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DOCKET NO. 45199

IN RE: GREEN MOUNTAIN ENERGY COMPANY APPLICATION FOR A NATURAL GAS MARKETER CERTIFICATE OF AUTHORITY

ORDER APPROVING GREEN MOUNTAIN ENERGY COMPANY INTERIM CERTIFICATE OF AUTHORITY

Interim Certificate of Authority No.: GM-48
Date Issued: October 3, 2023

I. Background

This matter came before the Georgia Public Service Commission ("GPSC" or "Commission") on the application of Green Mountain Energy Company ("Applicant," "GMEC", or "Company") pursuant to the Natural Gas Competition and Deregulation Act ("Act"), particularly O.C.G.A. § 46-4-153, and the Commission's Rules, Chapter 515-7-3 for a natural gas Certificate of Authority to market and provide natural gas commodity sales service to retail customers who receive Firm service on Atlanta Gas Light Company's ("AGL") system.

The Act provides that a Certificate of Authority is necessary prior to providing or offering to provide natural gas service to firm retail customers in Georgia. O.C.G.A. § 46-4-153(a)(1). In order to be certificated, an applicant must demonstrate to the Commission that it meets the criteria set forth in the Act. Those criteria include that the applicant "(p)possesses satisfactory financial and technical capability to render the certificated service;" (O.C.G.A. § 46-4-153(a)(2)(A)) "(h)as a sufficient gas supply to meet the requirements of such service;" (O.C.G.A. § 46-4-153(a)(2)(B)) and "(w)ill offer such service pursuant to rules and contract terms which the Commission finds

economically viable for the territory which the Marketer proposes to serve." (O.C.G.A. § 46-4-153(a)(2)(C)).

II. Green Mountain Energy Company Application

On May 23, 2023, Green Mountain Energy Company ("GMEC", "Company", or "Applicant") filed its application for a Marketer Certificate of Authority. GMEC was incorporated in the State of Delaware on March 3, 1999. The Applicant has been in business for over 20 years and currently is operating in seven (7) states - Texas, Pennsylvania, New York, New Jersey, Massachusetts, Maryland, Illinois, and the District of Columbia. GMEC is a for-profit company and is filed in Georgia as a corporation certified on February 7, 2023 by the Georgia Secretary of State Control Number 23030458. The Applicant listed its address as 3711 Market Street, Suite 1000, Philadelphia, PA 19104. The Company's Registered Agent is CT Corporation System, and its address is 289 S. Culver Street, Lawrenceville, GA 30046. The Applicant is a wholly owned affiliate company of NRG Energy, Inc., which is headquartered at 910 Louisiana Street, Houston, TX 77002. In its application, GMEC sought to serve only Residential and Small Commercial customers ("Customers") in all of AGL's nine (9) primary delivery pool groups of Atlanta, Ex-Atlanta Southern, Ex-Atlanta Transco, Macon, Augusta, Brunswick, Rome, Valdosta, and Savannah. The Applicant provided information on its financial and technical capability to serve in the Georgia natural gas market. Additionally, GMEC provided its Terms and Conditions, Disclosure Statement, and a sample bill. NRG Energy, Inc. has two other certificated natural gas marketers that compete on AGL's natural gas distribution system: Xoom Energy Georgia, LLC GM-45 ("Xoom Georgia") and Stream Georgia Gas SPE, LLC, d/b/a Stream Energy, GM-38 ("Stream Georgia").

III. Staff's Analysis

After the May 23, 2023 filing, the Staff had 15 days to review the application to determine if it was whole and complete based on Commission Rule 515-7-3(6). After the Staff's review, the application was found to be whole and complete. On June 26, 2023, the Commission issued a Procedural and Scheduling Order ("PSO"), starting the 90-day timeline for final Commission decision on this matter. Pursuant to the PSO on July 5, 2023, GMEC filed direct testimony, and on August 15, 2023, the Commission had a hearing on this matter. The Company witnesses included Leonard R Gardner III, General Manager of NRG Home East ("Mr. Gardner"), Andrew Miller, Vice President of Portfolio Optimization ("Mr. Miller"), and John Holtz, Senior Director of Market Development & Regulatory Affairs ("Mr. Holtz"). All witnesses work directly for NRG Energy, Inc.

A. Financial Capability: 515-7-3-.03(2)(k)(1-14)

In the application, GMEC submitted documentation of credit facilities provided by its parent company NRG Energy, Inc. for gas operations as it does in the seven (7) other states where it operates. In Attachment-3b of GMEC's application, the Chief Financial Officer for NGR Energy, Inc. signed a sworn statement of financial support to GMEC. On page 5, lines 14-19 of

GMEC's pre-filed direct testimony, Mr. Gardner stated that the NGR Energy, Inc. credit arrangements with GMEC will be similar to what has been provided to Xoom Georgia and Stream Georgia. During the August 15, 2023 hearing, Mr. Gardner was asked if there were any limitations to the credit support that will be provided to the Company, and he responded "no". (Transcript ("Tr.") 37- 38)(filed August 29, 2023). As part of the application, GMEC provided a 36-month breakeven analysis, under trade secret protection, showing its projected customer growth, therms billed, revenues, costs, expenses, and net income.

Though GMEC will be competing for a niche market, it is the Staff's opinion that GMEC has provided documents that it has the financial capability to withstand losses the Georgia market by relying on its parent company, NRG Energy, Inc. for financial support.

B. Technical Capability: 515-7-3-.03(2)(l)(1-20)

In the application, GMEC provided detailed information regarding its natural gas team and their experience in serving the Georgia market. The same natural gas team providing service to Xoom Georgia and Stream Georgia will also provide services to GMEC. The Company provided details regarding its ability to meet the creditworthiness standards of Williams Company that owns the Transco Pipeline, Southern Natural Gas Pipeline Company, and AGL. GMEC discussed its capability in mitigating natural gas price volatility, managing contingency plans in supply disruptions, and gas purchasing strategies.

During the Hearing, Mr. Miller agreed that the hedging policy used by GMEC will protect customers from unexpected price increases during the winter heating season. (Tr. 40- 41) During the Hearing, Mr. Miller was asked if the Tennessee Gas Pipeline runs through the State of Georgia, and he stated he would need more time to respond to the Commission. (Tr. 42). The Staff made this a hearing request. (*Id.*) On August 24, 2023, GMEC filed responses to the hearing requests. As Hearing Request-4, GMEC provided an AGL system map, which did not include the Tennessee Gas Pipeline. Additionally, GMEC provided its Terms of Service and a sample bill for the Staff to review.

After reviewing the GMEC application and supporting documents, it is the Staff's opinion that GMEC has the technical capability to serve in the Georgia market.

C. Carbon Conscious Natural Gas

On page 4 of the public disclosure application, GMEC stated that it markets and sells carbon neutral natural gas products, which is also called carbon conscious gas. During the August 15, 2023 hearing, Mr. Holtz, testified that GMEC will buy carbon offsets related to projects in the United States that capture and use landfill gas to generate clean electricity. (Tr. 21-22). The clean electricity projects are registered with independent verifiers such as the Climate Action Reserve or the Verified Carbon Standard and GMEC will purchase the carbon offsets for its natural gas customers in Georgia. (Tr. 61). GMEC intends to provide a natural gas product that includes carbon offsets that offset 100 percent of customers' usage. (Tr. 23, 26, 28, 48). The cost of the carbon offsets will be included with the prices of the natural gas sold to Customers. (Tr. 28). During the Hearing, Commissioner Pridemore asked Mr. Gardner for a comparison of GMEC's natural gas

prices in the states where it operates compared to non-carbon conscious natural gas in those states. (Tr. 33). Mr. Gardner was not prepared to answer this question at the hearing, so Commissioner Pridemore requested this information as a hearing request. (Tr. 33) On August 24, 2023, as Hearing Request-1, GMEC filed the information under trade secret protection.

During the Hearing, Mr. Holtz was asked how the carbon conscious plan had positively impacted local communities or the environment. (Tr. 56) He was unable to provide immediate examples, and the Staff asked for this to be a hearing request. (*Id.*). On August 24, 2023, the Company filed responses to the hearing requests. In Hearing Request-5, filed as public disclosure, GMEC stated in part, that since 2002, GMEC has directly supported 156 community sustainability projects in the states where the company operates, totaling $13 million. These projects included donations of solar energy installations to non-profit organizations, clean transportation, sustainable agriculture, energy efficiency, resource conservation, and education programs. (*Id.*). At a broader level, the environmental impact of GMEC Carbon Conscious customers is more than 230 million pounds of CO2 avoided from 2016 through 2022. (*Id.*).

During the Hearing, Commissioner Pridemore asked the witnesses how the carbon offsets purchased were verified in offsetting the natural gas that will be used by the Georgia Customers if GMEC is approved for a Certificate of Authority. (Tr. 51). Mr. Holtz testified that there are registries that verify the carbon offsets purchased. (Tr. 51-52). Commissioner Pridemore stated that she wanted a data request to verify this data. (Tr. 52). The Staff supports its own annual reporting language provided below and will require that all certificated marketers file annually with the Commission.

> By March 31st of each year, all certificated marketers shall file a Carbon Offset Georgia Report for the previous calendar year demonstrating the following:
>
> a. The name of the carbon neutral, zero carbon, or carbon offset program.
>
> b. How long has the program been in place?
>
> c. Has the program had any changes since the end of the previous calendar year?
>
> d. Please provide a PowerPoint demonstrating how the program operates.
>
> e. How many customers were participating by the end of the prior calendar year?
>
> f. Therms of natural gas sold in Georgia related to the program.
>
> g. Revenues generated related to the program.
>
> h. The dollar amount of carbon offsets purchased related to the therms of natural gas sold in Georgia.

i. The volume of CO2 that was offset related to the natural gas sold in Georgia and the dollar amount of carbon offsets purchased.

j. Is this program included in the marketer's current Terms of Service?

k. A list of the certified organization(s) selling and verifying the carbon offsets.

l. A list of the projects that are providing the offsets, including a detailed description.

m. Sworn affidavit by a corporate officer of the certificated marketer.

The Staff asked Mr. Gardner about any administration fees that are associated with the purchase of carbon offsets. (Tr. 62 and 63) Mr. Gardner did not know the amount of such fees.(Tr. 63). The Staff made a hearing request for GMEC to provide that information. (*Id.*). On August 24, 2023, GMEC filed Hearing Request-3 under trade secret protection. The response showed that GMEC pays a certain dollar amount per metric ton for carbon offsets to the carbon registries.

On August 16, 2023, as the Staff was reviewing the application, direct testimony, and notes from the Hearing, it was decided that more information was needed related to GMEC's process to obtain the carbon offsets. The Staff drafted an Amended PSO such that proposed orders would be filed by September 20, 2023, instead of August 24,2023. The Commission decision regarding this matter would now take place during the October 3, 2023 Administrative Session rather than September 19, 2023. On August 21, 2023., the Staff contacted GMEC about proposed changes to the PSO, and GMEC had no objection to this change. On August 21, 2023, Chairman Shaw signed the Amended Procedural and Scheduling Order.

On August 24, 2023, the Staff issued its First Set of Data Requests to GMEC to gather additional information regarding GMEC's carbon offsets. Staff reviewed the data requests responses and performed additional research.

D. Marketing

During the Hearing, Mr. Holtz stated that GMEC will direct its own marketing campaign to attract new Customers. (Tr. 22-23). GMEC will direct its own "Search & Display" marketing campaign using the internet to promote its 100% carbon offset gas directed at sustainability minded gas Customers. (Tr. 9) Further, Mr. Holtz stated that GMEC will not directly market to Xoom Georgia or Stream Georgia Customers. (Tr. 66). The Company stated that there will be no sharing of customer data between GMEC, Xoom Georgia, and/or Stream Georgia. (Tr. 15)

E. Customer Support

During the Hearing, Mr. Holtz acknowledged that the NRG customer care team provides customer support representatives ("CSR") for Xoom Georgia, Stream Georgia, and GMEC. (Tr. 44). Mr. Holtz also acknowledged that additional CSRs would need to be hired if GMEC was approved for a Certificate of Authority. (Tr. 45). Mr. Holtz stated that there are approximately fifty

(50) CSRs that support Xoom Georgia and Stream Georgia. (Tr. 44) Mr. Holtz stated that the fifty (50) CSRs will provide support to all the entities. (Tr. 45). The Staff raised concerns about the protection of customer data between GMEC, Xoom Energy Georgia, and Stream Georgia. Mr. Holtz testified that the CSRs provide support across many NRG brands, and they have training on not sharing customer data with any other NRG related entities. (Tr. 44- 46) During the Hearing, Commissioner Pridemore made a hearing request for GMEC to provide the number of additional CSRs that will be needed if it is approved for a Certificate of Authority. (Tr. 53) On August 24, 2023, the Company filed responses to the hearing requests. As Hearing Request-2, GMEC provided the number of additional CSRs that would be needed filed under trade secret protection.

IV. General Conditions of Natural Gas Certificate Applicants

The Commission is cognizant of the General Assembly's intent to promote competition while protecting the consumer during and after the transition to a competitive natural gas market, to maintain and encourage safe and reliable natural gas service, to deregulate those components of the industry subject to actual competition while continuing to regulate those services subject to monopoly power, and to promote an orderly and expeditious transition of the industry toward competition. O.C.G.A. § 46-4-151(a). The Commission affirms that certain conditions should be imposed upon all the new Certificates of Authority in order to attain these legislative goals. Applicants must apply to the Commission prior to any change in ownership, name change (including doing-business-as [d/b/a] name change), adding or dropping a primary delivery pool group from service, owning meters or any other substantial change that would affect their certification, Commission Rule 515-7-3-.04(10).

In addition, any marketer that is found to have engaged in "cramming" or to have switched a customer's service or to have changed the features of a customer's service without that customer's authorization shall be subject to Commission sanctions including, without limitation, the revocation of its certificate. All applicants for a natural gas certificate are required to pass through discounts to senior citizens who are eligible for the AGL senior citizen discount program, to the extent that AGL provides the underlying discounts to the marketers.

As a requirement to serve Residential customers, applicants are required to maintain on file with the Commission current and accurate copies of their sample bills and terms and conditions/disclosure statement in accordance with any applicable Commission rules.

Applicants shall be required to fulfill any outstanding requests for information from the Staff that may not have been provided as of the date of issuance of the Interim Certificate of Authority, and to provide any other information that may be required by the Commission.

The applicant shall comply with all applicable laws, rules, and regulations. For example, all contracts must allow a firm customer to cancel their contract without penalty within seventy-two (72) hours after the customer has signed up for service and must allow cancellation without penalty if the customer moves outside the primary delivery pool group (see Commission Rules 515-7-3-.03(2)(l)(16)(IV)(I)(II), pursuant to the authority of O.C.G.A. § 46-4-160(a)(2)). Marketers with interim certificates may not avoid their obligations under their certificate conditions, applicable laws, rules, and regulations, by contracting with intermediary agents whose practices would result in violations of these obligations, or by contracting in any manner that results in customers not receiving the full protection of these obligations. GMEC shall be required to make available contemporaneously to customers who are randomly assigned to it the same options for rates, terms, and conditions of service that the Company makes available to its other similarly situated customers. The Commission may revoke an Interim Certificate of Authority for good cause under the Act, including without limitation, a finding that activities of the marketer are serving or could serve to mislead, deceive or work a fraud upon members of the public under O.C.G.A. § 46-4-153(e). All certificated marketers must abide by statutory and Commission rules provisions relating to the Universal Service Fund found in Commission Rule 515-7-5. Pursuant to Commission Rule 515-7-3-.07(1)(g), GMEC must serve customers within 12-months, or its certificate may be revoked.

V. Finding of Facts and Conclusions of Law

Green Mountain Energy Company ("GMEC"), a Delaware corporation registered in Georgia on February 7, 2023 with the Georgia Secretary of State, Control Number 23030458. GMEC is headquartered at 3711 Market Street, Suite 1000, Philadelphia, PA 19104. The Applicant uses a Registered Agent, CT Corporation System, 289 S. Culver Street, Lawrenceville, GA 30046. GMEC seeks to market and sell natural gas to Residential and Small Commercial customers. The Applicant elected to serve in all nine (9) primary delivery pool groups on the AGLC system within the State of Georgia. GMEC was required to demonstrate that it has the financial and technical capability to serve in the Georgia deregulated natural gas market.

As provided in Commission Rule 515-7-3-.03(2)(k)(1-14), and provided in Section IV of the marketer application, the Commission finds and concludes that GMEC has demonstrated it has the financial capability to meet the requirements to provide natural gas service in the AGLC delivery groups in the State of Georgia as a deregulated natural gas marketer.

As provided in Commission Rule 515-7-3-.03(2)(l)(1-20) and provided in Section V of the marketer application, the Commission finds and concludes that GMEC has demonstrated it has the technical capability to meet the requirements to provide natural gas service in the AGL delivery groups in the State of Georgia as a deregulated marketer. Technical capability applies not only to natural gas operations, but also to a marketer's ability to perform other functions necessary for providing customers with reliable service. These other functions include, but are not limited to, billing, customer service, and meeting the credit standards of the Electing Distribution Company,

or AGL, and the interstate pipelines, Southern Natural Gas, and Transco. GMEC presented evidence that it has the capability to provide all these functions. In addition, the Applicant provided financial documentation that it has the ability to meet the creditworthiness standards of AGL, Southern Natural Gas, and Transco.

Through the testimony of its witnesses, Mr. John Holtz, Mr. Andrew Miller, and Mr. Lenard R. Gardner III; and the responses to Staff's inquiries; GMEC demonstrated the technical capability to perform the following, pursuant to Commission Rule 515-7-3-.04:

(a) Obtain sufficient natural gas supply to meet the requirements of its proposed service;
(b) Meet required forecasted load demand.
(c) Provide back-up natural gas supplies in the event of a disruption in natural gas supply; and
(d) Provide ancillary services to firm customers, including but not limited to billing, billing inquiries, payment processing, customer service inquiries, and telephone support.

Based on the evidence submitted, the Commission finds and concludes that GMEC satisfies the technical capability standards required by Georgia law and Commission rules.

VI. Commission Decision

During the October 3, 2023 Administrative Session, the Commission decided, based upon its evaluations and determinations as set forth in the preceding Findings of Fact and Conclusions of Law, and upon the evidence of record, that it is reasonable and appropriate to certify Green Mountain Energy Company is approved for an Interim Certificate of Authority.

* * * * *

VII. Ordering Paragraphs

WHEREFORE, IT IS ORDERED, that Interim Certificate of Authority No. GM-48 is granted to Green Mountain Energy Company, 3711 Market Street, Suite 1000, Philadelphia, PA 19104, is to provide Firm natural gas commodity sales services in Georgia in the primary delivery pool groups specified below. The Interim Certificate of Authority shall be issued on an interim basis as a condition of this certificate. The Applicant uses a Registered Agent, CT Corporation System, 289 S. Culver Street, Lawrenceville, GA 30046.

ORDERED FURTHER, that GMEC is hereby granted an Interim Certificate of Authority to provide firm natural gas service to Residential and Small Commercial customers in all nine of the AGLC Georgia primary delivery pool groups of Atlanta, Ex-Atlanta Southern, Ex-Atlanta Transco, Macon, Augusta, Brunswick, Rome, Valdosta, and Savannah.

ORDERED FURTHER, that if GMEC seeks to add or drop a primary delivery pool group from service, it shall submit an application for an amendment to its current Interim Certificate of Authority to provide services to additional or fewer primary delivery pool groups.

ORDERED FURTHER, that GMEC shall maintain a current listing for a registered office and a registered agent in Georgia on file with this Commission, as well as a current registration with the Georgia Secretary of State's Office to do business in Georgia.

ORDERED FURTHER, that if GMEC does not transact any business as a marketer of firm natural gas services in one or more primary delivery pool groups for more than twelve (12) months, it shall file an application to amend or terminate its current Interim Certificate of Authority accordingly with respect to such un-served primary delivery pool group(s), or its Interim Certificate of Authority shall be revoked, pursuant to Commission Rule 515-7-3-.07(1)(g).

ORDERED FURTHER, that if GMEC desires to do business in Georgia under any name(s) other listed on this Interim Certificate of Authority and approved by the Commission, it shall file a petition for an approval to an amendment to its Interim Certificate of Authority requesting a name change prior to implementing any changes, pursuant to Commission Rule 515-7-3-.04(10).

ORDERED FURTHER, that if GMEC desires to change ownership, or proposes any other substantial change that would affect its certification, it shall file a petition requesting approval prior to implementing any changes, pursuant to Commission Rule 515-7-3-.04(10).

ORDERED FURTHER, that GMEC shall successfully complete GOS training to AGLC's satisfaction prior to serving any natural gas customers in AGLC's service territory.

ORDERED FURTHER, that the Interim Certificate of Authority herein approved is issued subject to the standards and requirements adopted by the Commission in Docket No. 15326 and that GMEC, shall abide by the provisions relating to the Universal Service Fund in that docket and Commission Rule 515-7-5, all Federal laws and all applicable laws under the Official Code of Georgia Annotated, all applicable rules and regulations of the Commission and provisions of pertinent Commission orders currently in effect or which may be promulgated from time to time.

ORDERED FURTHER, that during the period of the Interim Certificate of Authority herein GMEC, is subject to the standards and requirements adopted in the Commission Rules.

ORDERED FURTHER, that pursuant to O.C.G.A. § 46-4-153, the Interim Certificate of Authority granted herein shall be subject to revocation if GMEC fails to comply with Commission Rules, requirements or orders, or violates any applicable law.

ORDERED FURTHER, that GMEC shall not avoid its obligations under this Interim Certificate of Authority, applicable laws, rules or regulations, by contracting with intermediary agents whose practices would result in violations if undertaken by GMEC, or by contracting in any manner that results in customers not receiving the full protection of these obligations.

ORDERED FURTHER, that if GMEC is found to have switched a customer's service or to have changed the features of a customer's service without that customer's authorization shall be subject to Commission sanctions including, without limitation, the revocation of its Interim Certificate of Authority.

ORDERED FURTHER, that GMEC shall be required to make available contemporaneously to customers randomly assigned to it the same options for rates, terms and conditions of service that it makes available to its other similarly situated customers.

ORDERED FURTHER, that GMEC shall fulfill any outstanding request for information from the Staff within thirty (30) days of the order and shall provide any other information that may be required by the Commission.

ORDERED FURTHER, that all findings, conclusions, and determinations stated in the preceding sections of this Order are adopted as findings of fact, conclusions of law, and determinations of regulatory policy of this Commission.

ORDERED FURTHER, that any motion for reconsideration, rehearing or oral argument, or any other motion, shall not stay the effectiveness of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as the Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 3rd day of October 2023.

Sallie Tanner
Executive Secretary

12-6-23
Date

Jason Shaw
Chairman

12-6-23
Date