

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
DIRECT ENERGY SERVICES, LLC FOR A)
CERTIFICATE TO PROVIDE ELECTRIC)
SUPPLY SERVICES WITHIN THE STATE OF) PSC DOCKET NO. 05-370
DELAWARE (FILED OCTOBER 11, 2005;)
AMENDED JUNE 4, 2014))

ORDER NO. 8614

ELECTRIC SUPPLIER CERTIFICATE

This 19th day of August, 2014, the Commission determines and Orders the following:

WHEREAS, On October 11, 2005, Direct Energy Services, LLC ("Direct Energy") filed an application (the "Initial Application") with the Commission seeking certification as a retail electric supplier. See 26 *Del. C.* §§1001(3), 1001(14), and 1012. Under the Electric Utilities Restructuring Act of 1999 (the "Act"),¹ "Electric Suppliers"² are not "public utilities," and the resulting sales of Electric Supply Service to Retail Electric Customers are not subject to traditional forms of rate regulation. See 26 *Del. C.* §§ 102(2) and 202(f); and

WHEREAS, in that Initial Application, Direct Energy represented that it intended to provide retail Electric Supply Service to commercial and industrial customers in Delaware. Therefore, Direct

¹ See 26 *Del. C.* Ch. 10.

² Unless otherwise noted, capitalized terms shall have the meanings ascribed to them in 26 *Del. C.* §1001 and 26 *Del. Admin. C.* §3001.

PSC Docket No. 05-370, Order No. 8614 Cont'd

Energy did not provide its standard contract for Residential Customers for Staff review as required by section 2.1.1.9 of the Commission's Rules for Certification and Regulation of Electric Suppliers, 26 Del. Admin C. §3001 (the "Supplier Rules"); and

WHEREAS, by Order No. 6790 dated December 6, 2005, the Commission granted Direct Energy's Initial Application, and Direct Energy received an Electric Supplier Certificate; and

WHEREAS, on May 23, 2014, Direct Energy submitted a request for an amended Electric Supplier Certificate to allow it to provide Electric Supply Service to Residential Customers (the "Amended Application").³ In accordance with Section 2.1.1.9 of the Supplier Rules, Direct Energy submitted its Terms and Conditions (the "Contract") for Residential and Small Commercial Customers for Staff's review; and

WHEREAS, Staff reviewed the Contract and advised Direct Energy of certain changes to the Contract that Staff believed were necessary in order for the Contract to comply with the Supplier Rules. Staff reports that on June 4, 2014, Direct Energy provided a revised Contract, and upon review of that revised Contract Staff believes it to be consistent with the Supplier Rules; and

³ This filing lacked a required verification, which Direct Energy provided on June 4, 2014. Hence, the date of the amended application is June 4, 2014.

WHEREAS, Staff reports that Direct Energy has otherwise satisfied the requirements of the Act and the Supplier Rules and has specifically presented substantial evidence supporting its financial, operational, managerial, and technical ability to render service within the State of Delaware and therefore recommends that the Commission approve Direct Energy's Amended Application;

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

1. That Direct Energy Services, LLC's ("Direct Energy's") existing Electric Supplier Certificate is hereby amended to allow Direct Energy to provide Electric Supply Service to Residential customers in Delaware, in addition to Small Commercial, large commercial and industrial customers in Delaware.

2. That Direct Energy shall at all times provide its Electric Supply Service in accordance with the requirements imposed by 26 *Del. C.* Ch. 10 and *Del. Admin. C.* §3001 as presently adopted or as may be hereafter amended or supplemented. The Commission reiterates its notice to Direct Energy 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 26 *Del. Admin. C.* §3001-10.2.

3. That Staff's review of Direct Energy's Contract shall not be construed to be approval of the terms and conditions of said Contract.

PSC Docket No. 05-370, Order No. 8614 Cont'd

4. That Direct Energy shall file, pursuant to the provisions of 26 *Del. C.* §1012(c) (2) and 26 *Del. Admin. Code* §§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.

5. That Direct Energy 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.

6. That Direct Energy is hereby placed on notice that the costs of this proceeding will be charged to it under the provisions of 26 *Del. C.* §114(b) (1).

7. 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 B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

PSC Docket No. 05-370, Order No. 8614 Cont'd

/s/ Harold B. Gray
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary