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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting July 16, 2013 | | |
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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 | | | | |
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| License Application American Power & Gas of Pennsylvania, LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Electricity | | | Docket Number:  A-2013-2355561 | |
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**ORDER**

**BY THE COMMISSION:**

On April 1, 2013, American Power & Gas of Pennsylvania, LLC (AP&G) filed an application seeking to become a licensed electric generation supplier (EGS) in the electric distribution company (EDC) service territories of Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, West Penn Power, PPL Electric Utilities Corporation, UGI Utilities Inc., Pennsylvania Power Company, PECO Energy Company and Pike County Light & Power Company 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-user customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.

66 Pa. C.S. §2803.

AP&G is a foreign company organized in the State of Florida as of January 1, 2013, and registered do to business in Pennsylvania as of February 26, 2013. By its application, AP&G proposes to act as a supplier of retail electric power to Residential, Small Commercial (25 kW and under demand), Large Commercial (over 25 kW demand), Industrial and Governmental Customers.

Since AP&G 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 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 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 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 LLC (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. AP&G has submitted proof of membership in the PJM as a LSE.

Finally, should AP&G employ any independent consultants to arrange for the sale of its energy products to end-users, it must inform such independent consultants that they will be required to be licensed as an EGS if they arrange for the sale of energy products to end-users from another supplier or suppliers in addition to AP&G.

AP&G 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, AP&G has supplied the Commission with a tax return for the year ending 2012 and proof of available sources of existing funds. AP&G also provided documentation on its available list of credit. With regard to the technical fitness requirements of the EGS license application, AP&G provided a summary of descriptions of the qualifications and history of its operations in deregulated states and information pertaining to sufficient knowledge in the Electric Supplier field and a brief description of its intended operations as a licensed retail electric supplier in Pennsylvania. The Applicant also provided the professional resumes of its chief officers. We find that sufficient information has been provided by AP&G to demonstrate its financial and technical fitness in order to be licensed as an EGS in the Commonwealth of Pennsylvania.

AP&G 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 July 5, 2013, no protests to the application have been filed.

In summary, we find that:

1. AP&G 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. AP&G 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 American Power & Gas of Pennsylvania, LLC is hereby approved, consistent with this Order.

2. That a license be issued authorizing American Power & Gas of Pennsylvania, LLC to begin to offer, render, furnish or supply electric generation supplier services as a supplier of electricity to Residential, Small Commercial (25 kW and under), Large Commercial (Over 25kW), Industrial and Governmental Customers in the electric distribution company service territories of Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, West Penn Power, PPL Electric Utilities Corporation, UGI Utilities Inc., Pennsylvania Power Company, PECO Energy Company and Pike County Light & Power Company in the Commonwealth of Pennsylvania.

3. That if American Power & Gas of Pennsylvania, LLC should employ any independent consultants to arrange for the sale of its energy products to end-users, it must inform such independent consultants that they will be required to be licensed as electric generation suppliers if they arrange for the sale of energy products to end-users from another supplier or suppliers in addition to American Power and Gas of Pennsylvania, LLC.

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-2013-2355561 be closed.



**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: July 16, 2013

ORDER ENTERED: July 16, 2013