

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17120**

Public Meeting held November 10, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Application of Mercury Energy Marketing,
LLC to Become a Supplier of Natural Gas
Services

Docket Number:
A-2022-3033008

ORDER

BY THE COMMISSION:

On June 15, 2022, the Pennsylvania Public Commission (Commission) accepted Mercury Energy Marketing, LLC's (Mercury Energy Marketing), Utility Code 1225305, application to become a supplier of natural gas supply services (NGS) to residential, small commercial (less than 6,000 Mcf annually), large commercial (6,000 Mcf or more annually), and governmental customers in the natural gas distribution company (NGDC) service territory of Peoples Natural Gas Company, LLC within the Commonwealth of Pennsylvania. This application was filed pursuant to Section 2208 of the Natural Gas Choice and Competition Act (Act) and Title 52 of the Pennsylvania Code, Chapter 62, Subchapter D. For the reasons expressed in this Order, the Application is denied without prejudice.

Section 2208 provides in pertinent part that:

Requirements for Natural Gas Suppliers.--No entity shall engage in the business of a natural gas supplier unless it holds a license issued by the Commission. To the extent that a natural gas distribution company provides natural gas supply service outside of its chartered or certificated territory, it also must hold a license. A license shall not be required for customers who make de minimis incidental sales or resales to themselves, an affiliate or to other nonresidential retail gas customers.

66 Pa. C.S. § 2208.

A natural gas supplier is defined as:

An entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. The term includes a natural gas distribution company that provides natural gas supply services outside its certificated service territories. The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than:

- (i) as provided prior to the effective date of this chapter, pursuant to a certificate of public convenience if required under this title;
- (ii) total natural gas supply services in de minimis amounts;
- (iii) natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided; or
- (iv) natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of this chapter.

The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of this title, a natural gas supplier that is not a natural gas distribution company is not a public utility as defined in Section 102 (relating to definitions) to the extent that the natural gas supplier is utilizing the jurisdictional distribution facilities of a natural gas distribution company or is providing other services authorized by the Commission.

66 Pa. C.S. § 2202.

As used in the above definition of a natural gas supplier, the term natural gas supply services includes: (i) the sale or arrangement of the sale of natural gas to retail customers; and (ii) services that may be unbundled by the Commission under Section 2203(3) of the Act (relating to standards for restructuring of the natural gas utility industry). Natural gas supply service does not include distribution service. *See*, 66 Pa. C.S. § 2202 (relating to the definition of natural gas supply services).

Upon review of Mercury Energy Marketing's NGS application, the Commission staff sent, by certified mail, a set of data requests by Secretarial Letter on June 29, 2022. The Secretarial Letter asked for missing or insufficient information in regards to present operations, supplier funding methods, and notarized proofs of publication. On July 7, 2022, the Secretarial Letter was returned as undeliverable. On July 26, 2022, the original Secretarial Letter, as well as an additional Secretarial Letter requesting an updated mailing address were sent by email. The Secretarial Letters stated that failure to respond may result in the application being denied. Furthermore, on September 12, 2022 and October 3, 2022, the Commission's staff called Mercury Energy Marketing's regulatory contact and voicemails were left. To date, no reply has been received by the Commission.

Mercury Energy Marketing was given ample time to reply to the Commission's data requests. Given the applicant's failure to reply, and provide sufficient information to determine the applicant's technical and financial fitness, Mercury Energy Marketing,

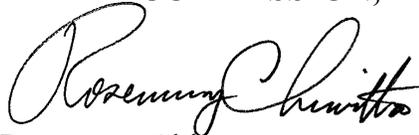
LLC's application to become a supplier of natural gas supply services to residential, small commercial (less than 6,000 Mcf annually), large commercial (6,000 Mcf or more annually), and governmental customers in the natural gas distribution company service territory of Peoples Natural Gas Company, LLC within the Commonwealth of Pennsylvania, is denied without prejudice; **THEREFORE,**

IT IS ORDERED:

1. That the application of Mercury Energy Marketing, LLC to become a supplier of natural gas supply services to residential, small commercial (less than 6,000 Mcf annually), large commercial (6,000 Mcf or more annually), and governmental customers in the natural gas distribution company service territory of Peoples Natural Gas Company, LLC within the Commonwealth of Pennsylvania is hereby denied, without prejudice, consistent with this Order.

2. That this proceeding, at Docket No. A-2022-3033008, be closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: November 10, 2022

ORDER ENTERED: November 10, 2022