

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF ENERGY TRUST DELAWARE, LLC FOR)
A CERTIFICATE TO PROVIDE ELECTRIC) PSC DOCKET NO. 11-427
SUPPLY SERVICES WITHIN THE STATE)
OF DELAWARE (FILED SEPTEMBER 30,)
2011 AND AMENDED NOVEMBER 7, 2011))

ORDER NO. 8077

ELECTRIC SUPPLIER CERTIFICATE

This 1st day of December 2011, the Commission determines and orders the following:

1. On September 30, 2011, Energy Trust Delaware, LLC ("Energy Trust" 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 to commercial and industrial customers of all sizes in the State of Delaware (the "Application"). See 26 Del. C. §§1001(3), 1001(14), 1012. Under the Electric Utilities Restructuring Act of 1999 (the "Act"),² "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).³

¹ Unless otherwise noted, capitalized terms shall have the meanings ascribed to them in the Electric Utilities Restructuring Act of 1999.

² See 26 Del. C. Ch. 10.

³ 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).

2. In its Application, the Company states that it is a broker that will utilize appropriate energy procurement strategies to meet the needs of its commercial and industrial customers in 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 Energy Trust an Electric Supplier Certificate authorizing it to broker sales and customer purchases of electric supply services to commercial and industrial customers 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 Energy Trust Delaware, LLC is hereby granted, under 26 *Del. C.* §1012(a) and the ES Rules, 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 to commercial and industrial customers, 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 ES Rules as presently adopted, or as may be 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 1019 and §10.2 of the ES Rules.

3. That the Company shall, pursuant to the provisions of 26 *Del. C.* §1012(c)(2) and §§3.9 and 3.10 of the ES Rules, file 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:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary