

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to require REALGY, LLC, d/b/a REALGY)	
ENERGY SERVICES , to show cause why it should)	Case No. U-21077
not be found in violation of Public Act 634 of 2002,)	
the Commission's Gas Customer Choice program,)	
MCL 460.9 <i>et seq.</i>)	
_____)	
)	
In the matter, on the Commission's own motion,)	
of the investigation into the marketing and business)	
practices of REALGY, LLC, d/b/a REALGY)	Case No. U-20978
ENERGY SERVICES.)	
_____)	
)	
In the matter of the application of REALGY,)	
LLC, d/b/a REALGY ENERGY SERVICES,)	Case No. U-15419
for a license as an alternative gas supplier.)	
_____)	

At the June 23, 2021 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

Over the last year, the Commission Staff (Staff) has been made aware of a number of complaints by customers of Realgy, LLC, d/b/a Realgy Energy Services (Realgy), raising concerns about Realgy's marketing and business practices under its alternative gas supplier (AGS) license which the Commission granted in an order dated April 1, 2008, in Case No. U-15419 (April 1

order). Due to concerns about the number of complaints that the Commission received pertaining to Realgy's gas marketing and operations under the Commission's Gas Customer Choice program, MCL 460.9 *et seq.*, the Commission issued an order on February 18, 2021 in Case No. U-20978 which opened a formal investigation into the marketing and customer service policies and practices of Realgy.

According to the Staff, Realgy's customers have contacted the Commission alleging problems including, but not limited to, the following:

- Realgy has secured customer authorization to switch to Realgy by misleading or false representations
- Realgy has made statements regarding future prices and savings that are misleading or false
- Realgy has failed to clearly disclose that it is not a regulated utility
- Realgy has failed to clearly inform customers that they are entering into a contract with a third party, and
- Realgy has failed to respond to customer complaints in a timely manner as required by Commission approved tariffs.

The Staff has also confirmed that during the time period of these complaints Realgy was using marketing scripts that were not reviewed by the Staff, as required by applicable tariffs. These scripts included deceptive language that is detailed in some of the customer experiences described above.

On the basis of these concerns and tariff violations, the Commission initiated its formal investigation in the February 18 order. In that order, the Commission directed Realgy to "submit a proposed action plan to the Staff detailing the company's procedures and methods addressing the alleged problems that have arisen under the company's current marketing efforts" within 30 days of the date of the order, with progress reports to be submitted every three months thereafter for one

year. February 18 order, p. 3. On March 17, 2021, Realgy timely filed its proposed action plan in the docket for Case No. U-20978.

After reviewing Realgy's proposed action plan, on May 18, 2021, the Staff filed its response in Case No. U-20978, noting several deficiencies with the proposed action plan. In addition, the Staff notes that since the issuance of the February 18 order, "complaint cases have increased significantly. Staff received 29 total complaints in 2020 against Realgy. From January 1, 2021 to May 5, 2021, Staff received 104 complaints, 64 of which have been coded as a potential rule violation." Staff's Response to Realgy Case No. U-20978, p. 4. In addition, the Staff notes that the complaints it has received in 2021 include many of the same issues Realgy claims to have resolved.

On June 16, 2021, Realgy filed its first three-month update as required by the February 18 order. In that update, Realgy notes that it has received 160 complaints through the date of the filing in 2021, a significant increase from the 26 complaints it received over the whole of 2020, despite enrolling less than half as many new customers. Realgy's June 16 update, p. 3.

While the existence of a few isolated customer complaints or contacts with the company would not, by itself, equate to a finding of institutional misconduct, the number, trend, and types of complaints recently received by the Staff from Realgy customers indicate potential problems that warrant further investigation by the Commission.

Section 9(6) of Public Act 634 of 2002 (Act 634), MCL 460.9(6) provides that "[a]n alternative gas supplier or natural gas utility shall not solicit or enter into contracts subject to this section with customers in this state in a misleading, fraudulent, or deceptive manner."

MCL 460.9b(1) authorizes the Commission to establish by order "a licensing procedure for all alternative gas suppliers participating in any natural gas customer choice program approved by the

commission.” Licensing procedures were established by the Commission in its March 12, 2003 order in Case No. U-13694. The April 1 order granting Realgy an AGS license was explicitly “conditioned upon compliance with all of the applicable provisions of Act 634; the Commission’s orders and administrative rules; and the compliance statements for each of the delivering natural gas utilities’ tariffs.” April 1 order, p. 3. Furthermore, in granting the license, the Commission stated that, “[f]ailure to comply with any of these provisions may result in revocation of the license or other penalties.” *Id.*

Given the latest information from Staff on the customers impacted by Realgy’s business practices, the Commission is now persuaded that a different response is necessary in order to prevent continued violations of the applicable tariffs and Commission rules and to ensure that the Commission has accurate information about Realgy’s marketing and business practices on which to base decisions regarding non-compliance.

The Commission is not confident that the problems identified so far have been resolved and remains concerned that additional violations of the Commission’s rules are occurring. The Commission now concludes that an evidentiary/show cause hearing is necessary to examine the issue of Realgy’s alleged violations and to obtain accurate information regarding the nature and extent of the complaints that have occurred and whether they have been resolved. Towards this end, Realgy is directed to file testimony describing the extent and nature of complaints that occurred from February 2021 to the present and to show cause why it should not be considered to have violated any provision of the license tariffs and AGS rules. The testimony shall focus on informal complaints at the Commission; how Realgy handled requests to discontinue service; what has been done to rectify each complaint; copies of all marketing materials used to solicit customers, and whether Realgy adhered to the applicable tariffs and Commission rules in all

respects. Realgy shall cooperate fully in this matter and the ongoing investigation in Case No. U-20978. The Staff shall continue its investigation into potential rule violations and audit the reliability of the information provided by Realgy, and is not limited to specific dates or issues in its ongoing review.

A prehearing conference has been scheduled to take place before Administrative Law Judge Martin D. Snider at 10:00 a.m. (Eastern Time) on July 21, 2021, and will be held via Microsoft Teams.

THEREFORE, IT IS ORDERED that:

A. Realgy LLC, d/b/a Realgy Energy Services, shall file its response to the allegations set forth in this order to show cause accompanied by prefiled testimony and supporting documentation by 5:00 p.m. (Eastern time) on July 7, 2021.

B. Petitions for leave to intervene in the matter shall be filed by July 7, 2021.

C. Realgy LLC, d/b/a Realgy Energy Services, shall appear with counsel at a prehearing conference scheduled for 10:00 a.m. (Eastern time) on July 21, 2021, before Administrative Law Judge Martin D. Snider via Microsoft Teams.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of June 23, 2021.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

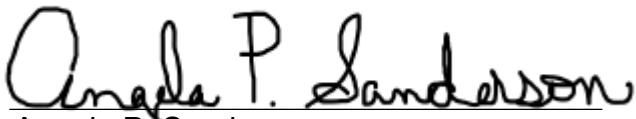
Case No. U-21077 *et al.*

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on June 23, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 23rd day of June 2021.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20978

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Service List for Case: U-15419

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Cherryland Electric Cooperative
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Ontonagon County Rural Elec
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Bishop Energy
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CMS Energy
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Constellation Energy
Constellation New Energy
DTE Energy
First Energy
My Choice Energy
Calpine Energy Solutions
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