

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
DIRECT ENERGY SERVICES, LLC) Case No. U-14724
for a license as an alternative electric supplier.)
_____)

At the December 20, 2005 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

OPINION AND ORDER

On January 5, 2005, Direct Energy Services, LLC (Direct Energy), submitted an application, pursuant to the Customer Choice and Electricity Reliability Act, 2000 PA 141 (Act 141), MCL 460.10 *et seq.*, for a license as an alternative electric supplier (AES). An AES is a person selling electric generation service to retail customers in this state, other than a person who physically delivers electricity directly to retail customers. MCL 460.10g(a). Act 141 requires the Commission to ensure that AESs (1) have the necessary financial capability, (2) possess technical competence to engage in energy transactions, (3) are capable of meeting safety requirements for electric operations, and (4) comply with all other lawful obligations. Additionally, pursuant to the June 19, 2000 order in Case No. U-11915, AESs are required to maintain an office within the state of Michigan. The Commission Staff (Staff) is responsible for review of the application and for making a recommendation regarding a license for an applicant.

The application states that Direct Energy is a Delaware limited liability company. Centrica, plc, a United Kingdom corporation, is the parent holding company of Direct Energy. Centrica subsidiaries serve more than four million retail energy customers in North America and nearly one million retail electricity customers. Direct Energy is licensed and operates as an electric retail supplier in the state of Texas. Additionally, Direct Energy submitted information in its application designed to show its compliance with the statutory requirements for an AES.

The Staff reviewed the license application and the information submitted by Direct Energy and recommends that it be granted a license to operate as an AES, with the condition that it report quarterly to the Staff for the next four quarters on its Michigan operations subject to this AES license. The Staff noted that a Direct Energy affiliate, Energy Michigan, 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, has been resolved and has not reoccurred. However, based on the affiliate's history, the Staff recommends that Direct Energy's AES license be conditioned on certain initial reporting obligations. This reporting will start for the first full calendar quarter following the issuance of the AES license. This reporting shall include:

- a. the number of customers at the end-of-quarter;
- b. the number of new customers added during the quarter;
- c. a statement from Direct Energy that all contracts have been duly authorized accordingly to the provisions of Act 141 or any applicable Commission rules to prevent slamming; and
- d. a listing of each customer complaint, including complaint type, open date, close date, and how the complaint was resolved. Direct Energy must make additional customer information related to the report readily available at the request of the Staff.

The Staff will file a letter in the docket once these conditions have been met.

The Staff has reviewed Direct Energy's personnel descriptions and histories. Direct Energy will draw on the technical ability of its affiliate personnel, who have industry-leading experience in providing energy services in retail markets. Energy America, LLC, an affiliate, will provide all electricity requirements for Direct Energy's customers. The Staff determined that Direct Energy has sufficient experience and expertise to manage risk and to reliably supply electricity in Michigan's electric choice market. The Staff considered the expertise and resources of Centrica, plc, Direct Energy's parent company, and concluded Direct Energy has substantial experience and revenues to be licensed as an AES. Based on the information provided and the recommendation of the Staff, the Commission finds that Direct Energy possesses the appropriate managerial and technical capabilities to serve customers within the state of Michigan.

With respect to its financial capability, Direct Energy's financials were reviewed by the Staff; however, those financials are not reported separately and are combined with its parent in the Centrica financials. The financial strength of the parent company is without question. Direct Energy also provided the Staff with a letter of credit in the amount of \$100,000. Based upon its review of the financial statements and the letter of credit, the Staff determined that Direct Energy's financial capabilities meet Act 141 requirements. The Commission agrees.

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

After a review of the applicant's submission, the Commission finds that approval of the application is in the public interest. On numerous occasions, the Commission has found that competition can be advantageous to the citizens of the state. Approval of the request for a license as an AES will expand the opportunities for competition. Accordingly, the application should be

approved. The grant of license is conditioned on compliance with all applicable provisions of the statute and the Commission's orders. Failure to comply fully may result in revocation of the license or other penalties. Further, the grant of a license is conditioned upon the provision of service to customers within a reasonable time. Failure to do so may result in revocation of the license.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 *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 alternative electric supplier.

THEREFORE, IT IS ORDERED that:

A. Direct Energy Services, LLC is granted a conditional license as an alternative electric supplier. The Commission finds that the AES license should be conditioned upon:

Quarterly reporting to the Commission Staff by Direct Energy, LLC for the next four quarters on its Michigan operations subject to this alternative electric supplier license. This reporting will start for the first full calendar quarter following the issuance of the alternative electric supplier license. This reporting shall include:

- a. the number of customers at the end-of-quarter;
- b. the number of new customers added during the quarter;
- c. a statement from Direct Energy, LLC that all contracts have been duly authorized accordingly to the provisions 200 PA 141 and any applicable Commission rules to prevent slamming; and

- d. a listing of each customer complaint, including complaint type, open date, close date, and how the complaint was resolved. Direct Energy, LLC must make additional customer information related to the report readily available at the request of the Commission Staff.

B. Direct Energy Services, LLC must operate as an alternative electric supplier in compliance with the regulatory requirements specified in the Customer Choice and Electricity Reliability, 2000 PA 141, and Commission orders.

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 after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of December 20, 2005.

/s/ Mary Jo Kunkle
Its Executive Secretary

- d. a listing of each customer complaint, including complaint type, open date, close date, and how the complaint was resolved. Direct Energy, LLC must make additional customer information related to the report readily available at the request of the Commission Staff.

B. Direct Energy Services, LLC must operate as an alternative electric supplier in compliance with the regulatory requirements specified in the Customer Choice and Electricity Reliability, 2000 PA 141, and Commission orders.

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MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of December 20, 2005.

Its Executive Secretary