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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held September 12, 2011 | | |
| Commissioners Present: | | |  | |
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| Robert F. Powelson, Chairman | | |  | |
| John F. Coleman, Jr., Vice Chairman  Wayne E. Gardner  James H. Cawley  Pamela A. Witmer | | | | |
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| License Application of Option One Energy LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker/Marketer | | | A-2011-2240993 | |
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**ORDER**

**BY THE COMMISSION:**

On May 6, 2011, Option One Energy LLC (Option One Energy) filed an application seeking to become a licensed electric generation supplier (EGS) in the electric distribution company (EDC) service territories of Citizens’ Electric Company, Metropolitan Edison Company, PECO Energy Company, Pike County Light & Power Company, PPL Electric Utilities, Inc., UGI Utilities, Inc. and Wellsboro Electric 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).

Option One Energy is a foreign limited liability company, organized in the state of Delaware, and registered to do business in the Commonwealth of Pennsylvania as of January 22, 2010. Option One Energy proposes to act as a broker/marketer of electricity to all customer classes (residential, small commercial (25 kW and under demand), large commercial (over 25 kW demand), industrial and governmental) within the Commonwealth of Pennsylvania. Option One Energy is advised that if it wishes to serve customers in additional EDC service territories in the future, it must reapply to the Commission to amend its license accordingly.

Option One Energy offers a variety of brokerage and advisory services related to energy procurement and risk management. Option One Energy utilizes historical and forecasted future data to formulate energy procurement strategies that are specifically tailored to each of its clients. Option One Energy avers that the proposed energy procurement strategies are designed to save money while reducing or eliminating uncertainty and volatility risk in restructured electric markets. Option One Energy has stated that it will not take title to electricity nor will it pay electric bills on behalf of its clients.

Since Option One Energy proposes to provide EGS 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 EGS 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 EGS may seek to terminate its generation service through an appropriate written notice to the customer and the EDC. The residential customer can then attempt to repair their relationship with their current EGS, seek a new EGS, or return to EDC service at default service rates in accordance with the EDC'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 EDC or the EGS 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. Further, 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.”).

Option One Energy 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 fitness requirements of the license application, Option One Energy has provided current bank account statements with transactional information as well as projected income statements. Option One Energy has also supplied professional resume and historical employment information for its CEO in addition to internal organizational information. Sufficient information has been provided by Option One Energy to demonstrate its financial and technical fitness in order to be licensed as a broker/marketer in the Commonwealth of Pennsylvania.

Option One Energy did not provide a $250,000 bond as required by the license application; however, it did provide a bond in the amount of $10,000 and requests that the Commission reduce its security requirement from $250,000 to $10,000. In support of this request, Option One Energy states that it will be operating as a broker between customers and providers of electricity. Option One Energy further asserts that it will not take title to electricity nor will it pay electric bills on behalf of its clients.

The Commission believes that the reasoning on which Option One Energy bases its request for a bond reduction from $250,000 to $10,000 is similar to that offered by the other EGSs that have successfully petitioned the Commission for a bonding level of $10,000. Two of the EGSs are Co-eXprise, Inc. (Co-eX), at Docket No. A-110166, whose request was granted January 20, 2006, and Premier Energy Solutions (Premier), at Docket No. A-110170, whose request was granted July 26, 2006. In the case of Co-eX, the company explained that, as a consultant, it will provide its customers with an evaluation and selection process from which to select the best positioned licensed electricity supplier/generator and award business. In the case of Premier, the company explained that it requested an EGS license to become EDI certified with the utilities, in order to be able to efficiently and effectively obtain electricity usage information for the customers to whom it provides consulting services. Premier intended to utilize the information to help its customers reduce their overall spending for electricity. Premier also stated that it will not take title to electricity.

The Commission believes that Option One Energy operates in a similar manner and therefore should be granted similar relief and be permitted to provide a bond or other approved security in the reduced amount of $10,000. However, Option One Energy’s bonding level is contingent upon the company’s business model as described in this Order. If Option One Energy takes title to generation supply for its customers, and/or charges customers directly for that generation supply, a $10,000 level of bonding may not be appropriate. Therefore, we will direct Option One Energy to notify the Commission 45 days prior to a change in its business model, whereby Option One Energy takes title to generation supply and/or bills its customers directly for that generation supply. This will provide the Commission with an opportunity to review and adjust Option One Energy’s approved bonding level prior to Option One Energy implementing those changes.

As of August 29, 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; **THEREFORE,**

**IT IS ORDERED:**

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

2. That Option One Energy LLC’s request for a reduction in the bond level from $250,000 to $10,000 is hereby granted.

3. That the security amount of $10,000 shall remain in effect for Option One Energy LLC as long as Option One Energy LLC does not make a change to its business model in Pennsylvania, whereby it would take title to generation supply and/or bill its customers directly for generation supply.

4. That a license be issued authorizing Option One Energy LLC to begin to offer, render, furnish or supply electric generation supplier services to all customer classes in the EDC service territories of Citizens’ Electric Company, Metropolitan Edison Company, PECO Energy Company, Pike County Light & Power Company, PPL Electric Utilities, Inc., UGI Utilities, Inc. and Wellsboro Electric Company within the Commonwealth of Pennsylvania.

5. That if Option One Energy LLC proposes to change its business model as described in Ordering Paragraph No. 3, it must notify the Commission at least 45 days prior to the changes. With the notice, Option One Energy LLC must provide an update to the nature and scope of business information that was required by 52 Pa. Code § 54.40(c) to justify the modification granted in Ordering Paragraph No. 3. This will provide the Commission the opportunity to assess Option One Energy LLC’s bonding level and adjust as appropriate, prior to Option One Energy LLC implementing the proposed changes to its business model.

6. That if Option One Energy LLC changes its business model without providing to the Commission the notice and information required in Ordering Paragraph No. 5, then the reduced bonding level permitted by Ordering Paragraph No. 2 shall cease effective with the date of the change in the business model. The level of bonding effective at that time shall be $250,000 or the level required by 52 Pa. Code § 54.40, whichever is greater.

7. That this proceeding at Docket No. A-2011-2240993 be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: September 12, 2011

ORDER ENTERED: September 12, 2011