

Buchanan Ingersoll & Rooney PC

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November 6, 2015

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Application of Commerce Energy, Inc. for a Reduction in Level of Bonding
Docket No. A-_____

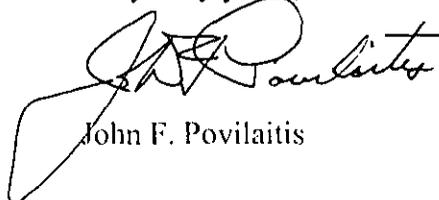
Dear Secretary Chiavetta,

Enclosed please find Commerce Energy, Inc.'s ("Commerce") Application for a Reduction in Level of Bonding ("Application"). This filing includes commercially valuable and sensitive information for which Commerce requests confidential treatment. Accordingly, enclosed is a version of the Application marked "Public Version" for inclusion in the public record, and a version of the Application marked "Confidential Version". **Commerce respectfully requests that the Confidential Version of its Application be maintained by the Pennsylvania Public Utility Commission ("Commission") under seal.** Also enclosed is a filing fee in the amount of \$350.00.

Copies of Commerce's Public Version of its Application have been served on each of the Public Advocates, the Commission's Bureau of Investigation and Enforcement, the Commission's Bureau of Technical Utility Services, the Commonwealth of Pennsylvania's Department of Revenue, the Office of Attorney General's Bureau of Consumer Protection and all Pennsylvania electric distribution companies as indicated in the attached Certificate of Service.

Please contact the undersigned if you have any questions regarding this filing. Thank you for your attention to this matter.

Very truly yours,



John F. Povilaitis

JFP/bb
Enclosures
cc: Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Commerce Energy, Inc. : Docket No. A-_____
For A Reduction in Level of Bonding :

APPLICATION OF COMMERCE ENERGY, INC. FOR A
REDUCTION IN LEVEL OF BONDING

I. Introduction

1. Commerce Energy, Inc. (“Commerce” or “Company”) is an electric generation supplier (“EGS”) authorized by the Pennsylvania Public Utility Commission (“PaPUC” or “Commission”) to provide service to residential, commercial and industrial customers in the PECO service territory. Commerce received its license to operate as an EGS by order of September 15, 1999 at Docket No. A-110117. As a licensed EGS, Commerce is subject to the Commission’s authority to require it to furnish a bond or other security in order to operate in the Commonwealth of Pennsylvania, pursuant to Section 2809(c) of the Public Utility Code (“Code”) and Section 54.40 of the Commission’s regulations. 66 Pa.C. S. §2809(c); 52 Pa.Code §54.40.

2. Section 54.40(d) of the Commission’s regulations requires EGSs to provide a security level of 10% of the licensee’s reported gross receipts. However, a licensee may seek approval from the Commission of an alternative level of bonding, commensurate with the nature and scope of its operations. 52 Pa.Code §54.40(d). According to the Commission’s regulations, the purpose of the bond is to ensure payment of the Pennsylvania Gross Receipts Tax (“GRT”) and to ensure the supply of electricity at the retail level in accordance with contracts, agreements or arrangements. 52 Pa.Code §54.40(f)(2). On July 24, 2014, after consideration of formal comments submitted to a December 5, 2013 Tentative Order, the Commission found that

requiring an EGS to post a bond or security in the amount of 10% of gross receipts after the first year of operation “may be excessive in relation to the risk intended to be secured, unnecessarily burdening EGSs, and presenting a potential barrier to entry into Pennsylvania’s retail electric market.”¹ Therefore the Commission announced in the July 24, 2014 Order that it was adopting the policy of accepting applications by EGSs to reduce their level of bonding/security after the first year of operation to 5% of the EGS’s most recent 12 months of gross revenue or \$250,000, whichever is higher. In addition, the July 24, 2014 Order delegated authority to review uncontested requests for a reduction in the level of bonding to the Bureau of Technical Utility Services.²

3. Based on the July 24, 2014 Order, the Code, the Commission’s regulation at Section 54.40(d) and the following supporting material, Commerce respectfully requests that the Commission approve a reduction in its security requirement to 5% of its most recent 12 months of gross revenue.

II. Information Provided in Support of Bond Reduction Request

4. Prior to filing this Application to reduce its bonding requirement, Commerce informally consulted with Commission staff to obtain guidance as to the appropriate information to support such a request, as was suggested by the Commission in the July 24, 2014 Order.³ Based on that consultation, this Application includes Confidential Attachments 1 through 3. Confidential Attachment 1 provides Commerce’s gross revenues for the sale of electricity to retail customers in Pennsylvania for the most recent twelve (12) months.

¹ *Public Utility Commission Bonding/Security Requirements for Electric Generation Suppliers; Acceptable Security Instruments*, Docket No. M-2013-2393141 (July 24, 2014) (“July 24, 2014 Order”) at 10.

² July 24, 2014 Order at 12-13.

³ *Id.*

5. Confidential Attachment 2 is a Tax Status Letter of Good Standing obtained by Commerce from the Pennsylvania Department of Revenue (“DOR”).

6. Confidential Attachment 3 documents Commerce’s full compliance with the requirements of the Alternative Energy Portfolio Standards (“AEPS”) Act. This attachment shows compliance data for the most recent 12 month period (June 1 through May 31) taken from the report of the Statewide Administrator of the Pennsylvania AEPS Alternative Energy Credit Program, stating the compliance obligation for the most recent energy year.

7. Based on the foregoing information which demonstrates that Commerce is in compliance with the AEPS Alternative Energy Credit Program and is in good standing with DOR, Commerce requests that its bonding requirement be reduced to 5% of its most recent twelve (12) months of gross revenue. This amount is reasonable and satisfies the requirements of Section 2809(c) of the Public Utility Code (“Code”) and Section 54.40 of the Commission’s regulations. 66 Pa.C. S. §2809(c); 52 Pa. Code §54.40.

III. Relief Requested and Conclusion

8. Based on its standing as an EGS licensed to do business in Pennsylvania, the Commission’s regulations and the July 24, 2014 Order, Commerce respectfully requests that it be authorized to amend its current bond security on file with the Commission to 5% of its most recent twelve (12) months of revenue. Upon approval of this Application by the Commission, Commerce will submit a new bond in this amount that also complies with the Commission’s bond requirements for EGSs listed in Section 55.40(f) of the Commission’s regulations. 52 Pa.Code §54.40(f).

Respectfully submitted,

Dated: November 6, 2015



John F. Povilaitis
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Suite 500
Harrisburg, PA 17101
(717) 237-4825

Counsel for Commerce Energy, Inc.

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**CONFIDENTIAL
ATTACHMENT 1**

**CONFIDENTIAL
ATTACHMENT 2**

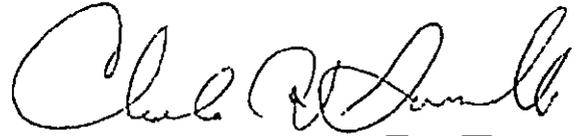
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**CONFIDENTIAL
ATTACHMENT 3**

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VERIFICATION

I, Charles C.S. Iannello, Vice President, U.S. Regulatory Affairs for Commerce Energy, Inc., hereby verify that the information in the foregoing Application is true and correct to the best of my information, knowledge and belief. I understand that the statements are made subject to the penalties of 18 Pa. C.S. § 4904, relating to the unsworn falsification to authorities.



Signature

Dated: November 6, 2015

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Commerce Energy, Inc. : Docket No. A-_____
For A Reduction in Level of Bonding :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the **public version** of the attached document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via First Class Mail

Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Michael L. Swindler
Wayne T. Scott
Stephanie Wimer
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
PO Box 3265
Harrisburg, PA 17105-3265

John M. Abel
Margarita Tulman
Office of Attorney General
Bureau of Consumer Protection
15th Floor, Strawberry Square
Harrisburg, PA 17120

Candis A. Tunilo
Christy M. Appleby
Kristine E. Robinson
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101

Kirk House,
Director of Office of Competitive Market
Oversight
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
3rd Floor, Room N-309
Harrisburg, PA 17105

Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
3rd Floor
Harrisburg, PA 17105

Legal Department
West Penn Power d/b/a Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601-1689

Citizens' Electric Company
Attn: EGS Coordination
1775 Industrial Boulevard
Lewisburg, PA 17837

Regulatory Affairs
Duquesne Light Company
411 Seventh Street, MD 16-4
Pittsburgh, PA 5219

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PUBLIC VERSION

Commonwealth of Pennsylvania
Department of Revenue
Bureau of Compliance
Harrisburg, PA 17128-0946
Legal Department
Attn: Paul Russell
PPL
Two North Ninth Street
Allentown, PA 18108-1179

Director of Customer Energy Services
Orange and Rockland Company
390 West Route 59
Spring Valley, NY 10977-5300

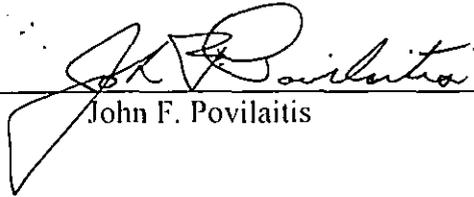
UGI Utilities, Inc.
Attn: Rates Dept. – Choice Coordinator
2525 N. 12th Street, Suite 360
P.O. Box 12677
Reading, PA 19612-2677

Legal Department
First Energy
2800 Pottsville Pike
Reading, PA 19612

Wellsboro Electric Company
Attn: EGS Coordination
33 Austin Street
P.O. Box 138
Wellsboro, PA 16901

Manager Energy Acquisition
PECO Energy Company
2301 Market Street
Philadelphia, PA 19101-8699

Dated this 6th day of November, 2015.



John F. Povilaitis

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