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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17120** | |  |
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|  | | Public Meeting held February 25, 2021 | | |
| 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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| Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security, Insufficient Financial Security Amount or Language | M-2021-3023559 | |

**TENTATIVE ORDER**

**BY THE COMMISSION:**

The Commission's regulations at 52 Pa. Code § 54.40(a) state that an Electric Generation Supplier (EGS) license will not be issued or remain in force until the licensee furnishes a bond or other security approved by the Commission. In addition, 52 Pa. Code §54.40(d) states that the maintenance of an EGS license is contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained.

Each EGS must file an original bond, letter of credit, continuation certificate, amendment, or other approved financial instrument with Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA, 17120, prior to the EGS’s current security expiration date. Each financial instrument must be an original document that displays a “wet” signature or digital signature, preferably in blue ink, and displays a “raised seal” or original notary stamp. The name of the principal on the original financial instrument must match exactly with the name that appears on the EGS’s license issued by the Commission.

Failure to file before the financial security’s expiration date may cause Commission staff to initiate a formal proceeding that may lead to the following: cancellation of each company’s electric supplier license, removal of each company’s information from the Commission’s website and notification to all electric distribution companies, in which each company is licensed to do business, of the cancellation of the license.

While we recognize that the COVID-19 pandemic has provided some challenges related to the continuance of normal business operations, it is imperative that the Commission have an approved financial security in place with each EGS to ensure compliance with 52 Pa. Code § 54.40(d). On March 25, 2020, Commission staff issued an EGS Financial Security Filing Guidance Memo (Guidance Memo) that stated the following:

* Where practical, EGSs should file an **original** bond, letter of credit, continuation certificate, amendment, or other financial instrument. These original financial instruments should display “wet” signatures or digital signatures, preferably in blue ink, and display a “raised seal” or original notary stamp.
* EGSs should email a copy of the original financial instrument directly to Secretary Chiavetta at [rchiavetta@pa.gov](mailto:rchiavetta@pa.gov). Secretary Chiavetta has waived the restriction on emailed filings that contain confidential and proprietary material. As such, financial security instruments will be permitted to be filed by email for the duration of the Commission’s work from home order.
* If an EGS is unable to acquire a “raised seal” or original notary stamp on the financial security during the pendency of the COVID-19 emergency, the Secretary’s Bureau will not reject the financial security.
* If an EGS has been granted a reduction in its financial security, and it is time to renew the annual reduction, please file an original annual compliance filing with the Secretary’s Bureau and a copy via email at [rchiavetta@pa.gov](mailto:rchiavetta@pa.gov).

Please note that the requirement that EGSs maintain a valid financial security on file with the Commission, remains in effect.

Be advised that emailed financial security instruments—after review and acceptance of the Secretary’s Bureau and the Bureau of Technical Utility Services—will be *provisionally* approved by the Commission until Commission staff resume working in the Keystone Building. EGSs must still mail the original bond with original signatures and notary stamp as per the Commission’s normal practice.

On July 27, 2020, the Commission issued a Secretarial Letter which modified certain filing and service requirements.[[1]](#footnote-1)  Specifically, this Secretarial Letter amended the Emergency Order issued on March 20, 2020, at Docket No. M-2020-3019262 regarding the filing of certain confidential documents.  At the time the Emergency Order was issued, the Commission did not have access to its physical location.  However, since that time the Commission has secured limited access to its place of business.  Under these circumstances and consistent with the authority provided to the Secretary by the Emergency Order, the Secretarial Letter requires that confidential filings made pursuant to 52 Pa. Code § 54.40(a) (EGS financial securities), must be filed with the Secretary by overnight delivery and are not to be filed electronically with the Secretary.

As of February 12, 2021, each EGS listed in the Supplier Table below has not provided proof to the Commission that it has a bond or other approved security in the amount or language directed by the Commission, to replace a bond which is expired or which is non-compliant with Commission regulations.

Supplier Table – List of Electric Generation Suppliers

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| --- | --- | --- | --- |
| **Docket Number** | **Company Name** | **Financial Security Expiration Date** | **Commission Approved Amount or Language** |
| A-2012-2289988 | KINETIC ENERGY ASSOCIATES LLC | 2/10/2021 | Yes |
| A-110175\* | LIBERTY POWER HOLDINGS LLC | 1/14/2021 | Yes |

\*Taking title to electricity

As part of its EGS license validation procedures, the Commission’s Bureau of Technical Utility Services sent a 90-day Security Renewal Notice email to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security in the amount or language directed by the Commission, must be filed within 30-days prior to each entity’s security expiration date.  None of the companies listed in the Supplier Table provided the required documentation.

Based on the above facts, we tentatively conclude that the EGSs listed in the Supplier Table are not in compliance with 52 Pa. Code §54.40(a) and (d) and therefore it is appropriate to initiate the cancellation process for the EGS license of each company listed in the Supplier Table, without the necessity of a formal complaint, as being in the public interest; **THEREFORE,**

**IT IS ORDERED:**

1. That cancellation of the Electric Generation Supplier License of each company listed in the Supplier Table is hereby tentatively approved as being in the public interest.

2. That the Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation & Enforcement, all electric distribution companies, all of the Electric Generation Suppliers in the Supplier Table and publish a copy of this Tentative Order in the *Pennsylvania Bulletin* with a 30-day comment period.

3. That the Secretary serve a copy of this Tentative Order upon the Pennsylvania Department of Revenue – Bureau of Compliance, Business License Clearance Division.

4. That absent the filing of adverse public comment or the filing of an approved security within 30-days after publication in the *Pennsylvania Bulletin*, the Bureau of Technical Utility Services shall prepare a Final Order for entry by the Secretary.

5. That upon entry of the Final Order, EGSs that remain listed as not in compliance with 52 Pa. Code §54.40(a) and (d) will be stricken from all active utility lists maintained by the Commission’s Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administration, removed from the Commission’s website, and notifications be sent to all electric distribution companies in which the Electric Generation Suppliers are licensed to do business.

6. That upon entry of the Final Order described in Ordering Paragraph No. 4, each electric distribution company in which the Electric Generation Suppliers are licensed to do business, shall return the customers of the Electric Generation Suppliers to default service.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 25, 2021

ORDER ENTERED: February 25, 2021

1. Docket No. M-2020-3019262 [↑](#footnote-ref-1)