

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
CONSIDERATION OF A SETTLEMENT
AGREEMENT BETWEEN DIRECT ENERGY
SERVICES, LLC AND THE COMMISSION'S
STAFF.

CASE NO. 22-583-GE-UNC

ENTRY

Entered in the Journal on March 11, 2024

{¶ 1} Direct Energy Services, LLC (Direct Energy) 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, Direct Energy 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} Ohio Adm.Code 4901:1-23-04(A) provides that, if Staff and a CRES provider reach agreement regarding the violation of a rule within Ohio Adm.Code Chapter 4901:1-21, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing in a settlement agreement and filed with the Commission for approval. Similarly, Ohio Adm.Code 4901:1-34-05(A) provides that, if Staff and a retail natural gas supplier reach agreement regarding the violation of a rule within Ohio Adm.Code Chapters 4901:1-27 through 4901:1-29, the violation of any provision of R.C. Chapter 4929, the violation of a Commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, the agreement must be reduced to writing and filed with the Commission for approval.

{¶ 3} On June 10, 2022, Direct Energy and Staff (Signatory Parties) filed a joint stipulation and recommendation (Stipulation). Attached to the Stipulation was a notice of

probable noncompliance (Notice Letter) issued by Staff on June 9, 2021, to Direct Energy with respect to certain record keeping, marketing and enrollment practices, and billing issues. In its Notice Letter, Staff proposed corrective actions to address the issues of probable noncompliance. The Stipulation, as proposed, would resolve all of the issues identified by Staff in the Notice Letter. The Stipulation notes that the Signatory Parties engaged in numerous discussions to address the issues raised in the Notice Letter and reached a resolution after such discussions.

{¶ 4} On July 1, 2022, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene.

{¶ 5} July 18, 2022, Direct Energy filed a memorandum contra the motion to intervene. OCC filed a reply to Direct Energy's memorandum contra on July 23, 2022.

{¶ 6} By Entry dated September 16, 2022, the attorney examiner granted OCC's motion to intervene.

{¶ 7} On September 21, 2022, Direct Energy filed a request to certify to the Commission an interlocutory appeal of the decision to grant OCC's motion to intervene in the September 16, 2022 Entry.

{¶ 8} On September 26, 2022, OCC timely filed a memorandum contra Direct Energy's interlocutory appeal.

{¶ 9} By Entry dated June 20, 2023, the attorney examiner denied certification of Direct Energy's interlocutory appeal and established a procedural schedule, directing the parties to file initial comments by July 12, 2023, and reply comments by July 26, 2023.

{¶ 10} Initial comments were filed by Direct Energy on July 12, 2023, and reply comments were filed by OCC on July 26, 2023. In its initial comments, Direct Energy supports the Stipulation and generally argues that it satisfies the Commission's standards for such agreements. In its reply comments, OCC does not state opposition to the

Stipulation but submits that several provisions of the Stipulation should be modified to better protect retail consumers.

{¶ 11} On February 1, 2024, by Entry, the attorney examiner established a new procedural schedule in the case, with testimony due on March 12, 2024, and a hearing to occur on March 19, 2024.

{¶ 12} On March 8, 2024, Staff, Direct Energy, and OCC (collectively Joint Movants) filed a joint motion to extend the testimony deadline, request for expedited treatment, and memorandum in support. Joint Movants cite to ongoing negotiations as the circumstance which provides good cause for their unopposed, joint motion to be granted. Joint Movants request the testimony deadline be extended from March 12, 2024, to March 15, 2024, and state that they do not believe that there is any need to move the hearing date from March 19, 2024.

{¶ 13} Ohio Adm.Code 4901-1-12(C) provides that any motion may include a specific request for an expedited ruling, the grounds for which shall be set forth in the memorandum in support, and an immediate ruling may be made if the continuance requested is five days or less. Upon review of the joint motion, which is unopposed, the attorney examiner finds Joint Movants' motion is reasonable and should be granted on an expedited basis where the request for continuance is less than five days. Testimony in this case shall therefore be submitted by March 15, 2024.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the motion for an extension of time to file testimony be granted. It is, further,

{¶ 16} ORDERED, That testimony be submitted by March 15, 2024, as set forth in Paragraph 13. It is, further,

{¶ 17} 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

MJA/dmh

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in

Case No(s). 22-0583-GE-UNC

Summary: Attorney Examiner Entry that the motion for an extension of time to file testimony be granted and that testimony in this case shall therefore be submitted by March 15, 2024 electronically filed by Ms. Donielle M. Hunter on behalf of Jesse M. Davis, Attorney Examiner, Public Utilities Commission of Ohio.