

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Direct)
Energy Services, LLC for a Transfer/Renewal) Case No. 02-1829-GA-CRS
of Certification as a Competitive Retail Natural)
Gas Supplier.

MOTION FOR EXTENSION OF TIME OR REQUEST FOR CLARIFICATION

Direct Energy Services, LLC ("Direct Energy") respectfully requests that the Public Utilities Commission of Ohio grant it a motion for an extension of time of three days to extend the effective date of its Certificate No. 02-024(1) to August 20, 2004. In the alternative, Direct Energy requests that the Commission clarify that its July 19, 2004 Application for Renewal/Certification of Certificate No. 02-024(1) was timely filed.

WHEREFORE, Direct Energy respectfully requests that the Commission grant an extension of time of three days to extend the effective date of Certificate No. 02-024(1) from August 17 to August 20, 2004, or, in the alternative, find that Direct Energy's July 19, 2004 filing was timely.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Two years to the day after the original Application in Case No. 02-1829-GA-CRS was filed, Direct Energy filed an Application for Renewal of its Certificate No. 02-024(1). On August 19, 2002, the Commission had issued Certificate No. 02-024(1). The Commission indicated that the Certificate would expire at the close of business on August 17, 2004 and that the Certificate was effective August 18, 2002. However, the Commission did not issue the Certificate until August 19, 2002. Thus, the Commission issued a Certificate for a period of less than two years.

Direct Energy submits that the Commission should have made the Certificate expiration date as of August 18, 2004, not August 17. Direct Energy submits that its filing of July 19, 2004 was timely and filed 31 days prior to the date the Certificate should have expired.

However, even assuming that the August 17, 2004 expiration date was proper, Direct Energy's filing of July 19, 2004 was timely. Rule 4901:1-27-09(A) of the Ohio Administrative Code provides that a renewal application is to be filed no less than 30 days prior to the expiration date indicated on the Certificate. Thirty days prior to August 17, 2004 is Sunday, July 18, 2004. Pursuant to Rule 4901:1-07(A) of the O.A.C., the last day of the period shall be included unless it falls on a Saturday, Sunday or a legal holiday. In that case, the period of time shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. Since the thirtieth day prior to August 17, 2004 was Sunday, July 18, the Commission's rules allow the timely filing of the application on the next business day which was Monday, July 19. Had the Commission not wanted Rule 4901-07(A) to apply to the renewal of a certificate, it could have stated that in the rules as it did for applications for rehearing. See Rule 4901-1-35(C) of the Ohio Administrative Code. Given that the Commission's renewal certification rules do not

exempt the application of Rule 4901-1-07(A) of the Ohio Administrative Code, Direct Energy's filing on July 19, 2004 was timely.

The Commission should also look at the date the original Application was filed. The Application in Case No. 02-1829-GA-CRS was filed on July 19, 2002. The Renewal Application was filed on July 19, 2004. Direct Energy submits that it was not tardy in filing the Renewal Application and the Commission should so find.

However, if the Commission determines that Direct Energy was late in filing its Application for Certification Renewal, Direct Energy respectfully requests that the Commission extend Certificate No. 02-024(1) by three days so that there will be no interruption in service.

WHEREFORE, Direct Energy respectfully requests that the Commission find that the July 19, 2004 Application for Renewal filed by Direct Energy was not late, or, in the alternative, grant a three day extension for the effective date of Certificate No. 02-024(1).

Respectfully submitted,



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