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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held April 22, 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 ConocoPhillips Company  for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker/Marketer and Aggregator. | Docket Number: A-2010-2162977 |

# ORDER

**BY THE COMMISSION:**

On February 18, 2010, ConocoPhillips Company (Conoco) filed an application seeking to become a licensed electric generation supplier (EGS) in the PECO Energy service territory within the Commonwealth of Pennsylvania as a broker/marketer. On April 2, 2010, Conoco revised its application stating it also proposes to act as an aggregator. 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.

§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. 66 Pa. C.S. §2809.

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.

Conoco is a foreign corporation, organized in the State of Delaware, and registered to do business in Pennsylvania as of August 13, 1934 as Phillips Petroleum Company, the predecessor to ConocoPhillips Company. An amended certificate for the name change to ConocoPhillips Company was approved December 17, 2002. DuPont Power Marketing, Inc. was a predecessor electricity supplier doing business in PA in 1998 under authority granted in Docket No. A-110009. That EGS license was canceled effective December 31, 1999. Conoco owns the Trainer Refinery in Trainer, PA, and East Line Pipeline, two pipelines that run from the Trainer Refinery for four miles to a tank farm in Chelsea, PA. This refinery produces gasoline, diesel, jet fuel oil and propane. These assets are not jurisdictional public utilities. Conoco proposes to act as a broker/marketer and aggregator engaged in the business of supplying electricity to industrial customers in the PECO Energy service territory within the Commonwealth of Pennsylvania. More specifically, Conoco intends to offer power marketing services for its current affiliated customers, and any non-affiliated industrial customers it should acquire. Conoco will take title to the electricity it sells to these customers. Affiliated customers will be billed through internal transactions. Currently, Conoco does not intend to provide electric generation supplier services to residential customers. Therefore, Chapter 56 residential service regulations do not apply.

However, if Conoco chooses to provide electric generation supplier services to residential customers in the future, Conoco will 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), 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 reiterate certain items with respect to Chapter 56 of our regulations. Chapter 56 (52 Pa Code Chapter 56) is applicable to residential accounts. An electric generation supplier cannot physically disconnect a residential customer from the electricity grid; therefore, the rules relating to residential service termination are not applicable to electric generation suppliers. An electric generation supplier 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 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 electric generation supplier that has been designated by the Commission as the 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 unexpected develop from time to time in the course of business.

We also note that that the licensee must comply with our decision in Docket No. M-2010-2157431, Motion adopted at the February 11, 2010, Public Meeting, regarding EGS membership in the PJM Interconnection (PJM). Specifically, our Motion directed that such EGS applicants must file with the Commission, within 120 days of receiving an EGS license, proof of membership in the PJM as a Load Serving Entity (LSE) or proof of a contractual arrangement with an existing PJM LSE that facilitates the applicant’s retail operations. Since Conoco is taking title to electricity, it is required to comply with this requirement.

Conoco 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, Conoco submitted a Standard & Poor’s credit report, Dun & Bradstreet credit report, Moody’s credit opinion, and a link to the company’s financial reports online. Conoco has also supplied resumes for its chief officer, the Manager of Power Marketing, who is responsible for operations, and the resumes of the five people reporting to the chief officer. Sufficient information has been provided by Conoco to demonstrate its financial and technical fitness in order to be licensed as a broker/marketer and aggregator of retail electric power in the PECO service territory within the Commonwealth of Pennsylvania.

Conoco has provided a $250,000 surety bond as required by the license application.

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

As of March 25, 2010, 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.

3. 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.

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 ConocoPhillips Company is hereby approved, consistent with this Order.

2. That a license be issued authorizing ConocoPhillips Company to begin to offer, render, furnish or supply electric generation supplier services to industrial customers in the PECO Energy service territory within the Commonwealth of Pennsylvania, as specified in the Order.

3. That ConocoPhillips Company must submit within 120 days, proof that it is a PJM registered Load Serving Entity as a party to the reliability assurance agreement or that it has a contract with an entity who is such a party.

4. That a copy of this Order be served on the Department of Revenue, Bureau of Corporation Taxes.

5. That this proceeding at Docket No. A-2010-2162977 be closed.



**BY THE COMMISSION,**

James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: April 22, 2010

ORDER ENTERED: April 22, 2010