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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, Dissenting | | | | |
| John F. Coleman, Jr., Statement | | | | |
| Wayne E. Gardner | | | | |
| Robert F. Powelson | | | | |
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| License Application of Hudson Energy Services LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker/Marketer, Aggregator and Supplier | | | A-2010-2192137 | |
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**ORDER**

**BY THE COMMISSION:**

On August 5, 2010, Hudson Energy Services LLC (Hudson) filed an application seeking to become a licensed electric generation supplier (EGS) in the electric distribution company (EDC) service territories 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).

Hudson is a foreign limited liability company, organized in the state of New Jersey, and registered in the Commonwealth of Pennsylvania as of July 8, 2007. Hudson proposes to act as a broker/marketer engaged in the business of supplying electricity, an aggregator engaged in the business of supplying electricity and a supplier of electricity to residential, small commercial (25 kW and under demand), large commercial (over 25 kW demand), industrial and governmental customers in the EDC service territories throughout the Commonwealth of Pennsylvania.

Since Hudson 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 return to utility service at default 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 Hudson is taking title to electricity, it is required to comply with this requirement.

Hudson 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, Hudson has submitted audited financial statements for its parent company, Hudson Parent Holdings LLC, for the years ended December 31, 2008 and 2009; as well as, audited financial statements for its ultimate parent company Hudson Income Fund, for the years ended March 31, 2009 and 2010. Additionally, Hudson 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 Hudson to demonstrate its financial and technical fitness in order to be licensed as a broker/marketer, aggregator and supplier of electricity in the Commonwealth of Pennsylvania.

However, Hudson is an affiliate of Just Energy Pennsylvania Corp. (JEPC), which was granted a license to serve residential and commercial customers, at Docket No. A-2009-2097544, by Order entered December 23, 2009 (December 2009 Order). The December 2009 Order disposed of JEPC’s Petition for Reconsideration (Petition) regarding the Commission’s November 9, 2009 Order at the above docket number that denied the application. JEPC’s Petition included commitments applicable to door-to-door marketing/sales to residential and small commercial (25 kW and under demand) customers**,** identified as Attachment E, which were included with the December 2009 Order as the Appendix. JEPC’s license was granted subject to certain conditions regarding its marketing/sales practices pertaining to residential and small commercial (25Kw and under demand) customers, including the commitments included in the Appendix.

We note that in its application, Hudson disclosed allegations of billing overcharges on its part in New Jersey for the December 2008 to August 2009 period, involving approximately 2,000 customers receiving energy services. Hudson further stated that it had settled the issue with the New Jersey Board of Public Utilities agreeing to credits and refunds of nearly $87,000. Based on the above information about Hudson and its affiliate, we believe that it is appropriate for Hudson to be subject to the same conditions as we directed in JEPC’s December 2009 Order, including the fore mentioned Appendix. The commitments identified in the December 2009 Order’s Appendix are attached to this Order as an Appendix. These conditions and commitments, whether specified in ordering paragraphs or the Appendix, only pertain to Hudson’s relationships with residential and small commercial (25 kW and under demand) customers, subject to the following exception. These conditions and commitments do not apply to offers Hudson makes to residential and small commercial (25 kW and under demand) customers in conjunction with offers made to large commercial (over 25 kW demand) or industrial customers with whom the smaller customers are associated.

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

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

As of December 7, 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, subject to conditions; **THEREFORE,**

**IT IS ORDERED:**

1. That the application of Hudson Energy Services LLC is hereby approved, consistent with this Order.

2. That a license be issued authorizing Hudson Energy Services LLC to begin to offer, render, furnish or supply electric generation supplier services to residential, small commercial (25 kW and under demand), large commercial (over 25 kW demand), industrial and governmental customers in the electric distribution company service territories within the Commonwealth of Pennsylvania, subject to the following conditions, which will apply for a term of eighteen months from the date the applicant initiates marketing activities in the Commonwealth of Pennsylvania (Term). To the maximum extent possible, these conditions shall be construed to be consistent with the Commission’s regulations. In the event of a conflict, the following conditions shall control:

a. Hudson will only use employees, not independent contractors, when conducting door-to-door sales;

b. All Hudson marketing materials to be used, including contracts and customer facing materials will be provided to Commission staff for comment five days prior to use;

c. Hudson will meet monthly with the relevant Commission staff and provide a monthly reporting requirement to staff capturing: (i) the complaints by category; (ii) complaint rate against sales volumes and (iii) customer service level reporting as defined in Section G of the Appendix hereto;

d. Hudson will conduct background checks on all potential employees and will provide the background check criteria to staff;

e. Hudson will provide a single point of contact and escalation contacts for Commission staff for resolution of consumer inquiries and/or complaints received by the Commission's Bureau of Consumer Services (BCS) and will respond to all consumer inquiries and complaints in accordance with the Appendix hereto and any other BCS requirements, including providing all information regarding the customer and complaint as requested by Commission staff (including a copy of the contract and any audio recordings of the verification call). Hudson will also provide the Commission with the resolution of the complaint by the Company.

f. Hudson will provide an extended cancellation period of up to 30 days after the issuance of the first bill on the Company's supply service during which the customer will not pay a termination fee;

g. Hudson will hire an employee whose role is to oversee and ensure compliance of the sales office(s) and employees with these license conditions as well as applicable law and company policies;

h. Any early termination or exit fee imposed by Hudson will not exceed $50.00 per contract;

i. Hudson will operate under the commitments outlined in the Appendix hereto;

j. Hudson will use the disclosure statement developed in cooperation with the Commission’s BCS;

k. Hudson sales representatives will be prohibited from wearing blue clothing;

l. With regard to any condition that has been released by the Commission, for a period of three years following the condition’s release, Hudson will provide the Commission with written notice of any change to the Company’s practices and procedures that was the subject of the released condition; and

m. Not less than sixty days before the expiration of the Term, Hudson shall file a status report with the Commission describing its compliance with the Public Utility Code, Commission Orders and Regulations, and the conditions set forth herein. The status report shall also include updated information regarding lawsuits, investigations, and state commission proceedings involving its affiliates in other jurisdictions. A copy of this status report shall be provided to Paul Diskin in the Commission’s Bureau of Fixed Utility Services and David Mick in the Commission’s Bureau of Consumer Services.

n. Hudson will annually send a letter to each of its customers stating that the customer has selected Hudson as his or her electric generation supplier and that Hudson has no affiliation with the customer’s public utility. This annual correspondence shall also provide Hudson’s contact information (including address, phone number and website) and the Commission’s contact information (including the website and the toll-free number for consumer complaints).

3. That the Commission’s Bureau of Fixed Utility Services, with the assistance of the Bureau of Consumer Services and the Law Bureau, shall monitor Hudson Energy Services LLC’s compliance with the conditions set forth in this Order.

4. Upon receipt of the status report directed in Paragraph 2.m. above, the Bureau of Fixed Utility Services, with assistance from the Bureau of Consumer Services and the Law Bureau, shall prepare a Staff recommendation regarding appropriate license conditions after the expiration of the Term. The Commission shall consider the recommendation at a subsequent Public Meeting. In making their recommendation, Commission staff shall consider all relevant factors, including whether Hudson Energy Services LLC:

a. Operated in good faith and compliance with the Conditions set forth in Paragraph 2 and applicable Laws;

b. Maintained a Complaint Ratio of less than 2% of sales over the 18- month period; and

c. Maintained the customer service level commitments based on the 18-month period (averaged across the period).

5. That Hudson Energy Services 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.

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

7. That this proceeding at Docket No. A-2010-2192137 be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 13, 2011

ORDER ENTERED: February 11, 2011