

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE ANNUAL
REPORTS FOR CALENDAR YEAR 2020 FOR
THE FISCAL ASSESSMENT OF ALL
REGULATED ENTITIES.

CASE NO. 21-01-AU-RPT

SECOND ENTRY ON REHEARING

Entered in the Journal on January 26, 2022

I. SUMMARY

{¶ 1} The Commission grants rehearing to the December 15, 2021 Second Finding and Order and rescinds forfeitures as discussed further below.

II. DISCUSSION

A. *Procedural Background*

{¶ 2} Pursuant to R.C. 4905.10, by Entry issued January 27, 2021, in Case No. 21-01-AU-RPT, the Commission directed all regulated entities to file a 2020 annual report for fiscal assessment through the Commission's web-based filing system known as the PUCO Community by April 30, 2021. A list of all regulated entities who were instructed to file a 2020 annual report was attached to the January 27, 2021 Entry in Case No. 21-01-AU-RPT.

{¶ 3} All regulated entities were put on notice that the Commission expected timely compliance regarding the filing of the 2020 annual report. All regulated entities were advised that a civil forfeiture of up to \$10,000, may be assessed, pursuant to R.C. 4905.54, against any company that fails to comply by the April 30, 2021 annual report filing deadline absent good cause shown. Such forfeiture would be in addition to any amounts owed to the Commission.

{¶ 4} By Finding and Order issued July 28, 2021, the Commission disclosed those regulated entities and service providers listed in the attachment to the Finding and Order that failed to file an annual report by the April 30, 2021 deadline. As each of the companies listed in the attachment to the Finding and Order failed to submit a 2020 annual report by

the deadline, the Commission directed Staff to assess a civil forfeiture of \$1,000 on these companies pursuant to R.C. 4905.54 for the failure to file a 2020 annual report. Furthermore, each listed company was instructed to file its 2020 annual report by August 27, 2021, through the Commission's web-based filing system known as the PUCO Community.

{¶ 5} The Commission delayed the effective date of the forfeitures assessed through the July 28, 2021 Finding and Order for 30 days in order to afford the companies listed in the attachments an opportunity to file an application for rehearing pursuant to R.C. 4903.10.

{¶ 6} By Entry on Rehearing issued on September 23, 2021, the Commission granted rehearing and canceled the forfeitures against three entities that complied with the July 28, 2021 Finding and Order by timely filing the required annual report information.

{¶ 7} Pursuant to R.C. 4905.10, the Commission is to make a final determination of the annual assessment against all regulated entities and to notify the affected entities of the amount to be remitted to the Commission by the first day of November of that year.

{¶ 8} In a Second Finding and Order issued on December 15, 2021, the Commission identified those regulated entities that had failed to remit the required annual assessment by the November 1 filing deadline and assessed a civil forfeiture against those entities that had failed to comply. The Commission delayed the effective date of the forfeitures assessed through the December 15, 2021 Second Finding and Order for 30 days in order to afford the companies listed in the attachment an opportunity to file an application for rehearing pursuant to R.C. 4903.10.

{¶ 9} R.C. 4903.10 provides that, in any uncontested proceeding, any affected person may file an application for rehearing within 30 days after the entry of any final Commission order. In addition, R.C. 4903.10 requires that an application for rehearing must set forth the specific ground or grounds upon which the applicant considers the order to be unreasonable or unlawful.

B. *Consideration of the Applications for Rehearing***1. *Talen Energy Marketing, LLC Application for Rehearing***

{¶ 10} On January 12, 2022, an application for rehearing of the December 15, 2021 Second Finding and Order was filed by Talen Energy Marketing, LLC (Talen). Talen submits that good cause exists to grant rehearing and reverse the civil forfeiture order against it. In support, Talen asserts that it did not remit the assessment payment by the due date due to an isolated and inadvertent administrative error. More specifically, Talen states that different personnel within the company thought the other was handling the payment and, as a result, it was inadvertently not sent to the Commission by the November 2021 deadline. Talen submits that when it was notified by the Commission through the December 15, 2021 Second Finding and Order of its delinquency, Talen took immediate steps to pay the assessment prior to the January 14, 2022 rehearing deadline. Under these circumstances, Talen believes a reversal of the civil forfeiture is warranted.

{¶ 11} Talen has established good cause for granting its application for rehearing. Accordingly, the forfeiture rendered against Talen for failure to remit timely its annual assessment is rescinded. Talen is instructed to take the steps necessary to ensure that future annual assessments are timely remitted to the Commission.

2. *IDT Energy, Inc. Application for Rehearing*

{¶ 12} An application for rehearing in the annual report docket, Case No. 21-01-AU-RPT, was filed on January 13, 2022, by IDT Energy, Inc. (IDT). In support, IDT asserts that it intended to make payment by the November 1, 2021 deadline but due to an IDT accounts payable computer issue the check was not sent out as intended. Upon receiving the past due notice from the Commission on or about November 15, 2021, IDT claims that it sent a check to the Commission for its 2020 fiscal assessment via US mail on or about November 16, 2021. IDT asserts that it was not aware that the Commission had not received the initial check until issuance of the December 15, 2021 Second Finding and Order. IDT then immediately remedied this issue by sending a new check to the Commission which was

delivered and accepted by the Commission on December 23, 2021. IDT claims that its late payment is an isolated mistake caused by an accounts payable issue and a check which was apparently lost by the postal service. For these reasons, IDT requests that the Commission rescind the forfeiture imposed upon it by the December 15, 2021 Second Finding and Order.

{¶ 13} The Commission determines that IDT has established good cause to grant rehearing and to cancel the forfeiture outlined in the December 15, 2021 Second Finding and Order against IDT.

3. *CenStar Energy Corp. Application for Rehearing*

{¶ 14} CenStar Energy Corp. (CenStar) filed an application for rehearing on January 14, 2022, requesting that the Commission reverse the two civil forfeitures imposed against CenStar for not remitting a total of \$100 in annual assessment payments by the November 2021 deadline. CenStar claims good cause exists for granting this application for rehearing due to an inadvertent administrative error. CenStar states that it did submit the required assessment payments prior to the issuance of the Second Finding and Order on December 15, 2021, which assessments were cashed by the Commission on December 22, 2021. CenStar asserts that its certificates of public convenience and necessity for both gas and electric operations were properly abandoned in August 2020 and that the company no longer provides regulated services in Ohio.

{¶ 15} The Commission determines that CenStar has established good cause to grant rehearing and to cancel the two \$1,000 forfeitures assessed by the December 15, 2021 Second Finding and Order against CenStar.

4. *Choose Energy, Inc. Application for Rehearing*

{¶ 16} Choose Energy, Inc. filed an application for rehearing of the December 15, 2021 Second Finding and Order on January 14, 2022. Choose Energy explains that the failure to remit timely the Commission gas assessment was not intentional but rather was the result of resolving an error in its electric assessment. When notified of the gas assessment

delinquency, Choose Energy asserts that it remitted the gas assessment on or about November 29, 2021, and the Commission's records reflect that the gas assessment has been paid in full. Given these circumstances, Choose Energy requests that the Commission grant rehearing and waive the forfeiture that was imposed on Choose Energy.

{¶ 17} Choose Energy has established good cause for granting its application for rehearing. Accordingly, the forfeiture rendered against Choose Energy for failure to remit timely its annual assessment is rescinded.

5. *Generation Pipeline LLC Application for Rehearing*

{¶ 18} An application for rehearing in the annual report docket, Case No. 21-01-AU-RPT, was filed on January 14, 2022, by Generation Pipeline LLC (Generation). Generation asserts that the imposition of a forfeiture against it is unreasonable as Generation did not receive the assessment invoice but paid the assessment immediately upon becoming aware of the issue. Further explaining, Generation claims that it did not receive the invoice because its contact information, while correct in its timely filed annual report, was inadvertently not updated for its PUCO Community account. Under these circumstances, Generation requests that the Commission grant this application for rehearing and reverse the forfeiture.

{¶ 19} The Commission determines that Generation has established good cause to grant rehearing and to cancel the forfeiture outlined in the December 15, 2021 Second Finding and Order against Generation.

III. ORDER

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That rehearing be granted and/or the forfeitures canceled in accordance with Paragraphs 11, 13, 15, 17, and 19. It is, further,

{¶ 22} ORDERED, That notice of this Second Entry on Rehearing be served via the Electric-Energy, Gas-Pipeline, Railroad, Telephone, and Water industry listservs; directly

upon each company contact for the companies discussed in this Entry on Rehearing; and upon all other interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JRJ/mef

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Case No(s). 21-0001-AU-RPT

Summary: Entry on Rehearing granting rehearing to the December 15, 2021
Second Finding and Order and rescinding forfeitures as discussed further herein.
electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission
of Ohio