

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Annual Reports for</b>	)	
<b>Calendar Year 2020 for the Fiscal</b>	)	<b>Case No. 21-01-AU-RPT</b>
<b>Assessment of all Regulated Entities.</b>	)	

**APPLICATION FOR REHEARING  
OF  
ARROW ENERGY RRH LLC**

Arrow Energy RRH LLC (“Arrow”) submits this application for rehearing of the July 28, 2021 Finding and Order of the Public Utilities Commission of Ohio (“Commission”), as corrected in the Entry *Nunc Pro Tunc* dated August 11, 2021. Arrow respectfully requests that the Commission reverse its decision to impose forfeitures against Arrow as set forth in paragraph 7 of the Finding and Order. Arrow submits that the forfeitures assessed against it are unjust, unwarranted and should be changed because:

1. Arrow reasonably thought that the 2020 annual reports were not necessary since annual reports were not listed for Arrow in the PUCO Community like in years past.

Arrow withdrew its December 2019 requests to renew its Ohio certificates and did not serve any Ohio customers in 2020 or any other time.<sup>1</sup> It, therefore, did not question when annual reports for Arrow were not listed in the PUCO Community (while reports for an affiliate were listed). When Arrow subsequently learned in August 2021 that annual reports were needed, Arrow promptly requested that the PUCO Community accounts be unlocked in accordance with the process outlined in the Commission’s August 12, 2021 Entry *Nunc Pro Tunc*, and successfully submitted the two annual reports on August 17, 2020. Under the circumstances, the Commission

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<sup>1</sup> *In the Matter of the Application for Certificate as a Competitive Retail Electric Supplier*, Case No. 15-2085-EL-CRS, Notice (January 8, 2020) and *In the Matter of the Application for Certificate as a Competitive Retail Natural Gas Supplier*, Case No. 15-2086-GA-CRS, Notice (January 8, 2020).

should conclude that good cause exists to grant rehearing, and reverse its Finding and Order so that no forfeitures are assessed on Arrow.

Respectfully Submitted,

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*Counsel for Arrow Energy RRH LLC*

**MEMORANDUM IN SUPPORT  
OF THE APPLICATION FOR REHEARING  
OF ARROW ENERGY RRH LLC**

**I. Background**

Arrow was first certified to provide competitive retail energy services in Ohio in January 2016. Arrow was certified to provide competitive retail electric services in Ohio under certificate number 16-1041E. *In the Matter of the Application for Certificate as a Competitive Retail Electric Supplier*, Case No. 15-2085-EL-CRS. Arrow was certified to provide competitive retail natural gas services in Ohio under certificate number 16-494G. *In the Matter of the Application for Certificate as a Competitive Retail Natural Gas Supplier*, Case No. 15-2086-GA-CRS. In December 2019, Arrow applied to renew both certificates, but decided to withdraw the applications and filed notices in both dockets to that effect. Both certificates expired on January 16, 2020. Cancellation notices were filed on the dockets thereafter. Arrow did not serve any customers in Ohio under the certificates.

By Entry issued on January 27, 2021, in this docket, the Commission directed all regulated entities to submit an annual report for fiscal assessment to the Commission for calendar year 2020.<sup>2</sup> The Commission further directed the regulated entities to submit the 2020 annual reports through the PUCO Community by April 30, 2021.

**II. Argument**

As reflected in the attached affidavit of Lisa Hawkins, the Chief Financial Officer of RRH Energy Services LLC, annual reports were not listed for Arrow in the PUCO Community like in years past, but they were listed for one of its affiliates – Kiwi Energy NY LLC. Arrow thought the listing was correct because it had withdrawn its 2019 certificate renewal applications, and

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<sup>2</sup> *In the Matter of the Annual Reports for the Fiscal Assessment for Calendar Year 2020*, Case No. 21-01-AU-RPT, Entry at ¶ 4 (January 27, 2021).

therefore annual reports for calendar year 2020 were not necessary. In addition, Arrow had no sales in 2020. Arrow did not intentionally fail to submit the 2020 annual reports. Under the circumstances, there is good cause for the Commission to reverse on rehearing its ruling assessing forfeitures against Arrow.<sup>3</sup>

Arrow worked promptly to submit the 2020 annual reports when it learned that its certificates had been in effect in 2020 -- a mere 16 days. As confirmed in Ms. Hawkins' affidavit, Arrow's corrective actions were prompt. It requested that the appropriate PUCO Community accounts be unlocked the day after the Commission's Entry *Nunc Pro Tunc* was issued, which included an important explanation on how to request access to the accounts in the PUCO Community. Also, Arrow completed the two 2020 annual reports and submitted them through the PUCO Community on August 17, 2021. Arrow's corrective actions demonstrate not only its desire to fix the error promptly, but also demonstrate its good faith intention to comply with the Commission's requirements.

There was negligible harm caused by the delay in receiving Arrow's 2020 annual reports. The submitted reports reflect zero sales and do not affect the fiscal assessment calculations. The impact of the delay in receiving the Arrow annual reports would be negligible under these circumstances.

Finally, the Commission has reversed forfeiture rulings under circumstances when there had been a good faith belief that an annual report was not necessary. For example, in 2020, the Commission reversed its forfeiture ruling against Nextel West and Nextel WIP after they were not listed in the PUCO Community as requiring 2019 reporting forms for telecommunications relay service. *In the Matter of the Annual Reports for the Fiscal Assessment of Telecommunications*

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<sup>3</sup> Based on the Commission's July Finding and Order, it appears the Commission ordered its Staff to assess two \$1,000 forfeitures against Arrow -- one for not submitting the 2020 annual report associated with services under its electric certificate and the other for not submitting the 2020 annual report associated with services under its natural gas certificate.

*Relay Service for Calendar Year 2019*, Case No. 20-03-TP-RPT, Entry on Rehearing at ¶ 18 (October 21, 2019). Also, in 2019, the Commission reversed itself and concluded no forfeiture should be assessed against Really Objective LLC and Miami Valley Communications Council. *In the Matter of the Annual Reports for Calendar Year 2018 for the Fiscal Assessment of All Regulated Entities*, Case No. 19-01-AU-RPT, Entry on Rehearing at ¶¶ 6 and 10 (October 9, 2019). Like Arrow, those entities had not provided competitive services pursuant to their certificates. The Commission should follow its precedent and reverse its forfeiture ruling against Arrow, as it did for Nextel West, Nextel WIP, Really Objective LLC and Miami Valley Communications Council.

### **III. Conclusion**

As noted above and reflected in Ms. Hawkins' attached affidavit, Arrow believed in good faith that its annual reports were not necessary and did not intentionally fail to submit the annual reports. When Arrow learned about the outstanding status of the annual reports, it worked quickly to gain access to the appropriate accounts and submit the reports. There was no harm caused by the delay and the Commission has waived forfeitures in similar circumstances involving other annual reports used to generate assessments. For all of these reasons, good cause exists to reverse the forfeiture ruling against Arrow.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

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*Counsel for Arrow Energy RRH LLC*

AFFIDAVIT OF LISA HAWKINS

STATE OF NEW YORK                     )  
COUNTY OF KINGS                     ) SS:

Lisa Hawkins, having been first duly sworn, declares and states as follows:

1. I am the CFO of RRH Energy Services LLC ("RRH"). I oversee the accounting department, which is tasked with preparation and submission of the annual reports for fiscal assessment to the Public Utilities Commission of Ohio ("PUCO").
2. On April 26, 2021, a member of our accounting department prepared and submitted the annual reports for 2020 for Kiwi Energy LLC identified in the PUCO Community system as operating in Ohio. The PUCO Community did not list Arrow Energy LLC ("Arrow") as needing 2020 annual reports.
3. Myself and our accounting department are aware of the annual report filing requirements for service providers in Ohio and we intended to timely comply with this regulatory obligation for all of RRH companies to which the requirement applied.
4. On August 5, 2021, I received notice that the 2020 annual reports for Arrow had not been submitted. A member of our accounting department promptly checked the PUCO Community system to prepare the reports for submission. After the PUCO Staff authorized access, a member of our accounting department prepared and submitted the two annual reports on August 17, 2021.
5. I have reviewed the attached Application for Rehearing in Case No. 21-01-AU-RPT. To the best of my knowledge, the information and statements contained in the Application for Rehearing are true and correct.

  
\_\_\_\_\_  
Lisa Hawkins

Attachment A to Arrow Energy RRH LLC's Application for Rehearing

Sworn to before me and signed in my presence this 27<sup>th</sup> day of August 2021.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 1/27/2022

**SAMANTHA LIPSKY**  
Notary Public - State of New York  
No. 01LI6296169  
Qualified in Kings County  
My Commission Expires 01/27/2022

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Summary: App for Rehearing Application for Rehearing electronically filed by Mrs. Gretchen L. Petrucci on behalf of Arrow Energy RRH, LLC