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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held January 13, 2011 | | |
| 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 Great American Power LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as an Aggregator and Supplier | | | A-2010-2205475 | |
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**ORDER**

**BY THE COMMISSION:**

On October 19, 2010, Great American Power LLC (GAP) filed an application seeking to become a licensed electric generation supplier (EGS) in the electric distribution company (EDC) service territories of PECO Energy Company, PPL Electric Utilities and Metropolitan Edison Company 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).

GAP is a domestic limited liability company, organized in the Commonwealth of Pennsylvania as of June 1, 2010. GAP proposes to act as an aggregator engaged in the business of supplying electricity and a supplier of electricity to residential and small commercial (25 kW and under demand) customers in the EDC service territories of PECO Energy Company, PPL Electric Utilities and Metropolitan Edison Company, within the Commonwealth of Pennsylvania.

Since GAP 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 GAP is taking title to electricity, it is required to comply with this requirement.

GAP 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, GAP has submitted a confidential business plan; as well as, an opening balance sheet. GAP intends to eventually operate as a subsidiary of Telecommunications on Demand, Inc. (TOD). GAP is not currently a subsidiary of TOD. However, Jeffrey Bornstein, identified as one of two initial members of GAP in the company’s Operating Agreement, is identified as an officer of TOD on the Pennsylvania Department of State’s Business Entity Filing and Chief Executive Officer on TOD’s website. GAP has confirmed that TOD and GAP have interlocking ownership. Therefore, GAP has provided three years of confidential financial data for TOD, including the years 2007, 2008 and 2009. GAP has also 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 GAP to demonstrate its financial and technical fitness in order to be licensed as an aggregator and supplier of electricity in the Commonwealth of Pennsylvania.

GAP proposes to utilize a call center in Pennsylvania to market to residential customers. GAP will utilize the services and personnel of TOD to operate the call center. GAP states that it is not the intent to utilize the call center to offer telemarketing services to other Pennsylvania licensed electric generation suppliers and that TOD understands that it must first secure an electric generation supplier license as a broker/marketer in order for TOD or its personnel to engage in telemarketing services for other EGSs.

GAP has provided a $250,000 letter of credit as required by the license application.

As of January 3, 2011, 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, subject to conditions; **THEREFORE,**

**IT IS ORDERED:**

1. That the application of Great American Power LLC is hereby approved, consistent with this Order.

2. That a license be issued authorizing Great American Power LLC 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 electric distribution company service territories of PECO Energy Company, PPL Electric Utilities and Metropolitan Edison Company, within the Commonwealth of Pennsylvania.

3. That Great American Power LLC 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-2010-2205475 be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 13, 2011

ORDER ENTERED: January 13, 2011