

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
CONSIDERATION OF A NEW ELECTRONIC
CERTIFICATION PROCESSING SYSTEM
FOR PROVIDERS OF COMPETITIVE RETAIL
ELECTRIC SERVICE AND COMPETITIVE
RETAIL NATURAL GAS SERVICE AND THE
WAIVER OF APPLICABLE PROCEDURAL
RULES CONTAINED IN OHIO ADM.CODE
CHAPTERS 4901:1-24 AND 4901:1-27.

CASE No. 20-1077-GE-WVR

ENTRY

Entered in the Journal on June 3, 2020

I. SUMMARY

{¶ 1} The Commission directs that certain portions of Ohio Adm.Code 4901:1-24-04, 4901:1-27-04, 4901:1-24-08, 4901:1-27-08, 4901:1-24-09, and 4901:1-27-09 be waived to accommodate the expanded functionality of the Commission's web-based system, the PUCO Community, which enables a streamlined process for both competitive retail electric service and competitive retail natural gas service providers to complete new certification applications, complete renewal applications, submit material changes, or abandon their certificates.

II. DISCUSSION

{¶ 2} R.C. 4928.08 states that no electric utility, electric services company, electric cooperative, or governmental aggregator shall provide competitive retail electric service (CRES) to a consumer in this state without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing a financial guarantee sufficient to protect customers and electric distribution utilities from default. Similarly, R.C. 4929.20 states that no governmental aggregator or retail natural gas supplier shall provide competitive retail natural gas service (CRNGS) to a consumer without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing reasonable financial assurances sufficient

to protect customers and natural gas companies from default.

{¶ 3} Ohio Adm.Code Chapters 4901:1-24 and 4901:1-27 consist of the Commission rules governing the certification of CRES and CRNGS providers, respectively. Pursuant to Ohio Adm.Code 4901:1-24-02(C) and Ohio Adm.Code 4901:1-27-02(B), the Commission may waive any requirement of these chapters, other than a requirement mandated by statute, for good cause shown.

{¶ 4} The Supreme Court has found that the Commission is vested with considerable discretion “to decide how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay and eliminate unnecessary duplication of effort.” *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982); see also *Sanders Transfer, Inc. v. Pub. Util. Comm.*, 58 Ohio St.2d 21, 23, 387 N.E.2d 1370 (1979) (“The public utilities commission is invested with a discretion as to its order of business, and there is such a wide latitude of that discretion that this court may not lawfully interfere with it, except in extreme cases.”).

{¶ 5} In *In re the Annual Reports for Calendar Year 2017 for the Fiscal Assessment of All Regulated Entities*, Case No. 18-01-AU-RPT, Entry (Mar. 14, 2018), the Commission introduced a web-based system, the PUCO Community, through which regulated entities can file their annual reports and pay assessments. The Commission now has expanded the functionality of the PUCO Community to provide one system in which CRES and CRNGS providers can complete applications for new certificates, complete renewal applications, submit material changes, or abandon their certificates. Furthermore, the system streamlines internal workflow surrounding certification cases for Commission Staff.

{¶ 6} In order to effectuate the PUCO Community’s new functionality, thereby streamlining the CRES and CRNGS certification process, it is necessary for the Commission to waive certain portions of Ohio Adm.Code Chapters 4901:1-24 and 4901:1-27. Specifically, and only to the extent described below, the Commission finds it appropriate to waive the

following rules:

- (a) Ohio Adm.Code 4901:1-24-04 and Ohio Adm.Code 4901:1-27-04 are waived to the extent that a CRES/CRNGS provider, when failing to file a certification renewal application prior to the expiration of the existing certificate, must now file a certification renewal application under the existing certification case number instead of filing it in a new case. Additionally, if a CRES/CRNGS provider currently requests an extension of the previous certificate under this section, the extension lasts for the duration of the new application review. The portions of these rules addressing the duration of the extension are waived for the purpose of more specifically defining the length of extension allowed. Now, a CRES/CRNGS provider may request, no later than 60 days after the expiration date on the certificate, to extend its previous certificate *for up to 90 days* while the new application is reviewed.
- (b) Ohio Adm.Code 4901:1-24-08(A) and Ohio Adm.Code 4901:1-27-08(A) are waived for the purpose of expanding the types of items that are afforded protective treatment without the filing of a motion for protective order, as described further under subsection (B) for each rule. In addition to financial statements, financial arrangements, and forecasted financial statements, credit reports and credit ratings may be filed under seal without a motion for protective order. If any of these exhibits are filed under seal, they will, consistent with subsection (A) for each rule, be afforded protective treatment for a period of six years from the date of the certificate for which the information is being provided.
- (c) Ohio Adm.Code 4901:1-24-09(A) and Ohio Adm.Code 4901:1-27-09(A) are waived with regard to the requirement that certification renewal applications be filed “no more than sixty calendar days” prior to the

existing certificate's expiration date. Now, CRES/CRNGS providers must file their certification renewal applications no less than 30 and *no more than 90 calendar days* prior to the existing certificate's expiration. Furthermore, the Commission waives the requirement under subsection (B) of each rule that a renewal application filed fewer than 30 calendar days prior to the expiration of the certificate but not later than the expiration date on the certificate must be accompanied by a motion requesting an extension of the certificate. Also, the second sentence of subsection (B) of each rule is waived in its entirety. Now, if a certification renewal application is filed fewer than 30 days prior to the expiration date indicated on the certificate but not later than the expiration date on the certificate, the existing certificate automatically will be extended 31 days from the date the renewal application was accepted by the Commission.

{¶ 7} With regard to the rules governing abandonment applications, Ohio Adm.Code 4901:1-24-12(C) and Ohio Adm.Code 4901:1-27-12(B), no waivers are needed at this time; however, the Commission clarifies that an abandonment application must be filed in the existing certification case for the CRES/CRNGS provider and not in a separate case with a DIS purpose-code classification, "ABN – Application to abandon service."

{¶ 8} Currently, the projected launch date of this new system is June 22, 2020. Leading up to the launch date, the Commission will provide more updates and additional help resources to stakeholders to ensure as smooth of a transition as possible to the new system.

III. ORDER

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That Ohio Adm.Code 4901:1-24-04, 4901:1-27-04, 4901:1-24-08, 4901:1-27-08, 4901:1-24-09, and 4901:1-27-09 be waived to the extent set forth in Paragraph 6. It is, further,

{¶ 11} ORDERED, That, when CRES/CRNGS providers file abandonment applications in accordance with Ohio Adm.Code 4901:1-24-12(C) and Ohio Adm.Code 4901:1-27-12(B), they follow the Commission's clarification of these rules set forth in Paragraph 7. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all investor-owned electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, all regulated gas and natural gas companies in the state of Ohio, all certified retail natural gas suppliers in the state of Ohio, the Ohio Consumers' Counsel, the Ohio Gas Association, the Ohio Petroleum Council, the Ohio Oil and Gas Association, and all other interested persons of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MJS/kck

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Summary: Entry directing that certain portions of Ohio Adm.Code 4901:1-24-04, 4901:1-27-04, 4901:1-24-08, 4901:1-27-08, 4901:1-24-09, and 4901:1-27-09 be waived to accommodate the expanded functionality of the Commission's web-based system, the PUCO Community, which enables a streamlined process for both competitive retail electric service and competitive retail natural gas service providers to complete new certification applications, complete renewal applications, submit material changes, or abandon their certificates electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio