



6653 Main Street
Williamsville, NY 14221
716.632.1800 Direct
716.632.1818 Fax
www.energymarkllc.com

December 2, 2019

RECEIVED

DEC - 2 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: EnergyMark, LLC response to Data Requests Electric Supplier License A-2019-3014449

Ms. Chiavetta:

This letter is to advise the Commission that EnergyMark is providing the data requested by the commission.

Further per 52 PA Code § 1.36:

I, Gary A. Marchiori hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this manner. I understand that the statements herein are subject to penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Sincerely,


Gary A. Marchiori
President

Notary Public: Jennifer S. Dean

Notary Public,
State of New York
JENNIFER S. DEAN
Qualified in Erie County
My Commission Expires Sept. 8, 2022

Reg. No. 41 DE 6413449

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of **EnergyMark, LLC**, d/b/a N/A, for approval to offer, render, furnish, or supply electricity services as a Supplier of electricity to the public in the Commonwealth of Pennsylvania (Pennsylvania).

To the Pennsylvania Public Utility Commission:

1. IDENTIFICATION AND CONTACT INFORMATION

- a. **IDENTITY OF THE APPLICANT:** Provide name (including any fictitious name or d/b/a), primary address, web address, and telephone number of Applicant:

EnergyMark, LLC
6653 Main Street
Williamsville, NY 14221
Phone: (716) 632-1800
Fax: (716) 632-1818
Website: www.energymarkllc.com

- b. **PENNSYLVANIA ADDRESS / REGISTERED AGENT:** If the Applicant maintains a primary address outside of Pennsylvania, provide the name, address, telephone number, and fax number of the Applicant's secondary office within Pennsylvania. If the Applicant does not maintain a physical location within Pennsylvania, provide the name, address, telephone number, and fax number of the Applicant's Registered Agent within Pennsylvania.

United Corporate Services, Inc.
3631 North Front Street
Harrisburg, PA 17110
Phone: 800-899-8648
Fax: 914-949-9618

- c. **REGULATORY CONTACT:** Provide the name, title, address, telephone number, fax number, and e-mail address of the person to whom questions about this Application should be addressed.

EnergyMark, LLC
Cragg Chaffee
General Manager
6653 Main Street
Williamsville, NY 14221
Phone: (716) 632-1800
Fax: (716) 632-1818
Email: cchaffee@energymarkllc.com

- d. **ATTORNEY:** Provide the name, address, telephone number, fax number, and e-mail address of the Applicant's attorney. If the Applicant is not using an attorney, explicitly state so.

Guy J. Agostinelli, Esq.
Zdarsky, Sawicki & Agostinelli LLP
404 Cathedral Place
298 Main Street
Buffalo, New York 14202
Phone: (716) 855-3200
Fax: (716) 855-3101
Email: gagostinelli@zsa.cc

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At least sixty days (60) prior to the security instrument's expiration date, Applicant should contact Stephen Jakab at sjakab@pa.gov to determine the appropriate bonding amount based on a percentage of Applicant's gross receipts resulting from the sale of generated electricity consumed in Pennsylvania. Once the amount has been determined, Applicant should overnight the updated security instrument(s) at least thirty (30) days prior to the expiration date to ensure adequate time for staff review and approval of the security instrument(s).

Template versions of a continuous bond, fixed-term bond, continuous letter of credit, and parental guarantee are attached at Appendix E, F, G, & H, respectively. Applicant's security must follow language from these examples, and must include the unmodified language outlined in Appendix D. Any deviation from these examples must be identified in the application and may not be acceptable to the Commission.

b. FINANCIAL RECORDS, STATEMENTS, AND RATINGS: Applicant must provide sufficient information to demonstrate financial fitness commensurate with the service proposed to be provided. Examples of such information which may be submitted include the following:

- Actual (or proposed) organizational structure including parent, affiliated or subsidiary companies.
MW Energy - 67% ownership
South Jersey Energy Company - 33% ownership
- Published Applicant or parent company financial and credit information (i.e. 10Q or 10K). (SEC/EDGAR web addresses are sufficient)
- Evidence of Applicant's credit rating. Applicant may provide a copy of its Dun and Bradstreet Credit Report and Robert Morris and Associates financial form, evidence of Moody's, S&P, or Fitch ratings, and/or other independent financial service reports.
- See Attached Dun and Bradstreet credit report for EnergyMark, LLC
- A description of the types and amounts of insurance carried by Applicant which are specifically intended to provide for or support its financial fitness to perform its obligations as a licensee.
- Audited financial statements exhibiting accounts over a minimum two-year period.

See Attached Audited financial statements for EnergyMark, LLC (confidential)

SUPPLIER FUNDING METHOD: If Applicant is operating as anything other than Broker/Marketer only, explain how Applicant will fund its operations. Provide all credit agreements, lines of credit, etc., and elaborate on how much is available on each item.

EnergyMark, LLC is able to fund operations through positive earnings and cash flows. EnergyMark also has available a working capital revolving credit facility with South Jersey Energy.

c. BROKER PAYMENT STRUCTURE: If applicant is a broker/marketer, explain how your organization will be collecting your fees.

N/A

d. ACCOUNTING RECORDS CUSTODIAN: Provide the name, title, address, telephone number, FAX number, and e-mail address of Applicant's custodian for its accounting records.

Lumsden & McCormick LLP
403 Main St.
Suite 430
Buffalo, NY 14203
Phone: (716) 856-3300
Email: TBubar@lumsdencpa.com



Pennsylvania Public Utility Commission Business Practices

Quality Assurance Plan – Marketing Standards Training

Each year, during month of January, our manager of Regulatory affairs will review the PA UBP's current marketing standards.

Each marketing representative will be trained on:

- Pennsylvania Uniform Business Practices.
- EnergyMark Products and Services.
- EnergyMark rates, payment options, customer cancellation rights, and early termination fees.
- Toll Free contact number for billing questions, disputes, and complaints.
- In Person Customer Contact Rules:
 - Display Badge, Identify as an independent energy marketer, and representative of EnergyMark.
 - State that if customer purchases natural gas from EnergyMark, the customer's utility will continue to deliver their natural gas and will respond to any leaks or emergencies.
 - Never represent that representative is an employee or representative of the utility company.
 - Leave the premises when requested to do so by customer.
 - Provide customer with written information regarding EnergyMark.
 - If there is a language barrier, EnergyMark representative will find a person in the area who is fluent in the customer's language or terminate the in-person contact with the customer.
- Telephone Customer Contact Rules:
 - Provide the representative's first name and, on request, their identification number.
 - State the call is being made on behalf of EnergyMark.
 - State the purpose of the telephone call.

- Remove Customer's name from EnergyMark marketing database upon Customer's request.
- Never represent that EnergyMark is an employee or representative of the utility company.
- If there is a language barrier, EnergyMark representative will transfer the customer to a representative who speaks the customer's language, if available, or terminate the call.
- EnergyMark and its marketing representatives shall:
 - Not engage in misleading or deceptive conduct as defined by State or Federal law, or by Commission rule, regulation or Order.
 - Not make false or misleading representations including misrepresenting rates or savings offered by EnergyMark.
 - Provide the customer with written information, upon request, or with a website address at which information can be obtained, if the customer requests such information via the internet.
 - Use reasonable efforts to provide accurate and timely information about products and services.
 - Ensure that any product or service offerings that are made by EnergyMark contain information written in plain language that is designed to be understood by the customer.
 - Investigate customer inquiries and complaints concerning marketing practices within 5 business days of receipt of the complaint.
 - Cooperate with the PA PUC regarding marketing practices proscribed by the Uniform Business Practices and with local law enforcement in investigations concerning deceptive marketing practices.
- Dispute Resolution:
 - EnergyMark employees are trained to handle customer complaints and resolving disputes arising from marketing activities and shall respond promptly to complaints forwarded by the PA PUC.

Appendix B

OPERATIONS AFFIDAVIT

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[Commonwealth/State] of New York :

DEC - 2 2019

: ss.

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

County of Erie :

Gary A. Marchiori, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

[He/she is the President (Office of Affiant) of EnergyMark, LLC (Name of Applicant);]

[That he/she is authorized to and does make this affidavit for said Applicant;]

That EnergyMark, LLC, the Applicant herein, acknowledges that [Applicant] may have obligations pursuant to this Application consistent with the Public Utility Code of the Commonwealth of Pennsylvania, Title 66 of the Pennsylvania Consolidated Statutes; or with other applicable statutes or regulations 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.

That EnergyMark, LLC, the Applicant herein, asserts that [he/she/it] possesses the requisite technical, managerial, and financial fitness to render electric service within the Commonwealth of Pennsylvania and that the Applicant will abide by all applicable federal and state laws and regulations and by the decisions of the Pennsylvania Public Utility Commission.

That EnergyMark, LLC, the Applicant herein, certifies to the Commission that it is subject to , will pay, and in the past has paid, the full amount of taxes imposed by Articles II and XI of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Act of 1971 and any tax imposed by Chapter 28 of Title 66. The Applicant acknowledges that failure to pay such taxes or otherwise comply with the taxation requirements of Chapter 28, shall be cause for the Commission to revoke the license of the Applicant. The Applicant acknowledges that it shall report to the Commission its jurisdictional Gross Receipts and power sales for ultimate consumption, for the previous year or as otherwise required by the Commission. The Applicant also acknowledges that it is subject to 66 Pa. C.S. §506 (relating to the inspection of facilities and records).


As provided by 66 Pa. C.S. §2810 (C)(6)(iv), Applicant, by filing of this application waives confidentiality with respect to its state tax information in the possession of the Department of Revenue, regardless of the source of the information, and shall consent to the Department of Revenue providing that information to the Pennsylvania Public Utility Commission.

Appendix B (Continued)

That EnergyMark, LLC, the Applicant herein, acknowledges that it has a statutory obligation to conform with 66 Pa. C.S. §506, §2807 (C), §2807(D)(2), §2809(B) and the standards and billing practices of 52 PA. Code Chapter 56.

That the Applicant agrees to provide all consumer education materials and information in a timely manner as requested by the Bureau of Public Liaison or other Commission bureaus. Materials and information requested may be analyzed by the Commission to meet obligations under applicable sections of the law.

That the facts above set forth are true and correct/true and correct to the best of his/her knowledge, information, and belief.


Signature of Affiant

Sworn and subscribed before me this 2nd day of December, 2019.


Signature of official administering oath

My commission expires 9/8/2022.

Notary Public
State of New York
JENNIFER S. DEAN
Qualified in Erie County
My Commission Expires Sept. 8, 2022
Reg. No. 41 DE 6413 & 29

0226
0228

FedEx Express **NEW Package US Airbill**

FedEx
Tracking
Number

8005 3110 5569

SPH1

Form 10 No. 0215

Recipient's Copy

RECIPIENT: PEEL HERE

1 From This portion can be removed for Recipient's records.

Date 12/2/9 FedEx Tracking Number 800531105569

Sender's Name GARY MARCHIORI Phone 716 614-1800

Company ENERGYMARK, LLC

Address 6653 MAIN ST

Dept./Floor/Suite/Room

City WILLIAMSVILLE State NY ZIP 14221-5906

2 Your Internal Billing Reference

3 To

Recipient's Name Secretary Phone _____

Company Poughkeepsie Public Utility Commission

Address 400 North St HOLD Weekday
We cannot deliver to P.O. boxes or P.O. ZIP codes. Dept./Floor/Suite/Room

Address Kingston Building HOLD Saturday
Use this line for the HOLD location address or for continuation of your shipping address. Dept./Floor/Suite/Room

City Harrisburg State PA ZIP 17120

0451737542



8005 3110 5569

4 Express Package Service

* To most locations.

NOTE: Service order has changed. Please select carefully.

Packages up to 150 lbs.
For packages over 150 lbs., use the new
FedEx Express Freight US Airbill.

Next Business Day

☐ **FedEx First Overnight**
Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☐ **FedEx Priority Overnight**
Next business morning. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☒ **FedEx Standard Overnight**
Next business afternoon. Saturday Delivery NOT available.

2 or 3 Business Days

☐ **NEW FedEx 2Day A.M.**
Second business morning. Saturday Delivery NOT available.

☐ **FedEx 2Day**
Second business afternoon. Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☐ **FedEx Express Saver**
Third business day. Saturday Delivery NOT available.

5 Packaging * Declared value limit \$500.

☒ FedEx Envelope* ☐ FedEx Pak* ☐ FedEx Box ☐ FedEx Tube ☐ Other

6 Special Handling and Delivery Signature Options

☐ **SATURDAY Delivery**
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

☒ **No Signature Required**
Package may be left without obtaining a signature for delivery.

☐ **Direct Signature**
Someone at recipient's address may sign for delivery. Fee applies.

☐ **Indirect Signature**
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. Fee applies.

Does this shipment contain dangerous goods?

One box must be checked.

☒ No ☐ Yes As per attached Shipper's Declaration. ☐ Yes Shipper's Declaration not required.

☐ Dry Ice Dry ice, 6 UN 1845. x kg

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

☐ Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

Obtain recip. Acct. No. ☐

Sender ☐ Acct. No. in Section 7 will bill. ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

Total Packages

Total Weight

Credit Card Auth.

0.22 lbs.

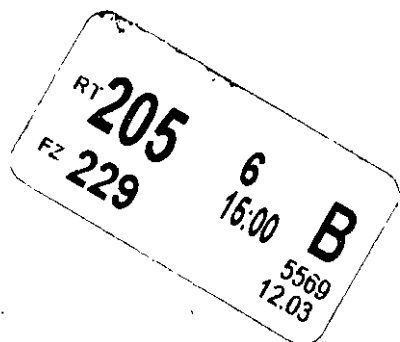
Your liability is limited to \$100 unless you declare a higher value. See the current FedEx Service Guide for details.

611

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earthsmart

FedEx carbon envelope shipping



FedEx

TRK# 8005 3110 5569
0215

TUE - 03 DEC AA
STANDARD OVERNIGHT

EN MDTA

17120
PA-US
MDT



FID 3713992 02DEC19 BUFA 5569C2/1800/05A2

Express