

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 April 14, 2021

{¶ 1} Verde Energy USA Ohio, LLC d/b/a Verde Energy (Verde) 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 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.

{¶ 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 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.

{¶ 10} On January 29, 2021, the Ohio Consumers' Counsel (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.

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

{¶ 12} Subsequently, on February 24, 2021, the Commission granted OCC's application for rehearing for further consideration of the matters specified in the application for rehearing.

{¶ 13} On April 7, 2021, OCC filed a request in the above-captioned cases that the Commission's Docketing Division publicly file certain documents which were previously filed under seal by Verde. In support of its request, OCC claims that the Commission denied Verde's motion for protective order in its December 30, 2020 Finding and Order, and the information previously redacted should be made available to the public consistent with R.C. 4901.12 and 4905.07.

{¶ 14} At this time, the attorney examiner finds it appropriate to allow Verde to file a response to OCC's request. Accordingly, any such response should be filed in the above-captioned case dockets by April 28, 2021.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That Verde file any response to OCC's April 7, 2021 request by April 28, 2021. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Lauren L. Augostini

By: Lauren L. Augostini
Attorney Examiner

NJW/hac

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in

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

Summary: Attorney Examiner Entry ordering that Verde file any response to OCC's April 7, 2021 request by April 28, 2021 electronically filed by Heather A Chilcote on behalf of Lauren L. Augustini, Attorney Examiner, Public Utilities Commission of Ohio