

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation of RPA Energy, Inc.'s)	
Compliance with the Ohio)	Case No. 22-441-GE-COI
Administrative Code and Potential)	
Remedial Actions for Non-)	
Compliance)	

**MOTION TO EXTEND THE PROCEDURAL SCHEDULE
AND CONTINUE THE HEARING
AND MOTION FOR LEAVE TO FILE AMENDED STAFF REPORT
BY PUBLIC UTILITIES COMMISSION OF OHIO**

The Public Utilities Commission of Ohio (“Commission”) is investigating electric and natural gas marketer RPA Energy, Inc. d/b/a Green Choice Energy (“RPA”) for unfair, deceptive, and unconscionable acts and practices in marketing energy services to Ohio consumers.¹ Staff of the Commission (Staff) moves for leave² to file an Amended Staff Report. Staff also moves³ for an extension of time in the procedural schedule and for a continuance of the hearing. Under the current schedule, testimony is due July 27, 2022 and the evidentiary hearing is set to begin on August 10, 2022. Staff requests that the date to file objections to the Amended Staff Report be set for August 10, 2022, the date to file testimony be extended to August 24, 2022 and that the evidentiary hearing begin on September 7, 2022.

There is good cause for Staff’s motions. RPA has violated additional rules of

¹ Entry, ¶ 1 (April 20, 2022).
² Under O.A.C. 4901-1-12.
³ Under O.A.C. 4901-1-13.

law by refusing to respond to Staff's data requests, which required Staff to file this Motion for Leave to Amend Staff Report to include these more recent violations of law and file this Motion for Extension of the Procedural Schedule and to Continue the Hearing to allow time for the parties to raise objections to the Amended Staff Report.

Staff cannot certify that no party opposes these motions. The reasons for these motions are set forth more fully in the accompanying memorandum in support.

Respectfully submitted,

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Robert Eubanks

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**On Behalf of the Staff of the
Public Utilities Commission of Ohio**

MEMORANDUM IN SUPPORT

MEMORANDUM

This case involves Staff's investigation of electric and natural gas marketer RPA Energy, Inc. d/b/a Green Choice Energy ("RPA") for unfair, deceptive, and unconscionable acts and practices in marketing energy services to Ohio consumers.⁴ Among other things such as spoofing, RPA has been accused of manipulating telemarketing sales calls of consumer's who allegedly agreed to RPA's services. Manipulating sale calls to fraudulently sign-up costumers for a marketer's services is one of the most egregious violation of law that can be committed by a marketer and a violation that no Ohio resident should have to suffer.

To assist Staff in its review of audio recordings submitted by RPA Energy to the Commission in response to customer complaints, Call Center investigations, and data requests, Staff contracted with Owen Forensic Services, LLC. Staff sent several recordings to Owen Forensic Services, LLC for examination and authentication. After examination, Owen Forensic Services, LLC identified several acoustic anomalies in the recordings, but due to RPA Energy's refusal to provide the make, model, and manual for the software and hardware used to make the recordings, even after Staff's legal counsel exchanged emails with RPA, the full evaluation could not be completed.

⁴ Entry, ¶ 1 (April 20, 2022).

After opening this case and filing of the Staff Report, Staff again requested information regarding how recordings are stored, exported, and saved to help determine authenticity of the sales call recordings. In addition, Staff again requested the Company provide a sales call that was not provided when requested prior to the Staff Report filing. RPA's Counsel of Record advised, "The company is not obligated to respond to Staff DRs at this stage of the proceeding and, based on my advice, will not be revisiting prior DRs or responses."⁵

Accordingly, in accordance with Ohio Adm.Code 4901-1-12, for good cause shown, Staff seeks leave to file its Amended Staff Report to include RPA's refusal to fully respond to Staff's data requests. RPA's refusal to provide to Staff the requested data, in violation of Ohio Adm.Code 4901:21-04(A) and Ohio Adm.Code 4901:1-29-04(A), prevents Staff from completing its investigation and should be included in the Staff Report as yet another unconscionable act committed by RPA.

Additionally, in accordance with Ohio Adm.Code 4901-1-13(A), Staff seeks an extension of the procedural schedule, for good cause shown, to allow time for the parties time to raise objections to the Amended Staff Report. Under the current schedule, testimony is due July 27, 2022 and the evidentiary hearing is set to begin on August 10, 2022. Staff requests that the date to file objections to the Amended Staff Report be set for August 10, 2022, the date to file testimony be extended to August 24, 2022 and that the evidentiary hearing begin on September 7, 2022.

⁵ Attached to the Amended Staff Report are the various communication between Staff and RPA documenting Staff's reasonable request for data and RPA's refusal to supply such data.

CONCLUSION

For these reasons, Staff respectfully requests that the Commission grant Staff's Motion for Leave to File Amended Staff Report and Staff's Motion to Extend the Procedural Schedule and Continue the Hearing moving testimony and hearing dates to August 10, 2022 and September 7, 2022, respectively, and setting August 24, 2022 as the date to file objections to the Amended Staff Report.

Respectfully submitted,

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Robert Eubanks

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**On Behalf of the Staff of the
Public Utilities Commission of Ohio**

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing **Motion to Extend Procedural Schedule and Continue the Hearing and Motion for Leave to File Amended Staff Report** has been served upon the following parties via electronic transmission this 21st day of July 2022.

/s/ Robert Eubanks
Robert Eubanks
Assistant Attorney General

The Commission's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Case No(s). 22-0441-GE-COI

Summary: Motion To Extend The Procedural Schedule And Continue The Hearing
And Motion For Leave To File Amended Staff Report By Public Utilities Commission
Of Ohio electronically filed by Mrs. Kimberly M. Naeder on behalf of PUCO