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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held July 19, 2012 | | |
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| 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 | | | | | |
| |  |  | | --- | --- | | Application of XOOM Energy Pennsylvania, LLC to become a licensed supplier of natural gas services. | A-2012-2283967 | | **ORDER**  **BY THE COMMISSION:**  On December 16, 2011, XOOM Energy Pennsylvania, LLC (XOOM) filed a License Application to operate as a supplier and broker/marketer engaged in the business of supplying natural gas services in the service territories of National Fuel Gas Distribution Corporation, Peoples Natural Gas Corporation, Columbia Gas of Pennsylvania, Inc., PECO, UGI and UGI Central Penn Gas, within the Commonwealth of Pennsylvania. This application was filed pursuant to section 2208 of the Natural Gas Choice and Competition Act (Act) and Title 52 of the Pennsylvania Code, Chapter 62, Subchapter D.  §2208 provides in pertinent part that:  Requirements for Natural Gas Suppliers.--No entity shall engage in the business of a natural gas supplier unless it holds a license issued by the Commission. To the extent that a natural gas distribution company provides natural gas supply service outside of its chartered or certificated territory, it also must hold a license. A license shall not be required for customers who make de minimis incidental sales or resales to themselves, an affiliate or to other nonresidential retail gas customers.  66 Pa. C.S. §2208.  A natural gas supplier is defined as:  An entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. The term includes a natural gas distribution company that provides natural gas supply services outside its certificated service territories. The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than:  (i) as provided prior to the effective date of this chapter, pursuant to a certificate of public convenience if required under this title;  (ii) total natural gas supply services in de minimis amounts;  (iii) natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided; or  (iv) natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of  September 1, 1999, to the extent permitted by applicable law independent of this chapter.  The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of this title, a natural gas supplier that is not a natural gas distribution company is not a public utility as defined in section 102 (relating to definitions) to the extent that the natural gas supplier is utilizing the jurisdictional distribution facilities of a natural gas distribution company or is providing other services authorized by the Commission.  66 Pa. C.S. § 2202.  As used in the above definition of a natural gas supplier, the term natural gas supply services includes: (i) the sale or arrangement of the sale of natural gas to retail customers; and (ii) services that may be unbundled by the Commission under section 2203(3) of the Act (relating to standards for restructuring of the natural gas utility industry). Natural gas supply service does not include distribution service.  66 Pa. C.S. § 2202.  XOOM is a domestic limited liability company formed in the Commonwealth of Pennsylvania on March 24, 2011. XOOM has stated that upon the approval of this Application, it proposes to provide natural gas supply services to residential, small commercial (less than 6,000 MCF annually), large commercial (6,000 MCF or more annually), and industrial customers in the service territories of National Fuel Gas Distribution Corporation, Peoples Natural Gas Corporation, Columbia Gas of Pennsylvania, Inc., PECO, UGI and UGI Central Penn Gas. XOOM is advised that if it wishes to serve additional classes of customers in the future, it must notify the Commission Secretary by letter immediately to amend its license accordingly.  It is important to note that a licensee must 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. §2206(a), Assuring Conformance with 52 Pa. Code Chapter 56 Pursuant to*  *66 Pa. C.S. §2207(b), §2208(e) and (f) and Addressing the Application of Partial Payments* (M-00991249 F003). 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. A natural gas supplier cannot physically disconnect a residential customer from the distribution system, and thus, the rules relating to residential service termination are not applicable to natural gas suppliers. A natural gas supplier may seek to terminate its natural gas services through an appropriate written notice to the customer and the local distribution company. The residential customer can then attempt to repair his or her relationship with the natural gas supplier, seek a new natural gas supplier, or default to the natural gas distribution company’s service tariffed rates in accordance with the local distribution company’s obligations under Section 2207(a), 66 Pa. C.S. §2207(a). The customer would only be disconnected from the distribution system pursuant to appropriate regulations if the customer failed to meet his or her obligations to the natural gas distribution company or the natural gas supplier which has been designated by the Commission as the supplier of last resort.  Regarding the financial and technical fitness requirements of the license application, XOOM has submitted consolidated financial statements for XOOM Energy, LLC; the operating entity and single managing member of XOOM for the year ended December 31, 2011. The financial statements were audited by independent auditors in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. XOOM has also supplied extensive resume data for its chief officers. Sufficient information has been provided by XOOM to demonstrate its financial and technical fitness in order to be licensed as a supplier of natural gas supply services.  Section 2208(c)(1), 66 Pa. C.S. §2208(c)(1), provides that a natural gas supplier license shall not be issued unless the applicant furnishes a bond or other security in a form and amount to ensure its financial responsibility. The criteria used to establish the form and amount of the bond or other security is set forth in the natural gas distribution company’s tariff. The amount and form of the bond or other security may also be mutually agreed to between the natural gas distribution company and the natural gas supplier. Section 2208 also provides that should the parties fail to achieve an agreement, then the form and amount of bond or other financial security “shall be determined by criteria approved by the Commission.” XOOM has provided documentation to evidence its compliance with the Section 2208(c) bonding requirement for the following natural gas  distribution company service territories: National Fuel Gas Distribution Corporation, The Peoples Natural Gas Corporation, Columbia Gas of Pennsylvania, Inc., PECO, UGI and UGI Central Penn Gas.  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 § 62.114 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 customer’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 doing business.  XOOM has published notice of its application in the Pennsylvania newspapers and proofs of service to the interested parties as required by the Commission.  XOOM has provided the required Pennsylvania Emergency Management Agency (“PEMA”) contact information.  As of July 10, 2012, no protests have been filed.  We find that XOOM:  1. Is fit, willing and able to properly perform the service proposed in conformance with applicable provisions of the Public Utility Code and the 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 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 develop from time to time in the course of doing business in Pennsylvania.  3. Has proposed to offer natural gas supply services which, to the extent authorized by the license, will be consistent with the public interest and the policy declared in the Natural Gas 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 XOOM Energy Pennsylvania, LLC is hereby approved, consistent with this Order.  2. That a license be issued authorizing XOOM Energy Pennsylvania, LLC the right to begin to offer, render, furnish or supply natural gas supply services as a supplier and broker/marketer to the public, limited to residential, small commercial (under 6,000 MCF annually), large commercial (6,000 MCF or more annually), and industrial customers within the following local distribution company service territories within the Commonwealth of Pennsylvania: National Fuel Gas Distribution Corporation, Peoples Natural Gas Corporation, Columbia Gas of Pennsylvania, Inc., PECO, UGI and UGI Central Penn Gas.  3. That this proceeding, at Docket No. A-2012-2283967, be closed.    **BY THE COMMISSION,**  Rosemary Chiavetta  Secretary  (SEAL)  ORDER ADOPTED: July 19, 2012  ORDER ENTERED: July 20, 2012 | | Docket Number:  December 16, 2012 | |  | | | | | | |
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