

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF T.E.S. ENERGY SERVICES, LP FOR)
A CERTIFICATE TO PROVIDE ELECTRIC) PSC DOCKET NO. 11-146
SUPPLY SERVICES WITHIN THE STATE)
OF DELAWARE (FILED MARCH 7, 2011))

ORDER NO. 7937

ELECTRIC SUPPLIER CERTIFICATE

This 4th day of April 2011, the Commission determines and orders the following:

1. On March 7, 2011, T.E.S. Energy Services, LP (the "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(3), 1001(14), 1012. Under the Electric Utilities Restructuring Act of 1999 (the "Act"),¹ "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).²

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

¹ 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).

Delaware. 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 Consumer 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 T.E.S. Energy Services, LP (the "Company") 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, 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 the Commission's "Rules for Certification and Regulations of Electric Suppliers" as presently adopted, or as may be

² 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(3), 1001(14).

hereafter amended or supplemented. The Company 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 the Company 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 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:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jeffrey J. Clark
Commissioner

/s/ Dallas Winslow
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary