



Public Utilities Commission

Mike DeWine, Governor
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M. Beth Trombold
Lawrence K. Friedman
Dennis P. Deters
Daniel R. Conway

June 15, 2020

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

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

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

Dear Docketing Division:

Enclosed please find Staff's Review and Recommendation in the Matter of the Applications of Verde Energy USA Ohio, LLC for Certification as a Competitive Retail Electric Service Supplier, Case No. 11-5886-EL-CRS, and Competitive Retail Natural Gas Service Supplier, Case No. 13-2164-GA-CRS.

Melissa Scarberry, Utility Specialist
Reliability and Service Analysis Division
Service Monitoring and Enforcement Department
Public Utilities Commission of Ohio

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

In the Matter of the Application of :
Verde Energy USA Ohio, LLC for :
Certification as a Competitive Retail : Case No. 13-2164-GA-CRS
Natural Gas Service Supplier. :

REVIEW AND RECOMMENDATION OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

Background

On April 16, 2019, Staff of the Public Utilities Commission of Ohio (Staff) filed a letter in Verde Energy USA Ohio, LLC's (Verde or Applicant) certification dockets stating that they believed Verde had engaged in misleading and deceptive practices to market and enroll customers. The Commission opened an investigation into the practices of Verde on April 17, 2019 in Case No. 19-0958-GE-COI (COI Case). After months of intensive negotiations, on September 6, 2019, Staff and Verde agreed to and filed a Joint Stipulation in Case No. 19-0958-GE-COI (the Stipulation). On February 26, 2020, the Commission approved the Joint Stipulation.

In the instant matter, Verde filed renewal applications for its competitive retail natural gas service (CRNGS) and competitive retail electric service (CRES) certificates on November 7, 2019 and February 27, 2020, respectively. The renewal applications

were both suspended by the PUCO in order to allow the Commission and Staff additional time to review the applications. On March 3, 2020 the PUCO issued an Entry to, among other things, extend both the CRES and CRNGS certificates to November 1, 2020, and to consolidate the two certification dockets, Case Nos. 11-5886-EL-CRS and 13-2164-GA-CRS. Revised renewal applications were received by the PUCO in both certification dockets on April 24, 2020.

Staff's Review

The standards for reviewing an application for a CRNGS certificate are set forth in R.C. 4929.20 and Ohio Adm.Code 4901:1-27-10, and R.C. 4928.08 and Ohio Adm.Code 4901:1-24-10 for CRES certificates. The language in the rules is substantially similar: The commission will act to approve an application if it finds all of the following: (1) The applicant is managerially, financially, and technically fit and capable of performing the service it intends to provide; (2) The applicant is managerially, financially, and technically fit and capable to comply with all applicable commission rules and orders; and (3) The applicant is able to provide reasonable financial assurances sufficient to protect the utility (EDU or LDC) and the applicant's customers in the event of default. Staff reviews each application to determine whether, in Staff's expert opinion, the applicant meets these standards. For renewal applications, if the applicant has been operating in the State of Ohio and serving customers, Staff is primarily looking to see what, if anything, has changed since the applicant's most recent certificate was issued.

Here, Staff reviewed whether Verde is managerially, financially, and technically fit to continue to provide CRES and CRNGS in Ohio. The financial sections of both applications have also been reviewed by Staff and are in compliance with Ohio Administrative Code. Staff previously expressed concerns with the managerial and technical capabilities of Verde as part of the COI case and requested that these renewal applications be suspended. Through the resolution of the COI Case with the Commission-approved Stipulation, Staff's concerns with Verde's managerial and technical capabilities have been addressed. Circumstances have not changed since the Commission approved the Stipulation, and Staff is unaware of any new facts that would merit a change in Staff's opinion that the Stipulation adequately addresses Verde's previous compliance issues.

Verde implemented numerous changes to its operating procedures in Ohio in response to the COI case. Among other things, there have been at least three changes to Verde's upper management personnel.¹ In addition, the compliance plan Verde provided for Staff's review, pursuant to the Stipulation, is very comprehensive and proposes several significant measures that Staff and Verde believe will address Staff's previous concerns. The plan is very thorough and includes information on new and improved methods for auditing vendors, improved trainings, updated marketing programs, a dedicated Ohio compliance representative, and operational changes that focus on ensuring compliance with Commission rules. The plan also proposes improvements to Verde's records retention program that should alleviate any past issues with Verde's

¹ Verde's managerial changes are explained more fully in the amended application and Verde's Reply to OCC's Initial Comments filed in this case on May 18, 2020.

inability to access or retain certain records and improve Verde's responses to future Staff investigations. Therefore, Staff has approved Verde's plan for implementation.

Recommendation

With the changes implemented by Verde, Staff believes that appropriate steps have been taken to help prevent future issues of non-compliance with Commission rules. Staff has also reviewed and evaluated the certification applications, accompanying exhibits, and amendments. Based on this review, Staff believes the applications filed by Verde Energy USA Ohio, LLC, as amended, demonstrate that Verde has the financial, managerial, and technical capabilities to continue to provide CRES and CRNGS in Ohio. Therefore, Staff recommends that the Commission approve Verde's renewal applications.

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in

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

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