

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ENTRY

Entered in the Journal on October 30, 2020

{¶ 1} Verde Energy USA Ohio, LLC d/b/a Verde Energy (Verde or Company) is an electric services company as defined in R.C. 4928.01 and a retail natural gas supplier as defined in R.C. 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, Verde 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.

{¶ 2} R.C. 4928.08 states that no electric services company shall provide a 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 retail natural gas supplier shall provide a 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} On March 28, 2012, the Commission granted Verde's application for certification as a CRES provider in this state. *In the Matter of the Application of Verde Energy USA Ohio, LLC for Certification as a Competitive Retail Electric Service Provider*, Case No. 11-5886-EL-CRS. Verde timely filed renewal applications for certification as a CRES provider every two years pursuant to Ohio Adm.Code 4901:1-24-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4928.08. Verde's most recent renewal application as a CRES supplier in this state was filed on February 27, 2020.

{¶ 4} Additionally, on December 9, 2013, the Commission granted Verde's application for certification as a CRNGS supplier in this state. *In the Matter of the Application of Verde Energy USA Ohio, LLC for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 13-2164-GA-CRS. Verde timely filed renewal applications for certification as a CRNGS provider every two years pursuant to Ohio Adm.Code 4901:1-27-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4929.20. Verde's most recent renewal application as a CRNGS supplier in this state was filed on November 7, 2019, and was suspended on December 4, 2019, in order to permit the Commission to review the matter further.

{¶ 5} On April 16, 2019, Staff of the Commission's Service Monitoring and Enforcement Department (Staff) filed a letter in Verde's certification dockets, stating that, after reviewing customer contacts from October 1, 2018, to April 12, 2019, as well as Verde's responses, Staff believed that Verde had engaged in misleading and deceptive practices to market and enroll customers, as well as violating several requirements of Ohio Adm.Code Chapter 4901:1-21 and 4901:1-29. Staff stated that it had received 481 customer contacts regarding Verde's provision of CRES and CRNGS. Of the 481 customer contacts, 231 customer contacts (approximately 57 percent) were related to enrollment disputes, misleading information, and false representations wherein Verde allegedly purported to be another utility. Further, as reported by Staff, 18 percent of supplier-related investigations open for review and resolution with Staff were in reference to Verde as of April 15, 2019.

{¶ 6} By Entry dated April 17, 2019, the Commission opened an investigation into alleged unfair, deceptive, or unconscionable acts or practices in this state by Verde and issued a procedural schedule which set the matter for hearing. Subsequently, on February 26, 2020, the Commission approved a joint stipulation and recommendation entered by Staff and Verde (Stipulation). *In the Matter of the Commission's Investigation into Verde Energy USA Ohio, LLC's Compliance with the OAC and Potential Remedial Actions for Non-Compliance*, Case No. 19-958-GE-COI, Opinion and Order (Feb. 26, 2020). The Stipulation purported to resolve all outstanding issues presented in Case No. 19-958-GE-COI. According to the Stipulation, Verde voluntarily ceased all marketing and customer enrollment activities in Ohio, and Staff and Verde agreed that this suspension by Verde of all marketing activities and customer enrollment in Ohio will continue until October 30, 2020, for a total of 18 months. *Id.* at ¶¶ 17-18.

{¶ 7} Both R.C. 4928.08 and 4929.20 allow the Commission to suspend, rescind, or conditionally rescind the certification of any electric services company or retail natural gas supplier issued under these sections if the Commission determines, after reasonable notice and opportunity for hearing, that the electric services company or retail natural gas supplier has failed to comply with any applicable certification standards or has engaged in anticompetitive or unfair, deceptive, or unconscionable acts or practices in this state.

{¶ 8} By Entry issued March 3, 2020, the attorney examiner, among other things, set a procedural schedule in the above matters and suspended Verde's February 27, 2020 renewal certification application filed in Case No. 11-5886-EL-CRS. Additionally, the attorney examiner extended Verde's current CRES and CRNGS certifications to November 1, 2020.

{¶ 9} On March 9, 2020, the Governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are

required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety.

{¶ 10} As a result of the Executive Order, beginning March 13, 2020, the Commission reduced on-site staffing, and most employees began working from home to reduce exposure to COVID-19.

{¶ 11} On March 24, 2020, the attorney examiner granted a joint motion for extension of time for all case deadlines filed by Verde, the Ohio Consumers' Counsel (OCC), and Staff, and set a new procedural schedule, including a hearing to be held on July 23, 2020, if deemed necessary following a review of the comments and Staff's recommendation.

{¶ 12} By Entry issued July 16, 2020, the attorney examiner continued the tentative July 23, 2020 evidentiary hearing to a date to be established by future entry given the current state of emergency with respect to the COVID-19 pandemic and to allow the Commission additional time to review the comments filed in these proceedings.

{¶ 13} On October 23, 2020, Verde filed a motion to extend the Company's current CRES and CRNGS certification until the Commission enters a decision on Verde's applications to renew those certifications. Specifically, Verde argues that an extension is necessary to allow the Company to continue to serve its existing Ohio customers pending a Commission decision on the renewal applications. Verde argues that the Company will not be enrolling new Ohio customers unless and until the Commission approves Verde's pending renewal applications. Further, Verde believes that its request for an extension of its current CRES and CRNGS certifications is solely to permit continued and uninterrupted service to the Company's existing Ohio customers. Additionally, Verde requests an expedited ruling in accordance with Ohio Adm.Code 4901-1-12(C) in light of the fact that Verde's certifications expire on November 1, 2020. Verde represents that the Company

consulted with Staff and OCC in advance of its filing, and Staff does not oppose the relief requested. Verde states that OCC could not agree to not oppose the Company's motion.

{¶ 14} On October 29, 2020, OCC filed a memorandum contra Verde's motion. Therein, OCC states that it does not oppose a brief continuation of Verde's certificates for reasons of continuity of service to the Company's Ohio customers. However, OCC notes Verde's services should be continued only for the consumer protection of an orderly transition for consumers from service by Verde. OCC opposes an indefinite extension of Verde's certifications.

{¶ 15} Upon review of Verde's motion and OCC's memorandum contra, the attorney examiner finds it appropriate to grant, in part, Verde's motion. The attorney examiner agrees with OCC that the extension shall not be indefinite. Accordingly, in order to permit continued service to existing customers, Verde's current CRES and CRNGS certifications shall expire on December 31, 2020, unless otherwise ordered by the Commission.

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That Verde's motion for an extension of its current CRES and CRNGS certifications is granted in part. It is, further,

{¶ 18} ORDERED, That, to permit service to existing customers, Verde's current CRES and CRNGS certifications expire on December 31, 2020, unless otherwise ordered by the Commission. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Lauren L. Augostini

By: Lauren L. Augostini
Attorney Examiner

GAP/hac

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/30/2020 1:56:53 PM

in

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

Summary: Attorney Examiner Entry ordering that Verde's motion for an extension of its current CRES and CRNGS certifications is granted in part and to permit service to existing customers, Verde's current CRES and CRNGS certifications expire on December 31, 2020, unless otherwise ordered by the Commission electronically filed by Heather A Chilcote on behalf of Lauren L. Augostini, Attorney Examiner, Public Utilities Commission of Ohio