

Control Number: 38282



Item Number: 1

Addendum StartPage: 0

DOCKET NO. 38289

APPLICATION OF Devonshire Energy §  
LLC FOR RETAIL ELECTRIC §  
PROVIDER CERTIFICATION §

PUBLIC UTILITY COMMISSION  
OF TEXAS

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**TITLE PAGE**

**Name of Applicant: Devonshire Energy LLC**

**Authorized Company Representative:**

Representative Name: Brian Daigle  
Representative Title: Senior Director, Energy Engineering  
Representative Address: 82 Devonshire Street, R7B  
(Suite, Floor, Apartment Number, etc.): N/A  
(City, State, Zip Code): Boston, MA 02109  
Representative Phone Number: 617-563-3765  
Representative Fax Number: 617-598-9492  
Representative Email Address: brian.daigle@fmr.com

**PART A – COMPANY ADMINISTRATIVE INFORMATION**

A-1 (a) Type of application (check only one):

- Application for New Option 1 REP Certification
- Application for New Option 2 REP Certification
- Amendment to Existing REP Certification No. \_\_\_\_\_

(b) If you are filing an amendment, check one or more of the following amendment categories requested in this filing:

Option 1 REP

- Name Change
- Change in Ownership or Control
- Corporate Restructuring
- Transfer of Certificate
- Change in Service Area
- Change in Technical/Managerial Qualifications
- Change in Financial Qualifications
- Cessation of Operations
- Other (Explain below):

\_\_\_\_\_  
\_\_\_\_\_

Option 2 REP

- Name Change
- Change in Ownership or Control
- Corporate Restructuring
- Transfer of Certificate
- Change in Technical/Managerial Qualifications
- Change in Financial Qualifications
- Cessation of Operations
- Other (Explain below):

\_\_\_\_\_  
\_\_\_\_\_

(c) Provide a summary explanation of all items checked in “b” above.

\_\_\_\_\_  
\_\_\_\_\_

A-2 Provide required contact information:

- (a) **Company Physical Address:**  
Certificated/Primary Company Name: Devonshire Energy LLC

Company Contact: Brian Daigle  
Contact Title: Senior Director, Energy Engineering  
Company/Physical Address (*Street Address*): 82 Devonshire Street, R7B  
(*Suite, Floor, Apartment Number, etc.*): N/A  
(*City, State, Zip Code*): Boston, MA 02109  
Company Phone Number: 617-563-3765  
Toll-free customer service telephone number: 800-958-5867  
Fax number: 617-598-9492  
Website address:  
Email address: brian.daigle@fmr.com

(b) **Mailing Address** (*If Different from Company Physical Address*):

Company Contact: \_\_\_\_\_  
Contact Title: \_\_\_\_\_  
(*Street/P.O. Box*): \_\_\_\_\_  
(*City, State, Zip Code*): \_\_\_\_\_

(c) **Texas Office Address:**

Company Contact: Pete Manzoni  
Contact Title: Sr. Director  
Company/Physical Address (*Street Address*): One Destiny Way  
(*Suite, Floor, Apartment Number, etc.*): N/A  
(*City, State, Zip Code*): Westlake, TX 76262  
Company Phone Number: 817-474-9482  
Toll-free customer service telephone number: 800-958-5867  
Fax number: 972-910-4026  
Website address:  
Email address: pete.manzoni@fmr.com

(d) **Regulatory Contact Information:**

Regulatory Contact Name: Brian Daigle  
Regulatory Contact Title: Senior Director, Energy Engineering  
Regulatory Contact Address: 82 Devonshire Street, R7B  
(*Suite, Floor, Apartment Number, etc.*): N/A  
(*City, State, Zip Code*): Boston, MA 02109  
Regulatory Contact Phone Number: 617-563-3765  
Regulatory Contact Fax Number: 617-598-9492  
Regulatory Contact Email Address: brian.daigle@fmr.com

(e) **Complaint Contact Information:**

Contact Name: Brian Daigle  
Contact Title: Senior Director, Energy Engineering  
Required Contact Address: 82 Devonshire Street, R7B  
(*Suite, Floor, Apartment Number, etc.*): N/A  
(*City, State, Zip Code*): Boston, MA 02109  
Contact Phone Number: 617-563-3765  
Contact Fax Number: 617-598-9492

Contact Email Address: brian.daigle@fmr.com  
Preferred Complaint Email Address: brian.daigle@fmr.com

- (f) Officers, Directors and Principals. Provide as Attachment A-2 the name, title, address, phone number, facsimile number and email address of each of the applicant's officers, directors and principals.

A-3. Name(s) on certificate.

- (a) State the Certificated Name of the Applicant. If the applicant is requesting a Certificated Name or the addition of a d/b/a name, provide verification of each authorization to conduct business in Texas. If the applicant is a corporation, partnership, or limited liability company, provide a copy of the Office of the Secretary of State Certificate of Filing or provide the file number and the date of authorization for each requested name. If the applicant is a Sole Proprietorship, provide a copy of the County Certificate of Filing or provide the name of the county, file number, and date of authorization for each requested name.

**Certificated Name: Devonshire Energy LLC**

File Number: 4694472                      Date: June 3, 2009                      (For                      new  
Certificated Names Only)

EXISTING Approved d/b/as (if applicable):

- (1)
- (2)
- (3)
- (4)
- (5)

REQUESTED d/b/as (if applicable)

- (1) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_
- (2) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_
- (3) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_
- (4) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_
- (5) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_

DELETION of d/b/as (if applicable):

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_

(b) Form of business (check one):

Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Private Company \_\_\_\_\_  
**Limited Liability Company**  Sole Proprietorship \_\_\_\_\_  
 Other (specify) \_\_\_\_\_

1

**PART B – SERVICE AREA**

Indicate the requested service area below:

(a) Option 1 REP – Service Area by Geography (select only one)

\_\_\_\_\_ Entire State of Texas.

\_\_\_\_\_ By Service area of one or more Transmission and Distribution Utilities (TDU), Municipal Utilities, or Electric Cooperatives (Identify each requested utility and cooperative): \_\_\_\_\_

\_\_\_\_\_ Geographic area of one or more Independent Organization within Texas (e.g., ERCOT) (Identify each organization): \_\_\_\_\_

\_\_\_\_\_ Specific geographic area. Identify on Attachment B-1 the zip codes defining the requested service area.

(b) Option 2 REP – Service Area by Customer

**X** Provide as Attachment B-2 the affidavit from each customer required by §25.107(d)(2).

**PART C – FINANCIAL REQUIREMENTS**

C-1 Access to Capital. An applicant must choose one of the three methods below to demonstrate that the applicant meets the capital requirements of §25.107(f)(1).

\_\_\_\_\_ (a) Investment-grade credit rating. If the applicant elects to meet the requirements of §25.107(f)(1)(A)(i), provide as Attachment C-1 the documentation required by §25.107(f)(4)(A) demonstrating an investment-grade credit rating. If the applicant relies on a guarantor to satisfy this requirement, provide the documentation required by §25.107(f)(1)(A)(i) for the guarantor and provide agreements or commitments demonstrating compliance with §25.107(f)(4)(G).

\_\_\_\_\_ (b) Tangible net worth. If the applicant elects to meet the requirements of §25.107(f)(1)(A)(ii), provide as Attachment C-1 the documentation required by §25.107(f)(4)(B) demonstrating tangible net worth greater than or equal to \$100,000,000, a minimum current ratio of 1.0, and a debt to total capitalization ratio not greater than 0.60. If the applicant relies on a guarantor to satisfy these requirements, provide the documentation required by §25.107(f)(1)(A)(ii) for the guarantor and provide agreements or commitments demonstrating compliance with §25.107(f)(4)(G).

\_\_\_\_\_ (c) Shareholders' equity and letter of credit. If the applicant elects to meet the requirements of §25.107(f)(1)(B), provide as Attachment C-1 the documentation required by §25.107(f)(4)(C) and (F) demonstrating shareholders' equity of not less than \$1,000,000 and an irrevocable stand-by letter of credit payable to the Commission of \$500,000. If the applicant believes that it is exempt from the shareholders' equity requirement under §25.107(f)(1)(B)(iii), include in Attachment C-1 the documentation required by §25.107(f)(4)(F) and provide documentation demonstrating that the applicant began serving load on or before January 1, 2009.

C-2 Protection of Customer Deposits. An applicant that wishes to have the option of collecting customer deposits or residential advance payments must indicate its intention to do so and must comply with the requirements of §25.107(f)(2).

Yes \_\_\_ No \_\_\_ Does the applicant wish to have the option of collecting deposits or advance payments from customers? If Yes, provide as Attachment C-2 the documentation required by §25.107(f)(4)(D), (E), or (F) to demonstrate compliance with §25.107(f)(2).

C-3 Financial standards required for billing and collection of transition charges.

Yes  No \_\_\_ Will the applicant comply with §25.107(f)(5), relating to financial standards required of REPs for the billing and collection of transition charges?

C-4 Yes \_\_\_ No \_\_\_ Does the applicant or a predecessor in interest of the applicant have any history of insolvency, bankruptcy, dissolution, merger, or acquisition during the 60 months immediately preceding the application? If Yes, provide as Attachment C-4 an explanation of each incident.

C-5 Identify the last month and day of the fiscal reporting year of the applicant and its guarantor, if applicable. December 31

## **PART D – TECHNICAL AND MANAGERIAL REQUIREMENTS**

An applicant must answer each question for its entire company, including all assumed names under which it operates.

- D-1 Yes \_\_\_ No \_\_\_ Is the REP currently providing service to customers? If Yes, answer Questions D-2 thru D-12. If No, answer Questions D-3 thru D-12.
- D-2 Independent Organization Requirements:
- a. Provide as Attachment D-2A the following information for each of your Qualified Scheduling Entities (QSEs): (1) Type of Service Provided; (2) Term of Service Agreement; (3) Date Service Agreement Began; (4) Company Name; (5) Contact Person; (6) Contact Person Title; (7) Company address (street address, city, state & zip code); (8) Company phone number; (9) Facsimile number; and (10) Email address.
  - b. Yes \_\_\_ No \_\_\_ Are you current with your ERCOT testing obligation? If no, provide an explanation as Attachment D-2B.
  - c. Yes \_\_\_ No \_\_\_ Have you defaulted on the Load Serving Entity (LSE) Agreement? If yes, provide an explanation as Attachment D-2C.
  - d. Yes \_\_\_ No \_\_\_ Are you providing Outage Notification as required by §25.107(g)(1)(G)? If no, provide an explanation as Attachment D-2D.
  - e. Yes \_\_\_ No \_\_\_ Do you agree to comply with all system rules established by the independent system operator as required by §25.107(g)(2)(F)? If no, provide an explanation as Attachment D-2E.
- D-3 Provide as Attachment D-3 the following information for each third party entity or consultant that you rely upon to meet the technical qualifications for REP certification: (1) Type of Service Provided; (2) Term of Service Agreement; (3) Date Service Agreement Began; (4) Number of years of Experience, (5) Type of Experience; (6) Company Name; (7) Contact Person; (8) Contact Person Title; (9) Company address (street address, city, state & zip code); (10) Company phone number; (11) Facsimile number; and (12) Email address.
- D-4 Competitive electric or gas industry experience. Provide as Attachment D-4 the following information for each of the principals and permanent employees whose experience the applicant relies upon to meet the requirements of §25.107(g)(1)(D):



(1) The name, title, telephone number, email address, type of experience, number of years of experience, number of years with the applicant of each principal and permanent employee that the applicant relies upon to meet this requirement.

(2) Any information or documentation necessary to substantiate a claim that the principal or permanent employee has the required experience, including but not limited to a resume that provides employment history in the competitive electric or gas industries and includes job titles or classifications, a description of the types of experience, and the contact information of former and current employers. Commission Staff may follow up its initial review of this information with a request for additional information or a telephone interview.

(3) If any person that you rely upon to meet this requirement was a principal of a REP that experienced a mass transition of its customers to a Provider of Last Resort (POLR), identify the person and the name of the REP or REPs that experienced a mass transition.

D-5 Risk Management Experience. Provide as Attachment D-5 the following information to demonstrate compliance with §25.107(g)(1)(E):

(1) The name, title, telephone number, and email address of the principal or permanent employee that the applicant relies upon to meet this requirement, or the contact person, contact person telephone number, and contact person email address of the risk management services company that will provide energy commodity risk management services pursuant to the terms of a two-year contract with the applicant.

(2) Any information or documentation necessary to substantiate a claim that the principal, permanent employee, or risk management services company has the required experience, including but not limited to a resume that provides employment history in energy commodity risk management and includes job titles or classifications, a description of the types of risk management experience, and the contact information of former and current employers; the dollar amounts of client portfolios managed, the specific nature of the risk management objectives, and the contact information for each client, account statements or other similar documents, and credentials that evidence the completion of formal education in commodity risk management. Commission Staff may follow up its initial review of this information with a request for additional information or a telephone interview.

D-6 Provide as Attachment D-6 a brief explanation of how you plan to provide adequate staffing to meet all service level commitments.

D-7 Complaint history, disciplinary record, and compliance record. Provide as Attachment D-7 the information required by §25.107(g)(2)(B). If you have nothing to report, please state "None" in the following blank: \_\_\_\_\_

D-8 Investigations, penalties, and violations of deceptive trade or consumer protection laws and regulations. Provide as Attachment D-8 the information required by

§25.107(g)(2)(D). If you have nothing to report, please state "None" in the following blank: \_\_\_\_\_

D-9 Convictions and liabilities for fraud, theft, larceny, deceit, and violations of securities laws, customer protection laws, and deceptive trade laws. Provide as Attachment D-9 the information required by §25.107(g)(2)(E). If you have nothing to report, please state "None" in the following blank: \_\_\_\_\_

D-10 Provide below the name and PUC certification number for each of the Applicant's affiliates that are certificated to provide electric service in Texas:  
\_\_\_\_\_

D-11 Provide as Attachment D-11 any other evidence in support of your plans to meet the requirements of §25.107(g) that you would like considered. If you have nothing to report, please state "None" in the following blank: \_\_\_\_\_

**PART E – CESSATION OF OPERATIONS**

**E-1 Provision of Notice 45 Days Prior to REP Cessation of Operations.**

(a) Date that the REP satisfied or will satisfy the notice requirements of §25.107(i)(6):  
\_\_\_\_\_

(b) Date that the REP intends to cease operations: \_\_\_\_\_

**E-2 Customer Notice of REP Cessation of Operations.**

Yes \_\_\_ No \_\_\_ Did the REP notify all of its customers that it intends to cease operations? If yes, provide as Attachment E-2 a representative copy of the notification sent to each customer. If no, provide an explanation as Attachment E-2.

**E-3 Other Notices of REP Cessation of Operations.**

Yes \_\_\_ No \_\_\_ Did the REP notify the relevant ISO (e.g., ERCOT), the Commission's Customer Protection Division, the Texas Comptroller's Office, the Texas Secretary of State, and the administrator of the Texas Universal Service Fund that the REP intends to cease operations?<sup>1</sup> If no, provide an explanation as Attachment E-3.

**E-4 Customer Deposits and Credits.**

Provide as Attachment E-4 proof that the REP has refunded any monies owed to customers.

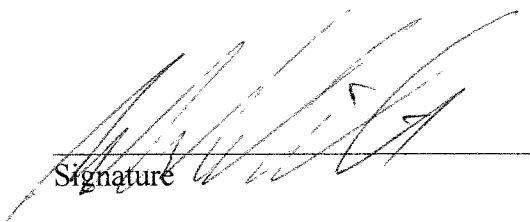
<sup>1</sup> The contact information for these entities may be found in the Appendix to this form.

**AFFIDAVIT**

STATE OF Texas           §  
  §  
COUNTY OF Tarrant       §

1. My name is John Nahill. I am Vice President of the Applicant Devonshire Energy LLC.

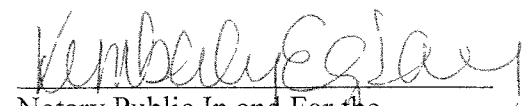
2. I swear or affirm that I have personal knowledge of the facts stated in this application for, or amendment to, a REP, that I am competent to testify to those facts, and that I have the authority to make this Application on behalf of the Applicant. I further swear or affirm that all of the statements and representations made in this application are true and correct. I swear or affirm that the Applicant understands and will comply with all requirements applicable to a Retail Electric Provider.

  
\_\_\_\_\_  
Signature

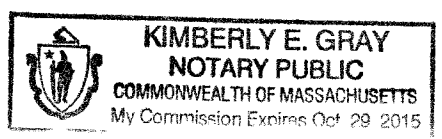
John Nahill  
\_\_\_\_\_  
Typed or Printed Name

Vice President  
\_\_\_\_\_  
Title of Signatory

SWORN TO AND SUBSCRIBED before me on the 18<sup>th</sup> day of May, 2010.

  
\_\_\_\_\_  
Notary Public In and For the  
State of: Massachusetts

My commission expires: October 29, 2015



**PART A - COMPANY ADMINISTRATIVE INFORMATION**  
**Attachment A-2**  
**Officers, Directors and Principals**

Officers:

<b>Name</b>	<b>Title</b>	<b>Phone</b>	<b>Facsimile</b>	<b>Email</b>
Mark Ferrari	President	617-563-6494	617-385-1510	<a href="mailto:Mark.ferrari@fmr.com">Mark.ferrari@fmr.com</a>
John Nahill	Vice President	617-563-3078	617-385-1019	<a href="mailto:John.nahill@fmr.com">John.nahill@fmr.com</a>
Michael Kearney	Treasurer	617-563-8769	617-385-1054	<a href="mailto:Michael.kearney@fmr.com">Michael.kearney@fmr.com</a>
Michael Pekowsky	Secretary	617-563-9386	617-850-8771	<a href="mailto:Michael.pekowsky@fmr.com">Michael.pekowsky@fmr.com</a>

Business Address for All Officers:

Devonshire Energy LLC  
82 Devonshire Street, R7A  
Boston, MA 02109



Attachment B-2

AFFIDAVIT

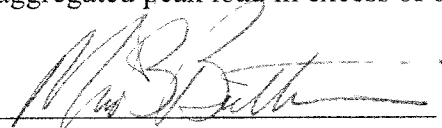
STATE OF TEXAS

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§  
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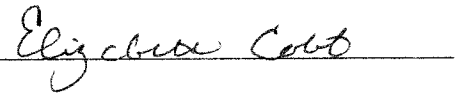
COUNTY OF Aransas  
Brazoria  
Cameron  
Collin  
Dallas  
Denton  
Harris  
Hidalgo  
Tarrant  
Williamson

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned, who, after being duly sworn, state on their oath that they are entitled to make this Affidavit and that the statement contained below and in the foregoing are true and correct.

ProBuild Company LLC is satisfied that Devonshire Energy LLC is capable of meeting the financial, technical, managerial and customer protection standards equivalent to those prescribed in PURA § 39.352 (b)(1-3) and (c) in connection with the provision of retail electric services to its facilities in various locations throughout Texas having an aggregated peak load in excess of one Megawatt.

  
By: Mark Butterman  
Title: Vice President and General Counsel

SWORN TO AND SUBSCRIBED before me on this 17<sup>TH</sup> day of May, 2010.

  
Name: ELIZABETH COBB

Notary Public In and For the  
State of: COLORADO



My commission expires:

My Commission Expires 8-25-2012

# Delaware

PAGE 1

*The First State*


I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "DEVONSHIRE ENERGY LLC", FILED IN THIS OFFICE ON THE THIRD DAY OF JUNE, A.D. 2009, AT 3:30 O'CLOCK P.M.

4694472 8100

090584891

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 7339530

DATE: 06-04-09

CERTIFICATE OF FORMATION  
OF  
DEVONSHIRE ENERGY LLC

This Certificate of Formation of Devonshire Energy LLC (the "LLC"), dated as of June 3, 2009, is being duly executed and filed by Michael G. Pekowsky, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. 18-101, et seq.).

FIRST. The name of the limited liability company formed hereby is Devonshire Energy LLC.

SECOND. The address of the registered office of the LLC in the State of Delaware is c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

THIRD. The name and address of the registered agent for service of process on the LLC in the State of Delaware is The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the date first above written.

  
\_\_\_\_\_  
Michael G. Pekowsky, Authorized Person