

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

IN THE MATTER OF THE APPLICATION )  
OF EVOLVING ENERGY SYSTEMS, LLC )  
FOR A CERTIFICATE TO PROVIDE ) PSC DOCKET NO. 10-177  
ELECTRIC SUPPLY SERVICES WITHIN )  
THE STATE OF DELAWARE (FILED MAY )  
18, 2010) )  
)

**ORDER NO. 7782**

**AND NOW**, this 1st day of June, 2010:

**WHEREAS**, On May 18, 2010, Evolving Energy Systems, LLC ("Evolving Energy" or "Company"), filed an application seeking certification as a retail electric supplier in order to broker the sale or purchase of electric supply service (the "Application"). See 26 Del. C. §§1001(2), 1001(11), 1012(a). Under the Electric Utilities Restructuring Act of 1999 (the "Act"),<sup>1</sup> "electric suppliers", which includes brokers, are not "public utilities," and, accordingly, 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>

**WHEREAS**, in the Application, the Company reports that it is a broker that will utilize appropriate energy procurement strategies to meet the needs of its commercial and industrial customers in Delaware.

---

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

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

Staff reports that the Company's application fulfills all of 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 (the "ES Rules"). In particular, Staff reports that the Company 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 hereby issues to Evolving Energy an Electric Supplier Certificate, allowing it to broker sales and customer purchases of electric supply services in the State of Delaware consistent with the scheme adopted by the Act and the ES Rules.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF  
NOT FEWER THAN THREE COMMISSIONERS:**

1. That Evolving Energy Systems, LLC is hereby granted under 26 *Del. C.* §1012(a) and the Commission's "Rules for Certification and Regulations of Electric Suppliers" a certificate to do business, and operate, as an "Electric Supplier" (broker) within the State of Delaware. Under this Certificate, Evolving Energy Systems, LLC is authorized to broker Electric Supply Service within this State in accordance with 26 *Del. C.* ch. 10.

2. That Evolving Energy Systems, LLC shall at all times provide its brokerage of Electric Supply Service in accordance with the requirements imposed by 26 *Del. C.* ch. 10 and the Commission's "Rules for Certification and Regulations of Electric Suppliers" as presently adopted, or as may be hereafter amended or supplemented. Evolving Energy Systems, LLC is hereby notified that a violation of

any applicable statute, rule or other controlling authority may be enforced by the sanctions permitted by 26 *Del. C.* §1012(a) and §10.2 of the "Rules for Certification and Regulations of Electric Suppliers".

3. That Evolving Energy Systems, LLC shall, pursuant to the provisions of 26 *Del. C.* §1012(c)(2) and §§3.9 and 3.10 of the "Rules for Certification and Regulations of Electric Suppliers," file such reports and pay such fees and assessments as may be required, or may be imposed, by 26 *Del. C.* §§114 and 115.

4. That Evolving Energy Systems, LLC 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 Clark  
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley  
Secretary