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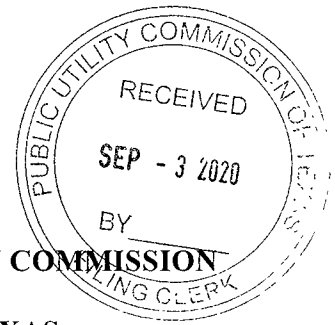
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DOCKET NO. 50730

**APPLICATION OF ENERGY MONGER,
LLC FOR A RETAIL ELECTRIC
PROVIDER CERTIFICATE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**



COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this response to Order No. 3, Commission Staff's Recommendation on Final Disposition. Staff recommends that the application be approved. In support thereof, Staff shows the following:

I. BACKGROUND

On April 2, 2020, Energy Monger, LLC (Energy Monger) filed an application under PURA¹ § 39.352 and 16 Texas Administrative Code (TAC) § 25.107 for an Option 1 retail electric provider (REP) certificate. Energy Monger filed supplements to its application on April 13, 2020 and July 21, 2020.

On July 24, 2020, the Administrative Law Judge (ALJ) issued Order No. 3, directing Staff to file a recommendation on final disposition by September 3, 2020. Therefore, this pleading is timely filed.

II. FINAL DISPOSITION

Staff has reviewed the application, and as supported by the attached memoranda of Fred Goodwin, Customer Protection Division, and Werner Roth, Market Analysis Division, Staff has determined that the application provides the information required to demonstrate that Energy Monger satisfies the requirements of 16 TAC § 25.107. Therefore, Staff recommends that the application be approved.

III. CONCLUSION

For the reasons specified above, Staff respectfully recommends that Energy Monger's application be approved.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–66.016.

Dated: September 3, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ Daniel Moore
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DOCKET NO. 50730

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 3, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore

Public Utility Commission of Texas

Memorandum

TO: Daniel Moore, Attorney
Legal Division

FROM: Fred Goodwin, Licensing and Compliance Analyst
Customer Protection Division

DATE: September 3, 2020

RE: Docket No. 50730 – *Application of Energy Monger, LLC for a Retail Electric Provider Certificate*

Staff's Recommendation on Final Disposition

Technical and Managerial Requirements

I. Application

On April 2, 2020, Energy Monger, LLC (Energy Monger or the Applicant) filed an application with the Public Utility Commission of Texas (Commission) for certification as an Option 1 retail electric provider (REP) in the ERCOT service area of Texas pursuant to Public Utility Regulatory Act § 39.352 and 16 Texas Administrative Code (TAC) § 25.107. Energy Monger supplemented its application on April 13, 2020 and July 21, 2020 to provide additional information.

II. Technical and Managerial Analysis

The general, applicability, certification, basic, content, and substantive requirements applicable to a new REP certification application are listed in 16 TAC § 25.107(a), (c), (d), (e), and (g), respectively.

Applicability requirements

Under 16 TAC § 25.107(a)(3), “[a] REP that outsources retail electric functions remains responsible under commission rules for those functions and remains accountable to applicable laws

and commission rules for all activities conducted on its behalf by any subcontractor, agent, or any other entity.” In order to hold REPs accountable for the actions of third parties acting on the REP’s behalf, the Commission needs to know who those third parties are and how to contact them. Attachment B-3 of the application form is provided for this purpose. The Applicant provided Attachment B-3 to satisfy this requirement.

General requirements

Under 16 TAC § 25.107(c)(2), an application for REP certification “shall be made on a form approved by the commission, verified by oath or affirmation, and signed by an executive officer of the applicant.”

Staff confirmed that the application was submitted on a Commission-approved form and that it was signed by an officer of Energy Harbor. As detailed below, all other required sections of the application were completed.

Certification requirements

Under 16 TAC § 25.107(d), an applicant must designate in its initial REP certification application whether it wishes to provide service as an Option 1 (geographic service area) or Option 2 (designated customers) REP. Further, if an applicant selects Option 1, it must designate its geographic service area as: (i) the entire state of Texas; (ii) a specific geographic area (including applicable zip codes); (iii) the service area of specific TDUs or specific municipal utilities or electric cooperatives in which competition is offered; or (iv) the ERCOT service area (or other independent organization to the extent it is within Texas).

The Applicant made its designation in section B-1(a) of its application as an Option 1 REP in the ERCOT service area of Texas.

Basic requirements

Under 16 TAC § 25.107(e)(1), “[i]f the applicant is a corporation, the commission shall issue the certificate in the corporate name of the applicant.” Staff confirmed that the Applicant is a corporation and that “Energy Monger, LLC” is registered with the Texas Secretary of State under file no. 830827658.

Under 16 TAC § 25.107(e)(1)(A), the Commission may not authorize more than five assumed names for a REP at one time. The Applicant did not request any assumed names.

Under 16 TAC § 25.107(e)(1)(B), a REP business name “shall not be deceptive, misleading, vague, otherwise contrary to § 25.272 of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates), or duplicative of a name previously approved for use by a REP certificate holder.” Staff verified that the company name does not duplicate any existing REP names and is not otherwise deceptive, misleading, vague, or otherwise contrary to § 25.272.

Under 16 TAC § 25.107(e)(2), a REP “shall continuously maintain an office located within Texas for the purpose of providing customer service, accepting service of process and making available in that office books and records sufficient to establish the REP’s compliance with PURA and the commission’s rules.” The REP’s location may not be a post office box. The Applicant listed its required Texas office address in Section A-6(c) of the application, and it is not a post office box.

Content requirements

The content requirements applicable to a new REP certification application are listed in 16 TAC § 25.107(g)(2)(A)-(H). Certain technical and managerial information must be included in the REP’s initial certification application. The Applicant provided information responsive to the rule requirements as outlined in the following table:

<i>Rule</i>	<i>Requirement</i>	<i>Application Form</i>
16 TAC § 25.107(g)(2)(A)	Competitive experience	Confidential attachment D-4
16 TAC § 25.107(g)(2)(B)	Complaint history	Nothing to report (D-7)
16 TAC § 25.107(g)(2)(C)	Insolvency, bankruptcy, etc.	Nothing to report (C-4)
16 TAC § 25.107(g)(2)(D)	Investigation of principals	Nothing to report (D-8)
16 TAC § 25.107(g)(2)(E)	Fraud by principals	Nothing to report (D-9)
16 TAC § 25.107(g)(2)(F)	ERCOT registration affidavit	April 13 supplement
16 TAC § 25.107(g)(2)(G)	Principals involved in POLR	Affidavit provided
16 TAC § 25.107(g)(2)(H)	Other evidence	Confidential attachment D-11

Substantive requirements

The substantive technical and managerial requirements applicable to a new REP certification application are listed in 16 TAC § 25.107(g)(1)(A)-(H). Certain technical and managerial requirements must be satisfied by the REP in order to be certified by the Commission. Staff confirmed that the application, as supplemented, provided evidence to satisfy the rule requirements as outlined in the following table:

<i>Rule</i>	<i>Requirement</i>	<i>Applicant's Response</i>
16 TAC § 25.107(g)(1)(A)	ERCOT scheduling, etc.	April 13 supplement
16 TAC § 25.107(g)(1)(B)	ERCOT registration, etc.	April 13 supplement
16 TAC § 25.107(g)(1)(C)	Renewable energy standards	April 13 supplement
16 TAC § 25.107(g)(1)(D)	15 years of competitive experience	Confidential D-4
16 TAC § 25.107(g)(1)(E)	Risk management	Confidential D-5
16 TAC § 25.107(g)(1)(F)	Adequate staffing	Confidential D-6
16 TAC § 25.107(g)(1)(G)	Customer point of contact	April 13 supplement
16 TAC § 25.107(g)(1)(H)	Customer service plan	April 13 supplement

Under 16 TAC § 25.107(g)(1)(A)-(D), the Applicant is required to comply with all procedures established by the ERCOT Independent System Operator (ISO); to register with and be certified by the ERCOT ISO; to comply with all renewable portfolio standards in accordance with 16 TAC § 25.173; and to demonstrate that the Applicant's principals or permanent employees in managerial positions have combined experience in the competitive retail electric service or a related industry that equals or exceeds fifteen years (an individual that was a principal of a REP that experienced a mass transition of the REP's customers to a Provider of Last Resort shall not be considered for purposes of satisfying the fifteen-year managerial experience and shall not own more than 10% of a REP or directly or indirectly control a REP). The Applicant provided evidence in its original application and its supplemental filings to satisfy these requirements.

Under 16 TAC § 25.107(g)(1)(E), Energy Monger is required to have at least one principal or permanent employee who has five years of energy commodity risk management of a substantial energy portfolio. The risk-management qualifications (as well as the other financial qualifications of 16 TAC § 25.107(f)) of the Applicant will be reviewed separately by Staff.

Under 16 TAC § 25.107(g)(1)(F)-(H), Energy Monger is required to commit to adequate staffing and training, be the primary point of contact for its customers, and demonstrate its plans for a customer service plan that complies with the Commission's customer protection and anti-discrimination rules. The Applicant provided evidence in its original application and in its supplemental filings to satisfy these requirements.

III. Conclusion

Based on Staff's review of Energy Monger's application, as amended, specifically the Applicant's demonstrated Texas office requirement, its technical and managerial resources, and the signed affidavit for an Option 1 REP certificate, Energy Monger, LLC is qualified to be certified as a REP in Texas.

Therefore, Staff recommends that the application be approved from a technical and managerial perspective. The financial or risk-management qualifications of the Applicant will be reviewed separately.

If you have any questions, please contact Fred Goodwin at (512) 936-7454.

Public Utility Commission of Texas

Memorandum

TO: Daniel Moore, Attorney
Legal Division

FROM: Werner Roth, Market Economist
Market Analysis Division

DATE: September 3, 2020

RE: Docket 50730- Application of Energy Monger, LLC for a Retail Electric Provider Certificate

On April 2, 2020, Energy Monger, LLC (Energy Monger) filed an application (Initial Application) with the Public Utility Commission of Texas (Commission) requesting an Option 1 Retail Electric Provider (REP) certificate to provide retail electric services in ERCOT. On April 16, 2020, Energy Monger requested a 90-day extension of time, which was granted in Order No. 2 on April 22, 2020. On July 21, 2020, Energy Monger filed an amended application (Amended Application) (collectively with Initial Application, Application). On July 24, 2020, Order No. 3 found the Application sufficient and directed Commission Staff to file a final recommendation on or before September 3, 2020.

Analysis

Access to Capital

In order to obtain a REP certificate, an applicant must demonstrate adequate access to capital. The applicant can demonstrate compliance by meeting the requirements of either 16 Texas Administrative Code (TAC) § 25.107(f)(1)(A) or 16 TAC § 25.107(f)(1)(B). Energy Monger stated its intention to meet the access to capital requirements under 16 TAC § 25.107(f)(1)(B), which states the following:

A REP electing to meet the requirements of this subparagraph must demonstrate shareholders' equity, determined in accordance with generally accepted accounting principles, of not less than one million dollars for the purpose of obtaining certification, and the REP or its guarantor must provide and maintain an irrevocable stand-by letter of credit payable to the commission with a face value of \$500,000 for the purpose of maintaining certification.

In its Application, Energy Monger submitted audited financials that demonstrated that its shareholders' equity is not less than one million dollars. Also, Energy Monger has filed a letter of credit with a face value of \$500,000 in the Commission's Project No. 37919. Therefore, Energy Monger has satisfied the requirements under 16 TAC § 25.107(f)(1)(B).

Public Utility Commission of Texas

Memorandum

Risk Manager Experience

In order to obtain a REP certificate, an applicant must demonstrate that a principal employee, a permanent employee, or a provider of commodity risk management services possesses adequate energy commodity risk management experience. Specifically, 16 TAC § 25.107(g)(1)(E), states the following:

At least one principal or permanent employee who has five years of experience in energy commodity risk management of a substantial energy portfolio. Alternatively, the rule provides that a REP may provide documentation demonstrating that the REP has entered into a contract for a term not less than two years with a provider of commodity risk management services that has been providing such services for a substantial energy portfolio for at least five years. A substantial energy portfolio means managing electricity or gas market risks with a minimum value of at least \$10,000,000.

In the Application, Energy Monger provided the resume of at least one principal employee who has five years of experience in energy commodity risk management of a substantial energy portfolio. Therefore, Energy Monger has satisfied the requirements of 16 TAC § 25.107(g)(1)(E).

Customer Deposits

In its Application, Energy Monger stated that it wished to collect customer deposits. 16 TAC § 25.107(f)(2)(B), states the following:

A REP certified pursuant to paragraph (1)(B) of this subsection shall keep customer deposits and residential advance payments in an escrow account or segregated cash account, or provide an irrevocable stand-by letter of credit payable to the [C]ommission in an amount sufficient to cover 100% of the REP's outstanding customer deposits and residential advance payments held at the close of each month. For purposes of this subparagraph only, to qualify as a segregated cash account, the account must be with a financial institution whose deposits, including the deposits in the segregated cash account, are insured by the Federal Deposit Insurance Corporation, the account is designated as containing only customer deposits, the account is subject to the control or management of a provider of pervasive and comprehensive credit to the REP that is not affiliated with the REP, and the terms for managing the account protect customer deposits.

Energy Monger has provided the necessary information on an account to demonstrate compliance with 16 TAC § 25.107(f)(2)(B).

Public Utility Commission of Texas

Memorandum

Recommendation

Energy Monger has provided documentation to demonstrate compliance with 16 TAC § 25.107(f)(1)(B), § 25.107(g)(1)(E), and § 25.107(f)(2)(B). Therefore, Commission Staff recommends that the Application be approved from a financial perspective.