

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
CONSIDERATION OF A SETTLEMENT
AGREEMENT BETWEEN AMBIT
NORTHEAST LLC, AND THE
COMMISSION'S STAFF.

CASE NO. 22-128-EL-UNC

FINDING AND ORDER

Entered in the Journal on May 18, 2022

I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by Ambit Northeast LLC, and Staff, which resolves the marketing and enrollment issues identified in a notice of probable noncompliance issued by Staff on June 9, 2021.

II. DISCUSSION

{¶ 2} Ambit Northeast LLC (Ambit) is an electric services company as defined in R.C. 4928.01; is certified to provide competitive retail electric service (CRES) under R.C. 4928.08; and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16. Additionally, Ambit is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21.

{¶ 3} Ohio Adm.Code 4901:1-23-04(A) provides that, if Staff and a CRES provider reach agreement regarding the violation of a rule within Ohio Adm.Code Chapter 4901:1-21, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing in a settlement agreement and filed with the Commission for approval.

{¶ 4} On June 9, 2021, Staff issued a notice of probable noncompliance (Notice Letter) to Ambit with respect to certain marketing and enrollment practices. In the Notice Letter, Staff stated that it received complaints from customers disputing their enrollment with Ambit. Staff reviewed investigation records from consumer complaints along with information provided by Ambit in response to those complaints. Based on its review, Staff

found evidence that Ambit enrolled customers without the customer's knowledge or consent.¹ As a result, Staff found that Ambit was in probable noncompliance with Ohio Adm.Code 4901:1-21-03(A), 4901:1-21-03(C), 4901:1-21-05(C), and 4901:1-21-06(C).

{¶ 5} As proposed corrective actions, Staff recommended that Ambit provide a compliance plan that should address, at a minimum, enrollment practices, an auditing process for enrollments, tracking IP address, and any other corrective actions to be implemented by Ambit. Staff further recommended that Ambit audit all enrollments since January 1, 2021, and provide to Staff a list of attempted enrollments during that period along with other information about those enrollments. Additionally, if any enrollment is suspect, Ambit should contact the customer to confirm that the customer intended to enroll, drop any customer that did not want to enroll, re-rate and provide a refund to the customer the difference in the amounts charged and the electric distribution utilities standard service offer rate, and provide documentation of such to Staff. Staff also recommended that Ambit cease all residential and small commercial enrollment activities in the state until this matter is resolved. Finally, Staff recommended that a \$40,000 civil forfeiture be imposed against Ambit for the alleged violations of the Commission's rules.

{¶ 6} On February 16, 2022, Ambit and Staff (Signatory Parties) filed a joint stipulation and recommendation (Stipulation), which would resolve all the issues identified by Staff in the Notice Letter issued to Ambit. Ambit conducted an audit of its enrollments from February 1, 2021, to June 20, 2021. The Stipulation states that the Signatory Parties engaged in discussions to address the issues raised in the Notice Letter and reached a resolution after such discussions. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

¹ Staff also states in the Notice Letter that Ambit was sent a notice of probable non-compliance for the same issue in October 2018.

- 1) All Ambit representatives referring Ohio customers to Ambit's electric or gas services will receive incremental training on enrollment procedures and slamming prohibitions. Training materials will be submitted to Staff for review at the time of execution of this Stipulation, and incremental training will be implemented following such review.
- 2) Ambit audited all enrollments within the period of February 1, 2021, to June 20, 2021, to identify any customers that may not have been properly enrolled. Ambit identified 19 of 114 customers that may not have been properly enrolled. Of the 19 customers, Ambit was unable to reach 18 of them in its effort to verify intent to enroll. Therefore, those 18 customers were dropped back to the utility default service.
- 3) Ambit will add an audit (Audit) to its compliance plan requiring that it will review 25% of all enrollments on a monthly basis for the next 18 months after signing of this Stipulation to verify customer information and the customer's intent to enroll. As part of the Audit, Ambit will check customer name, address, email addresses, and telephone numbers to assist in verifying the customer's identity and intent to enroll. Further, the company will implement a process to start collecting and retaining IP addresses from enrollments six months from the signing of this Stipulation and will include IP addresses as a data point for monitoring in the Audit.
- 4) For any enrollment that Ambit identifies as questionable under the Audit, Ambit will attempt to contact each customer for the purpose of doing the following:
 - a) Verify whether the customer intended to enroll with Ambit;
 - b) Drop any customer who did not want to enroll and waive any fees; and
 - c) Re-rate those customers for the time they were with Ambit back to their utility's default rate.

- 5) Ambit agrees to a forfeiture of \$20,000 upon approval of this Stipulation by the Commission. Ambit agrees to submit payment, by certified check or money order made payable to "Treasurer, State of Ohio," to: Public Utilities Commission of Ohio, Attention: Fiscal Division, 180 E. Broad St., Columbus, OH 43215-3793. The payment shall be paid within thirty (30) days of the entry approving this Stipulation and shall note Case No. 22-128-EL-UNC.

{¶ 7} The Commission notes that Ohio Adm.Code 4901:1-23-04(A) permits Ambit and Staff to enter into a stipulation for the purpose of resolving any alleged violations of the CRES minimum standards and service requirements. We will, therefore, consider the Stipulation pursuant to our enforcement authority under Ohio Adm.Code Chapter 4901:1-23. The issue before the Commission in this case is whether the Stipulation, which embodies considerable time and effort by the Signatory Parties, is reasonable and should be adopted. The Stipulation states that Ambit has implemented multiple corrective actions in response to the violations alleged in the Notice Letter. The Stipulation further states that Ambit engaged in discussions with Staff to address the issues raised in the Notice Letter and worked with Staff to resolve the issues. Accordingly, we find that the Stipulation represents a reasonable resolution of this matter and that it should be approved and adopted in its entirety.

III. ORDER

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That the Stipulation filed by Ambit and Staff be adopted and approved. It is, further,

{¶ 10} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 11} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

JWS/mef

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Case No(s). 22-0128-EL-UNC

Summary: Finding & Order adopting the joint stipulation and recommendation filed by Ambit Northeast LLC, and Staff, which resolves the marketing and enrollment issues identified in a notice of probable noncompliance issued by Staff on June 9, 2021 electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio