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DOCKET NO. 52431

APPLICATION OF TESLA ENERGY § PUBLIC UTILITY COMMISSION
VENTURES, LLC FOR A RETAIL §
ELECTRIC PROVIDER § OF TEXAS
CERTIFICATE §

COMMISSION STAFF’S RECOMMENDATION ON FINAL DISPOSITION

On August 16, 2021, Tesla Energy Ventures, LLC (Tesla Energy) filed an application for a retail electric provider (REP) certificate with the Public Utility Commission of Texas (Commission) under PURA¹ § 39.352 and 16 Texas Administrative Code (TAC) § 25.107. Tesla Energy seeks to provide retail electric services throughout the area served by the Electric Reliability Council of Texas. Tesla Energy filed supplemental information on August 17, 2021, September 7, 2021, September 9, 2021, and September 28, 2021.

On August 31, 2021, the administrative law judge (ALJ) filed Order No. 2, establishing a deadline of October 15, 2021 for Commission Staff (Staff) to request a hearing or file a final recommendation on Tesla Energy’s application. Therefore, this pleading is timely filed.

I. RECOMMENDATION ON FINAL DISPOSITION

Staff has reviewed the application and supplemental information and, as supported by the attached memoranda of Fred Goodwin, Customer Protection Division, and Mariah Benson, Market Analysis Division, recommends that Tesla Energy satisfies the requirements of 16 TAC § 25.107. Therefore, Staff recommends that the application be approved.

II. CONCLUSION

For the reasons stated above, Staff respectfully recommends that Tesla Energy’s application for a REP certificate, as supplemented, be approved.

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

Dated: October 15, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Scott Miles
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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 on October 15, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Scott Miles
Scott Miles

Public Utility Commission of Texas

Memorandum

TO: Scott Miles, Attorney
Legal Division

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

DATE: October 15, 2021

RE: Docket No. 52431 – *Application of Tesla Energy Ventures, LLC For a Retail Electric Provider Certificate*

Staff's Recommendation on Final Disposition

Technical and Managerial Requirements

I. Application

On August 16, 2021, Tesla Energy Ventures, LLC (Tesla Energy) 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. Tesla Energy supplemented its application on August 17, and September 7, 9, and 28, 2021.

II. Technical and Managerial Analysis

The applicability, general, certification, basic, content, and substantive requirements that apply to a new REP certification application are listed in paragraphs 16 TAC §§ 25.107(a), (c), (d), (e), (g)(2), and (g)(1), 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.” To hold a REP accountable for the actions of third parties acting on its behalf, the Commission must know who those third parties are and how to contact them. The application form provides Attachment D-3 (Third Party Entities or Consultants) for this purpose. Tesla Energy provided Attachment D-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.”

I confirmed that the application was submitted on a Commission-approved form, that it was verified by oath or affirmation, that it was signed by an executive officer of Tesla Energy, and that it contained all the information required by 16 TAC § 25.107(g) and the application form.

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), or Option 3 (designated customers other than small commercial or residential) 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).

Tesla Energy made its designation in section B-1 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.” I verified that Tesla Energy is a limited liability corporation and that the applicant’s name of “Tesla Energy Ventures, LLC” is registered with the Texas Secretary of State under file number 804186722.

Under 16 TAC § 25.107(e)(1)(A), the Commission may not authorize more than five assumed names for a REP at one time. In its application, Tesla Energy requested one assumed name, “Tesla”, so this condition is satisfied.

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.” I verified that the requested company name of “Tesla Energy Ventures, LLC” and the requested assumed name of “Tesla” do not duplicate any existing REP names and are not deceptive, misleading, vague, or otherwise contrary to 16 TAC § 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. Tesla Energy listed its Texas Office address in Section A-6(c) of the application and it is not a post office box.

Content requirements:

Under 16 TAC § 25.107(g)(2)(A)-(H), applicants must include certain technical and managerial information in the REP’s initial certification application. I confirmed that the application, as supplemented, includes the required information as listed in the table below:

<i>Rule</i>	<i>Requirement</i>	<i>Application Form</i>
16 TAC § 25.107(g)(2)(A)	Competitive retail experience	Attachment D-4
16 TAC § 25.107(g)(2)(B)	Complaint history	Nothing to report (form D-7)
16 TAC § 25.107(g)(2)(C)	Insolvency, bankruptcy, etc.	Nothing to report (form C-4)
16 TAC § 25.107(g)(2)(D)	Investigation of principals	Nothing to report (form D-8)

16 TAC § 25.107(g)(2)(E)	Fraud by principals	Nothing to report (form D-9)
16 TAC § 25.107(g)(2)(F)	ERCOT registration affidavit	Affidavit provided
16 TAC § 25.107(g)(2)(G)	Principals involved in POLR	Affidavit provided
16 TAC § 25.107(g)(2)(H)	Other evidence	Attachment D-11

Substantive requirements:

A new REP applicant must satisfy certain technical and managerial requirements to be certificated by the Commission. The requirements that apply to a new REP certification application are listed in 16 TAC § 25.107(g)(1)(A)-(H). I confirmed that the application, as supplemented, provides 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.	Confidential Sept. 28 supplement
16 TAC § 25.107(g)(1)(B)	ERCOT registration, etc.	25.107(g)(2)(F) affidavit
16 TAC § 25.107(g)(1)(C)	Renewable energy standards	Attachment D-11
16 TAC § 25.107(g)(1)(D)	15 years of competitive experience	Attachment D-4
16 TAC § 25.107(g)(1)(E)	Risk management	Attachment D-5
16 TAC § 25.107(g)(1)(F)	Adequate staffing	Attachment D-6
16 TAC § 25.107(g)(1)(G)	Customer point of contact	Attachment D-11
16 TAC § 25.107(g)(1)(H)	Customer service plan	Attachment D-11

Under 16 TAC § 25.107(g)(1)(A)-(D), the applicant REP 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. In addition, 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 requirement and shall not own more than 10% of a REP or directly or indirectly control a REP.

Tesla Energy provided evidence in its application and supplements to satisfy these requirements.

Under 16 TAC § 25.107(g)(1)(F)-(H), the applicant is required to commit to adequate staffing and training, be the primary point of contact for its customers, and to demonstrate its plans for a customer service plan that complies with the Commission's customer protection and anti-discrimination rules.

Tesla Energy provided evidence in its application and supplements to satisfy these requirements.

III. Conclusion

Based on my review of Tesla Energy's application, as supplemented, specifically Tesla Energy's demonstrated Texas office requirement, its technical and managerial resources, and the signed affidavit for an Option 1 REP certificate, I recommend that Tesla Energy is qualified to be certified as a REP in Texas. Therefore, I recommend that the supplemented application of Tesla Energy be approved, from a technical and managerial perspective. My recommendation does not address the financial or risk management qualifications of Tesla Energy.

Public Utility Commission of Texas

Memorandum

TO: Scott Miles, Attorney, Legal Division

FROM: Mariah Benson, Economist, Market Analysis Division

DATE: October 15, 2021

RE: Docket 52431 – *Application of Tesla Energy Ventures, LLC for a Retail Electric Provider Certificate*

Recommendation

Commission Staff's Sufficiency Recommendation Regarding Financial Analysis for a REP Certificate

Background

On August 16, 2021, Tesla Energy Ventures, LLC (Tesla Energy), filed an application for an Option 1 retail electric provider (REP) certificate. Tesla Energy's application notes it does not intend to collect customer deposits.

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 (f)(1)(B). Tesla Energy's application demonstrates 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.

Tesla Energy provided an irrevocable stand-by letter of credit that meets the requirements of 25.107(f)(1)(B).¹ Tesla Energy provided documentation of not less than one million dollars in shareholders' equity.²

Risk Manager

In order to obtain a REP certificate, an applicant must demonstrate they have experience in commodity risk management. 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 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.

Tesla Energy provided documentation of an employee who has five years' experience managing a substantial energy portfolio.³

Recommendation

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

¹ *Letter of Credit and Letter of Credit Amendment Filings Pursuant to PUC Substantive Rule 25.107, Project No. 37919, Confidential- Letter of Credit Bate Stamp- 1 to 3 (Aug. 18, 2021) and Confidential- Letter of Credit Bate Stamp 1-1 (Sep. 10, 2021).*

² Unaudited Financials (Aug. 17, 2021).

³ Application (Aug. 16, 2021) and Confidential- Attachments to Tesla Energy Ventures, LLC's Retail Electric Provider Certificate Bate Stamp 1-1 (Sep. 7, 2021).