

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
CONSIDERATION OF A SETTLEMENT  
AGREEMENT BETWEEN MEDIAN ENERGY  
CORP. AND THE COMMISSION'S STAFF.

CASE NO. 20-700-GE-UNC

## FINDING AND ORDER

Entered in the Journal on May 20, 2020

### I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by Median Energy Corp. and Staff, which resolves the marketing and enrollment issues identified in a notice of probable noncompliance issued by Staff on November 18, 2019.

### II. DISCUSSION

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

{¶ 3} Ohio Adm.Code 4901:1-23-04(A) provides that, if Staff and a CRES provider reach agreement regarding the violation of a rule within Ohio Adm.Code Chapter 4901:1-21, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing in a settlement agreement and filed with the Commission for approval. Similarly, Ohio Adm.Code 4901:1-34-05(A) provides that, if Staff and a retail natural gas supplier reach agreement regarding the violation of a rule within Ohio Adm.Code Chapters 4901:1-27 through 4901:1-29, the violation of any provision of R.C. Chapter 4929, the violation of a

Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing and filed with the Commission for approval.

{¶ 4} On November 18, 2019, Staff issued a notice of probable noncompliance (Notice Letter) to Median with respect to certain marketing and enrollment practices. In the Notice Letter, Staff stated that it reviewed investigation records in response to complaints received from customers disputing their enrollment with Median. After reviewing contracts, third-party verification recordings, and responses from Median, Staff determined that some enrollments with Median were being completed by people other than customers. Further, Staff found that information given during the third-party verification did not match the information of Median account holders. Staff identified more than 20 unique Median representatives involved in deceptively enrolling customers over a 13-month period in multiple geographic locations. As a result, Staff found that Median was in probable noncompliance with Ohio Adm.Code 4901:1-21-03(A), 4901:1-29-03(A), 4901:1-21-03(C), 4901:1-29-03(D), 4901:1-21-06(C), 4901:1-29-06(B), 4901:1-21-06(D)(1)(a), 4901:1-29-06(D)(1)(a), 4901:1-21-06(D)(1)(h), and 4901:1-29-06(D)(6)(b).

{¶ 5} As proposed corrective actions, Staff recommended that Median provide a compliance plan that should address, at a minimum, enrollment practices, an auditing process for enrollments, and any other corrective actions to be implemented by Median. Staff further recommended that Median provide a detailed list of agents that have, within the last 12 months, enrolled customers on behalf of Median. Staff also proposed that Median cease all door-to-door marketing and enrollment activities in the state until this matter is resolved. Finally, Staff recommended that a \$200,000 civil forfeiture be imposed against Median for the alleged violations of the Commission's rules.

{¶ 6} On April 3, 2020, Median and Staff (Signatory Parties) filed a joint stipulation and recommendation (Stipulation), which would resolve all of the issues identified by Staff in the Notice Letter issued to Median. The Stipulation noted that the Signatory Parties

engaged in numerous discussions to address the issues raised in the Notice Letter and reached a resolution after such discussions. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

1. Median has implemented or will implement all of the corrective actions proposed in the Notice Letter. Specifically, the Signatory Parties recognize that, to the best of each party's knowledge, Median has performed the following:
  - a. Provided Staff with a detailed compliance plan so that Median can come into compliance with the Commission's rules. The plan includes additional oversights of Median's vendors and various other improved processes.
  - b. On its own volition, suspended all marketing before receiving the Notice Letter's proposed suspension of door-to-door marketing.
  - c. Promptly and adequately responded to Staff's requests for additional information.
2. Median agrees to notify Staff at least 30 days prior to resuming marketing. This notification will include a list of areas, including zip codes, in which Median will recommence its door-to-door marketing so that Staff can monitor complaints.
3. Median agrees to a forfeiture of \$30,000 upon approval of the Stipulation by the Commission. Median agrees to submit payment within 30 days of the issuance of this Finding and Order and shall note on its payment the docket number assigned to this matter.

{¶ 7} The Commission notes that Ohio Adm.Code 4901:1-23-04(A) and 4901:1-34-

05(A) permit Median and Staff to enter into a stipulation for the purpose of resolving any alleged violations of the CRES and CRNGS minimum standards and service requirements. We will, therefore, consider the Stipulation pursuant to our enforcement authority under Ohio Adm.Code Chapters 4901:1-23 and 4901:1-34. The issue before the Commission in this case is whether the Stipulation, which embodies considerable time and effort by the Signatory Parties, is reasonable and should be adopted. The Stipulation states that Median has implemented multiple corrective actions in response to the violations alleged in the Notice Letter. It further states that Median engaged in numerous discussions with Staff to address the issues raised in the Notice Letter and worked cooperatively during those discussions to resolve all of the issues. Accordingly, we find that the Stipulation represents a reasonable resolution of this matter and that it should be approved and adopted in its entirety.

### III. ORDER

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That the Stipulation filed by Median and Staff be adopted and approved. It is, further,

{¶ 10} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 11} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

DMH/kck

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

**Commission of Ohio Docketing Information System on**

**5/20/2020 2:58:37 PM**

**in**

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

Summary: Finding & Order adopting the joint stipulation and recommendation filed by Median Energy Corp. and Staff, which resolves the marketing and enrollment issues identified in a notice of probable noncompliance issued by Staff on November 18, 2019. electronically filed by Kelli C King on behalf of The Public Utilities Commission of Ohio