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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17120** |  |
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|  | Public Meeting held June 18, 2020 |
| Commissioners Present: |  |

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| Gladys Brown Dutrieuille, Chairman | |
| David W. Sweet, Vice Chairman | |
| John F. Coleman, Jr.  Ralph V. Yanora | |
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| Application of EnergyMark, LLC for  Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power | Docket Number:  A-2019-3014449 |

# ORDER

**BY THE COMMISSION:**

On November 21, 2019, the Pennsylvania Public Utility Commission (Commission) accepted EnergyMark, LLC’s (EnergyMark), Utility Code 1122784, application to provide electric generation supplier (EGS) services as a supplier in all of 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. For the reasons expressed herein, the Commission will approve the Application.

Section 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.

EnergyMark is a foreign limited liability company, formed in the State of New York as of November 2, 2009 and registered to do business in the Commonwealth of Pennsylvania on November 17, 2009. EnergyMark 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.

Regarding the financial and technical requirements of the license application, EnergyMark has submitted two consecutive years of audited financial statements and a positive credit report. EnergyMark has also supplied a business plan, previous experience in the electric and gas industries, and extensive résumé data for its chief officers. Additionally, EnergyMark was previously licensed by the Commission to operate as a Natural Gas Supplier on April 15, 2010, at Docket No. A‑2009-2150184. We find that sufficient information has been provided by EnergyMark to demonstrate its financial and technical fitness in order to be licensed as a supplier of retail electric power in the Commonwealth of Pennsylvania.

Since EnergyMark will be serving residential customers, 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. § 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. We further note that the licensee and its agents must comply with the Commission’s sales and marketing regulations at 52 Pa. Code § 111.1, et seq. applicable to residential customers. Among other things, these regulations require the licensee and its agents to provide accurate information about products and services being offered and prohibit a licensee and its agents from engaging in misleading or deceptive conduct and from making false or misleading representations. 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 Secretarial Letter at Docket No. M‑2010-2157431, issued on March 18, 2010, regarding EGS membership in the PJM Interconnection LLC (PJM). Specifically, our Secretarial Letter directed that such EGS applicants must file with the Commission, within 120 days of receiving an EGS license, proof of membership in 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 EnergyMark is taking title to electricity, it is required to comply with this requirement.

Finally, should EnergyMark 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 EnergyMark.

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

EnergyMark has provided a $250,000 surety bond as required by the license application. As of June 9, 2020, 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.

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 EnergyMark, LLC is hereby approved, consistent with this Order.

2. That a license be issued authorizing EnergyMark, LLC the right 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 25 kW demand), industrial, and governmental customers in all of the electric distribution company service territories throughout the Commonwealth of Pennsylvania.

3. That if EnergyMark, 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 EnergyMark, LLC.

4. That EnergyMark, LLC must submit within 120 days, proof that it is a PJM Interconnection LLC 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.

5. That a copy of this Order be served on the Pennsylvania Department of Revenue - Bureau of Compliance, Business License Clearance Division, and the Pennsylvania Public Utility Commission’s Alternate Energy Credits Administrator.

6. That this proceeding at Docket No. A‑2019-3014449 be closed.

**** **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 18, 2020

ORDER ENTERED: June 18, 2020