

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
OPEN MARKET ENERGY, LLC FOR A)
CERTIFICATE TO PROVIDE ELECTRIC) PSC DOCKET NO. 14-118
SUPPLY SERVICES WITHIN THE STATE OF)
DELAWARE)
(SUBMITTED MARCH 24, 2014;)
FILED FEBRUARY 13, 2015))

ORDER NO. 8734

AND NOW, this 19th day of May, 2015, the Delaware Public Service Commission (the "Commission") determines and orders the following:

WHEREAS, pursuant to 26 *Del. C.* §1012(a) and 26 *Del. Admin. C.* §3001, on March 24, 2014, Open Market Energy, LLC (the "Company") submitted an incomplete application that requested certification as a Retail Electric Supplier¹ in order to broker the sale or purchase of Electric Supply Service;² and

WHEREAS, after requests for additional required information from the Commission Staff ("Staff") and responses from the Company, the Company's filing (the "Application") was deemed to be complete on February 13, 2015; and

WHEREAS, 26 *Del. Admin. C.* §3001-2.1.1.5 requires that each Applicant³ "present **substantial evidence** supporting their financial, operational, managerial and technical ability to render service within the State of Delaware." (emphasis added); and

¹ Under 26 *Del. C.* §1001(14)(c), an "electric supplier" means a person or entity certified by the Commission that sells electricity to retail electric customers utilizing the transmission and/or distribution facilities of a nonaffiliated electric utility, including: Any broker, marketer or other entity (including public utilities and their affiliates).

² Under 26 *Del. Admin. C.* §3001-1.0, "Electric Supply Service" means the provision of electricity or electric generation service.

³ Each capitalized term not otherwise defined herein is defined in 26 *Del. C.* §1001 or in 26 *Del. Admin. C.* §3001.

WHEREAS, after interaction with Staff and counsel for Staff regarding the pending Application, on April 20, 2015, the Company filed a letter stating that it was withdrawing the Application without prejudice; and

WHEREAS, Staff reported to the Commission in its Memorandum dated April 29, 2015, that the Application failed to fulfill all of the requirements for an Electric Supplier Certificate to act as a Broker and therefore recommended that the Commission not issue an Electric Supplier Certificate to the Company. This Memorandum was sent to the Commission for its review prior to the regularly-scheduled meeting to be held on May 5, 2015; and

WHEREAS, the Commission finds that it has the authority to allow the Company to withdraw its Application for certification as an Electric Supplier in the State of Delaware and has voted to allow such withdrawal at its regularly-scheduled meeting held on May 5, 2015;

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

1. The Commission allows the Company to withdraw the Application without prejudice.

2. 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/ Harold B. Gray
Commissioner

Commissioner

Commissioner

ATTEST:

/s/ Donna Nickerson
Secretary