

Positive Energy

1911 Fort Myer Drive, Suite 702
Arlington, Virginia 22209
(703) 778-4544

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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

November 26, 2008

Pennsylvania Public Utility Commission
ATTN: Secretary
PO Box 3265
Harrisburg, PA 17105

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Re: Comments from Positive Energy for Implementation of Act 129 of 2008 Phase 2- Registry of Conservation Service Providers Docket No. M-2008-2074154

Dear Mr. Secretary:

Positive Energy submits the attached comments regarding qualifications for conservation service providers. Answers follow each question below.

Positive Energy is excited to have provided testimony at the November 19, 2008 *En Banc* meeting and in continuing to work with the Commission and the electric distribution companies to detail efficiency and conservation plans in accordance with Act 129.

Sincerely,



Jeremy Kirsch
Vice President, Client Solutions
Positive Energy, Inc.

**PA P.U.C.
LAW BUREAU**

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Comments to questions:

1. **What are the minimum qualification standards that the Commission should require to allow a person to be listed on the registry to be established under Section 2806.2(a)?**

Positive Energy Comment:

Conservation service providers (“CSPs”) will serve varied functions for Electric Distribution Companies (“EDCs”), ranging from data analysis, to IT services, to in-home energy audits, to installation of equipment. The minimum standards to be qualified to perform these functions should follow industry best practices for the hiring of consultants, subcontractors, and independent service providers. This will allow for the Commonwealth to leverage all of the best that industry has to offer both from more established companies to new “green economy” startups.

2. **Should the minimum qualification standards include factors such as: technical training, professional experience, industry certifications, financial integrity, and/or history of lawful operations?**

Positive Energy Comment:

As CSPs will serve varied functions for EDCs, the level of training, experience, and viability of their businesses will be varied by area of focus and expertise. Minimum qualifications should follow industry best practices to include prior experience in providing the services in question, prior/current client references, a DUNS number, and the ability to prove legitimate business operations here in the United States. One model the Commonwealth could consider is to set “baseline” criteria, and provide an option to substitute other items or have criteria waived on a case-by-case basis through an exceptions process.

3. **Should qualification standards, application materials, application requirements, and a contractor/dealer agreement similar to those used by Pennsylvania’s Keystone HELP program (www.keystonehelp.com) be adopted, and if so, what revisions to the Keystone HELP program would be needed?**

Positive Energy Comment:

The Keystone HELP program metrics are sound, but might be somewhat restrictive against newer, innovative businesses which have not been in business for at least 3 years. So, the business requirement could reasonably be reduced to 1 year. Also, if potential CSPs do not meet all of the established baseline criteria, then there should be some requirement waiver process which can be used by the approving body.

4. Should certain training or certifications be permitted to substitute for some or all minimum experience requirements?

Positive Energy Comment:

This seems like a reasonable position. It will need to be dealt with on a case-by-case basis, and accredited training programs should be targeted as appropriate substitutes. Again, if potential CSPs do not meet all of the established baseline criteria, then there should be some requirement waiver process which can be used by the approving body.

5. What effect, if any, should be given to entities approved as conservation service providers in other jurisdictions?

Positive Energy Comment:

This factor can reasonably be one of the metrics used when evaluating CSPs. Again, if potential CSPs do not meet all of the baseline criteria, then there should be some substitution flexibility or requirement waiver process which can be used by the approving body.

6. Should bonding or a letter of credit be required? If so, what should be the minimum amount?

Positive Energy Comment:

It is reasonable to require a letter of credit.

7. Should insurance be required? If so, what type and what minimum amounts?

Positive Energy Comment:

The minimum insurance requirements are going to depend on the type of work being contractor for. The types which are most standard for contractors to utilities are:

- Commercial General Liability
- Worker's Compensation & Employer's Liability Insurance

8. Should background checks be performed? If so, what type?

Positive Energy Comment:

One way to think about background checks is that they should be based on the potential interaction the CSP will have with the citizens of the Commonwealth. If the CSP is working only with EDCs and not interacting with people in their homes, for example, background checks might not be needed. If they are employed for certain CSP functions, such as installing measures in people's homes, the common type of background check that can be employed is the Criminal History Record Check ("CHRC"). As these checks are expensive, the Commonwealth might consider some sort of cost-sharing between the Commonwealth, EDCs, and the CSP for any required checks.

9. Should credit histories be required? If so, what should be disqualifying?

Positive Energy Comment:

Credit histories may or may not be indicative of future ability to perform. One way to leverage credit histories is as an optional "additional" factor which can be used to offset the basic requirements if they are not yet met (such as a minimum of 2 years in business).

10. Should customer or trade references be required? If so, what should be the minimum number of references?

Positive Energy Comment:

A minimum of 2 current or former (within 2 years) customer references should be required.

11. Should satisfactory Better Business ratings be required?

Positive Energy Comment:

One way to leverage Better Business ratings is as an optional "additional" factor which can be used to offset the basic requirements if they are not yet met (such as a minimum of 2 years in business).

12. What information should be included on an application form?

Positive Energy Comment:

The following information should be provided:

- Company name
- Ownership structure (LLC, LLP, S-Corp, partnership, etc...)
- Principal owners

- Years in business
- DUNS number
- Number of employees
- Client references
- Summary of products and services provided

13. What documents should be provided with an application?

Positive Energy Comment:

- Notarized copy of Certificate of Incorporation
- DUNS report (if available)
- Previous year's financial statements (unaudited are ok)

14. Should the Commission charge a registration fee? If so, what would be a reasonable registration fee?

Positive Energy Comment:

A fee is reasonable to offset some of the administrative costs. A \$100 - \$200 initial registration fee seems reasonable. Renewal fees could be lower (in the \$25- \$50 range).

15. Should there be a requirement for periodic re-qualification? If so, how often and how extensive should it be?

Positive Energy Comment:

A bi-annual re-qualification timeframe seems reasonable. All basic requirements should be re-vetted

16. What other criteria should the Commission require?

Positive Energy Comment:

N/A