

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 31, 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 practices to market and enroll customers during both door-to-door and telephonic sales practices. 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, August 25, 2022, September 19, 2022, October 4, 2022, and October 17, 2022.

{¶ 7} On October 19, 2022, Staff filed a motion to allow one of its witnesses to testify virtually or in-person on an alternative date.

{¶ 8} On October 21, 2022, the attorney examiner denied in-part and granted in-part Staff's motion for its expert witness, Jennifer Owen, to testify on an alternative date.

{¶ 9} On October 26, 2022, the evidentiary hearing commenced as scheduled in the Entry of October 17, 2022.

{¶ 10} At this time, the attorney examiner finds it appropriate to schedule a continuation of the evidentiary hearing commensurate with party discussions held during and after the hearing occurred. On November 9, 2022, the hearing will recommence to hear the testimony of the Office of the Ohio Consumers' Counsel's witness James Williams, and

on November 10, 2022, the evidentiary hearing will recommence to hear the testimony of the remaining witnesses. The hearing shall occur at 10:00 a.m. at the offices of the Commission, 11th Floor, Hearing Room 11-D, 180 East Broad Street, Columbus, Ohio 43215. All parties or interested persons should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That, in accordance with Paragraph 10, the evidentiary hearing shall recommence on November 9, 2022, and again on November 10, 2022. It is, further,

{¶ 13} 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/mef

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

10/31/2022 12:56:29 PM

in

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

Summary: Attorney Examiner Entry scheduling the continuation of the evidentiary hearing for November 9, 2022, and November 10, 2022, as detailed herein electronically filed by Ms. Mary E. Fischer on behalf of Jesse M. Davis, Attorney Examiner, Public Utilities Commission of Ohio