



March 29, 2024

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

RE: *In the Matter of the Application of SmartEnergy Holdings LLC for Certification as a Competitive Retail Electric and Natural Gas Service Provider in Ohio, Case Nos. 13-0373-EL-CRS and 20-1253-GA-CRS.*

Dear Docketing Division:

Enclosed please find an amended Staff Review and Recommendation in the Matter of the Application of SmartEnergy Holdings LLC for Certification as a Competitive Retail Electric and Natural Gas Service Provider in Ohio, Case Nos. 13-0373-EL-CRS and 20-1253-GA-CRS.

Melissa Scarberry
Reliability and Service Analysis Division
Service Monitoring and Enforcement Department
Public Utilities Commission of Ohio
Melissa.Scarberry@puco.ohio.gov

Commissioners

Daniel R. Conway
Dennis P. Deters
Lawrence K. Friedman
John D. Williams

180 East Broad Street
Columbus, OH 43215 U.S.A.

800 | 686 7826
puco.ohio.gov

Amended Staff Review and Recommendation for
SmartEnergy Holdings LLC
Case Nos. 13-0373-EL-CRS and 20-1253-GA-CRS

On July 8, 2022, SmartEnergy Holdings, LLC (SmartEnergy) filed an application with the Commission seeking to renew its certification as a competitive retail natural gas service (CRNGS) provider. The approval of the CRNGS renewal application was suspended on August 8, 2022, to allow Staff additional time to consider the application. On September 6, 2022, Staff sent a Notice of Probable Non-Compliance (PNC) to SmartEnergy Holdings, LLC (SmartEnergy), and a revised PNC on January 12, 2023, both regarding the marketing and enrollment of customers. On March 8, 2023, SmartEnergy filed an application with the Commission seeking to renew its certification as a competitive retail electric service (CRES) provider, and approval of this application was suspended on April 6, 2023.

On May 30, 2023, a Joint Stipulation and Recommendation was filed in Case No. 23-0601-EL-UNC to resolve the issues identified in the revised PNC notice. As part of the Stipulation, SmartEnergy agreed to:

- Cease all direct mail advertising in Ohio until the Stipulation was executed and filed.
- Revise the marketing and enrollment materials based on Staff's review.
- Identify all consumers who enrolled by inbound telephone call during 2022 and qualified for a rebate or incentive that has not been claimed. Each account identified will be sent a letter with instructions on claiming the rebate or incentive for which they had previously qualified.
- Add additional language to the renewal/expiration notices reminding the customer to claim their rebate or incentive.
- Pay a forfeiture of \$85,000 to the State of Ohio.

The Commission, on August 23, 2023, issued an order amending and approving the stipulation. The amendments, as stated in the order, include that SmartEnergy:

- Pay the full forfeiture of \$122,000, as recommended by Staff in the PNC.
- Is limited to "solely offering fixed-rate contracts for a period of 24 months from [August 23, 2023]."
- Shall provide a separate notice to customers of contract expiration between 45 and 90 days prior to the contract expiration date. Such notice shall accurately

describe or highlight any changes and state the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract.

- Is directed to identify all customers charged the \$0.299 per kWh rate noted in the PNC and re-rate those customers to the price to compare and/or the standard service offer rate for the time that supply service was provided by SmartEnergy, adjusted for any rebates provided by SmartEnergy to re-rated customers pursuant to the provisions of the Stipulation.

In November 2023, Staff was notified by SmartEnergy that it would abide by the stipulation as amended by the Commission. Since that time, Staff has been in frequent contact with SmartEnergy regarding the progress being made towards completing the terms. To date, SmartEnergy has paid the forfeiture, provided communications to those customers identified in the stipulation, and processed thousands of rebates and re-rates to Ohio consumers. SmartEnergy continues to process rebates as customers respond to the notification letters.

Based on Staff's review of the steps taken to comply with the amended stipulation, and its review of the application, Staff believes that SmartEnergy is in compliance with Ohio Administrative Code. Therefore, Staff is again recommending that the renewal applications for SmartEnergy be approved.

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

3/29/2024 3:37:55 PM

in

Case No(s). 20-1253-GA-CRS, 13-0373-EL-CRS

Summary: Staff Review and Recommendation electronically filed by Ms. Melissa M.
Scarberry on behalf of PUCO Staff.