

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Docket No. A-2019-3009734

Petition of TruEnergy Services, LLC for Rescission of the Pennsylvania Public Utility Commission’s Final Order entered August 25, 2020 and for Reinstatement as a Broker

Pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code Section 5.572(d), TruEnergy Services, LLC (“TruEnergy”) hereby petitions the Public Utilities Commission (the “Commission” or “PUC”) for rescission of its Final Order entered August 25, 2020, cancelling its Electric Generation Supplier (“EGS”) license, and thereby reinstating TruEnergy’s license effective August 25, 2020. In support, TruEnergy states as follows:

I. BACKGROUND

1. TruEnergy’s EGS license was first issued and authorized by PUC effective June 13, 2019. *See* Docket No. A-2019-3009734, June 13, 2019.
2. TruEnergy’s approved bond procured in relation to its license was effective April 9, 2019, through April 9, 2020.
3. On February 26, 2020, TruEnergy had the bond updated, effective April 8, 2020, through April 7, 2021, in connection with its EGS license (the “Current Bond”).
4. Thus, TruEnergy has had a bond in place for the entirety of its licensure and operations as an EGS in the Commonwealth.
5. Shortly after receipt of the original copy of the Current Bond, TruEnergy’s CEO, Zach Jeffrey, mailed the original copy of the Current Bond with wet signature and raised seal to the Commission via regular mail. *See* Aff. of Zach Jeffrey attached hereto as **Exhibit A**.
6. TruEnergy unfortunately does not have a copy of the mailing of the Current Bond to the Commission, nor any tracking information for it. *Id.*

7. Unbeknownst to TruEnergy, the original copy of the Current Bond apparently was never received by the Commission. *Id.*

8. Without receipt of the Current Bond, the Commission entered a Tentative Order on or about June 18, 2020, advising it was not in receipt of the Current Bond. *See* Docket No. A-2019-3009734, July 16, 2020.

9. On August 25, 2020, the Commission entered its Final Order, cancelling TruEnergy's EGS license for failure to provide an approved financial security. *See* Docket No. A-2019-3009734, August 25, 2020.

10. TruEnergy, unfortunately, was not specifically aware of the Commission's aforementioned orders regarding its financial security instrument and license. *See* Aff. of Zach Jeffrey.¹ TruEnergy also notes it changed company headquarters and mailing address in early 2020, which, coupled with the COVID pandemic, may have caused further confusion regarding its Current Bond and the Commission's orders. *See* Docket No. A-2019-3009734, February 3, 2020.

11. Rather, it was not until TruEnergy received the Commission's November 4, 2020 written correspondence² via certified mail advising its EGS license had been cancelled via the August 25, 2020 Order, and the Current Bond was no longer necessary, did TruEnergy realize the Current Bond was never received by the Commission. *See* Docket No. A-2019-3009734, November 4, 2020.

¹ TruEnergy understands that the Orders are public record, and that it has and had constructive knowledge of them. However, TruEnergy was not specifically privy to them until November, 2020.

² The Commission's November 4, 2020 letter included TruEnergy's license and docket number, but all bond information enclosed with the letter was for a different, unrelated company (John Orr dba Energy Management Services, Docket No. A-2018-3006006).

12. TruEnergy now Petitions the Commission for rescission of its Final Order entered August 25, 2020, cancelling its Electric Generation Supplier (“EGS”) license, and thereby reinstating TruEnergy’s license effective August 25, 2020. TruEnergy further states that is has requested another original copy of the Current Bond, and will furnish same to the Commission for approval upon its receipt of the copy.

II. MEMORANDUM

The Public Utility Code and Commission regulations require an EGS to furnish and maintain a bond or other financial security approved in form and amount by PUC. *See* 66 Pa. C.S. § 2809(c)(1)(i); 52 Pa. Code § 54.40. No license will be issued or remain in force unless the EGS furnishes a valid bond approved by PUC. *Id.* Each EGS must furnish an updated, current bond prior to EGS’s effective bond expires. *See* 52 Pa. Code § 54.40; Docket No. *A-2019-3009734*, June 13, 2019 Tentative Order. A primary purpose of the bond requirement is to ensure the EGS’ financial responsibility. *See Petition of Bradley R. Lewis for Reconsideration and Rescission of the PA PUC’s Final Order entered June 19, 2019 and Reinstatement as a Broker/Marketer*, Docket No. *A-2010-2186267*, 2020 WL 758194 (Pa.P.U.C., Feb. 6, 2020).

Pursuant to the Public Utility Code, an EGS has the right to seek relief from a Commission order cancelling its license, and such a request for relief must be consistent with Commission regulations. *See* 66 Pa. C.S. § 703(g); 52 Pa. Code § 5.572. The Commission has administrative discretion regarding whether to grant or deny a petition for rescission or amendment of an order filed under 66 Pa. C.S. § 703(g). *West Penn Power Co. v. Public Utility Commission*, 659 A.2d 1055, 1065 (Pa. Cmwlth. 1995). A petition for reconsideration may properly raise any matter designed to convince the Commission that it should exercise its discretion to amend or rescind a prior order, in whole or in part. *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C.

553 (1982). “New and novel arguments” not previously heard or considerations which appear to have been overlooked by the Commission may be proper bases to rescind a prior order. *Id.* at 559.

Here, TruEnergy seeks rescission of the Commission’s August 25, 2020 Final Order cancelling its EGS license and to reinstate its license, as the Commission has discretion to do. TruEnergy has maintained a bond that was originally approved by the Commission for the entirety of its licensure and operations as an EGS in the Commonwealth. On February 26, approximately 6 weeks prior to the effective date of its original bond, TruEnergy was diligent in obtaining an updated bond for the following annum (i.e. the Current Bond). Additionally, TruEnergy attempted in good faith to furnish the Current Bond to the Commission approximately a month later. However, the Current Bond apparently was not received by the Commission; an unintentional mistake that TruEnergy bears ultimate responsibility for. Nevertheless, the primary purpose of the bond is consumer protection and to ensure TruEnergy’s financial responsibility, which it has complied.

TruEnergy notes that the COVID pandemic and its officers and employees working remotely at times this year have caused difficulties with general operations within the company, potentially further compounded by its change of headquarters and mailing address in early 2020. While TruEnergy does not seek to avoid its obligations under the Public Utility Code and Commission regulations, it does assert that its good faith effort of compliance with the same under the fluid circumstances of 2020, as explained above, do constitute new and novel considerations which it now brings before the Commission in support of this Petition. Specifically, that TruEnergy (1) did in fact obtain an effective bond, (2) attempted to furnish the Current Bond to the Commission, (3) was unaware that it had not been received, and (4) was not specifically aware of the Commission’s Orders regarding the same until early November, 2020. TruEnergy’s failure


to ensure the Commission's receipt of the Current Bond and approval of the same was unintentional.

TruEnergy appreciates the importance of the bond requirements, as well its obligations to provide notice of its compliance with the same to the Commission. TruEnergy's bond has been continuously effective throughout its licensure and operations as an EGS in the Commonwealth. However, TruEnergy acknowledges that it has not complied with the notice and approval requirements regarding its financial security to the Commission. Accordingly, TruEnergy now seeks to furnish its financial security requirements – an original copy of the Current Bond – albeit untimely, for approval, and that its license be reinstated effective August 25, 2020, by the discretion and powers afforded in the Commission. There are no other parties to this proceeding so there are no other competing interests for the Commission to weigh in considering this Petition. Further, TruEnergy states that it will diligently abide by the Public Utility Code and Commission's regulations as to its licensure, financial security requirements, and operations going forward.

WHEREFORE, TruEnergy Services, LLC, respectfully requests that this Petition seeking the Public Utilities Commission rescind its Final Order entered August 25, 2020, accept receipt of an original copy of TruEnergy's current financial security instrument, and to reinstate its license effective August 25, 2020, be granted for the reasons set forth herein.

Respectfully submitted this 20th day of November, 2020.

HOLLAND & KNIGHT LLP

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CERTIFICATE OF SERVICE

I hereby certify that this Petition, filed through the electronic filing system, will be delivered by electronic mail and / or Regular Mail to all participants on this 20th day of November, 2020.

HOLLAND & KNIGHT LLP

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AFFIDAVIT OF ZACH JEFFERY

I, Zach Jeffery, being duly sworn, do hereby depose and state that:

1. My name is Zach Jeffery. I am the chief executive officer of TruEnergy Services, LLC. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. As CEO of the company, I oversee the various licenses and corresponding bonding requirements the company holds.
3. On or about February 26, 2020, I obtained an updated bond in connection with the company's EGS license in Pennsylvania, effective April 8, 2020, through April 7, 2021.
4. Upon receipt of an original copy of the updated bond, I mailed a copy to the Pennsylvania Public Utilities Commission in the regular course of business sometime in late March or early April via regular mail. I do not have a copy of the mailing, nor do I have any tracking information for it. I did retain an electronic copy of the bond.
5. TruEnergy was not aware that the Commission did not receive the original copy of the bond until after we received a letter from the Commission dated November 4, 2020, advising us that our license had been cancelled.
6. Additionally, TruEnergy was not specifically aware of the Commission's orders regarding our bond and license, Docket No. A-2019-3009734, until we received a letter from the Commission dated November 4, 2020, advising us that our license had been cancelled. This letter is also filed on the docket.
7. TruEnergy's failure to ensure the bond was delivered to the Commission was unintentional.

TRUENERGY SERVICES, LLC



Zach Jeffery, Chief Executive Officer

SIGNED under oath before me on November 19, 2020.

State of Virginia, County of James City



Erica L Huggins

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12/31/2024



Notary Public, State of Virginia

Electronic Notary Public

Notarized online using audio-video communication