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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held November 4, 2010 | | |
| Commissioners Present: | | |  | |
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| James H. Cawley, Chairman | | |  | |
| Tyrone J. Christy, Vice Chairman | | | | |
| John F. Coleman, Jr. | | | | |
| Wayne E. Gardner | | | | |
| Robert F. Powelson | | | | |
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| License Application of Ambit Northeast, LLC d/b/a Ambit Energy for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power | | | A-2010-2190276 | |
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**ORDER**

**BY THE COMMISSION:**

On July 20, 2010, Ambit Northeast, LLC d/b/a Ambit Energy (Ambit Northeast) filed an application seeking to become a licensed electric generation supplier (EGS) in the electric distribution company (EDC) service territories of Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, PECO Energy Company, PPL Electric Utilities, Inc., and UGI Utilities, Inc. within 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.

§ 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 electricity or related services 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 (in pertinent part).

Ambit Northeast is a foreign limited liability company, organized in the state of Delaware, and registered in the Commonwealth of Pennsylvania as of July 9, 2010. Ambit Northeast proposes to act as a supplier of retail electric power to residential and small commercial (25 kW and under demand) customers in EDC service territories throughout the Commonwealth of Pennsylvania.

Ambit Northeast uses a direct sales and multi-level marketing model for the sale of its products. Ambit Northeast will utilize independent consultants who, upon payment of consideration to Ambit Northeast, are able to (a) act as sales representatives for Ambit Northeast’s energy products and (b) recruit additional independent consultants. Independent consultants are compensated not only for the sales they generate, but also for the sales of any other independent consultants they have recruited. Additionally, independent consultants can receive supplemental compensation for achieving various sales goals and building sales teams.

In response to a data request from Commission staff, Ambit Northeast indicted that it does not require its independent consultants to be exclusives to Ambit Northeast. That is, Ambit Northeast’s independent consultants are not restricted from marketing the energy products available from an EGS other than Ambit Northeast. Ambit Northeast is directed to inform its independent consultants that arrange for the sale of Ambit Northeast’s energy products to end-users, that they will be required to be licensed as an EGS if they arrange for the sale of energy products to end-users from another supplier, in addition to Ambit Northeast.

Since Ambit Northeast proposes to provide electric generation supplier services to residential customers it is 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 and subcontractors 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 and subcontractors 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 doing business in Pennsylvania. *See, for example*, 52 Pa. Code § 54.43(f) (“A licensee is responsible for any fraudulent deceptive or other unlawful marketing or billing acts performed by the licensee, its employees, agents or representatives.”).

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 Ambit Northeast is taking title to electricity, it is required to comply with this requirement.

Ambit Northeast has provided proof of publication in Pennsylvania newspapers of general circulation in the geographical territories affected by the application and proofs of service to the interested parties as required by the Commission.

Regarding the financial and technical requirements of the license application, Ambit Northeast has submitted audited financial statements of its parent company, Ambit Holdings, LLC, for the years ended December 31, 2008 and 2009. Additionally, Ambit Northeast has supplied professional resume data and historical employment information for its officers and several key employees demonstrating the necessary consulting, utility and/or regulatory experience. Sufficient information has been provided by Ambit Northeast to demonstrate its financial and technical fitness in order to be licensed as a supplier of retail electric power in the Commonwealth of Pennsylvania.

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

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

As of October 18, 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.

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.

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 Ambit Northeast, LLC d/b/a Ambit Energy is hereby approved, consistent with this Order.

2. That a license be issued authorizing Ambit Northeast, LLC d/b/a Ambit Energy to begin to offer, render, furnish or supply electric generation supplier services to residential and small commercial (25 kW and under demand) customers in the service territories of Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, PECO Energy Company, PPL Electric Utilities, Inc., and UGI Utilities, Inc. within the Commonwealth of Pennsylvania.

3. That Ambit Northeast, LLC d/b/a Ambit Energy 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 Ambit Northeast, LLC d/b/a Ambit Energy is directed to inform its independent consultants that arrange for the sale of Ambit Northeast, LLC d/b/a Ambit Energy’s energy products to end-users, that they will be required to be licensed as an EGS if they arrange for the sale of energy products to end-users from another supplier, in addition to Ambit Northeast, LLC d/b/a Ambit Energy.

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

6. That this proceeding at Docket No. A-2010-2190276 be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: November 4, 2010

ORDER ENTERED: November 5, 2010