



## **Filing Receipt**

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**Item Number - 5**

**DOCKET NO. 57492**

**APPLICATION OF SUN TOP ENERGY § PUBLIC UTILITY COMMISSION  
LLC FOR A RETAIL ELECTRIC §  
PROVIDER CERTIFICATE § OF TEXAS**

**COMMISSION STAFF’S RECOMMENDATION ON SUFFICIENCY OF THE  
APPLICATION AND PROPOSED PROCEDURAL SCHEDULE**

On December 27, 2024, Sun Top Energy, LLC (Sun Top) filed an application for an Option 1 Retail Electric Provider (REP) certificate, under PURA<sup>1</sup> § 39.352 and 16 Texas Administrative Code (TAC) § 25.107.

On January 22, 2025, the administrative law judge (ALJ) filed Order No. 2, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on the sufficiency of the application and propose a procedural schedule by January 30, 2025. Therefore, this pleading is timely filed.

**I. SUFFICIENCY RECOMMENDATION**

Staff has reviewed Sun Top’s application and as detailed by the attached memoranda of Ethan Blanchard, Rate Regulation Division, and Josephine Gonzalez, Customer Protection Division, has determined that Sun Top has failed to provide all of the information required to demonstrate compliance with 16 TAC § 25.107 from a financial, managerial and technical perspective. Therefore, Staff recommends that the application be deemed deficient at this time.

**I. PROPOSED PROCEDURAL SCHEDULE**

In accordance with Staff’s recommendation, Staff proposes the following procedural schedule:

<b>Event</b>	<b>Deadline</b>
Deadline for Sun Top to file supplemental information to address deficiencies in the application	February 21, 2025
Deadline for Staff to file a supplemental recommendation on the sufficiency of the application and propose additional deadlines, if appropriate	March 6, 2025

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

## II. CONCLUSION

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

Dated: January 30, 2025

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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/s/ Brett Adamie  
Brett Adamie  
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## DOCKET NO.

## 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 January 30, 2025 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Brett Adamie  
Brett Adamie

# ***Public Utility Commission of Texas***

## **Memorandum**

TO: Brett Adamie  
Legal Division

FROM: Ethan Blanchard  
Rate Regulation Division

DATE: January 30, 2025

RE: Docket No. 57492 – *Application of Sun Top Energy, LLC for a Retail Electric Provider Certificate*

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On December 27, 2024, Sun Top Energy, LLC (Sun Top) filed an application for an Option 1 retail electric provider (REP) certificate.

I have reviewed the application and recommend that the application be deemed insufficient for filing at this time. I recommend that the applicant do one of the following to resolve the deficiencies:

1. Provide financial statements demonstrating \$1,000,000 in shareholders' equity in accordance with 16 Texas Administrative Code (TAC) § 25.107(f)(4)(C).
2. Provide an irrevocable standby letter of credit in accordance with 16 TAC § 25.107(f)(4)(F). This letter of credit must be filed in Project No. 37919.
3. Robert Wallace does not have risk management experience. Provide the résumé of an employee who has five years of experience managing energy portfolios of at least \$10,000,000; in accordance with 16 TAC § 25.107(e)(1)(B).

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Brett Adamie, Attorney  
Legal Division

**FROM:** Josephine Gonzalez, Licensing and Compliance Specialist  
Consumer Protection Division

**DATE:** January 30, 2025

**RE:** Docket No. 57492 *Application of Sun Top Energy, LLC for a Retail Electric Provider Certificate*

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### **Staff's Recommendation on Sufficiency**

#### **Technical and Managerial Requirements**

##### **I. Application**

On December 27, 2024, Sun Top Energy, LLC (Sun Top) 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.

On January 16, 2025, the ALJ granted an extension and new deadline for recommendation on the application sufficiency of January 30, 2025.

##### **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), (f) and (g) respectively.

##### ***Applicability requirements***

16 TAC § 25.107(a)(1)(B), “[a] REP that outsources retail electric service functions is responsible for those functions in accordance with all applicable laws and commission rules for all activities conducted on its behalf by any third-party provider.”

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-7 (Third Party Entities or Consultants) for this purpose.

Sun Top did not provide attachment D-7 addressing their Third-Party Entities; thus, not satisfying this requirement.

### ***General requirements***

Under 16 TAC §25.107(d)(2)(A), an application for REP certification “shall be made on a form approved by the commission, specify whether the applicant seeks to obtain or amend a REP certificate, and be accompanied by a signed, notarized affidavit attesting that all material provided in the application is true, correct, and complete. An executive officer of the applicant must sign the affidavit.”

I confirmed that the applicant submitted its application on a Commission-approved form, that it was verified by oath or affirmation, and that an executive officer of the company signed it.

Sun Top completed all required sections of the application unless indicated below.

### ***Certification requirements***

Under 16 TAC § 25.107(d)(2)(H), 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 geographic area of 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 geographic-ERCOT service area (or other independent organization to the extent it is within Texas).

The applicant made its designation in section B-1 of its application as an Option 1 REP for the entire state of Texas.

***Basic requirements***

Under 16 TAC § 25.107(d)(1)(B), the Commission may not authorize more than five assumed names for a REP at one time. Sun Top did not request any assumed names, so this condition is satisfied.

Under 16 TAC § 25.107(d)(1)(C), an applicant must maintain an active business registration with the Texas Secretary of State. I verified that the requested certificate name of Sun Top Energy, LLC is registered with the Office of the Secretary of State in (File No. 803763129).

Under 16 TAC § 25.107(d)(1)(E)(i), a REP shall maintain current and accurate office information, including an office that has a street address located within Texas that is open during normal business hours for the purpose of providing customer service and making available to commission staff books and records sufficient to establish the REP's compliance with PURA and commission rules. The REP's location may not be a post office box.

Sun Top listed its required Texas office address in Section OI-4(a) of the application, and it is not a post office box.

Under 16 TAC § 25.107(d)(2)(B)(i), a REP business name "shall not be deceptive, misleading, vague, otherwise contrary to §25.272 (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 Sun Top Energy, LLC does not duplicate any existing REP names and is not deceptive, misleading, vague, or otherwise contrary to § 25.272.

***Content requirements***

Under 16 TAC § 25.107(d)-(f), as applicable, applicants must include certain technical and managerial information in the REP's initial certification application. I confirmed that the application includes the required information as noted in the table below:

<b><i>Rule</i></b>	<b><i>Requirement</i></b>	<b><i>Application Form</i></b>
16 TAC § 25.107(e)(1)(A)	Competitive retail experience	Insufficient
16 TAC § 25.107(e)(2)(D)	Complaint history	Nothing to report (Attach D-4)
16 TAC § 25.107(f)(4)	Insolvency, bankruptcy, etc.	Nothing to report (Form C-4)
16 TAC § 25.107(e)(2)(E)(i)	Investigation of principals	Nothing to report (Attach D-5)
16 TAC § 25.107(e)(2)(E)(ii)	Fraud by principals	Nothing to report (Attach D-6)
16 TAC § 25.107(e)(2)(E)(iii)	ERCOT registration affidavit	Affidavit provided OI-9
16 TAC § 25.107(e)(2)(E)(iv)	Principals involved in POLR	Attachment MI-4
16 TAC § 25.107(d)(1)(F)	ERCOT scheduling, etc.	Attachment OI-9
16 TAC § 25.107(e)(2)(B)	15 yrs of competitive experience	Insufficient
16 TAC § 25.107(e)(1)(B)	Risk management	Attachment D-3
16 TAC § 25.107(d)(1)(H)	Adequate staffing	Attachment (OI-7)
16 TAC § 25.107(e)(1)(C)(ii)	Customer point of contact	Attach OI-8
C16 TAC § 25.107(e)(1)(D)	Customer service plan	Attach OI-8
16 TAC §§ 25.107(e)(1)(C) and (F)	Qualified Scheduling Entity (QSE)	Insufficient

### ***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.

Under 16 TAC § 25.107(g) Persons prohibited from exercising control, an Option 1 REP must maintain compliance with this subsection at all times. (1) In no instance may any of the following persons control the REP or be relied upon to meet the requirements of subsections (d) and (e) of this section: (A) A person who was a principal of a market participant, at any time within the six months prior to the market participant: (i) experiencing a mass transition of the REP's customers under §25.43 of this title; (ii) having their ERCOT SFA, or similar agreement for an independent organization other than ERCOT terminated; or (iii) exiting an electricity or gas market with outstanding payment obligations that, at the time of the application or amendment, remain



outstanding; or (B) A person who, by commission order, is prohibited from serving as a principal for any commission-regulated entity.

Under 16 TAC § 25.107(e)(1)(A) The following are technical and managerial resource requirements a REP must maintain on an ongoing basis. One or more principals or employees in managerial positions whose combined experience in the competitive electric industry or competitive gas industry equals or exceeds 15 years. A third-party provider's experience may not be used to meet this requirement.

The applicant's resume did not detail prior experience of one or more of the applicant's principals or managerial employees in the competitive retail electric industry or competitive gas industry to demonstrate at least 15 years of experience; thus, this requirement is not satisfied at this time.

Section OI-7 of the application form states: "Ongoing Obligations-Applicant provide a statement affirming compliance with 16 TAC § 25.107(d)(1)(F) and (H)(I) and included a brief summary describing the manner of compliance for each subparagraph as Attachment OI-7: (1) §25.107(d)(1)(F) scheduling, operating; (2) §25.107(d)(1)(H) adequate staffing and employee training; (3) §25.107(d)(1)(I), response to PUC request for information."

Sun Top provided an attachment that provided brief summaries of the ongoing obligations; thus, satisfying this requirement.

## **Conclusion**

I recommend that the application of Sun Top be considered deficient from a technical and managerial perspective. My recommendation does not address the merits of the application nor the financial and risk management qualifications of Sun Top.