

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of RnD Energy,	)	Application No. NG-0033
LLC, Boulder, Colorado, seeking	)	
authority as a Competitive	)	AUTHORITY GRANTED
Natural Gas Provider in the	)	
state of Nebraska.	)	Entered: February 28, 2006

BY THE COMMISSION:

By application filed December 27, 2005, RnD Energy, LLC (RnD or Applicant), Boulder, Colorado, seeks authority as a competitive natural gas provider, specifically an aggregator, in the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on December 29, 2005. A Petition of Formal Intervention was timely filed by the Public Advocate.

A Planning Conference was held February 6, 2006, subsequently followed by a telephone conference on February 21, 2006. As a result of those meetings, the Public Advocate and the Applicant entered into a stipulation regarding certain matters on February 26, 2006. As a result of the stipulated agreement between the parties, the Intervenor has indicated that he does not oppose RnD's application. Therefore, the Commission may process this application by modified procedure, pursuant to the Commission Rules of Procedure, 291 Neb. Admin. Code, Ch. 1, Rule 018.3.

O P I N I O N     A N D     F I N D I N G S

The Commission finds that it has jurisdiction pursuant to Neb. Rev. Stat. §§ 66-1848 to 66-1849 (2003 Supp.). Section 66-1849 provides in part:

The commission shall certify all competitive natural gas providers and aggregators providing natural gas services. In an application for certification, a competitive natural gas provider or aggregator shall reasonably demonstrate managerial, technical, and financial capability sufficient to obtain and deliver the services such provider or aggregator proposes to offer. The commission may establish reasonable conditions or restrictions on the certificate at the time of issuance.

In addition, Commission rules and regulations specify requirements for an application for authority as an aggregator. See, 291 Neb. Admin. Code, Ch. 9, Rule 009.

In its application, RnD proposes to aggregate consumers of the Kinder Morgan Choice Gas Program. In support of its application, RnD submitted financial documents, letters of Good Standing from the Nebraska Secretary of State's office and the Colorado Secretary of State's office, and an operational flow chart. RnD is a new company recently formed and has not had any legal action or formal complaints pertaining to the provision of aggregator services filed against the company within the twelve months prior to filing this application, nor has it had a license or certificate to aggregate natural gas services revoked, denied or withdrawn.

RnD submitted the managerial and technical expertise of its two principal officers, David Vastine and Rhett Shumway. Mr. Vastine provides administrative and technical support and has over ten years experience in the computer industry. Mr. Shumway has several years experience as a marketer of natural gas in the industry.

The Applicant submitted evidence of the operational structure and ability of RnD to deliver the services of an aggregator in the Kinder Morgan Choice Gas Program. Applicant purports to conduct the primary part of its business through the internet and has an operational website currently available to potential customers. The website offers information on RnD and aggregation, instructions, contact information, and the aggregator contract each customer would sign to contract with RnD to provide aggregator services.

The financial statements submitted by the Applicant demonstrate that it has financial capability sufficient to obtain and deliver the services it proposes to offer as an aggregator, consistent with Neb. Rev. Stat. § 66-1849 (2003 Supp.). The Commission recognizes that the financial statements do not show the level of financial capability that the Commission requires of an applicant for Competitive Natural Gas Provider (CNGP) status. Further, the Commission acknowledges that the services provided by an aggregator and a CNGP differ and thus, review of applicable criteria should be addressed accordingly.

Aggregators are defined in the State Natural Gas Regulation Act as, "a person who combines end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services." Neb. Rev. Stat. § 66-1848(1)(2003 Supp.). CNGPs, on the other hand, buy and sell natural gas, taking title of the gas before selling it for consumption to an end retail user. Neb. Rev. Stat. § 66-1848(2)(a) (2003 Supp.). The language of the statute provides flexibility in evaluations of managerial, technical, and financial capability in that such capability must be "sufficient to obtain and deliver the services such provider or aggregator *proposes to offer*." Neb. Rev. Stat. § 66-1849 (emphasis added). Based upon the fact that the applicant, as an aggregator, would not take title to or possession of any natural gas, but would instead function as a facilitator to combine retail end users into a group and to arrange, as the representative of such retail end users, for acquisition of competitive natural gas services for such retail end users, the Commission finds that the financial statements filed are adequate.

Further, any compensation received by Applicant for its services as an aggregator will be paid by the natural gas suppliers with which applicant deals on behalf of Nebraska ratepayers. Applicant shall not render any billing directly to any Nebraska ratepayer or receive any payment directly from any Nebraska ratepayer with respect to any services performed by Applicant as an aggregator.

Based upon the information provided in the application and by affidavits, the Commission finds that the provisions of Neb. Rev. Stat. §§ 66-1848, 66-1849 and applicable Commission rules and regulations are met. RnD's application for authority should be granted, and that RnD should be issued a certificate of authority as a natural gas aggregator consistent with the conditions set forth in this order.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application for authority is hereby granted.

IT IS FURTHER ORDERED that this order be, and it is hereby made, the Commission's official certificate of authority to furnish the service authorized herein as a natural gas aggregator subject to the conditions set forth in this order.

MADE AND ENTERED at Lincoln, Nebraska, this 28th day of  
February, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Deputy Director