

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF )  
EnerNOC, INC. FOR A CERTIFICATE TO )  
PROVIDE ELECTRIC SUPPLY SERVICES ) PSC DOCKET NO. 08-6  
WITHIN THE STATE OF DELAWARE )  
(FILED JANUARY 8, 2008) )

**ORDER NO. 7369**

**ELECTRIC SUPPLIER CERTIFICATE**

This 18<sup>th</sup> day of March, 2008, the Commission determines and Orders the following:

1. On January 8, 2008, EnerNOC, Inc. ("EnerNOC"), filed to be certificated as a retail electric supplier in order to broker the sale or purchase of electric supply service. See 26 Del. C. §§ 1001(2), 1001(11), 1012(a). Under the regime instituted by the Electric Utilities Restructuring Act of 1999,<sup>1</sup> an "electric supplier" (including a broker) is not a "public utility" and the resulting sales of electric supply service to retail customers are not subject to traditional forms of rate-regulation. See 26 Del. C. §§ 102(2), 202(f).<sup>2</sup>

2. In its application, EnerNOC reports that it is a broker and aggregator that provides aggregation, energy data management, energy bill payment and processing, and utility budgeting and forecasting services. EnerNOC intends to offer its brokerage services to

---

<sup>1</sup>codified in main part as 26 Del. C. Ch. 10 (2004 Supp.), and as now amended by the "Electric Utility Retail Customer Supply Act of 2006," 75 Del. Laws Ch. 242 (2006).

<sup>2</sup>Under the Restructuring Act, a "broker" is an agent or intermediary in the sale or purchase of electricity to, or by, retail electric customers.

commercial, industrial, and governmental customers in Delaware. Staff reports that EnerNOC's application fulfills all the requirements for an Electric Supplier Certificate to act as a broker as set forth in the Commission's "Rules for Certification and Regulations of Electric Suppliers ("ES Rules"). In particular, Staff reports that EnerNOC appears to possess the financial, operational, managerial, and technical capabilities to operate as a broker of electric supply service. Based on Staff's report, the Commission here issues an Electric Supplier Certificate to EnerNOC allowing it to broker sales and purchases of electric supply services in this State consistent with the scheme adopted by the Electric Utilities Restructuring Act.

Now, therefore, **IT IS ORDERED:**

1. That EnerNOC, Inc. is hereby granted, under 26 Del. C. § 1012(a) and the "Rules for Certification and Regulation of Electric Suppliers," a certificate to do business, and operate, as an "Electric Supplier" (broker) within this State. Under this certificate, EnerNOC, Inc. is authorized to broker Electric Supply Service within this State in accord with 26 Del. C. Chapter 10.

2. That EnerNOC, Inc. shall at all times provide its brokerage of Electric Supply Service in accord with the requirements imposed by 26 Del. C. Chapter 10 and the Commission's "Rules for Certification and Regulation of Electric Suppliers," as presently adopted, or as may be hereafter amended or supplemented. EnerNOC, Inc. is hereby notified that a violation of such statute or such rules may be

---

Although a broker never takes "title" to the electric supply product, the Act deems a broker an "electric supplier." See 26 Del. C. §§ 1001(2), 1001(11)c.

enforced by the sanctions permitted by 26 Del. C. § 1012(a) and § 10.2 of the "Rules for Certification and Regulation of Electric Suppliers."

3. That EnerNOC, Inc. shall, pursuant to the provisions of 26 Del. C. § 1012(c)(2) and §§ 3.9 and 3.10 of the "Rules for Certification and Regulation of Electric Suppliers," file such returns and pay such assessments as may be required, or may be imposed, by 26 Del. C. §§ 114 and 115.

4. That EnerNOC, Inc. consents to the jurisdiction of the courts of the State of Delaware for all acts or omissions related to its offering of electric supply services in this State.

5. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary