

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

Public Meeting held February 22, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr.

License Application of RESCOM ENERGY LLC for  
Approval to Offer, Render, Furnish, or Supply  
Electricity or Electric Generation Services as a  
Supplier

Docket Number:  
A-2023-3043724

**Public Version**

**ORDER**

**BY THE COMMISSION:**

On November 15, 2023, the Pennsylvania Public Utility Commission (Commission) accepted RESCOM ENERGY LLC's (RESCOM ENERGY), Utility Code 1123761, application seeking to become a licensed electric generation supplier (EGS) 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, in all of the electric distribution company (EDC) 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 in this Order, the Application is denied.

### **Legal Standard**

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 utilizing the jurisdictional transmission and distribution facilities of an electric distribution company, or that purchases, brokers, arranges or markets electricity or related services to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.

66 Pa. C.S. § 2803.

An application for an EGS license must be made “in such form and contain such information as the Commission may by its regulations require.” 66 Pa. C.S. § 2809(b). The Commission has provided an EGS application form that is available on the Commission’s website or may be obtained from the Commission’s Secretary. 52 Pa. Code § 54.32(b). The application form includes, among other things, a request for

“[f]inancial information sufficient to demonstrate financial fitness.” 52 Pa. Code § 54.33(a)(6). “This information may include credit ratings and history, audited financial statements, and insurance pertinent to the conduct of the applicant’s business as an [EGS].” *Id.* The applicant is also required to provide specific tax information. *See* 52 Pa. Code § 54.33(b). Applications that are incomplete or lack necessary supporting documents will be rejected without prejudice. *See* 52 Pa. Code § 54.32(e). In the EGS application, EGS license applicants are instructed to provide, among other items: actual (or proposed) organizational structure, including parent, affiliated or subsidiary companies, published applicant or parent company financial and credit information (i.e., 10Q or 10K), applicant’s accounting statements, including balance sheet and income statements for the past two years, a credit report, insurances carried by the applicant which provides support to its financial fitness, audited financial statements exhibiting accounts over a minimum of two years, bank account statements, and tax returns from the previous two years. *See* EGS Application Form Section 7 (relating to financial fitness).

An EGS license will not be issued unless the Commission finds that the applicant is fit to properly perform the proposed service in conformance with the Code and Commission orders and regulations. 52 Pa. Code § 54.37(a)(1). In particular, the EGS applicant must demonstrate that it is fit, willing and able to pay all required assessments, report its gross receipts, furnish a bond or other security approved by the Commission, and pay taxes. *See* 52 Pa. Code §§ 54.38, 54.39, 54.40 and 54.42.

### **Applicant**

RESCOM ENERGY previously had an EGS license approved by the Commission on April 4, 2011, at Docket No. A-2011-2220388, to begin to offer, render, furnish, or supply electricity or electric generation supplier services to all classes of customers within the Commonwealth of Pennsylvania. *See* April 2011 Order - Page 5 Ordering Paragraph No. 1.

On September 17, 2012, the Bureau of Investigation & Enforcement (BI&E) instituted an investigation of RESCOM ENERGY regarding allegations of slamming<sup>1</sup> and related unauthorized marketing practices received in 2012 from multiple sources, including consumer complaints filed with the Bureau of Consumer Services, reports from EDCs, other EGSs, and other direct consumer contacts with Commission Staff. On November 13, 2014, the Commission issued an Opinion and Order, at Docket No. M-2013-2320112, that approved a Settlement Agreement between BI&E and RESCOM ENERGY requiring, among other things, the payment of a civil penalty in the amount of \$59,000 regarding the alleged multiple violations of regulations.<sup>2</sup> *See* November 2014 Opinion and Order - Page 2 ¶1 and Ordering Paragraphs 1-2.

On December 19, 2019, the Commission issued an Order, at Docket No. M-2019-3006865, that cancelled RESCOM ENERGY's EGS supplier license, due to RESCOM ENERGY's failure to provide a bond or other approved security in the amount required by the Commission.

On January 27, 2021, the Commission accepted a new EGS Application from RESCOM ENERGY, at Docket No. A-2021-3023855, seeking to become a licensed EGS Supplier in Pennsylvania. On August 5, 2021, the Commission denied the application due to RESCOM ENERGY failing to provide sufficient financial documentation to demonstrate adequate financial fitness to be licensed as an EGS Supplier in Pennsylvania. *See* January 2021 Order – Page 5 ¶2 and Ordering Paragraph 1.

Now RESCOM ENERGY has filed a new EGS Application before the Commission, at Docket No. A-2023-3043724.

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<sup>1</sup> Slamming is an unauthorized change to a customer's supply service. EDC Customer Account Number Access Mechanism for EGSs, Docket No. M-2013-2355751 (Order entered April 18, 2013)

<sup>2</sup> 52 Pa. Code §§ 54.43(f), 57.173(b), and 73 P.S. § 2245.2(d) of the Telemarketer Registration Act.

The Code and Commission regulations require that an applicant for an EGS Supplier license demonstrate, among other things, that it “is fit, willing and able to perform properly the service proposed and to conform to the provisions of [the Code] and the lawful orders and regulations of the Commission.” 66 Pa.C.S. § 2809(b). See 52 Pa. Code § 54.37(a)(a). If an applicant cannot establish that it is fit to provide service as an EGS Supplier and able to comply with the public interest, the “application shall be denied.” 66 Pa.C.S. § 2809(b).

In RESCOM ENERGY’s 2023 EGS application filing, it provided [START CONFIDENTIAL]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

### Disposition

The EGS applicant’s burden to provide the Commission with sufficient financial documentation to demonstrate adequate financial fitness is designed to ensure the financial responsibility of an Electric Generation Supplier and the supply of electricity at retail. Due to the fact that RESCOM ENERGY provided [START CONFIDENTIAL]

[REDACTED]

[REDACTED]

[REDACTED] [END

CONFIDENTIAL] we find that RESCOM ENERGY has failed to provide sufficient

financial information demonstrating its financial fitness. In particular, we find that RESCOM ENERGY has failed to adequately demonstrate its ability to fulfil its future annual obligations relating to gross receipt taxes, its Alternate Energy Portfolio Standards Act obligations, and to meet its regulatory assessment obligations. Further, RESCOM ENERGY has not provided substantially improved financial information than it provided in its application at A-2021-3023855, which was denied. As such, we find that RESCOM ENERGY failed to provide sufficient financial documentation to demonstrate adequate financial fitness to be licensed as an EGS Supplier in the Commonwealth of Pennsylvania.

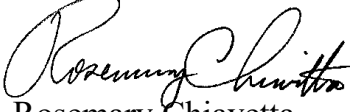
The Commission's regulations at 52 Pa. Code § 54.33(a)(6) and (7) states that financial information must be sufficient to demonstrate financial fitness and evidence of competency and experience in providing the scope and nature of the applicant's proposed services. Given the applicant's failure to demonstrate adequate financial fitness to become a licensed EGS Supplier in Pennsylvania, RESCOM ENERGY's EGS Supplier Application to become a licensed electric generation supplier, 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, in all of the EDC service territories throughout the Commonwealth of Pennsylvania is denied, without prejudice; **THEREFORE,**

**IT IS ORDERED:**

1. That the application of RESCOM ENERGY LLC to become a licensed electric generation supplier, 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, in all of the electric distribution company service territories throughout the Commonwealth of Pennsylvania is hereby denied consistent with this Order.

2. That this proceeding at Docket No. A-2023-3043724 be closed.

**BY THE COMMISSION,**

  
Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: February 22, 2024

ORDER ENTERED: February 22, 2024