

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
INVESTIGATION INTO RPA ENERGY  
INC.'S COMPLIANCE WITH THE OHIO  
ADMINISTRATIVE CODE AND POTENTIAL  
REMEDIAL ACTIONS FOR NON-  
COMPLIANCE.

CASE NO. 22-441-GE-COI

### ENTRY

Entered in the Journal on October 4, 2022

{¶ 1} RPA Energy, Inc. d/b/a Green Choice Energy (RPA) is an electric services company as defined in R.C. 4928.01 and a retail natural gas supplier as defined in R.C. 4929.01; is certified to provide competitive retail electric service (CRES) under R.C. 4928.08 and to supply competitive retail natural gas service (CRNGS) under R.C. 4929.20; and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16 and R.C. 4929.24. Accordingly, RPA is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21, as well as the minimum CRNGS standards set forth in Ohio Adm.Code Chapter 4901:1-29.

{¶ 2} R.C. 4928.08 states that no electric services company shall provide a CRES to a consumer in this state without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing a financial guarantee sufficient to protect customers and electric distribution utilities from default. Similarly, R.C. 4929.20 states that no retail natural gas supplier shall provide a CRNGS to a consumer without first being certified by the Commission regarding its managerial, technical, and financial capability to provide that service and providing reasonable financial assurances sufficient to protect customers and natural gas companies from default.

{¶ 3} On October 5, 2016, the Commission granted RPA's application for certification as a CRES provider in this state. RPA timely filed renewal applications for certification as a CRES provider every two years pursuant to Ohio Adm.Code 4901:1-24-09; its first renewal application was automatically approved by the Commission pursuant to

R.C. 4928.08. RPA's most recent renewal application was filed on September 1, 2020; this renewal application was approved by the Commission on November 18, 2020. *In the Matter of the Application of RPA Energy, Inc. for Certification as a Competitive Retail Electric Service Provider in Ohio*, Case No. 16-892-EL-CRS. Additionally, on July 20, 2016, the Commission granted RPA's application for certification as a CRNGS supplier in this state. RPA timely filed renewal applications for certification as a CRNGS provider every two years pursuant to Ohio Adm.Code 4901:1-27-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4929.20. RPA's most recent renewal application was filed on June 21, 2022; this renewal application was suspended by attorney examiner entry on July 19, 2022. *In the Matter of the Application of RPA Energy Inc. for Certification as a Competitive Retail Natural Gas Marketer*, Case No. 16-893-GA-CRS.

{¶ 4} Both R.C. 4928.08 and 4929.20 allow the Commission to suspend, rescind, or conditionally rescind the certification of any electric services company or retail natural gas supplier issued under these sections if the Commission determines, after reasonable notice and opportunity for hearing, that the electric services company or retail natural gas supplier has failed to comply with any applicable certification standards or has engaged in anticompetitive or unfair, deceptive, or unconscionable acts or practices in this state. Additionally, R.C. 4928.16 and 4929.24 grant the Commission the authority to order any remedy or forfeiture provided under R.C. 4905.54 to 4905.60 and 4905.64, and to order restitution to customers and rescission of customer contracts.

{¶ 5} On April 18, 2022, Staff of the Commission's Service Monitoring and Enforcement Department filed a letter in the above-captioned docket, stating that, after reviewing customer contacts received by the Commission's call center from January 1, 2021, to October 1, 2021, as well as an audio recording provided by RPA, Staff believes that RPA has engaged in a pattern of misleading and deceptive marketing and enrollment practices during both door-to-door and telephone sales. Staff stated that, on October 16, 2021, a notice of probable non-compliance (notice) was sent to RPA; however, after many discussions, RPA and Staff were unable to resolve the issues raised in the notice. As a result of its

conclusions indicating probable non-compliance with statutory and rule requirements, Staff recommended that the Commission open a formal proceeding to review RPA's compliance with Ohio law. Further, Staff noted that, at the urging of Staff, RPA ceased marketing in Ohio after receiving the notice. Staff requested that the Commission order RPA to continue the suspension of marketing pending the outcome of the investigation.

{¶ 6} On April 20, 2022, the Commission found that a hearing should be held at which RPA shall, among other things, have the opportunity to respond to the findings contained in the notice and show cause why its certification as a CRES provider and its certification as a CRNGS supplier should not be suspended, rescinded, or conditionally rescinded. The Commission established a procedural schedule whereby motions to intervene were to be filed by May 18, 2022, a Staff Report was to be filed by June 10, 2022, testimony was to be filed by June 24, 2022, and an evidentiary hearing was scheduled for July 11, 2022. The procedural schedule was subsequently altered by Entries filed on June 22, 2022, July 26, 2022, and August 25, 2022.

{¶ 7} On September 16, 2022, RPA filed a motion to temporarily suspend the procedural schedule established by Entry on August 25, 2022. RPA also requested a prehearing conference be held to discuss the procedural schedule.

{¶ 8} On September 23, 2022, the prehearing conference occurred as scheduled. During the conference, the parties discussed the upcoming testimony and hearing dates. The attorney examiner stated during the conference that the due date of testimony should be moved to September 30, 2022, and that the hearing should be rescheduled to commence on October 19, 2022.

{¶ 9} On September 30, 2022, RPA filed its testimony and a motion for protective order.

{¶ 10} On October 3, 2022, Staff filed a motion to extend the procedural schedule to October 3, 2022, where it had some technical difficulties in filing the testimony of witness

Nedra Ramsey, ultimately depositing with the Commission's Docketing Division on September 30, a flash drive containing the audio files related to Ms. Ramsey's testimony. Staff sent Ms. Ramsey's narrative testimony to the parties via e-mail. Staff notes that it has communicated with both RPA and OCC, who do not oppose its motion. Where Staff's motion is unopposed and it has shown good cause, the attorney examiner finds the motion to extend the procedural schedule is reasonable and should be granted.

{¶ 11} On October 4, 2022, Staff filed a motion for protective order

{¶ 12} At this time, the attorney examiner finds that the procedural schedule should be modified and reinstated. The testimony due date shall be extended to October 3, 2022, and the evidentiary hearing shall commence on October 19, 2022.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That Staff's motion to extend the procedural schedule be granted. It is, further,

{¶ 15} ORDERED, That the procedural schedule be reinstated, with testimony being due by October 3, 2022, and the evidentiary hearing commencing on October 19, 2022, in accordance with Paragraph 12. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Jesse M. Davis

By: Jesse M. Davis  
Attorney Examiner

JRJ/dmh

**This foregoing document was electronically filed with the Public Utilities  
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**in**

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

Summary: Attorney Examiner Entry ordering that Staff's motion to extend procedural schedule be granted; the procedural schedule be reinstated, with testimony being due October 3, 2022, and the evidentiary hearing commencing on October 19, 2022 in accordance with Paragraph 12 electronically filed by Ms. Donielle M. Hunter on behalf of Jesse M. Davis, Attorney Examiner, Public Utilities Commission of Ohio