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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held August 15, 2013 |
| 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 SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power | Docket Number: A-2013-2353576 |

# TENTATIVE ORDER

**BY THE COMMISSION:**

On February 1, 2013, SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy (SFE) filed an application seeking to become a licensed electric generation supplier (EGS) in all 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. 66 Pa. C.S. §2809.

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 or 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.

SFE is a foreign corporation, organized in the State of Delaware on August 14, 2012, and registered to do business in Pennsylvania on August 29, 2012. SFE proposes to act as a supplier of retail electric power to residential, small commercial (25 kw and under demand), and large commercial (over 25 kw demand) customers in all electric distribution company service territories throughout the Commonwealth of Pennsylvania.

Since SFE 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 service 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 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 doing 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 SFE is taking title to electricity, it is required to comply with this requirement. SFE has agreed to provide the required proof of membership in the PJM as a Load Serving Entity within 120 days of receiving its license.

SFE has provided proofs of publication in Pennsylvania newspapers and proofs of service to the interested parties as required by the Commission.

Regarding the financial and technical fitness requirements of the license application, SFE has submitted the consolidated financial statements for Summitt Energy, Inc., the parent company, for the years ended March 31, 2010, 2011, and 2012. 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. SFE also provided their insurance policy.

We note that SFE supplied information regarding its parent’s activities in Canada and New York, specifically concerning complaints from customers as well as lawsuits. This information showed a high number of complaints compared to other energy service companies in Canada and New York. SFE’s parent company also received several fines in Canada as well. While the sheer volume of complaints in New York and Canada does not itself demonstrate a compliance problem or inappropriate behavior, a number of the complaints include allegations or other indicators of possible problems so as to cause concern. As a result, we intend to impose some additional conditions on SFE. We note that we have mandated conditions for other electricity generation suppliers and natural gas suppliers seeking licenses. We also note that SFE has committed to fully comply with the Commission’s supplier marketing regulations at 52 Pa Code 111.

SFE has provided a $250,000 surety Letter of Credit as required by the license application.

As of August 6, 2013, no protests have been filed.

Upon full consideration of all matters of record, we tentatively find that approval of this request is necessary and proper for the service, accommodation and convenience of the public. Therefore, our decision in this matter is issued as a Tentative Order, in order to afford the applicant the opportunity to respond. Applicant may, within 10 days of the entry of this order, file comments; **THEREFORE,**

**IT IS ORDERED:**

1. That the application of SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy is hereby tentatively approved, consistent with this Order.

2. If SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy does not file comments within 10 days of the entry date of this Order, this Tentative Order shall become final, without further action by the Commission.

3. That upon this order becoming final, and without further action by the Commission, a license be issued authorizing SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy to begin to offer, render, furnish or supply electric generation supplier services as a supplier to residential, small commercial (25 kw and under demand), and large commercial (over 25 kw demand) customers in all electric distribution company service territories, within the Commonwealth of Pennsylvania, subject to the following conditions, which will apply for a term of twelve months from the start of the Company’s marketing activities in the state (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. SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy shall fully comply with the Commission’s supplier marketing regulations at 52 PA Code 111.

b. In response to any inquiries from the Commission’s Bureau of Consumer Services (BCS), SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy will provide any verification documents or other documentation, as well as any requested personnel needed for discussion, to answer BCS’ questions to their satisfaction. The documentation can include written enrollment forms, disclosure statements, audio recordings, third party verification, marketing and sales materials and any other relevant documentation.

c. SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy will provide a report the first week of each calendar quarter to staff capturing the following data concerning customer complaints filed directly with the company  : (i) the number of complaints by category - the company shall consult with the Bureau of Consumer Services as to the proper categorizations; (ii) the resolution for each complaint and (iii) any process improvements/changes, organizational changes, etc. implemented to reduce and/or eliminate similar complaints going forward;

d. SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy shall operate in accordance with BCS requirements for complaint management and handling. Notwithstanding the above;

SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy will send a written response, either via electronic mail, regular mail or by facsimile, to the BCS advocate assigned to mediate complaints filed against SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy, within 10 days of receipt of the complaint,

SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy will send a written response to the consumer who filed the complaint, within 10 days of receipt of the complaint,

SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy will respond to supplemental or new information referred by BCS, within 10 days of receipt of such information, and

SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy will provide final resolution in writing to BCS and notify the complaining consumer of same.

e. At the expiration of the Term, SFE Energy Pennsylvania, Inc. d/b/a SFE or SFE Energy 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. A copy of this status report shall be provided to the Commission’s Bureau of Technical Utility Services and the Commission’s Bureau of Consumer Services.

4. That if this Order becomes final, the Commission’s Bureau of Technical Utility Services, with the assistance of the Bureau of Consumer Services and the Law Bureau, shall monitor SFE’s compliance with the conditions set forth in this Order.

5. That upon this Order becoming final, this proceeding at Docket No. A-2013-2353576 be closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 15, 2013

ORDER ENTERED: August 15, 2013