

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF EMEX POWER, LLC D/B/A ENERGY)
MARKET EXCHANGE FOR A CERTIFICATE)
TO PROVIDE ELECTRIC SUPPLY) PSC DOCKET NO. 12-199
SERVICES WITHIN THE STATE OF)
DELAWARE(FILED APRIL 18, 2012, AND)
AMENDED JANUARY 17, 2013))

ORDER NO. 8315

ELECTRIC SUPPLIER CERTIFICATE

This 9th day of April, 2013, the Commission determines and orders the following:

WHEREAS, on April 18, 2012, EMEX Power, LLC d/b/a Energy Market Exchange ("EMEX" or the "Company") filed an application (the "Initial Application") seeking certification as a retail electric supplier in order to broker the sale or purchase of Electric Supply Service¹. See 26 *Del. C.* §§1001(3) 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

WHEREAS, in that Initial Application, the Company represented that it intended to act as a Broker for commercial customers in Delaware; 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, by Order No. 8147 dated May 15, 2012, the Commission granted EMEX' s Initial Application, and the Company received an Electric Supplier Certificate; and

WHEREAS, on January 17, 2013, EMEX submitted a request for an amended Electric Supplier Certificate to allow it to provide services as a Broker to Residential Customers (the "Amended Application"). In accordance with Section 2.1.1.1 of the Commission's Rules for Certification and Regulation of Electric Suppliers, 26 *Del. Admin C.* §3001 (the "Supplier Rules"), EMEX submitted proof that it was authorized and qualified to do business in the State of Delaware; and

WHEREAS, Staff reports that the Company has otherwise satisfied the requirements of the Act and the Supplier Rules and recommends that the Commission approve EMEX' s Amended Application;

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

1. That EMEX Power, LLC's d/b/a Energy Market Exchange (the "Company") existing Electric Supplier Certificate is hereby amended to allow the Company to broker Electric Supply Service within this State in accordance with 26 *Del. C. Ch.* 10 to residential customers, in Delaware, in addition to commercial customers in Delaware

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 continues to consent 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/ Jeffrey J. Clark
Commissioner

/s/ Jaymes Lester
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley

PSC Docket No. 12-199, Order No. 8315 Cont'd

Secretary