

## 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 ON REHEARING

Entered in the Journal on February 24, 2021

#### I. SUMMARY

{¶ 1} The Commission grants the application for rehearing filed by the Ohio Consumers' Counsel on January 29, 2021, for the purpose of further consideration of the matters specified in the application for rehearing.

#### II. DISCUSSION

{¶ 2} 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.

{¶ 3} 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.

{¶ 4} 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.

{¶ 5} 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.

{¶ 6} 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.

{¶ 7} 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 re 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 (*Investigation Case*), 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 would continue until October 30, 2020, for a total of 18 months. *Id.* at ¶¶ 17-18.

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} 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.

{¶ 11} 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.

{¶ 12} 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.

{¶ 13} On April 24, 2020, Verde filed amended applications for both its CRES and CRNGS certification applications in the respective dockets, which were intended to account for substantial changes and updates to Verde's managerial and technical personnel.

{¶ 14} Subsequently, on May 4, 2020, OCC filed initial comments on Verde's amended applications. Verde filed its reply to OCC's initial comments on May 18, 2020.

{¶ 15} On June 15, 2020, Staff filed its review and recommendation (Staff Report).

{¶ 16} 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.

{¶ 17} On July 20, 2020, Verde filed a notice of a material change to its CRES and CRNGS applications. Therein, Verde represented that it received a notice from the Ohio Attorney General's Office that it decided to close its consumer protection investigation into Verde. This investigation was disclosed to the Commission in Exhibit B-4 of Verde's amended renewal application for CRNGS certification and Exhibit B-3 of Verde's amended renewal application for CRES certification.

{¶ 18} On October 23, 2020, Verde filed a motion to extend the Company's current CRES and CRNGS certification until the Commission entered a decision on Verde's applications to renew those certifications. By Entry issued October 30, 2020, the attorney examiner granted, in part, Verde's motion, which permitted the Company to continue service to existing customers until December 31, 2020.

{¶ 19} On December 30, 2020, the Commission issued a Finding and Order that, among other things, approved Verde's renewal applications for certification as a CRES and CRNGS provider.

{¶ 20} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days of the entry of the order upon the Commission's journal.

{¶ 21} On January 29, 2021, OCC filed an application for rehearing in the captioned cases alleging two assignments of error with respect to the Commission's December 30, 2020 Finding and Order approving Verde's renewal applications.

{¶ 22} On February 8, 2021, Verde filed a memorandum contra OCC's application for rehearing.

{¶ 23} Upon consideration, the Commission believes that sufficient reason has been set forth by OCC to warrant further consideration of the matters specified in the application for rehearing. Accordingly, the application for rehearing filed by OCC should be granted.

### III. ORDER

{¶ 24} It is, therefore,

{¶ 25} ORDERED, That the application for rehearing filed by OCC on January 29, 2021, be granted for further consideration of the matters specified in the application for rehearing. It is, further,

{¶ 26} ORDERED, That a copy of this Entry on Rehearing be served upon each party of record.

COMMISSIONERS:

*Approving:*

M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

LLA/hac

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

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Summary: Entry granting the application for rehearing filed by the Ohio Consumers' Counsel on January 29, 2021, for the purpose of further consideration of the matters specified in the application for rehearing. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio