



STATE OF DELAWARE

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November 16, 2015

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Toni Loper, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION OF EDF ENERGY SERVICES, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (SUBMITTED MAY 4, 2015; FILED NOVEMBER 12, 2015) - PSC DOCKET No. 15-0966

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Background

On November 12, 2015, EDF Energy Services, LLC ("EDF" or the "Company") submitted an application (the "Application") with the Delaware Public Service Commission ("Commission") for an Electric Supplier Certificate ("ESC") to act as a Supplier in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the "Act") and 26 *Del. Admin. C.* §3001, the Commission's Rules for Certification and Regulation of Electric Suppliers (the "Supplier Rules").<sup>1</sup>

Application

The Company's original filing was submitted on May 4, 2015, but the submitted Application did not meet the minimum filing requirements ("MFR's"). Staff requested the Company file additional documentation on the following: a) a copy of the Certificate of Good Standing issued by the Delaware Secretary of State, b) a copy of the Delaware business license, c) a professional resume for each principal officer responsible for Delaware operations, d) a signed, sworn verification letter as required, and e) a copy of the affidavits of publication from two (2) newspapers having general circulation throughout the State of Delaware. After further review Staff requested that the Company file an amended copy of the PJM Membership form with the correct entity name, as well as a public version of the application, and confidentially filed financial statements, with an attestation.<sup>2</sup> Follow up documentation from the Applicant was received which addressed all deficiencies and satisfied the MFR's.

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<sup>1</sup> Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

<sup>2</sup> 26 *Del. Admin. C.* § 1001- 1.11.3 of the Rules of Practice and Procedure of the Delaware Public Service Commission requires the party seeking proprietary treatment shall submit for filing one copy of the document without the confidential information, with an indication that claimed confidential information has been deleted.

## **Review and Analysis**

### **Authority to do Business in Delaware**

The Company is a limited liability company formed under the laws of Delaware and has provided proof issued by the Delaware Secretary of State that it is legally authorized and qualified to do business in the State of Delaware.

### **Resident Agent**

The Company supplied the contact information for a Delaware Registered Agent listed in the Application as Capital Services, Inc., Dover, DE.

### **Performance Bonds**

The Company currently does not have a performance bond, Staff recommends that if a bond is required by the Electric Distribution Company ("EDC") the Company should secure the bond as required, and provide the required documentation to the Commission within 30 days.

### **Compliance with Regional Requirements**

The Company provided proof of PJM membership. The Company provided a copy of the Federal Energy Regulatory Commission ("FERC") approval as a marketer.

## **Financial, Operational, Managerial and Technical Ability**

The Company provided confidential financial statements for EDF as indicia of financial capability under Section 2.1.1.5.1 of the Supplier Rules. The Company also provided proof of a minimum of \$100,000 of assets in excess of encumbrances as required in Section 2.1.1.5.8 of the Supplier Rules in the form of liquid assets, in this case cash and cash equivalents, disclosed on the Company's balance sheet. Staff believes that the financial statements and proof of liquidity show substantial evidence of the Applicant's financial ability to provide services as an Electric Supplier in the State of Delaware.

The Company anticipates acting as a Supplier serving large commercial and industrial customers for the sale or purchase of electricity throughout the State of Delaware. The Application states that the Company is presently licensed to sell electricity in Pennsylvania, and has applications pending in Maryland and New Jersey. Staff confirmed that the Company is licensed in Pennsylvania by conducting an internet search of the Secretary of States' website. The Application states that the Company has not been denied approval nor had its authority revoked by any state commission. The Company provided a toll-free customer service telephone number. Staff believes that this information shows substantial evidence of the Applicant's operational ability to provide services as a Supplier in the State of Delaware.

The Application included a summary of the key operating personnel of the Company. Ms. Mary Anne Brelinsky, President, has 14 years' experience in the energy industry. Ms. Brelinsky held positions with Reliant Energy, Dynege Marketing as well as other organizations, and her experience includes management level positions. In her current position as President with EDF, she is responsible for customer business in North America, determines sales strategy, hedging, and profitability for all customers in US and Canada. She was the Senior Manager of Transaction and Product Solutions at Reliant Energy where she created and managed the customer transaction desk. She was responsible for managing the processes for capacity energy, gas triggering, load response, and she managed and executed all gas, power and heat rate transactions for customers. The Application details additional work experience in the energy industry. Mr. W. Eric Dennison, EDF General Counsel and Senior Vice

President, his responsibilities include commodity purchase, sale and trading arrangements to energy related, receivables based financing transactions. Prior to his current position with EDF Mr. Dennison was a partner at Sutherland, Asbill, & Brennan LLP where he represented clients in a variety of energy related issues over three years. Mr. Dennison also served as General Counsel at Dynegy Marketing and Trade, where his responsibilities included legal support for the company's gas, power, and derivatives trading organization. The Company also included resumes for several other key operating personnel in support of the Application. Staff believes that the Company has demonstrated substantial evidence that its staff has the operational, managerial, and technical abilities to perform as a Supplier in the State of Delaware. Staff performed an internet review of the key operating personnel and found no outstanding issues.

#### Surety Bond

The Company did not post a surety bond since it does not require Customers to provide a deposit, prepayment, financial guarantee or the like.

#### Verification of Application

The Application and all subsequent filings were verified by Mr. W. Eric Dennison, General Counsel.

#### Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

#### Contracts

The Company did not provide sample contracts for review by Staff as they will only serve large commercial and industrial customers and are not required to submit contracts.

#### Statement of Criminal Activity

The Applicant stated that they have not been charged or convicted of any criminal activity nor have any of its principals or corporation offices. An internet review of the Company and its principals revealed no issues.

#### Public Notice

EDF was advised that, pursuant to Section 2.2 of the Supplier Rules, the Company was required to publish notice of its filing in two general circulation newspapers in Delaware. The Company provided the appropriate affidavits of publication. Notice was published in the Delaware State News on July 25, 2015 and in The News Journal on July 24, 2015. There were no interventions, protests, or comments filed in the docket within the 20-day notice period.

#### Legal Review

Staff submitted this memo for review by the Attorney on November 16, 2015.

#### Staff 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 the completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the Company demonstrates substantial evidence of capability

The Chair and Members of the Commission

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to render service based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.