even after the plan is released. In fact, history teaches that anything Verde says about its Ohio service to consumers should be discounted.

The PUCO simply cannot rely on this action plan as a cure-all for Verde's consistent inability to follow laws and rules. The action plan will not render Verde managerially and technically capable of providing competitive retail electric and natural gas service to Ohio consumers.

**D. If the PUCO does allow Verde to continue operating in Ohio (which it should not), the PUCO’s requirements for consumer protection should include certain conditions that Verde would have to accept to receive renewals of its PUCO certificates.**

If the PUCO renews its certificates for Verde, it should impose conditions on Verde’s business practices to protect Ohio consumers from further abuse and exploitation. The PUCO should implement at least the following consumer protections.

**1. The PUCO should not allow Verde to use automatic contract renewals (known as “evergreen” contracts) to continue contracts with consumers without their affirmative consent. In the absence of a consumer’s affirmative renewal of the contract, the consumer should be enrolled in his or her utility’s standard offer.**

The PUCO should prohibit Verde from using automatic contract renewals for its customers without their affirmative consent to a contract renewal. This will protect customers from Verde’s practice of enticing customers with a low fixed “teaser” rate contracts for a term and then automatically renewing them to high monthly variable rate contracts when the fixed rate contracts expire.<sup>110</sup>

Public witnesses in the Investigation Case testified that they were grossly overcharged by Verde after Verde automatically renewed their fixed rate contract to a monthly variable rate contract that charged three times what they initially agreed to pay.<sup>111</sup> In some cases, Verde charged electric customers a fixed rate of \$0.0599/kWh and then switched them to a monthly variable rate of \$0.19/kWh, resulting in huge overcharges.<sup>112</sup> Some Verde gas customers have

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<sup>110</sup> Staff Report at 23.

<sup>111</sup> Case No. 19-0958-GE-COI, Evidentiary Hearing Tr. Vol. 1 at 25-28. *See also* OCC Ex. 17 (PUCO Case Report 00244217); OCC Ex. 7 (PUCO Case Report 00257020).

<sup>112</sup> Case No. 19-0958-GE-COI, OCC Ex. 7 (PUCO Case Report 00257020); OCC Ex. 17 (PUCO Case Report 00244217).

paid rates nearly four times the utility’s standard offer.<sup>113</sup> These unconscionable rates (which are contrary to Ohio’s statutory policies that electric and gas services be “reasonably priced”<sup>114</sup>) alone should warrant a denial of Verde’s renewal applications. But what is worse is that Verde charged these rates to some customers without giving them proper notice.

When the PUCO Staff confronted Verde with these customer complaints, Verde claimed that it was not required to provide contract expiration notices under Verde’s terms of service with the customers.<sup>115</sup> But as the PUCO Staff correctly noted in the Investigation Case Staff Report, Verde’s “terms of service do not supersede the Ohio Administrative Code.”<sup>116</sup>

Verde’s failure in the past to provide proper contract expiration notices to customers as required by the PUCO’s rules—and its pushback that the PUCO’s rules are subordinate to Verde’s customer terms of service—demonstrates the danger to consumers from automatic contract renewals. Verde cannot be trusted to treat Ohio customers reasonably and fairly if it is allowed to automatically renew customers’ contracts. Customers should not be charged exorbitant monthly variable rates that they had no notice of and did not agree to. Nor should customers be forced to expend time and resources to dispute those charges or submit a complaint to the PUCO to obtain a refund after the fact.

The PUCO should prohibit Verde’s use of automatic contract renewals altogether. Verde should be barred from renewing consumers’ contracts without their affirmative consent. Any customer that does not affirmatively renew should be enrolled in the utility’s standard offer.

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<sup>113</sup> Case No. 19-0958-GE-COI, OCC Ex. 19B (Williams Direct) at 18, JDW-08.

<sup>114</sup> R.C. 4928.02(A), 4929.02(A)(1).

<sup>115</sup> See e.g., Case No. 19-0958-GE-COI, OCC Ex. 17 (PUCO Case Report 00244217) at 54 (1/24/19 e-mail from Verde representative Louise Bourgeois to PUCO Staff). Staff Report at 23.

<sup>116</sup> Staff Report at 24.

These measures are necessary to protect customers from being blind-sided by exorbitant monthly variable rates.

**2. Verde’s PUCO certificates should be revoked in the first instance of spoofing of Caller ID information and/or slamming (stealing customers), as these are unlawful and deceptive means to acquire customers.**

Verde engaged in spoofing activities before it suspended its marketing and enrollment activities in Ohio.<sup>117</sup> Attorney Examiner Price stated that “the record is clear there was spoofing.”<sup>118</sup> Spoofing violates the PUCO’s rules<sup>119</sup> and the federal Truth in Caller ID Act.<sup>120</sup>

Therefore, if the PUCO renews Verde’s certificates to serve Ohio customers, it should establish a zero-tolerance policy for spoofing. Verde’s certificates should be immediately revoked (and a significant forfeiture should be assessed) if Verde engages in even a single act of spoofing. In the investigation case, PUCO Staff witness Nedra Ramsey testified that even a single customer complaint regarding spoofing is cause for concern.<sup>121</sup> And Verde did not stop spoofing even after the PUCO Staff warned Verde of the “alarming number of complaints from consumers.”<sup>122</sup> The PUCO should not tolerate such deceptive practices from Verde.

Further, other state utility commissions have established a zero-tolerance policy for slamming customers,<sup>123</sup> and the PUCO should do the same. Verde did not dispute claims in the

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<sup>117</sup> Case No. 19-0958-GE-COI, Tr. Vol. 1, at 219:16-17.

<sup>118</sup> Case No. 19-0958-GE-COI, Tr. Vol. 1, at 219:16-17.

<sup>119</sup> See e.g. 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).

<sup>120</sup> 47 U.S.C. § 227(e)(1) (“It shall be unlawful for any person within the United States, in connection with any telecommunications service or IP-enabled voice service to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification with the intent to defraud, cause harm, or wrongfully obtain anything of value . . .”).

<sup>121</sup> Case No. 19-0958-GE-COI, Tr. Vol. I at 207: 19-20, 208: 13-20.

<sup>122</sup> Case No. 19-0958-GE-COI, OCC Ex. 9 (12/21/18 e-mail from Nedra Ramsey to Verde).

<sup>123</sup> See e.g. *PA PUC v. Energy Service Providers, Inc. d/b/a Pennsylvania Gas & Electric, et al.*, Docket No. M-2013-2325122, Order (Oct. 2, 2014), at 8; and *Conn. DPUC Review of the Current Status of the Competitive*

investigation case that it unlawfully enrolled (*i.e.*, slammed) customers without obtaining their proper consent under the PUCO's rules in both telemarketing and door-to-door sales.<sup>124</sup>

Slamming is illegal.<sup>125</sup> Verde should not be permitted to operate in Ohio if it engages in this illegal practice. At a minimum, the PUCO should assess a significant forfeiture on Verde for each act of slamming it commits.

**3. Verde should not be permitted to conduct door-to-door sales with customers.**

The PUCO should ban Verde from conducting door-to-door sales in Ohio. Verde and other marketers are currently banned from door-to-door sales by the PUCO's emergency order (that protects Ohioans from door-to-door sales that could lead to transmission of the coronavirus). But after the emergency order is lifted, the PUCO should continue to protect Ohioans by banning door-to-door sales by Verde.

In the Investigation Case, the PUCO Staff identified numerous complaints from customers who were slammed by Verde through its door-to-door marketing.<sup>126</sup> Verde was unable to produce signed customer contracts from these door-to-door solicitations as required by the PUCO's rules.<sup>127</sup> When the PUCO Staff requested these documents, Verde wrongly claimed that "it is not required to obtain a signed contract" for door-to-door solicitations.<sup>128</sup> Verde's past

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*Supplier and Aggregator Market in Connecticut and Marketing Practices and Conduct of Participants in that Market*, 2011 PUC LEXIS 42, \*24.

<sup>124</sup> Case No. 19-0958-GE-COI, OCC Ex. 19B (Williams Direct) at 26; *See also* OCC Ex. 7, PUCO Case Report 00233259, (PUCO Staff found that Verde engaged in "slamming" by switching the customer's electricity supply from Dynegy to Verde without the customer's consent, resulting in Verde re-rating the customer).

<sup>125</sup> Ohio Adm. Code 4901:1-21-03(C); Ohio Adm. Code 4901:1-29-03(D).

<sup>126</sup> Investigation Case Staff Report at 16.

<sup>127</sup> Ohio Adm. Code 4901:1-21-06(D)(1)(a), 4901:1-29-06(D)(1).

<sup>128</sup> Investigation Case Staff Report at 17.

inability or unwillingness to comply with the PUCO's in-person solicitation rules demonstrates that Verde should not be allowed to engage in door-to-door marketing at all.

If the PUCO does allow Verde to solicit door-to-door after the pandemic emergency orders are lifted (and it should not), the PUCO should at a minimum impose restrictions on Verde's door-to-door marketing activities to protect consumers. Such restrictions should include (but are not limited to):

- requiring Verde to notify the utility and PUCO Staff of when and where Verde will be conducting door-to-door marketing;
- requiring sales agents to wear clothing clearly branded with the Verde logo;
- requiring experienced and properly trained sales agents to accompany less-experienced agents on sales calls;
- prohibiting Verde from offering gift or cash cards to potential customers as an incentive to enroll; and
- requiring sales agents to end a sales pitch if it becomes clear that the customer does not speak English or has a disability that would prevent the customer from giving an informed consent.

These measures might help protect customers from some of Verde's misleading marketing practices. But don't count on it. The protection from Verde that Ohio consumers need is to keep Verde away from their front doors.

#### **4. The PUCO should prohibit Verde from accessing the utilities' customer contact information for marketing purposes.**

The PUCO should also prohibit Verde from obtaining lists of customers' personal contact information that is kept by the energy utilities (which marketers use to cold-call customers).

Verde's past practices demonstrate that it is unworthy of obtaining Ohioans' personal contact information to market energy. For example, just read the spoofing section of these Comments to see one problem for consumers with Verde's sales calls to customers. And read other sections of these comments about Verde's terrible sales practices against consumers.



In OCC's view, no customer's personal contact information should be shared with a marketer, in the absence of the customer's affirmative consent. If needed, the PUCO should declare an emergency, under the circumstances of the current health and financial crises, that includes barring the disclosure of customer's personal contact information to Verde unless customers have affirmatively consented.

**5. Verde should be required to conduct regular audits (by an independent auditor) of its third-party marketing vendors to ensure they comply with the PUCO's rules for consumer protection. Those audits should be shared with the PUCO Staff and OCC for review.**

Verde relies heavily on third-party vendors to conduct its customer marketing and enrollment in Ohio. While Verde may have provided some training and auditing of its third-party vendors, whatever Verde did was not effective, as evidenced by the hundreds of customer complaints regarding Verde to the PUCO. Although Verde is ultimately responsible for compliance with the PUCO's rules and Ohio law, Verde does not maintain proper oversight of its vendors to make sure they comply with Ohio law and the PUCO's rules. Verde has also blamed third party vendors for Verde's *own failure* to maintain records as required by the PUCO's rules.<sup>129</sup> If the PUCO renews Verde's certificates to serve Ohio customers, Verde must improve its oversight of the contractors it employs to solicit and enroll Ohio consumers.

One way to do this would be to require Verde to use its own employees for marketing rather than outsourcing that function to third party vendors who Verde struggles to control. Other competitive suppliers employ their own salesforce and Verde could do the same. But if Verde is going to rely on third party vendors, the PUCO should require Verde to conduct regular (*e.g.*, quarterly) audits of the vendors it uses in the Ohio market. Such audits should be publicly filed

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<sup>129</sup> See Staff Report, at 12 (Verde could not produce records because it no longer had a working relationship with the third-party vendors).

with the PUCO for review and consideration by the PUCO Staff and OCC. The audits should evaluate the third-party vendors' compliance with Ohio law and the PUCO's rules, particularly with respect to third party verifications of customer enrollments.

The PUCO should also require Verde to conduct audits of its third-party telemarketing agents to verify that they are not using spoofing or robocall technology when soliciting customers. The PUCO Staff found that Verde "consistently and continuously" violated the PUCO's rules by using robocall and spoofing technology to mislead customers into speaking with Verde sales agents.<sup>130</sup> During her deposition in the Investigation Case, Verde representative Kira Jordan testified that despite customer spoofing complaints, she did not know whether Verde audited third party vendors' use of this technology.<sup>131</sup> If Verde is permitted to continue marketing to Ohio consumers, it should be required to conduct regular audits of its telemarketers to prevent the use of this technology and these illegal practices.

Finally, if Verde is permitted to resume door-to-door solicitation, auditing must be conducted to verify that salespeople have completed criminal background checks and that they comply with the PUCO's rules governing in-person solicitations.

- 6. Verde should have to accept a condition, to obtain renewal of its certificates, to not charge customers more than a designated percentage of the applicable gas utility's standard offer or GCR, as applicable, and the applicable electric utility's price to compare. That percentage limit should be no more than 150% of the applicable comparison rate that consumers could otherwise obtain from their utility.**

If Verde is permitted to continue serving customers in Ohio, it should not be allowed to price-gouge Ohioans, as it has in the past. As was revealed in the Investigation Case, Verde was charging some Dominion customers a rate that was nearly *four times* Dominion's standard offer

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<sup>130</sup> Staff Report at 26.

<sup>131</sup> Case No. 19-0958-GE-COI, Deposition Transcript of Kira Jordan, at 127-28.

rate.<sup>132</sup> And Exhibit B to these comments includes examples of customers being charged substantially in excess of their utility's standard offer or applicable price to compare, typically when their fixed-price contract automatically renewed at a much higher monthly rate.<sup>133</sup>

As a further consumer protection, therefore, any renewal of Verde's certificates should include a limit on the amount that Verde can charge customers for electricity and natural gas. Verde should be allowed to charge no more than 150% of the customer's applicable price to compare (whether it be a standard service offer, standard choice offer, gas cost recovery charge, or otherwise).

## **V. CONCLUSION**

There is only one way to give Ohioans the assurance they deserve that they will not be ripped off again by Verde—and that way is to deny Verde's applications to renew its PUCO certificates to market electric and natural gas. Verde has failed to show that it satisfies the regulatory standards for the privilege of marketing energy to Ohioans. In fact, OCC has shown that Verde does not meet the standards for renewal of operating certificates.

There are hundreds of marketers operating in the state of Ohio. Verde adds nothing to the competitive mix, but it subtracts a lot given its deceit and consumer abuse. Ohio consumers would be better off if the PUCO denies renewal of the certificates and Verde leaves the State of Ohio for good. This result of protecting Ohioans from Verde is all the more important given the perilous times of the health emergency and financial emergency afflicting so many Ohio families. The PUCO should deny Verde's applications for the privilege of continuing to market to Ohio consumers.

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<sup>132</sup> See Investigation Case, Direct Testimony of James Williams on Behalf of the Office of the Ohio Consumers' Counsel at 18.

<sup>133</sup> See, e.g., Attachment B, Page 002763 (SCO rate of \$2.93 compared to Verde rate of \$6.49).

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Initial Comments was served on the persons stated below via electronic transmission, this 4th day of May 2020.

/s/ Christopher Healey  
Christopher Healey  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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	Bates #	Date	Verde Representative	Summary	Rule Violation
1	002422	3/11/2019	Xiomara Mendoza	"the TPV was not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(viii) and O.A.C. 4901:1-29-06(E)(1)(h)(ii)."	OAC 4901:1-21-06(D)(2)(a)(viii)
					OAC 4901:1-29-06(E)(1)(h)(ii)
2	002525	3/20/2019	Edwin Quinonez	"[A] Contract Expiration Notice was not sent before the contract expired."	OAC 4901:1-21-11(G) (requires a expiration notice 45-90 days before expiration)
3	005782	3/26/2019	Louise Bourgeois	"We'd like to confirm that the person who authorized the electric account to Verde on 3/4/2019 is not the account holder...."	R.C. 4928.10(D)(4) ("prohibition against switching, or authorizing switching of, a customer's supplier of competitive retail electric service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures")
4	002946	3/28/2019	April Lusk	"Verde no longer has record of the CenStar enrollments for both commodities."	OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
5	002638	4/2/2019	Edwin Quinonez	"Verde confirms that Contract Expiration Notices were not sent before the contract expired."	OAC 4901:1-21-11(G) (requires an expiration notice 45-90 days before expiration)
					OAC 4901:1-29-10(F) (requires an expiration notice 45-90 days before expiration)
6	002735	4/3/2019	Xiomara Mendoza	"[W]e indicated that the TPV was not in compliance with certain Ohio Administrative Codes..."	Unspecified
7	002514	4/8/2019	Louise Bourgeois	"Verde did not properly notify [customer] that her account would auto renew to a monthly variable rate plans [sic]."	OAC 4901:1-21-12(B)(14) (requires a CRES contract to include a "conspicuous, highlighted statement indicating that the CRES provider can renew this contract without the customer's affirmative consent even when there is a change in the rate or other terms and conditions")
					OAC 4901:1-21-06(D)(2)(a)(vi) (requires disclosure on the call of the "length of the contract" and the "contract termination date")
					OAC 4901:1-29-06(E)(1)(f) (requires disclosure on the call of the "length of the contract" and the "contract termination date")
8	002594-002595	4/8/2019	Xiomara Mendoza	"However, after further review of the TPV and due to matters that have since been updated, we determined that due to it not complying with various Ohio Administrative Codes, it should have been deemed as a 'No Sale'."	Unspecified

9	002704	4/8/2019	Brandi Williams	"Verde unfortunately, does not have the complete sales call completed on 12/29/2018, which resulted in the enrollment of [customer's] electric service."	OAC 4901:1-21-06(D)(2)(b)(ii) (requires a CRES to "[r]etain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated")
10	002571	4/10/2019	Edwin Quinonez	"[I]t was determined that the TPV was not in compliance with O.A.C. Rule: 4901:1-29-06(E)(1)(g)."	OAC 4901:1-29-06(E)(1)(g)
11	002711	4/10/2019	Louise Bourgeois	"[W]e are unable to obtain the sales call for the Starion enrollment."	OAC 4901:1-21-06(D)(2)(b)(ii) (requires a CRES to "[r]etain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated")
12	002464	4/11/2019	Louise Bourgeois	"[T]he electric TPV is not in compliance with Rule O.A.C. 4901:1-21-06(D)(2)(a)(vii) and the gas account TPV is not in compliance with Rules O.A.C. 4901:1-29-06(E)(1)(g) and O.A.C. 4901:1-29-06(E)(1)(h)(ii)."	OAC 4901:1-29-06(E)(1)(g) OAC 4901:1-29-06(E)(1)(h)(ii)
13	002650	4/11/2019	Louise Bourgeois	"[T]he electric TPV is not in compliance with Rule O.A.C. 4901:1-21-06(D)(2)(a)(vii) and the gas account TPV is not in compliance with Rules O.A.C. 4901:1-29-06(E)(1)(g) and O.A.C. 4901:1-29-06(E)(1)(h)(ii)."	OAC 4901:1-21-06(D)(2)(a)(vii) OAC 4901:1-29-06(E)(1)(g) OAC 4901:1-29-06(E)(1)(h)(ii)
14	002686	4/12/2019	Xiomara Mendoza	"Additionally, due to various discrepancies in the TPV that have since been addressed that are not in compliance with the Ohio Administrative Codes, the enrollment was also deemed as a 'No Sale.'"	Unspecified
15	003005	4/12/2019	Louise Bourgeois	"[T]he electric TPV is not in compliance with Rule O.A.C. 4901:1-21-06(D)(2)(a)(vii) and the gas account TPV is not in compliance with Rules O.A.C. 4901:1-29-06(E)(1)(g) and O.A.C. 4901:1-29-06(E)(1)(h)(ii)."	OAC 4901:1-21-06(D)(2)(a)(vii) OAC 4901:1-29-06(E)(1)(g) OAC 4901:1-29-06(E)(1)(h)(ii)
16	003012	4/12/2019	Louise Bourgeois	"[A] renewal letter was not sent."	OAC 4901:1-21-11(G) (requires an expiration notice 45-90 days before expiration) OAC 4901:1-29-10(F) (requires an expiration notice 45-90 days before expiration)
17	002675	4/15/2019	Edwin Quinonez	"Verde has determined that the TPV is not in compliance with O.A.C. 4901:1-29-06(E)(1)(g)."	OAC 4901:1-29-06(E)(1)(g)

18	002922	4/25/2019	Edwin Quinonez	"Verde was able to determine that it was not in compliance with the following O.A.C. rules: "O.A.C. 4901:1-29-06(E)(1)(f)(ii), O.A.C. 4901:1-29-06(E)(1)(f)(ii), O.A.C. 4901:1*-21-06(D)(1)(a), O.A.C. 4901:1-21-06(D)(2)(a)(viii), O.A.C. 4901:1-29-06(E)(1)(g), O.A.C. 4901:1-21-06(D)(2)(d)."	OAC 4901:1-29-06(E)(1)(f)(ii)
					OAC 4901:1-21-06(D)(1)(a)
					OAC 4901:1-21-06(D)(2)(a)(viii)
					OAC 4901:1-29-06(E)(1)(g)
					OAC 4901:1-21-06(D)(2)(d)
19	002856	4/26/2019	Xiomara Mendoza	"[U]pon review of the TPV and due to matters that have since been addressed, the script was not in compliance with various Ohio Administrative Codes."	Unspecified
20	002770	4/29/2019	Brandi Williams	"Verde no longer has record of the TPV, signed agreement or has record of any contract expiration notices mailed to the customer."	OAC 4901:1-21-06(D)(2)(b)(ii) (requires a CRES to "[r]etain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated")
					OAC 4901:1-21-11(G) (requires an expiration notice 45-90 days before expiration)
					OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
21	002389	5/3/2019	Edwin Quinonez	"Verde no longer possesses the Sales Call that was conducted on 06/07/2017. Additionally, it was determined that a Contract Expiration Notice was not sent before the fixed rate expired."	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must retain audio recording of enrollment for one year after contract termination)
					OAC 4901:1-21-11(G) (requiring CRES to notify customer of contract expiration)
22	005774	5/3/2019	Brandi Williams	"However, we have determined that the TPV does not comply with O.A.C. 4901:1-21-06(D)(2)(a)(vi)(e), O.A.C. 4901:1-21-06(D)(2)(xi), and O.A.C. 4901:1-21-06(D)(2)(a)(xii)."	OAC 4901:1-21-06(D)(2)(a)(vi)(e)
					OAC 4901:1-21-06(D)(2)(xi)
					OAC 4901:1-21-06(D)(2)(a)(xii)
23	002869	5/6/2019	Edwin Quinonez	"Verde determined that it was not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(vii)."	OAC 4901:1-21-06(D)(2)(a)(vii)
24	002908	5/7/2019	Brandi Williams	"Verde has identified the unit of measure quoted for the renewal completed on 4/24/19 is not in compliance with O.A.C. 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-29-06(E)(1)(f)(ii)
25	002331	5/8/2019	Edwin Quinonez	"Verde has determined that the TPV is not in compliance with the following O.A.C. rule: O.A.C. 4901:1-21-06(D)(2)(a)(vii)."	OAC 4901:1-21-06(D)(2)(a)(vii)
26	002974	5/10/2019	Edwin Quinonez	"[A]fter careful review of the TPV, Verde determined it was not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(vii), 4901:1-29-06(E)(1)(f)(ii) and O.A.C. 4901:1-29-06(E)(1)(g)."	OAC 4901:1-21-06(D)(2)(a)(vii)
					OAC 4901:1-29-06(E)(1)(f)(ii)
					OAC 4901:1-29-06(E)(1)(g)



27	005925	5/15/2019	Edwin Quinonez	"[A]fter review of the TPV, it was determined that it was not in compliance with the following rules: O.A.C. 4901:1-21-06(D)(2)(a)(vii); O.A.C. 4901:1-21-06(D)(2)(a)(viii); O.A.C. 4901:1-21-06(D)(2)(d)."	OAC 4901:1-21-06(D)(2)(a)(vii)
					OAC 4901:1-21-06(D)(2)(a)(viii)
					OAC 4901:1-21-06(D)(2)(d)
28	002765	5/20/2019	Brandi Williams	"Verde agrees the TPV does not comply with O.A.C. 4901:1-29-06(E)(1)(f)(ii) and O.A.C. 4901:1-29-06(E)(1)(g)."	OAC 4901:1-29-06(E)(1)(f)(ii)
					OAC 4901:1-29-06(E)(1)(g)
29	002796	5/21/2019	Brandi Williams	"Verde has no record of the terms and conditions or the renewal notifications."	OAC 4901:1-21-11(G) (requires an expiration notice 45-90 days before expiration)
					OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
30	002286	5/31/2019	Brandi Williams	"[T]he TPV does not comply with O.A.C. 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-29-06(E)(1)(f)(ii)
31	002372	6/13/2019	Xiomara Mendoza	"However, upon review of the TPV, it was determined that due to matters that have since been corrected, it did not comply with the Ohio Administrative Code."	Unspecified
32	005709-005710	6/20/2019	Edwin Quinonez	"[A]fter careful review of the TPV, it was determined that it was not in compliance with the following O.A.C. Rules: O.A.C. 4901:1-21-06(D)(2)(a)(vii), OAO.A.C [sic] 4901:1*-21-06(D)(1)(a) [sic], 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-21-06(D)(2)(a)(vii)
					OAC 4901:1-21-06(D)(1)(a)
					OAC 4901:1-29-06(E)(1)(f)(ii)
33	002361	6/21/2019	Edwin Quinonez	"[A]fter review of the TPV is was determined that it was not in compliance with the following O.A.C. rule 4901:1-21-06(D)(2)(a)(vii)."	OAC 4901:1-21-06(D)(2)(a)(vii)
34	005757	6/21/2019	Edwin Quinonez	"[N]o contract expiration Notice was sent...."	OAC 4901:1-21-11(G) (requiring CRES to notify customer of contract expiration)
35	002307	7/16/2019	Brandi Williams	"Verde did not comply with O.A.C. 4901:1-21-06(D)(2)(b)(i)."	OAC 4901:1-21-06(D)(2)(b)(i)
36	002292	7/22/2019	Brandi Williams	"Verde has no record of the Sales Call." This sale occurred 4/17/19, so this is a very recent call that Verde has no record of.	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must retain audio recording of enrollment for one year after contract termination)
37	002273	7/25/2019	Brandi Williams	"Verde acknowledges the TPV completed 1/2/2019 does not comply with O.A.C. 4901:1-29-06(E)(1)(f)(ii) and O.A.C. 4901:1-29-06(E)(1)(g)."	OAC 4901:1-29-06(E)(1)(f)(ii)
					OAC 4901:1-29-06(E)(1)(g)
38	004647	8/7/2019	Edwin Quinonez	"Verde did not send the requiried Contract Expiration Notices."	OAC 4901:1-21-11(G) (requiring CRES to notify customer of contract expiration)
39	004663	8/29/2019	Edwin Quinonez	"Verde has determined that the TPV is not in compliance with O.A.C. Rule: 4901:1-26-06(D)(2)(a)(viii)."	OAC 4901:1-26-06(D)(2)(a)(viii)
40	002246	9/16/2019	Edwin Quinonez	"Verde has determined that it is not in compliance with O.A.C. Rule: 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-29-06(E)(1)(f)(ii)

41	005177	9/25/2019	Brandi Williams	"Verde acknowledged noticeable discrepancies between the email address provided along with the voice of the person and the telephone number used to authorize the enrollments in comparison to the account holders. For these reasons, Verde agreed the enrollment should be deemed as a "No Sale". ... Furthermore, Verde has no record of the signed agreement."	OAC 4901:1-21-05(C) (prohibiting any CRES from engaging in "marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES")
					OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
42	004811-004812	10/3/2019	Brandi Williams	"[A]fter careful review of the TPV, Verde agrees that the TPV does not comply with O.A.C. 4901:1-29-05(A)(1)(a)."	OAC 4901:1-29-05(A)(1)(a)
43	005693	10/16/2019	Brandi Williams	"Verde has no record of the sales call associated with this occurrence." Note: This enrollment just occurred on 4/15/19, after the Staff investigation was nearly complete, and Verde already could not locate the sales call as of 10/16/19.	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must retain audio recording of enrollment for one year after contract termination)
44	002126	10/29/2019	Brandi Williams	"Verde acknowledges non-compliance to O.A.C. 4901:1-29-05(A)(1)(a) and 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-29-05(A)(1)(a)
					OAC 4901:1-29-06(E)(1)(f)(ii)
45	002145 - 002146	11/6/2019	Edwin Quinonez	"Due to the longevity of this account, Verde no longer possesses the sales call that was conducted on 2/23/2015 for the CenStar enrollment."	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must retain audio recording of enrollment for one year after contract termination)
46	002252	11/6/2019	Edwin Quinonez	"the TPV was not in compliance with O.A.C. rule: 4901:1-21-06(D)(2)(a)(vii)."	OAC 4901:1-21-06(D)(2)(a)(vii)
47	002131	11/12/2019	Brandi Williams	"Verde has no record of notifying [customer] of her contract expiration..."	OAC 4901:1-21-11(G) (requiring CRES to notify customer of contract expiration)
					OAC 4901:1-21-04(B) ("all records required by this chapter shall be retained for no less than two years").
48	002113	11/14/2019	Brandi Williams	"Verde acknowledges the TPV is not in compliance with OAC 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-29-06(E)(1)(f)(ii)
49	005530	12/9/2019	Edwin Quinonez	"After careful review of the TPV, we would like to acknowledge that it is not in compliance with the following O.A.C. rules: 1. O.A.C. 4901:1-21-06(D)(2)(a)(vii). 2. O.A.C. 4901:1-29-06(E)(1)(g). 3. O.A.C. 4901:1-29-06(E)(1)(h)(ii)."	OAC 4901:1-21-06(D)(2)(a)(vii)
					OAC 4901:1-29-06(E)(1)(g)
					OAC 4901:1-29-06(E)(1)(h)(ii)
50	005006	12/13/2019	Brandi Williams	"Verde has no record of the sales call...."	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must retain audio recording of enrollment for one year after contract termination)
51	004222	12/16/2019	Edwin Quinonez	"Verde acknowledges that the TPV is not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(viii)."	OAC 4901:1-21-06(D)(2)(a)(viii)

52	005302	12/16/2019	Edwin Quinonez	"Verde was unable to retrieve the Sales Call or the Contract Expiration Notices...."	OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
					OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
53	004474	12/23/2019	Brandi Williams	"Verde acknowledges discrepancies in the rate quoted to the customer as being a fixed rate instead of the actual variable month-to-month rate for Verde's Guaranteed Renewable 12 plan, which resulted in Verde not issuing any contract expiration notices to the customer. In addition, Verde acknowledges non-compliance of O.A.C. 4901:1-21-06(D)(1)(e)(ii) and O.A.C. 4901:1-21-06(D)(2)(vi)(j)(viii); for these reasons, Verde agrees the enrollment should be deemed as a 'No Sale'. Furthermore, Verde acknowledges that we have no record of the sales call...."	OAC 4901:1-21-06(D)(1)(e)(ii)
					OAC 4901:1-21-06(D)(2)(vi)(j)(viii)
					OAC 4901:1-21-11(G) (requires a expiration notice 45-90 days before expiration)
					R.C. 4928.10(A)(1) (requiring "adequate, adequate, and understandable pricing" and a "document containing the terms and conditions of pricing and service before the consumer enters into the contract for service")
54	004293	1/9/2020	Edwin Quinonez	"Verde was unable to retrieve the Signed Agreement that was conducted on 05/10/2018."	OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
					OAC 4901:1-29-10(B) (requires CRNGS to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
55	004168	1/10/2020	Edwin Quinonez	"[U]pon review of the TPV, Verde acknowledges that it is not in compliance with O.A.C. 4901:1-21-06(D)(2)(a)(viii). Additionally, due to the longevity of this account, Verde was unable to retrieve the sales call that took place on 12/8/2016."	OAC 4901:1-21-06(D)(2)(a)(viii)
					OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must retain audio recording of enrollment for one year after contract termination)

56	003658	1/31/2020	Brandi Williams	"After careful review of the TPV, Verde acknowledges noticeable discrepancies and agrees the enrollment should be deemed as a 'No Sale'. Furthermore, Verde acknowledges that the account holder ... did not give consent to have the electric service at [address redacted] switched to third party supplier, CenStar. In addition, Verde acknowledges the discrepancy of the electric rate listed on the CenStar Welcome Letter."	R.C. 4928.10(D)(4) ("prohibition against switching, or authorizing switching of, a customer's supplier of competitive retail electric service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures")
					OAC 4901:1-21-05(C) (prohibiting any CRES from engaging in "marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES")
57	003446	2/5/2020	Edwin Quinonez	"[A]fter a careful review of the attached TPV, we have determined that it is not in compliance with the following rules: O.A.C. 4901:1-21-06(D)(2)(a)(viii), O.A.C. 4901:1-29-06(E)(1)(h)(ii).	OAC 4901:1-21-06(D)(2)(a)(viii)
					OAC 4901:1-29-06(E)(1)(h)(ii)
58	004515	2/5/2020	Edwin Quinonez	"[A]fter review of the TPV, Verde acknowledges that it's not in compliance with the following O.A.C. rules: O.A.C. 4901:1-21-06(D)(2)(a)(vii), O.A.C. 4901:1-29-06(E)(1)(g), O.A.C. 4901:1-29-06(E)(1)(h)(ii), O.A.C. 4901:1-21-06(D)(2)(a)(viii), O.A.C. 4901:1-21-06(D)(2)(a)(viii)"	OAC 4901:1-21-06(D)(2)(a)(vii)
					OAC 4901:1-29-06(E)(1)(g)
					OAC 4901:1-29-06(E)(1)(h)(ii)
					OAC 4901:1-21-06(D)(2)(a)(viii)
59	003945	2/6/2020	Brandi Williams	"Verde acknowledges there is no record of the initial sales call upon solicitation of the service."	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must "[r]etain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated")
60	004481	2/6/2020	Brandi Williams	"[D]ue to noticeable discrepancies within the TPV and because has no record of a signed agreement, we agree the enrollment should be deemed as a 'No Sale'."	OAC 4901:1-21-05(C) (prohibiting any CRES from engaging in "marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES")
					OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
61	003608	2/17/2020	Brandi Williams	"Verde has no record of the signed agreement for the electric enrollment completed on 9/19/2018."	OAC 4901:1-21-11(C) (CRES must maintain copies of all individual customer contracts for at least two years after each such contract terminates)

62	004146	2/20/2020	Brandi Williams	"Verde confirms that we determined the person who authorized the enrollment for electric service in 2017 and the telephone number used to enroll electric service in 2017 are not associated with [customer name redacted]. In addition, Verde acknowledges that were [sic] are unable to locate the Welcome Letter, signed contract or Contract Expiration Notice. For these reasons, we have deemed the enrollment to Verde as a 'No Sale'."	R.C. 4928.10(D)(4) ("prohibition against switching, or authorizing switching of, a customer's supplier of competitive retail electric service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures")
					R.C. 4929.22(D)(3) ("prohibition against switching, or authorizing the switching of, a customer's supplier of competitive retail natural gas service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures")
					OAC 4901:1-21-11(C) (requires CRES to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
					OAC 4901:1-29-10(B) (requires CRNGS to maintain copies of all individual customer contracts for at least two years after each such contract terminates)
63	003964	2/27/2020	Brandi Williams	"[B]ecause the rate was offered and billed in the incorrect unit of measure, we agree the enrollment should be deemed as a 'No Sale'."	OAC 4901:1-29-06(E)(1)(f)(ii) ("price per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format.")
64	003713	3/6/2020	Brandi Williams	"Verde acknowledges discrepancies within the Starion TPV and agrees to adjust all charges billed from 3/10/2018 (Starion inception date) until 3/9/2020 (Verde termination date)."	4901:1-21-05(C) (prohibiting any CRES from engaging in "marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES")
65	003732	3/6/2020	Edwin Quinonez	"[W]e're working diligently with Transparent BPO, LLC in attempt to retrieve the sales call that was conducted on 01/26/2018."	OAC 4901:1-21-04(C) (all records to be provided to Staff within three business days of a request)
					OAC 4901:1-21-06(D)(2)(b)(iii) (electric marketer must provide a copy of the audio recording to the PUCO staff within three business days of a request)
66	003771	3/6/2020	Edwin Quinonez	"After review of the attached TPV conducted on 01/09/2019, Verde agrees that it's not in compliance with the following O.A.C. Rules: O.A.C. 4901:1-29-06(E)(1)(g). O.A.C. 4901:1-29-06(E)(1)(h)(ii). O.A.C. 4901:1-21-06(D)(2)(a)(viii). O.A.C. 4901:1-29-06(E)(1)(f)(ii)."	OAC 4901:1-29-06(E)(1)(g)
					OAC 4901:1-29-06(E)(1)(h)(ii)
					OAC 4901:1-21-06(D)(2)(a)(viii)
					OAC 4901:1-29-06(E)(1)(f)(ii)

67	003575	3/12/2020	Edwin Quinonez	"However, after review of the TPV, it was determined that it was not in compliance with the following O.A.C. rule; O.A.C. 4901:1-21-06(D)(2)(a)(vii)."	OAC 4901:1-21-06(D)(2)(a)(vii).
68	003559	3/13/2020	Brandi Williams	"Verde acknowledges no record of the sales call."	OAC 4901:1-21-06(D)(2)(b)(ii) (CRES must "[r]etain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated")
69	003518	3/16/2020	Edwin Quinonez	Verde was unable to provide recording of the sales call to the PUCO Staff within three business days. *Note: this is a description of the email, not a quote.	OAC 4901:1-21-04(C) (all records to be provided to Staff within three business days of a request)
					OAC 4901:1-21-06(D)(2)(b)(iii) (electric marketer must provide a copy of the audio recording to the PUCO staff within three business days of a request)
					OAC 4901:1-29-04(C) (all records to be provided to Staff within three business days of a request)
					OAC 4901:1-29-06(E)(2)(c) (natural gas marketer must provide a copy of the audio recording to the PUCO staff within three business days of a request)
70	003460	3/18/2020	Brandi Williams	"Verde acknowledges discrepancies within the TPV which as of April 2019 have been properly updated and agrees to adjust the charges billed to the utility rate."	OAC 4901:1-21-06(D)(2)(a) (requiring an audio recording verifying all details of the enrollment)
					OAC 4901:1-21-05(C) (prohibiting any CRES from engaging in "marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES")

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**Case No(s). 11-5886-EL-CRS, 13-2164-GA-CRS**

Summary: Comments Initial Comments by The Office of the Ohio Consumers' Counsel  
electronically filed by Mrs. Tracy J Greene on behalf of Healey, Christopher