

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

IN THE MATTER OF THE APPLICATION)
OF TRADEMARK MERCHANT ENERGY, LLC)
FOR A CERTIFICATE TO PROVIDE) PSC DOCKET NO. 12-466
ELECTRIC SUPPLY SERVICES WITHIN)
THE STATE OF DELAWARE)
(FILED OCTOBER 5, 2012))

ORDER NO. 8237

ELECTRIC SUPPLIER CERTIFICATE

This 23rd day of October 2012, the Commission determines and orders the following:

WHEREAS, on October 5, 2012, Trademark Merchant Energy, LLC ("Trademark" or the "Company") filed an application seeking certification as a retail electric supplier in order to broker the sale or purchase of Electric Supply Service¹ (the "Application"). See 26 *Del. C.* §§1001(3), 1001(14), and 1012. Under the Electric Utilities Restructuring Act of 1999 (the "Act"),² "electric suppliers," which include 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) and 202(f);³ and

¹ Unless otherwise noted, capitalized terms shall have the meanings ascribed to them in 26 *Del. C.* §1001 and 26 *Del. Admin. C.* §3001.

² See 26 *Del. C. Ch.* 10.

³ Under the Act, a "broker" means a person or entity that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to retail electric customers. 26 *Del. C.* §1001(3). Although a broker never takes "title" to the electric supply product, the Act deems a broker an "electric supplier." See 26 *Del. C.* §§1001(3) and (14) (c).

WHEREAS, in its Application, the Company states that it is a Broker that will utilize appropriate energy procurement strategies to meet the needs of commercial and industrial customers in Delaware; and

WHEREAS, 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, 26 *Del. Admin. C.* §3001 (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. Therefore, Staff recommends that the Commission issue to Trademark an Electric Supplier Certificate that authorizes 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 Trademark Merchant Energy, LLC (the "Company") is hereby granted, under 26 *Del. C.* §1012(a) and 26 *Del. Admin. C.* §3001, a certificate to do business and operate as an "Electric Supplier" (Broker) within the State of Delaware. Under this Electric Supplier Certificate, the Company is authorized to broker Electric Supply Service within this State in accordance with 26 *Del. C. Ch.* 10.

2. That the Company shall at all times provide its brokerage of Electric Supply Service in accordance with the requirements imposed by 26 *Del. C. Ch.* 10 and 26 *Del. Admin. C.* §3001 as presently adopted, or as may be hereafter amended or supplemented. The Company is hereby notified that a violation of any applicable order, statute,

regulation, rule, or other controlling authority may be enforced by the sanctions permitted by 26 *Del. C.* §§1012(a) and 1019 and 26 *Del. Admin. C.* §3001-10.2.

3. That the Company shall file, pursuant to the provisions of 26 *Del. C.* §1012(c) (2) and 26 *Del. Admin. C.* §§3001-3.9 and 3.10, such reports and pay such fees and assessments as may be required or imposed by 26 *Del. C.* §§114 and 115.

4. That the Company 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 Company is hereby placed on notice that the costs of the proceedings will be charged to it under the provisions of 26 *Del. C.* §114(b) (1).

6. 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/ Dallas Winslow
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes R. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary