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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held December 17, 2009 |
| Commissioners Present: |  |

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| James H. Cawley, Chairman |
| Tyrone J. Christy, Vice Chairman |
| Kim Pizzingrilli  Wayne E. Gardner  Robert F. Powelson |
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| License Application of UtiliTech, Inc. for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker/Marketer | Docket No. A-2009-2135746 |

# ORDER

**BY THE COMMISSION:**

On September 16, 2009, UtiliTech, Inc. (UtiliTech) filed an application seeking to become a licensed electric generation supplier (EGS) in the service territories throughout the Commonwealth of Pennsylvania. The application was filed pursuant to the Commission’s regulations at 52 Pa. Code §§ 54.31-54.43, which became effective on August 8, 1998, and which were established under section 2809 of the Public Utility Code, 66 Pa. C.S. § 2809.

Section 2809 provides in pertinent part that:

License Requirement.--No person or corporation, including municipal corporations which choose to provide service outside their municipal limits except to the extent provided prior to the effective date of this chapter, brokers and marketers, aggregators and other entities, shall engage in the business of an electric generation supplier in this Commonwealth unless the person or corporation holds a license issued by the Commission.

An electric generation supplier is defined as:

A person or corporation, including municipal corporations which choose to provide service outside their municipal limits except to the extent provided prior to the effective date of this chapter, brokers and marketers, aggregators or any other entities, that sells to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company or that purchases, brokers, arranges or markets electricity or related services for sale to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.

66 Pa. C.S. § 2803.

UtiliTech is a domestic corporation, incorporated in Pennsylvania, and registered in the Commonwealth of Pennsylvania as of January 4, 1991. Since June 2009, UtiliTech has been providing brokerage services to commercial customers and assisting such customers in signing with electric suppliers. UtiliTech has served 49 commercial customers in this capacity. To date, UtiliTech has received no compensation for such services and will not receive any compensation until the first quarter of 2010. UtiliTech began providing these services prior to becoming aware of the need for a license. According to the applicant, they began the licensing process as soon as they became aware that their services as an electric bill auditor/consultant/broker made them subject to the licensing requirements. UtiliTech does not and never has sold electricity to end-use customers; they provide information to customers in order to assist customers in making a selection of an electric supplier.

UtiliTech proposes to act as an electric bill auditor/consultant/broker for commercial customers with loads greater than 25 kW, industrial customers, and governmental customers. UtiliTech is a professional services firm engaged in the business of saving money on clients’ utility bills. These savings are found primarily through auditing bills for errors and finding alternate sources of electric supply at lower costs. UtiliTech proposes to assist its clients by soliciting electric generation proposals from multiple suppliers. These proposals are then analyzed and presented to the client with UtiliTech’s recommendation for decision. The client makes the final determination and signs a contract directly with the electric generation supplier. UtiliTech will be paid monthly by the electric generation supplier according to the kilowatt hours of customer usage. Currently, UtiliTech does not intend to provide these services to residential customers. Therefore, Chapter 56 residential service regulations do not apply.

If UtiliTech chooses to provide electric bill auditor/consultant/broker services to residential customers in the future, it must notify the Commission Secretary by letter immediately and be required to comply with, and be governed by, applicable Chapter 56 residential service regulations as set forth in the Commission Order *Guidelines for Maintaining Customer Service at the Same Level of Quality Pursuant to 66 Pa. C.S. § 2807(d), Assuring Conformance with 52 Pa. Code Chapter 56 Pursuant to 66 Pa. Code Chapter 56 Pursuant to § 2809(e) and (f) and Addressing the Application of Partial Payments (M-00960890 F0011).* Thus, we deem it appropriate to reiterate certain items with respect to Chapter 56 of our regulations. Chapter 56 (52 Pa. Code Chapter 56) is applicable to residential accounts. An EGS cannot physically disconnect a residential customer from the electricity grid; therefore, the rules relating to residential service termination are not applicable to EGSs. An EGS may seek to terminate its generation service through an appropriate written notice to the customer and the distribution company. The residential customer can then attempt to repair their relationship with the supplier, seek a new supplier, or default to utility service at capped rates or approved default service rates in accordance with the utility's obligations under section 2807(e), 66 Pa. C.S. § 2807(e). The customer would only be disconnected from the electricity grid pursuant to appropriate regulations if the customer failed to meet its obligations to the utility or the EGS that has been designated by the Commission as the provider of last resort.

Additionally, we take this opportunity to remind the licensee that its officers, representatives and employees have agreed to lawfully abide by all Commission regulations, procedures and orders, including Emergency Orders, which may be issued verbally or in writing during any emergency situations that may unexpectedly develop from time to time in the course of doing business in Pennsylvania.

UtiliTech has provided proofs of publication in Pennsylvania newspapers and proofs of service to the interested parties as required by the Commission.

Regarding the financial and technical requirements of the license application, UtiliTech has supplied a balance sheet and income statement for the years ending December 2007 and 2008, as well as for the period ending June 30, 2009. Also submitted was a copy of their 2007 and 2008 tax returns. UtiliTech has also provided historical employment information for the president and vice president of advisory services indicating that they have the necessary utility and/or regulatory experience. Sufficient information has been provided by UtiliTech to demonstrate its financial and technical fitness in order to be licensed as an electric bill auditor/consultant/broker in the Commonwealth of Pennsylvania.

UtiliTech did not provide a $250,000 bond as required by the license application; however, it did provide a bond in the amount of $10,000 and requests that the Commission reduce its security requirement from $250,000 to $10,000. In support of this request, UtiliTech explains that it will not be taking title to the electricity, is not paying Gross Receipts Tax, and is not making payments on behalf of clients to suppliers. UtiliTech clients will continue to make payments to EDC’s and suppliers.

The Commission believes that the reasoning on which UtiliTech bases its request for a bond reduction from $250,000 to $10,000 is similar to that offered by the other EGSs that have successfully petitioned the Commission for a bonding level of $10,000. Two of the EGSs are Co-eXprise, Inc. (Co-eX), at Docket No. A-110166, whose request was granted January 20, 2006, and Premier Energy Solutions (Premier), at Docket No. A-110170, whose request was granted July 26, 2006. In the case of Co-eX, the company explained that, as a consultant, it will provide its customers with an evaluation and selection process from which to select the best positioned licensed electricity supplier/generator and award business. In the case of Premier, the company explained that it requested an EGS license to become EDI certified with the utilities, in order to be able to efficiently and effectively obtain electricity usage information for the customers to whom it provides consulting services. Premier intended to utilize the information to help its customers reduce their overall spending for electricity. Premier also stated that it will not take title to power.

The Commission believes that UtiliTech operates in a similar manner and therefore should be granted similar relief and be permitted to provide a bond or other approved security in the reduced amount of $10,000. However, UtiliTech’s bonding level is contingent upon the company’s business model as described in this Order.If UtiliTech takes title to generation supply for its customers, and/or charges customers directly for that generation supply, a $10,000 level of bonding may not be appropriate.Therefore, we will direct UtiliTech to notify the Commission 45 days prior to a change in its business model, whereby UtiliTech takes title to generation supply and/or bills its customers directly for that generation supply. This will provide the Commission with an opportunity to review and adjust UtiliTech’s approved bonding level prior to UtiliTech implementing those changes.

UtiliTech has provided the required Pennsylvania Emergency Management Agency (PEMA) contact information.

As of November 23, 2009, no protests have been filed.

We find that the applicant:

1. Is fit, willing and able to properly perform the service proposed in conformance with applicable provisions of the Public Utility Code and lawful Commission orders and regulations, specifically including 52 Pa. Code Chapter 56 (relating to Standards and Billing Practices for Residential Utility Service).

2. Has agreed to lawfully abide by all Commission regulations, procedures and orders, including Emergency Orders, which may be issued verbally or in writing during any emergency situations that may unexpectedly develop from time to time in the course of doing business in Pennsylvania.

We further find that the proposed service, to the extent authorized by the license, will be consistent with the public interest and the policy declared in the Electricity Generation Customer Choice and Competition Act, as amended. 66 Pa. C.S. §§ 2801-2815.

Upon full consideration of all matters of record, we find that approval of this application is necessary and proper for the service, accommodation and convenience of the public; **THEREFORE,**

**IT IS ORDERED:**

1. That the application of UtiliTech, Inc. is hereby approved, consistent with this Order.

2. That UtiliTech, Inc.’s request for a reduction in the required bond level from $250,000 to $10,000 is hereby granted.

3. That the security amount of $10,000 shall remain in effect for UtiliTech, Inc. as long as it does not make a change to its business model in Pennsylvania, whereby it would take title to generation supply and/or bill its customers directly for generation supply.

4. That a license be issued authorizing UtiliTech, Inc. to begin to offer, render, furnish or supply electric generation supplier services to the public in the service territories throughout the Commonwealth of Pennsylvania, as specified in this Order.

5. That if UtiliTech, Inc. proposes to change its business model as described in Ordering Paragraph No. 3, it must notify the Commission at least 45 days prior to the changes. With the notice, the Company must provide an update to the nature and scope of business information that was required by Pa. Code § 54.40(c) to justify the modification granted in Ordering Paragraph No. 3. This will provide the Commission the opportunity to review UtiliTech, Inc.’s bonding level and adjust as appropriate, prior to UtiliTech, Inc. implementing the proposed changes to its business model.

6. That if UtiliTech, Inc. changes its business model without providing to the Commission the notice and information required in Ordering Paragraph No. 5, then the reduced bonding level permitted by Ordering Paragraph No. 2 shall cease effective with the date of the change in the business model. The level of bonding effective at that time shall be $250,000 or the level required by 52 Pa. Code § 54.40, whichever is greater.

7. That this proceeding at Docket No. A-2009-2135746 be closed.



**BY THE COMMISSION,**

James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: December 17, 2009

ORDER ENTERED: December 17, 2009