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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held June 9, 2011 | | |
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| Commissioners Present: | | |  | |
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| Robert F. Powelson, Chairman | | | | |
| John F. Coleman, Jr., Vice Chairman | | | | |
| Tyrone J. Christy | | | | |
| Wayne E. Gardner | | | | |
| James H. Cawley | | | | |
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| License Application of ArcelorMittal USA LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Electricity | | | Docket Number:  A-2011-2233438 | |
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**ORDER**

**BY THE COMMISSION:**

On March 25, 2011, ArcelorMittal USA LLC (“ArcelorMittal USA” or “the Applicant”) filed an application seeking to become a licensed electric generation supplier (“EGS”) in the electric distribution company service territories of PPL Electric Utilities Corporation, PECO Energy Company, and West Penn Power in 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 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 to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.

66 Pa. C.S. §2803.

ArcelorMittal USA is a foreign limited liability company originally formed as a corporation on February 22, 2002, in the state of Delaware, and converted to a limited liability company on December 21, 2010, in the state of Delaware. ArcelorMittal USA was registered by the Pennsylvania Department of State as a foreign limited liability company on January 31, 2011. The applicant currently has subsidiaries and affiliates who operate in Pennsylvania in the business of steel production and finishing. By its application, ArcelorMittal USA proposes to operate as a supplier of electricity to industrial customers in the electric distribution company service territories listed above. In this capacity, ArcelorMittal USA intends to procure electric power on the wholesale market for sale at retail to its own subsidiaries and affiliates.

ArcelorMittal USA states that it is applying for an EGS license in order to procure electric power for sale solely to its subsidiaries and affiliates, and does not intend to provide electricity supply services to other 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 ArcelorMittal USA choose to provide EGS 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 return to utility service at default service rates in accordance with the utility'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 in Pennsylvania.

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 ArcelorMittal USA is taking title to electricity, it is required to comply with this requirement. Accordingly, ArcelorMittal USA provided proof of membership in the PJM as a LSE with its instant application.

ArcelorMittal USA 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, ArcelorMittal USA has supplied financial information in the form of recent credit reports, as well as Internet links to its 2010 annual report and numerous other sources of data depicting the applicant’s financial status and resources. With regard to the technical fitness requirements of the EGS license application, ArcelorMittal USA states that it currently procures retail market electricity for all subsidiaries and United States-based affiliates, employing personnel and consultants familiar with the operations of electric utilities, and with purchasing, selling and managing the energy needs of large industrial concerns. ArcelorMittal also furnished professional resumes of its key employees directly responsible for energy procurement, providing evidence of extensive experience in the analysis of energy markets and procurement of electricity. The applicant notes that it has been a PJM member since November 3, 2008, and currently maintains the status of Load Serving Entity. We find that sufficient information has been provided by ArcelorMittal USA to demonstrate its financial and technical fitness in order to be licensed as an EGS in the Commonwealth of Pennsylvania.

ArcelorMittal USA has provided a letter of credit in the amount of $250,000 to ensure its financial responsibilities and obligations as an EGS, as required by the license application.

As of May 24, 2011, no protests to the application 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.

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 ArcelorMittal USA LLC is hereby approved, consistent with this Order.

2. That a license be issued authorizing ArcelorMittal USA LLC to begin to offer, render, furnish or supply electric generation supplier services to industrial customers in the service territories of PPL Electric Utilities Corporation, PECO Energy Company, and West Penn Power within the Commonwealth of Pennsylvania.

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

4. That this proceeding at Docket No. A-2011-2233438 be marked closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 9, 2011

ORDER ENTERED: June 10, 2011