

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
DIRECT ENERGY SERVICES, LLC,)	Case No. U-14537
for a license as an alternative gas supplier.)	
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At the June 16, 2005 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER GRANTING LICENSE

On November 18, 2004, Direct Energy Services, LLC (Direct Energy), applied for a license to operate as an alternative gas supplier (AGS) within Michigan pursuant to 2002 PA 634 (Act 634), MCL 460.9 *et seq.* As part of its submission, Direct Energy provided information to demonstrate compliance with the AGS license requirements under Act 634 and under the Commission's March 12, 2003 order in Case No. U-13694 (March 12 order). That order established the AGS licensing procedure.

Act 634 requires an AGS to have the necessary financial, managerial, and technical capabilities to serve customers within Michigan. The act also requires an AGS to maintain an office within the state. Under the March 12 order, the Commission Staff (Staff) must review the application of the AGS for conformance with the act and with the Commission's orders. The Staff then must recommend appropriate action regarding that application to the Commission.

The Staff has reviewed the license application and all of the information submitted by Direct Energy, as well as the past history of Energy America, L.L.C. (Energy America), and other entities affiliated with Direct Energy. Based on this review, the Staff recommends to the Commission that Direct Energy be granted a license to operate as an AGS, but that the license be conditioned as described below.

The application shows that Direct Energy is a Delaware limited liability company and is an affiliate of Energy America, which has operated and continues to operate as an AGS under the natural gas supplier registration process that was in place before passage of Act 634. Centrica, plc, a United Kingdom corporation, is the parent holding company of Direct Energy and of Energy America. The Staff's review of Direct Energy's application also included review of Energy America's operations within Michigan. This review was based upon information provided by these two companies regarding their affiliation and their operations in Michigan and in North America. Direct Energy has represented that after receipt of its AGS license, Michigan customers presently receiving natural gas supply from Energy America will be transferred to Direct Energy. The company also has represented that Energy America will provide gas supply services to Direct Energy after issuance of Direct Energy's AGS license. Thus, Direct Energy states that it will replace Energy America as the provider of gas supply services to Michigan retail choice customers.

The Staff reviewed Direct Energy's business plans and staffing levels, and determined that the company has the expertise and competence to manage natural gas supplies for retail customers in the Michigan gas choice market. Further, the Staff noted, the affiliate firm, Energy America, has supplied natural gas without any supply problems in the gas choice program. However, the Staff noted that Energy America had agreed to a voluntary compliance agreement with the State of

Michigan in August 2002 regarding transfers of customer accounts in various choice programs without proper customer authorization. In the Staff's view, the matter, while serious, had been resolved and had not reoccurred. However, based on its affiliate's history, the Staff recommends that Direct Energy's AGS license be conditioned on certain initial reporting obligations.

Based upon the managerial and business history of Energy America, and all of the conditions set forth and agreed to by Direct Energy, as well as the Staff's recommendation, the Commission finds that Direct Energy will possess the appropriate managerial and technical capabilities to serve customers within the state of Michigan.

With respect to its financial capability, Direct Energy provided the Staff with a letter of credit in the amount of \$100,000. Based upon the letter of credit, the Staff determined that Direct Energy's financial capability meets the Act 634 requirements. The Commission agrees.

Act 634 requires Direct Energy to maintain an office within the Michigan. Direct Energy has a Michigan office based in Livonia, Michigan. The Staff determined that Direct Energy has complied with the Act 634 Michigan-office requirement. The Commission agrees.

The Staff notes that it has recommended approval of an AGS license for Direct Energy after many months of extensive review, discussion, and the company's agreement to conditions for the AGS license. Based on this, and the history of the affiliate company, the Commission finds that the AGS license should be conditioned as follows:

1. Direct Energy shall file quarterly reporting to the Staff for the next six quarters on its Michigan operations subject to its AGS license. The reporting will start for the first full calendar quarter following the issuance of the AGS license. This reporting must include:

- a. Number of customers at end-of-quarter;
- b. Number of new customers added during the quarter;

- c. Number of customers renewed or extended during the quarter;
- d. A statement from Direct Energy that all new contracts and contract renewals have been processed appropriately pursuant to utility tariffs and contract renewal clauses;
- e. A listing of each customer complaint, including complaint type, open date, close date, how the complaint was resolved, and if a refund/rebate is involved in the resolution, the date and tracking number of check sent. Upon request by the Staff, Direct Energy must make additional customer information related to the report readily available to the Staff.

2. In its marketing and contract renewal efforts for the 18 months following the issuance of its AGS license, Direct Energy shall:

- a. Not solicit residential natural gas customers through door-to-door solicitation;
- b. Conduct a third-party verification process for all natural gas customers added through any outbound telemarketing, or utilize another Commission-approved verification process. Such third-party verification firm must not be affiliated in any manner with the entity engaged in telemarketing sales activities. In no instance will this separate condition limit Direct Energy's quality assurance and compliance activities. (The details of the third-party verification process have been reviewed by the Staff);
- c. Conform to applicable contract renewal clauses and operate according to the applicable utility tariff provisions and according to a customer renewal framework, and shall:
 - (1) Timely inform customers of the renewal with accommodation for utility enrollment processes;

- (2) Renew customers to month-to-month service;
- (3) Allow customers to cancel without penalty;
- (4) Allow customers 60 days to cancel after the renewal date and guarantee that all such customers will be financially restored to their position as if they had not renewed.

Based upon the submissions and all of the information provided, the Commission finds that Direct Energy's request to be licensed as an AGS is reasonable and in the public interest, and that it should be approved with the conditions contained within this order. The Commission further finds that the AGS license should be conditioned upon Direct Energy's compliance with all of the applicable provisions of Act 634, the Commission's orders and administrative rules, and each of the delivering natural-gas utilities' tariffs. Failure to comply with any of these provisions may result in revocation of the license or other penalties.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 2002 PA 634, MCL 460.9 *et seq.*; 1909 PA 300, as amended, MCL 462.2 *et seq.*; 1919 PA 419, as amended, MCL 460.51 *et seq.*; 1939 PA 3, as amended, MCL 460.1 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*
- b. Direct Energy has satisfied the statutory requirements to obtain a license as an AGS, subject to the conditions described within this order.

THEREFORE, IT IS ORDERED that:

- A. Direct Energy Services, LLC, is granted a license as an alternative gas supplier, subject to the conditions contained within ordering paragraphs B and C of this order.

B. The license as an alternative gas supplier is subject to the following conditions:

1. Direct Energy Services, LLC, shall file quarterly reporting to the Commission Staff for the next six quarters on its Michigan operations subject to this alternative gas supplier license. The reporting shall start for the first full calendar quarter following the issuance of this alternative gas supplier license. This reporting shall include:

- a. Number of customers at end-of-quarter;
- b. Number of new customers added during the quarter;
- c. Number of customers renewed or extended during the quarter;
- d. A statement that all new contracts and contract renewals have been processed appropriately pursuant to utility tariffs and contract renewal clauses;
- e. A listing of each customer complaint, including complaint type, open date, close date, how the complaint was resolved, and if a refund/rebate is involved in the resolution, the date and tracking number of check sent. Upon request by the Commission Staff, Direct Energy Services, LLC, shall make additional customer information related to the report readily available to the Commission Staff.

2. In its marketing and contract renewal efforts for the 18 months following the issuance of this alternative gas supplier license, Direct Energy Services, LLC, shall:

- a. Not solicit residential natural gas customers through door-to-door solicitation;
- b. Conduct a third-party verification process for all natural gas customers added through any outbound telemarketing, or utilize another Commission-approved verification process. Such third-party verification firm shall not be affiliated in any manner with the entity engaged in telemarketing sales activities. In no instance shall

this separate condition limit Direct Energy Services, LLC's quality assurance and compliance activities;

c. Conform to applicable contract renewal clauses and operate according to the applicable utility tariff provisions and according to a customer renewal framework, and shall:

- (1) Timely inform customers of the renewal with accommodation for utility enrollment processes;
- (2) Renew customers to month-to-month service;
- (3) Allow customers to cancel without penalty;
- (4) Allow customers 60 days to cancel after the renewal date and guarantee that all such customers shall be financially restored to their position as if they had not renewed.

C. Direct Energy Services, LLC, shall comply with the regulatory requirements specified in 2002 PA 634, MCL 460.9 *et seq.*; the Commission's orders and administrative rules for gas customer-choice programs approved by the Commission; and each of the delivering natural-gas utilities' tariffs.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days
issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of June 16, 2005.

/s/ Mary Jo Kunkle
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of June 16, 2005.

Its Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-14537

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on June 16th, 2005, A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Patricia Fronta

Subscribed and sworn to before me
this 16th day of June 2005

Notary Public, Ingham, County, Michigan
My Commission expires August 16, 2011

SERVICE LIST FOR DOCKET # U – 14537
DATE OF PREPARATION: 06/16/2005

CASE #

MR. ERIC STEPHENS
DIRECT ENERGY SERVICES, LLC
39111 WEST 6 MILE
LIVONIA, MI 48142

MS. CHRISTINE M. SONERAL
DYKEMA GOSSETT PLLC
124 W. ALLEGAN STREET
SUITE 800
LANSING, MI 48933-1742

ALL GAS ORDERS
(Subscription List)

MR. LARRY LEWIS
GENERAL SERVICES ADMINISTRATION
670 MORRISON RD., ROOM 209
COLUMBUS, OH 43230

MR. PHILLIP CROSS
PUBLIC UTILITIES REPORTS, INC.
8229 BOONE BLVD., STE. 401
VIENNA, VA 22182

MS. MONICA MARTINEZ
SENATE DEMOCRATIC STAFF
ROMNEY BUILDING
LANSING, MI

ID MAIL

MR. JOHN PESTLE
VARNUM, RIDDERING, SCHMIDT &
HOWLETT
BRIDGEWATER PLACE
P.O. BOX 352
GRAND RAPIDS, MI 49501-0352