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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held September 26, 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 DWP Energy Holdings, LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a  Supplier of Electricity to the public in the Commonwealth of Pennsylvania. | Docket Number: A-2013-2376082 |

# ORDER

**BY THE COMMISSION:**

On July 29, 2013, DWP Energy Holdings, LLC (DWP Energy) filed an application seeking to become a licensed electric generation supplier (EGS) in all the electric distribution company service territories throughout 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 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.

DWP Energy is a newly organized foreign limited liability company, organized under the laws of the State of Delaware, and registered to do business in Pennsylvania as of May 13, 2013. DWP Energy proposes to supply electricity to residential, small commercial (25 kW and under demand), large commercial (over 25kW demand), industrial, and governmental customers. It is not currently licensed as a supplier of electric distribution services in any other state or jurisdiction. DWP Energy will take title to the electricity.

DWP Energy is located at 604 Arizona Avenue, Suite 209, Santa Monica, California, 90401. There is no parent or affiliate company nor does applicant have any predecessors that have done business. DWP Energy was formed for the purpose of supplying electric generation services in Pennsylvania. DWP proposes to market its customers utilizing the following methods: internal resources/employees; contract with external PUC licensed EGS broker/marketer(s); use a non-EGS affiliate marketing company and/or individual; and contract with a non-EGS third-party marketing company and/or individual.

Since DWP Energy 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 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. Since DWP Energy is taking title to the electricity, it is required to comply with this requirement.

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

The Bureau of Consumer Services has completed a thorough review of DWP Energy’s disclosure statement and it was approved.

To satisfy the financial requirements of the license application, DWP Energy has provided the Commission with copies of its corporate bank statements and copies of convertible promissory notes from private investors which will be used to fund the business.

Regarding the technical requirements of the license application, DWP Energy has provided a resume of the CEO and a copy of the proposed organizational chart for the company. Sufficient information has been provided by DWP Energy to demonstrate its financial and technical fitness in order to be licensed as a supplier of electric power in all the electric distribution company service territories throughout the Commonwealth of Pennsylvania.

DWP Energy has provided a $250,000 letter of credit as required by the license application.

As of September 17, 2013, 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.

3. 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 DWP Energy Holdings, LLC is approved, consistent with this Order.

2. That DWP Energy Holdings, LLC be issued a license to begin to offer, render, furnish or supply electricity or electric generation services as a supplier to residential, small commercial (25 kW and under demand), large commercial (over 25kW demand), industrial and governmental customers in all the electric distribution company service territories throughout the Commonwealth of Pennsylvania.

3. That DWP Energy Holdings, LLC must submit within 120 days, proof that it is a PJM registered Load Serving Entity as a party to the reliability assurance agreement or that it has a contract with an entity who is such a party.

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-2013-2376082, be closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: September 26, 2013

ORDER ENTERED: September 26, 2013