

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
ASTRAL ENERGY LLC FOR
CERTIFICATION AS A COMPETITIVE
RETAIL ELECTRIC SERVICE PROVIDER.

CASE NO. 15-654-EL-CRS

IN THE MATTER OF THE APPLICATION OF
ASTRAL ENERGY LLC FOR
CERTIFICATION AS A COMPETITIVE
RETAIL NATURAL GAS SUPPLIER.

CASE NO. 16-2076-GA-CRS

FINDING AND ORDER

Entered in the Journal on November 1, 2023

I. SUMMARY

{¶ 1} The Commission authorizes Duke Energy Ohio, Inc., Ohio Power Company d/b/a AEP Ohio, and FirstEnergy to terminate Astral Energy LLC's participation in their electric supplier programs. Additionally, the Commission authorizes Staff to cancel Astral Energy LLC's certificates to operate as a competitive retail electric service provider and competitive retail natural gas supplier if Astral Energy LLC fails to comply with the Commission's directives in this Finding and Order.

II. DISCUSSION

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio), Duke Energy Ohio, Inc. (Duke), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively FirstEnergy) are each an electric light company as defined by R.C. 4905.03 and a public utility as defined in R.C. 4905.02 and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} Astral Energy LLC (Astral) is a retail natural gas supplier as defined in R.C. 4929.01, is certified to provide competitive retail natural gas service (CRNGS) under R.C. 4929.20, and is subject to the jurisdiction of this Commission pursuant to R.C. 4929.24.

Accordingly, Astral is required to comply with the Commission's minimum CRNGS standards set forth in Ohio Adm.Code Chapter 4901:1-29 and is subject to the certification provisions of Ohio Adm.Code Chapter 4901:1-27. Astral is also an electric services company as defined in R.C. 4928.01(A)(9), is certified to provide competitive retail electric service (CRES) under R.C. 4928.08, and is subject to the jurisdiction of the Commission pursuant to R.C. 4928.16. Thus, Astral is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21 and is subject to the certification provisions of Ohio Adm.Code Chapter 4901:1-24. Moreover, as a certified CRES supplier, Astral is subject to the terms of the supplier agreement and tariff of each of the electric distribution utilities, including provisions governing the relationship with certified retail electric service providers pursuant to R.C. 4928.10 and Ohio Adm.Code Chapter 4901:1-10.

{¶ 4} Astral's most recent certification renewal application to provide CRNGS was filed in Case No. 16-2076-GA-CRS on October 3, 2022, and stated that Astral intended to provide service to residential, commercial, and industrial customers in the service areas of Duke, Dominion Energy Ohio, CenterPoint Energy Ohio, and Columbia Gas of Ohio, Inc. The application was approved, and Astral's CRNGS certificate was renewed until November 21, 2024.

{¶ 5} Astral's most recent certification renewal application to provide CRES was filed in Case No. 15-654-EL-CRS on April 3, 2023, and stated that Astral intended to provide service to residential, commercial, and industrial customers in the AES Ohio, AEP Ohio, Duke, and FirstEnergy service territories. The application was approved, and Astral's CRES certificate was renewed until May 4, 2025.

{¶ 6} Ohio Adm.Code 4901:1-13-14(I) provides that, in the event of a material default, as defined by a natural gas company's tariff or by an agreement between the natural gas company and the retail natural gas supplier, the natural gas company will serve a written notice of such default in reasonable detail and with a proposed remedy to the retail

natural gas supplier and the Commission. The rule also states that, on or after the date the default notice has been served, the natural gas company may file with the Commission a written request for authorization to terminate or suspend the retail natural gas supplier from participation with the natural gas company's supplier program. The rule specifies that, if the default is due to underdelivery or nondelivery and the Commission or an attorney examiner does not act within five business days after receipt of the request, the natural gas company's request to terminate or suspend will be deemed authorized on the sixth business day. Notwithstanding this provision, Ohio Adm.Code 4901:1-13-14(I)(5) further states that all terminations or suspensions are to be authorized by the Commission.

{¶ 7} Here, no natural gas company has filed a request to terminate or suspend Astral from participation with the natural gas company's supplier program. Additionally, the Commission does not have record of Astral currently serving as supplier for any natural gas consumers within the state.

{¶ 8} Further, Ohio Adm.Code 4901:1-24-11 requires CRES suppliers to inform the Commission of any material change to the information supplied in a certification renewal application within 30 calendar days of such material change. Ohio Adm.Code 4901:1-24-11(A). Among other items, "material change" includes the filing for reorganization, protection from creditors, or any other form of bankruptcy with any court. Ohio Adm.Code 4901:1-24-11(B)(6).

{¶ 9} On October 12, 2023, in Case No. 15-654-EL-CRS, AEP Ohio filed correspondence to inform the Commission of Astral's default status and a request to commence the process of moving affected customers back to default service. AEP Ohio states that the U.S. Bankruptcy Court sent notice that Astral filed for bankruptcy on August 25, 2023. AEP Ohio asserts that Astral is no longer in business and is unable to transmit drop transactions in order to return customers to AEP Ohio's Standard Service Offer (SSO). Further, AEP Ohio explains that a trustee was appointed in the bankruptcy

case to operate Astral's business and to transition affected customers to SSO service. AEP Ohio explains that it will create drop transactions to return customers to the SSO on scheduled meter read dates after Commission approval. AEP Ohio also notes that impacted customers¹ may switch to another supplier through the normal process. AEP Ohio, therefore, requests authorization to terminate Astral's participation in its electric supplier program and to return those customers to the default service tariffs, as well as authorization to implement the requested termination and transfer of customers.

{¶ 10} On October 17, 2023, Duke filed a similar notification of default and request for authorization to terminate participation. Duke notes that the U.S. Bankruptcy Court ordered Astral's customers to be returned to the default provider as soon as possible. Accordingly, Duke asks the Commission to authorize Duke to terminate Astral's participation in its electric services supplier program and to return Astral's customers² to Duke's SSO. Duke adds that it will honor all incoming switches to new suppliers and that customers may spend a brief time on the SSO until the switch can be effectuated.

{¶ 11} On October 31, 2023, FirstEnergy filed a notice of default and request to terminate or suspend its supplier coordination agreement with Astral, in accordance with the terms of its supplier tariff. FirstEnergy states that due to its bankruptcy filing, Astral is in default on its tariff and supplier coordination agreements. FirstEnergy notes that customers who were served by Astral and who will be returned to FirstEnergy's SSO will not experience an interruption in service.

{¶ 12} To date, Astral has filed no response to the requests of Duke, AEP Ohio, and FirstEnergy for authority to terminate Astral's participation in their respective supplier programs. Additionally, Astral has not filed a notice of material change within 30 days of

¹ AEP Ohio currently serves ten customers by Astral.

² Duke currently has two customers served by Astral.

filing for bankruptcy, as required by Ohio Adm.Code 4901:1-27-11(A) and (B)(6) and Ohio Adm.Code 4901:1-24-11(A) and (B)(6).

{¶ 13} Upon review of the notices filed by Duke, AEP Ohio, and FirstEnergy, the Commission finds that the electric companies should be authorized to terminate Astral's participation in their respective CRES provider programs. In accordance with any directives of the U. S. Bankruptcy Court, Astral should work together with FirstEnergy, AEP Ohio, and Duke to effectuate an orderly transition of Astral's customers to the default service provided by each of the utilities or to an alternate supply option requested by the customer.

{¶ 14} We note that the utilities should delay the termination of Astral's participation in their respective supplier programs until all existing customers have been transitioned. The Commission emphasizes that the customers being served by Astral will not experience any interruption of electric service while they are transitioned to another supplier or supply option. The Commission will continue to monitor this situation and take any additional action deemed necessary.

{¶ 15} Ohio Adm.Code 4901:1-27-13(A) states that, after reasonable notice and the opportunity for a hearing, the Commission may, upon its own motion or upon complaint, suspend, rescind, or conditionally rescind a retail natural gas supplier's certificate, in whole or in part, for good cause shown. Ohio Adm.Code 4901:1-27-13(E)(10) provides that the Commission may suspend, rescind, or conditionally rescind a retail natural gas supplier's certificate if the supplier has committed an act of default as defined by a natural gas company's tariff or by agreement between the natural gas company and the supplier.

{¶ 16} Additionally, Ohio Adm.Code 4901:1-27-11(A) provides that, after notice and an opportunity for a hearing, the Commission may suspend, rescind, or conditionally rescind a retail natural gas supplier's certificate if it determines that a material change to the information supplied in the most recent certification renewal application will adversely affect the retail natural gas supplier's fitness or ability to provide the services for which it is

certified or to provide reasonable financial assurances sufficient to protect natural gas companies and the regulated sales service customers from default. Ohio Adm.Code 4901:1-27-11(B)(6) clarifies that material changes include filing for reorganization, protection from creditors, or any other form of bankruptcy with any court.

{¶ 17} Likewise, Ohio Adm.Code 4901:1-24-11(A)(2) provides that, after notice and an opportunity for a hearing, the Commission may suspend, rescind, or conditionally rescind a CRES provider's certificate if it determines that a material change to the information supplied in the most recent certification renewal application will adversely affect the CRES provider's fitness or ability to provide the services for which it is certified to provide. Ohio Adm.Code 4901:1-24-11(B)(6) provides that material changes include a CRES provider's filing for reorganization, protection from creditors, or any other form of bankruptcy with any court.

{¶ 18} In light of Astral's bankruptcy, as well as the notification of Astral's material default provided by AEP Ohio, Duke, and FirstEnergy, the Commission finds that Astral should be afforded an opportunity to request a hearing as to whether its CRES and CRNGS certificates should be rescinded. Any such request should be filed by November 15, 2023. Alternatively, Astral should immediately file an application to abandon its certificates, as required under Ohio Adm.Code 4901:1-27-12(B) and Ohio Adm.Code 4901:1-24-12(B). However, if Astral does not request a hearing or file an application to abandon its certificates by November 15, 2023, Staff is hereby directed to cancel Astral's certificates.

III. ORDER

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That, consistent with this Finding and Order, AEP Ohio, Duke, and FirstEnergy be authorized to terminate Astral from their respective supplier programs. It is, further,

{¶ 21} ORDERED, That, in accordance with any directives of the U. S. Bankruptcy Court, Astral work with AEP Ohio, Duke, and FirstEnergy to effectuate an orderly transition of Astral's customers to the default service provided by each of the utilities or to an alternate supply option requested by the customer. It is, further,

{¶ 22} ORDERED, That Astral, AEP Ohio, Duke, and FirstEnergy continue to advise the Commission's Service Monitoring and Enforcement Department as to their progress in transitioning customers to default service or to an alternate supply option requested by the customer. It is, further,

{¶ 23} ORDERED, That Staff cancel Astral's certificates to provide CRES and CRNGS if Astral does not comply with the directives in Paragraph 18. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

JWS/dr

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Case No(s). 15-0654-EL-CRS, 16-2076-GA-CRS

Summary: Finding & Order that the Commission authorizes Duke Energy Ohio, Inc., Ohio Power Company d/b/a AEP Ohio, and FirstEnergy to terminate Astral Energy LLC's participation in their electric supplier programs. Additionally, the Commission authorizes Staff to cancel Astral Energy LLC's certificates to operate as a competitive retail electric service provider and competitive retail natural gas supplier if Astral Energy LLC fails to comply with the Commission's directives in this Finding and Order electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.