

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Reports for)	
Calendar Year 2021 for the Fiscal)	Case No. 22-01-AU-RPT
Assessment of All Regulated Entities.)	

**APPLICATION FOR REHEARING
OF
NATIONAL GAS & ELECTRIC, LLC**

Pursuant to R.C. 4903.10, National Gas & Electric, LLC (“NG&E”) respectfully requests rehearing of the Public Utilities Commission of Ohio’s June 29, 2022 Finding and Order issued in this proceeding. NG&E’s sole assignment of error is: The Commission’s assessment is unjust and unreasonable and should be reversed because NG&E did not receive notice of the deadline and the 2021 Annual Reports did not appear on NG&E’s PUCO Community account.

Upon reviewing the Commission’s June Finding and Order, NG&E promptly requested that the PUCO Staff modify NG&E’s PUCO Community account so that it could submit its 2021 Annual Reports. NG&E submitted the two outstanding reports on July 5, 2022. NG&E requests that the Commission find that good cause exists to reverse its decision to impose two forfeitures totaling \$2,000 against NG&E.

I. Background

NG&E holds two certificates to provide competitive retail services in Ohio under certificate numbers 16-1036E and 16-495G, and held them in 2021. *See In the Matter of the Application of National Gas & Electric, LLC for Certification as a Competitive Retail Electric Service Provider*, Case No. 15-2125-EL-CRS, and *In the Matter of the Application of National Gas & Electric, LLC for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 15-2126-GA-CRS.

The Commission directed all service providers that were regulated in 2021 to submit an annual report for fiscal assessment based on each certificate/authorization held. The Commission

set the deadline as April 29, 2022, and ordered the providers to use the Commission's PUCO Community to submit the reports. *In the Matter of the Annual Reports for Calendar Year 2021 for the Fiscal Assessment of All Regulated Entities*, Case No. 22-01-AU-RPT, Entry at ¶¶ 4 and 14 (January 26, 2022). On June 29, 2022, the Commission identified NG&E as one of the entities that did not remit 2021 Annual Reports by the April 29, 2022 deadline. In addition, the Commission ordered NG&E to submit its outstanding 2021 Annual Reports by July 29, 2022, and assessed a \$1,000 civil forfeiture against NG&E for each outstanding annual report, but delayed the effectiveness of the forfeitures to allow for the filing and consideration of an application for rehearing. *Id.*, Finding and Order at ¶¶ 7-9 (June 29, 2022).

NG&E acted quickly upon learning of the June 29, 2022 Finding and Order. NG&E promptly requested that the PUCO Staff modify NG&E's PUCO Community account so that it could submit its 2021 Annual Reports. NG&E prepared both reports and submitted its Annual Reports for calendar year 2021 on July 5, 2022.

II. Standard for Rehearing

R.C. 4903.10 states that any affected person, firm, or corporation may make an application for a rehearing within 30 days after the entry of any final order upon the journal of the Commission. The application for rehearing must be in writing and must set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful. In addition, the statute provides that, on rehearing, if the "[C]ommission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the [C]ommission may abrogate or modify the same."

III. Argument

NG&E did not intentionally fail to submit the 2021 Annual Reports. Rather, NG&E did not submit them timely due to unfortunate circumstances. NG&E did not receive notice from the

Commission of the annual report submission deadline. In addition, the 2021 Annual Reports did not appear on NG&E's PUCO Community account. However, after learning of the Commission's June 29, 2022 Finding and Order, NG&E acted promptly to correct the situation. First, NG&E reached out to the Staff about the PUCO Community account, and then prepared and submitted both annual reports for calendar year 2021 on July 5, 2022. Thus, both reports were promptly submitted only a few business days after the June 2022 Finding and Order was issued. There has been no harm caused by the brief delay in receiving the 2021 Annual Reports from NG&E. For these reasons alone, the Commission should find that there is good cause to lift the forfeitures against NG&E.

In addition, the Commission has found good cause to lift a forfeiture in similar situations involving a delayed submission caused by the lack of notice such as through an omitted listing in, or inability to access, the PUCO Community, or because of unintentional administrative error. The Commission should follow its precedent and reverse the forfeiture rulings against NG&E. For instance, last year, the Commission reversed a forfeiture ruling against Arrow Energy RRH, LLC ("Arrow") when the annual reports were not listed in its PUCO Community account. *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, Entry on Rehearing at ¶14 (September 23, 2021). Similarly, the Commission reversed a forfeiture ruling against Choose Energy Inc. ("Choose"), after that provider was unable to obtain access to its PUCO Community account and submitted its 2020 annual reports after the 2021 deadline. *Id.* at ¶16. As a final example, the Commission found good cause to lift a forfeiture that had been assessed against New Wave Energy Corporation ("New Wave") following its failure to timely submit its 2018 electric annual report because of an inadvertent error by an employee – New Wave's personnel mistakenly believed that both of its electric and natural gas annual reports had been submitted timely, but discovered after the deadline

that one report had not been submitted by the deadline. *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, 11, 14 (October 9, 2019). These situations involved delayed submissions and are similar to NG&E's situation involving its delayed 2021 Annual Reports. The Commission should follow its precedent and again find that good cause exists to lift the forfeiture ruling against NG&E, as it did for Arrow, Choose and New Wave.

IV. Conclusion

As noted above, NG&E did not intentionally fail to submit the 2021 Annual Reports; nonetheless, it was delayed in remitting the reports because NG&E did not receive notice of the deadline and the 2021 Annual Reports did not appear on NG&E's PUCO Community account. NG&E, however, corrected the situation promptly and both reports were submitted only a few days after the Commission's June 29, 2022 Finding and Order. There likely was no harm caused by the brief delay in receiving the 2021 Annual Reports from NG&E. A reversal of the \$2,000 forfeiture ruling is warranted, similar to other Commission situations where the Commission lifted other forfeiture orders. For all of these reasons, good cause exists to reverse the two \$1,000 forfeitures against NG&E.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 28th day of July 2022 upon all persons/entities listed below:

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Summary: App for Rehearing - Application for Rehearing electronically filed by Mrs.
Gretchen L. Petrucci on behalf of National Gas & Electric, LLC