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II. CONCLUSION

For the reasons above, Staff respectfully requests the entry of an order deeming the application deficient and adopting the proposed procedural schedule.

Date: August 8, 2023

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Lopez Wagley
Division Director

/s/ Jena R. Abel
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DOCKET NO. 55268

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on August 8, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Jena R. Abel
Jena R. Abel

Public Utility Commission of Texas

Memorandum

TO: Jena Abel, Attorney
Legal Division

FROM: Josephine Gonzalez, Licensing and Compliance Specialist
Customer Protection Division

DATE: August 9, 2023

RE: Docket No. 55268 – *Application of Atlantic Energy, LLC for a Retail Electric Provider Certificate*

Staff's Recommendation on Sufficiency Technical and Managerial Requirements

I. Application

On July 20, 2023, Atlantic Energy, LLC (Atlantic Energy, LLC, 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 entire state of Texas pursuant to Public Utility Regulatory Act § 39.352 and 16 Texas Administrative Code (TAC) § 25.107.

II. Technical and Managerial Sufficiency Analysis

The applicability, general, certification, basic, and content requirements applicable to a new REP certification application are listed in 16 TAC § 25.107(a), (c), (d), (e), and (g)(2) 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 the identities of those third parties and how to contact them. The application form provides Attachment D-3 (Third Party Entities or Consultants) for this purpose. Atlantic Energy, LLC filed Confidential 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 Atlantic Energy, LLC submitted its application on a Commission-approved form, that it was verified by oath or affirmation, and that it was signed by an executive officer of the company. Atlantic Energy, LLC completed all required sections of the application except as indicated below.

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).

Atlantic Energy, LLC made its designation in section B-1 of its application as an Option 1 REP in the entire state of Texas.

Basic requirements

Under 16 TAC § 25.107(e)(1), if an applicant is a corporation, the Commission must issue the REP certificate in the name of the corporation. I verified that the requested certificate name of Atlantic Energy, LLC Energy Texas, LLC is registered with the Office of the Secretary of State in File No. 0804177997.

Under 16 TAC § 25.107(e)(1)(A), the Commission may not authorize more than five assumed names for a REP at one time. Atlantic Energy, LLC requested five assumed names: AE Texas; Atlantas Power; Atlantex Power; AE Texas Commercial; and AE Texas Residential, 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 certificated company name of Atlantic Energy, LLC does not duplicate any existing REP names and is not 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.

Atlantic Energy, LLC listed its required 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 includes the required information except 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	Confidential Attachment D-2
16 TAC § 25.107(g)(2)(B)	Complaint history	Confidential Attachment D-5
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
16 TAC § 25.107(g)(2)(E)	Fraud by principals	Nothing to report
16 TAC § 25.107(g)(2)(F)	ERCOT registration affidavit	Affidavit provided
16 TAC § 25.107(g)(2)(G)	Principals involved in POLR	Nothing to report
16 TAC § 25.107(g)(2)(H)	Other evidence	Confidential Attachment D-11 not provided- Response not sufficient

Form requirements

A new REP applicant must provide certain technical and managerial information in accordance with the Application Form. The Technical and Managerial requirements that apply to a new REP certification application are listed in the Application Form, Section D (Technical and Managerial Requirements), parts D-1 (Customer Service) through D-7. I confirmed that the Applicant failed to provide evidence to satisfy the form requirements as outlined below:

<i>Form</i>	<i>Requirement</i>	<i>Applicant's Response</i>
Attachment OI-8	Qualified Scheduling Entity (QSE)	Response not sufficient

Section D-2(a) of the application form requires the Applicant to provide certain information about its Qualified Scheduling Entity (QSE). Atlantic Energy Texas, LLC, response of “Atlantic Energy Texas, LLC Energy LLC will be their own QSE and will be working to file their application with ERCOT” as soon as possible” is not sufficient.

Atlantic Energy Texas, LLC must provide the information about its QSE in order for Staff to recommend that the application be considered sufficient for further review.

Section D-11 of the application form states: “Provide as Attachment D-11 evidence to demonstrate how the Applicant will satisfy the requirements of: (1) §25.107(g)(1)(A), misc ERCOT requirements; (2) §25.107(g)(1)(C), renewable energy; (3) §25.107(g)(1)(G), POC and outages; (4) §25.107(g)(1)(H), customer service plan; and (5)§25.107(h), Customer Protection Requirements.”

Atlantic Energy, LLC did not provide Confidential Exhibit D-11 which it titled, “Additional Requirements.” **For each of the five requirements, Atlantic Energy, LLC must provide evidence which demonstrates how it will satisfy the rule requirements.**

III. Conclusion

I recommend that the application of Atlantic Energy, LLC be considered **not sufficient** for further review, from a technical and managerial perspective. My recommendation does not address the merits of the application nor the financial and risk management qualifications of the Applicant.

Public Utility Commission of Texas

Memorandum

TO: Jena Abel
Legal Division

FROM: Ethan Blanchard
Rate Regulation Division

DATE: August 3, 2023

RE: Docket No. 55268 *Application of Atlantic Energy Texas, LLC for a Retail Electric Provider Certificate*

On July 20, 2023, Atlantic Energy Texas, LLC (Atlantic) filed an application for an Option 1 retail electric provider (REP) certificate.

Based on my review of the application, I recommend that it be deemed insufficient for filing at this time. I recommend that the applicant do the following to resolve the deficiencies:

1. Segregated cash account: Provide the documentation required per 16 TAC § 25.107(f)(4)(D).
2. Letter of credit: Provide the documentation required per 16 TAC § 25.107(f)(4)(F) which must be filed in Docket No. 37919.