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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held March 11, 2010 |
| Commissioners Present: |  |

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| James H. Cawley, Chairman |
| Tyrone J. Christy, Vice Chairman |
| Wayne E. Gardner  Robert F. Powelson |
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| License Application of Summit Energy Services, Inc. d/b/a Summit Energy Services of Kentucky, Inc. for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker/Marketer | Docket No. A-2009-2143682 |

# ORDER

**BY THE COMMISSION:**

On November 4, 2009, Summit Energy Services, Inc. d/b/a Summit Energy Services of Kentucky, Inc. (“Summit Energy” or “the Applicant”) filed an application seeking to become a licensed electric generation supplier (“EGS”) in the electric distribution company 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 as follows:

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 to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.

66 Pa. C.S. §2803.

Summit Energy is a corporation formed on July 26, 2004 in the state of Delaware. Summit Energy was registered by the Pennsylvania Department of State as a foreign business corporation on October 27, 2009. By its application, Summit Energy proposes to act as a broker/marketer of electricity for all commercial and industrial customers. In this capacity, Summit Energy states that it plans to advise clients regarding the selection of electricity vendors in de-regulated markets, as well as advising on best utility options in regulated markets. Summit Energy will provide market evaluation and will competitively source electric generation supplies for its clients among multiple vendors, giving consideration to price, service, and other factors. Summit Energy will also negotiate contract terms on behalf of clients, and offer follow-up services such as billing reconciliation. Summit Energy will not generate or take title to any electricity, nor will it make payments for electricity on behalf of its customers. Summit Energy will act purely as an advisor to its clients regarding best supplies.

At this time, Summit Energy does not intend to provide its services to residential customers. Therefore, the regulations at Chapter 56 of Title 52 of the Pennsylvania Code relating to Standards and Billing Practices for Residential Utility Service do not apply. However, should Summit Energy choose to provide broker/marketer services to residential customers in the future, it must notify the Commission Secretary by letter immediately, and shall 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), and Assuring Conformance with 52 Pa. Code Chapter 56 Pursuant to 66 Pa. C.S. § 2809(e) and (f)* at Docket No. M-00960890 F0011, Order entered July 11, 1997. Thus, we deem it appropriate to address certain items relating to Chapter 56 of our regulations, particularly with respect to the issue of termination of residential accounts.

Initially, we note that an EGS cannot physically disconnect a residential customer from the electricity grid. Therefore, the rules relating to residential service termination are not directly applicable to EGSs. However, an EGS may seek to terminate its generation service to a customer through an appropriate written notice to the customer and that customer’s electric distribution company (“EDC”). The residential customer can then attempt to repair its relationship with the EGS, seek a new electricity supplier, or default to receiving electric utility service from the customer’s applicable default service provider (“DSP”) in accordance with the DSP's obligations under Section 2807(e) of the Public Utility Code, 66 Pa. C.S. §2807(e). The customer would only be disconnected from the electricity grid pursuant to applicable regulations if the customer failed to meet its obligations to the EDC, or to the EGS that has been designated by the Commission as that customer’s DSP, or provider of last resort.

Additionally, we specifically note that the licensee must comply with, and ensure that its employees, agents, representatives and independent contractors comply with the standards of conduct and disclosure for licensees set out in Commission regulations at 52 Pa. Code § 54.43 that were enacted to protect consumers of this Commonwealth. These standards include, *inter alia*, the provision of timely and accurate information about the services offered by the licensee, the practice of nondiscrimination in service in regard to race, color, religion, national origin, marital status, etc., the safeguarding of a consumer’s personal information, and compliance with applicable state and federal consumer protection laws. Also, we take this opportunity to remind the licensee of its agreement to abide by, and to ensure that its employees, representatives, agents and independent contractors abide by all applicable federal and state laws, and 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 business.

We note that Summit Energy has disclosed to the Commission through the EGS application process that it has been providing energy consulting services to clients in Pennsylvania for several years prior to filing its EGS application, offering essentially the same types of services it proposes to provide as a licensed EGS. However, Summit Energy has not acted as an actual supplier of electricity, nor has it made any payments for electricity on behalf of its clients. We point out that according to Section 2809(a) of the Public Utility Code (66 Pa. C.S. § 2809(a)), as well as Section 54.32(a) of the Commission’s regulations (52 Pa. Code § 54.32(a)), no entity shall engage in the business of an EGS—including the provision of broker or marketing services[[1]](#footnote-1)—unless it holds a license granted by the Commission. In this case, the Commission would like to commend Summit Energy for its full disclosure and for proactively seeking licensure. Furthermore, the Commission strongly encourages other non-licensed broker/marketer entities already conducting business or proposing to conduct business within the Commonwealth of Pennsylvania to seek licensure.

Summit Energy has provided proofs of publication in appropriate Pennsylvania newspapers, and proofs of service to the interested parties as required by the Commission.

In accordance with the financial requirements of the EGS license application, Summit Energy has supplied financial information in the form of a consolidated income statement for the six months ended June 30, 2009, as well as for the year ended December 31, 2008. Summit Energy also provided a balance sheet setting forth its financial assets, liabilities and stockholders’ equity as of June 30, 2009, and December 31, 2008. Additionally, Summit Energy provided summary resumes of its chief officers. With regard to the technical fitness requirements of the EGS license application, Summit Energy provided a description of its energy consulting operations, including a summary of its staffing and training commitments. Summit Energy also provided the summary resume of its Vice President of Sourcing and Sustainability, the officer directly responsible for the applicant’s operations. We find that sufficient information has been provided by Summit Energy to demonstrate its financial and technical fitness in order to be licensed as an EGS in the Commonwealth of Pennsylvania.

Summit Energy has furnished an initial bond in the amount of $250,000 as required by the license application.

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

As of February 25, 2010, no protests have been filed.

In summary, we find that:

1. The Applicant 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. The Applicant 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.

3. 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.

Accordingly, 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 Summit Energy Services, Inc. is hereby approved, consistent with this Order.

2. That a license be issued authorizing Summit Energy Services, Inc. to begin to offer, render, furnish or supply electric generation supplier services to all commercial and industrial customers in the electric distribution company service territories throughout the Commonwealth of Pennsylvania, as specified in this Order.

3. That this proceeding at Docket No. A-2009-2143682 be marked closed.

 **BY THE COMMISSION,**

James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: March 11, 2010

ORDER ENTERED: March 11, 2010

1. A broker or marketer is defined as “an entity, licensed by the Commission, that acts as an intermediary in the sale and purchase of electric energy but that does not take title to electric energy.” (66 Pa. C.S. § 2803; 52 Pa. Code §§ 54.2 and 54.31). [↑](#footnote-ref-1)