



**STATE OF DELAWARE
THE PUBLIC SERVICE COMMISSION**

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August 7, 2014

MEMORANDUM

TO: The Chair and Members of the Commission
FROM: Malika Davis, Public Utility Analyst
SUBJECT: IN THE MATTER OF THE APPLICATION OF DIRECT ENERGY SERVICES, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (FILED OCTOBER 11, 2005; AMENDED JUNE 4, 2014) - PSC DOCKET No. 05-370

Background

On October 11, 2005, Direct Energy Services, LLC (“Direct Energy” or the “Company”) filed an application (“Application”) with the Delaware Public Service Commission (“Commission”) for an Electric Supplier Certificate (“ESC”) to become a retail electric supplier in the State of Delaware in accordance with the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1012 (the “Act”) and 26 *Del. Admin C.* § 3001, the Commission’s Rules for Certification and Regulation of Electric Suppliers, (the “Supplier Rules”).¹ Direct Energy sought certification as an Electric Supplier that would provide Electric Supply Service to commercial and industrial customers in the State of Delaware. In Order No. 6790, dated December 6, 2005, the Commission approved Direct Energy’s Application for an ESC.

On May 23, 2014, the Company submitted an application (the “Application”) to amend its ESC in order to provide service to Residential Customers.

Application

The filing submitted on May 23, 2014, did not contain all the information that is required per the Supplier Rules. Staff requested the Company file additional documentation in a letter dated May 29, 2014. The letter requested that the Company provide the following information: a) a notarized verification of the Application as required by Section 2.1.1.6 of the Supplier Rules; b) proof that the d/b/a Direct Energy had been registered in every county in Delaware; c) clarification of the Company’s toll-free telephone number; and d) addition of the Commission’s non-toll free telephone number on the customer contract. Staff received the Company’s response on June 4, 2014. On June 6, 2014, Staff requested the LLC Operating Agreement to show that the person signing the verification of the Application was authorized to do so. Staff received responses from the Company on June 16 and June 20, 2014.

Review and Analysis

¹ All reference to capitalized terms are set forth in 26 *Del. C.* § 1001 and 26 *Del. Admin. C.* § 3001.

Authority to Do Business

The Company is a limited liability company formed under the laws of Delaware and has provided a Certificate of Good Standing issued by the Delaware Secretary of State dated May 13, 2014.

Legal name as well as the name under which the Applicant proposes to do business in Delaware

The Application stated the Company would also use the trade names "Direct Energy" and "Direct Energy Business Services." These trade names were also included in the application filed in 2005; however Staff was unable to locate documentation showing that these trade names had been registered in the Commission's electronic files. Staff visited the Delaware State Courts website and was able to see that the Trade, Business & Fictitious Name Certificates had been filed on April 22, 2005, in Kent and Sussex Counties and on April 21, 2005 in New Castle County. On May 29, 2014, Staff requested that the Company provide the certificates. The Company provided the information from the Delaware State Courts website confirming Staff's review in its June 4th response. While corresponding with the Company, Staff was informed that the Company had asked the Delaware Courts to review its archives for the original certificates filed in 2005. On July 11, 2014, the Company provided copies of the certificates filed in 2005.

Verification of Application

The Application did not include a verification of information. On June 20, 2014, Staff received the verification from the Company which met Staff's request.

Contracts

In accordance with section 2.1.1.9 of the Supplier Rules, Direct Energy provided its standard contract for Residential and Small Customers for Staff's review. Staff reviewed the contract submitted on May 28, 2014, and on May 29, 2014, requested that the Company make certain changes in order to comply with the Supplier Rules. On June 4, 2014, Staff received the Company's revised contract. Staff believes that Direct Energy's contract is now consistent with the Supplier Rules.

Customer Complaints

Staff has reviewed the Commission's complaint database. There were five (5) complaints filed by Delaware customers in 2007. However, it is unclear whether the complaints were against the Company or its sister company, Direct Energy Business, LLC.² No other complaints regarding the Company or its sister company have been received since 2007.

Legal Review

On August 5, 2014, following Staff's completed review and analysis of the Application, Staff forwarded its final analysis to the assigned Attorney to confirm that all required documentation requested and received from the Company was in compliance with applicable provisions of Title 26 and the Supplier Rules.

Recommendation

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company resolved all outstanding issues with Staff and all documents filed as part of the Application support the Company's request to amend the ESC. Additionally, Staff believes the Company's history in Delaware and lack of customer complaints demonstrate that it has the financial, operational, managerial and technical abilities to render service to Residential Customers. Therefore, Staff recommends the Commission approve the Application.

² An ESC was issued to Strategic Energy, LLC on November 16, 1999, in PSC Docket No. 99-400. Strategic Energy, LLC changed its name to Direct Energy Business, LLC on April 30, 2009, in PSC Docket No. 09-174.