

February 10, 2014

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46

Ms. Tanowa Troupe  
Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 53215-3793

**Re: Clearview Electric, Inc.'s Renewal Application for Retail Generation  
Providers and Power Marketers**

Dear Ms. Troupe,

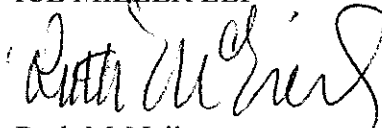
On behalf of our client Clearview Electric, Inc., ("Clearview") enclosed is Clearview's Certification Application to become a Retail Generation Provider ("Application"). Specifically enclosed is the following:

- Motion for Protective Order: Clearview is filing a Motion for Protective Order to keep confidential certain Exhibits in Clearview's Application.
- Unredacted Application: Clearview has included an original (1) and three (3) copies of its unredacted Application.
- Redacted Application: Clearview has included six (6) copies of a redacted version of its Application.

Should you have any questions regarding this Application, please don't hesitate to contact me.

Very Truly Yours,

ICE MILLER LLP



Ruth McNeil  
Practice Group Specialist

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PUCO

Enclosures

cc: Christopher Miller, Esq.

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*The Public Utilities Commission of Ohio*

*14-244-62362*

Original CRS Case Number	Version
12 - 175 -EL-CRS	August 2004

## RENEWAL APPLICATION FOR RETAIL GENERATION PROVIDERS AND POWER MARKETERS

Please print or type all required information. Identify all attachments with an exhibit label and title (Example: Exhibit A-11 Corporate Structure). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division; 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may input information directly onto the form.  
You may also download the form, by saving it to your local disk, for later use.

### A. RENEWAL INFORMATION

#### A-1 Applicant intends to be renewed as: (check all that apply)

- |  |                                       |
|--|---------------------------------------|
| <input checked="" type="checkbox"/> Retail Generation Provider | <input type="checkbox"/> Power Broker |
| <input checked="" type="checkbox"/> Power Marketer             | <input type="checkbox"/> Aggregator   |

#### A-2 Applicant's legal name, address, telephone number, PUCO certificate number, and web site address

Legal Name Clearview Electric, Inc. d/b/a Clearview Energy  
Address 1201 Elm St., Suite 3200, Dallas, TX 75270-2124  
PUCO Certificate # and Date Certified 12-451E(1), February 10, 2012  
Telephone # (214) 884-1760 Web site address (if any) www.ClearviewEnergy.com

#### A-3 List name, address, telephone number and web site address under which Applicant does business in Ohio

Legal Name Clearview Energy  
Address P.O. Box 130659, Dallas, TX 75313  
Telephone # (800) 746-4702 Web site address (if any) www.ClearviewEnergy.com

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**A-4 List all names under which the applicant does business in North America**

<u>Clearview Electric, Inc.</u>	<u>Clearview Energy</u>
<u>Brightstar Power</u>	<u>Accel Energy</u>
_____	_____

**A-5 Contact person for regulatory or emergency matters**

Name Jeremy Reed  
Title Regulatory Analyst  
Business address 1201 Elm St., Suite 3200, Dallas TX 75270-2124  
Telephone # (214) 884-1725 Fax # (972) 546-9991  
E-mail address (if any) jreed@ClearviewEnergy.com

**A-6 Contact person for Commission Staff use in investigating customer complaints**

Name Thomas Walker  
Title Regulatory Analyst  
Business address 1201 Elm St., Suite 3200, Dallas, TX 75270-2124  
Telephone # (214) 884-1727 Fax # (972) 546-9991  
E-mail address (if any) regulatory@clearviewenergy.com

**A-7 Applicant's address and toll-free number for customer service and complaints**

Customer Service address P.O. Box 130659, Dallas, TX 75313  
Toll-free Telephone # (800) 746-4702 Fax # (888) 313-4747  
E-mail address (if any) customerservice@clearviewenergy.com

**A-8 Applicant's federal employer identification number # 20-5552316**

**A-9 Applicant's form of ownership (check one)**

<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership
<input type="checkbox"/> Limited Liability Partnership (LLP)	<input type="checkbox"/> Limited Liability Company (LLC)
<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Other _____

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:**

**A-10 Exhibit A-10 "Principal Officers, Directors & Partners" provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.**

**A-11 Exhibit A-11 "Corporate Structure," provide a description of the applicant's corporate structure, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers in North America.**

**B. MANAGERIAL CAPABILITY AND EXPERIENCE**

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

**B-1** Exhibit B-1 "Jurisdictions of Operation," provide a list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail or wholesale electric services.

**B-2** Exhibit B-2 "Experience & Plans," provide a description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4928.10 of the Revised Code.

**B-3** Exhibit B-3 "Disclosure of Liabilities and Investigations," provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational status or ability to provide the services it is seeking to be certified to provide.

**B-4** Disclose whether the applicant, a predecessor of the applicant, or any principal officer of the applicant have ever been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

☒ No      ☐ Yes

If yes, provide a separate attachment labeled as Exhibit B-4 "Disclosure of Consumer Protection Violations" detailing such violation(s) and providing all relevant documents.

**B-5** Disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail or wholesale electric service denied, curtailed, suspended, revoked, or cancelled within the past two years.

☐ No      ☒ Yes

If yes, provide a separate attachment labeled as Exhibit B-5 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation" detailing such action(s) and providing all relevant documents.

**C. FINANCIAL CAPABILITY AND EXPERIENCE**

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

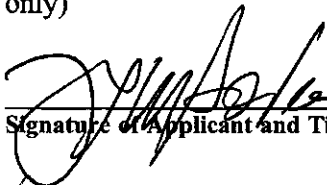
**C-1** Exhibit C-1 "Annual Reports," provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information in Exhibit C-1 or indicate that Exhibit C-1 is not applicable and why.

- C-2 **Exhibit C-2 “SEC Filings,”** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 that the applicant is not required to file with the SEC and why.
- C-3 **Exhibit C-3 “Financial Statements,”** provide copies of the applicant’s two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business.
- C-4 **Exhibit C-4 “Financial Arrangements,”** provide copies of the applicant’s financial arrangements to conduct CRES as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.,).
- C-5 **Exhibit C-5 “Forecasted Financial Statements,”** provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant’s CRES operation, along with a list of assumptions, and the name, address, e-mail address, and telephone number of the preparer.
- C-6 **Exhibit C-6 “Credit Rating,”** provide a statement disclosing the applicant’s credit rating as reported by two of the following organizations: Duff & Phelps, Dun and Bradstreet Information Services, Fitch IBCA, Moody’s Investors Service, Standard & Poors, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant’s parent or affiliate organization that guarantees the obligations of the applicant.
- C-7 **Exhibit C-7 “Credit Report,”** provide a copy of the applicant’s credit report from Experian, Dun and Bradstreet or a similar organization.
- C-8 **Exhibit C-8 “Bankruptcy Information,”** provide a list and description of any reorganizations, protection from creditors or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.
- C-9 **Exhibit C-9 “Merger Information,”** provide a statement describing any dissolution or merger or acquisition of the applicant within the five most recent years preceding the application.

## **D. TECHNICAL CAPABILITY**

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

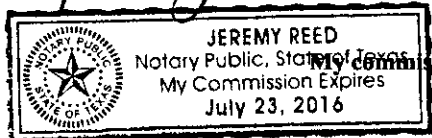
- D-1 Exhibit D-1 "Operations"** provide a written description of the operational nature of the applicant's business. Please include whether the applicant's operations include the generation of power for retail sales, the scheduling of retail power for transmission and delivery, the provision of retail ancillary services as well as other services used to arrange for the purchase and delivery of electricity to retail customers.
- D-2 Exhibit D-2 "Operations Expertise,"** given the operational nature of the applicant's business, provide evidence of the applicant's experience and technical expertise in performing such operations.
- D-3 Exhibit D-3 "Key Technical Personnel,"** provide the names, titles, e-mail addresses, telephone numbers, and the background of key personnel involved in the operational aspects of the applicant's business.
- D-4 Exhibit D-4 "FERC Power Marketer License Number,"** provide a statement disclosing the applicant's FERC Power Marketer License number. (Power Marketers only)

 President/CEO  
Signature of Applicant and Title

Sworn and subscribed before me this 5th day of February, 2014  
Month Year

  
Signature of official administering oath

Jeremy Reed/Notary Public  
Print Name and Title



My commission expires on July 23, 2016

# **AFFIDAVIT**

State of Texas :

Dallas ss.  
(Town)

County of Dallas :

Francis McGovern, Affiant, being duly sworn/affirmed according to law, deposes and says that:

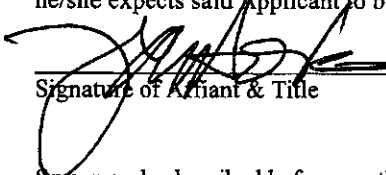
He/She is the President (Office of Affiant) of Clearview Electric, Inc. (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant,

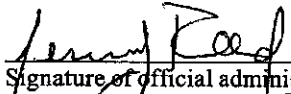
1. The Applicant herein, attests under penalty of false statement that all statements made in the application for certification renewal are true and complete and that it will amend its application while the application is pending if any substantial changes occur regarding the information provided in the application.
2. The Applicant herein, attests it will timely file an annual report with the Public Utilities Commission of Ohio of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Division (A) of Section 4905.10, Division (A) of Section 4911.18, and Division (F) of Section 4928.06 of the Revised Code.
3. The Applicant herein, attests that it will timely pay any assessments made pursuant to Sections 4905.10, 4911.18, or Division F of Section 4928.06 of the Revised Code.
4. The Applicant herein, attests that it will comply with all Public Utilities Commission of Ohio rules or orders as adopted pursuant to Chapter 4928 of the Revised Code.
5. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the Applicant.
6. The Applicant herein, attests that it will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
7. The Applicant herein, attests that it will fully comply with Section 4928.09 of the Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
8. The Applicant herein, attests that it will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the Applicant will provide, the Applicant herein, attests that it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio. (Only applicable if pertains to the services the Applicant is offering)

11. The Applicant herein, attests that it will inform the Commission of any material change to the information supplied in the renewal application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating customer complaints.

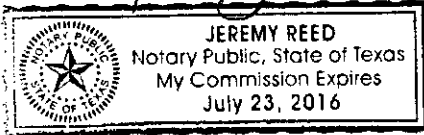
That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

 President  
Signature of Applicant & Title

Sworn and subscribed before me this 5th day of February, 2014  
Month Year

 Signature of official administering oath

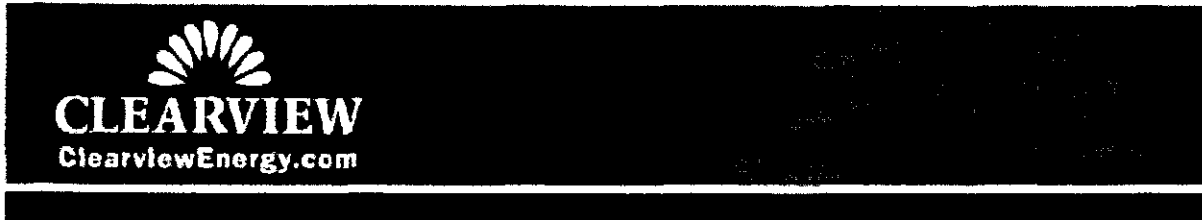
Jeremy Reed/Notary Public  
Print Name and Title



My commission expires on July 23, 2016

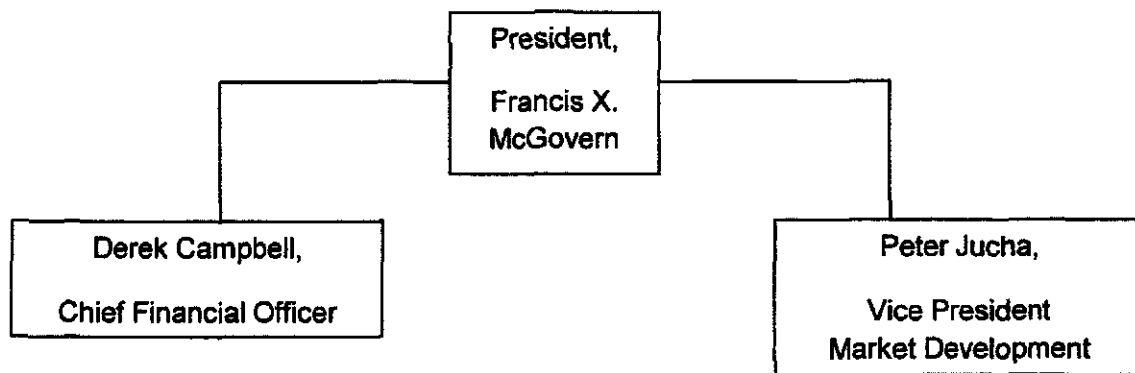


**A-10 REDACTED**



**Exhibit A-11 "Corporate Structure"**

Clearview Electric, Inc. dba Clearview Energy ("Clearview") is a privately held corporation. Clearview has no parent company and no subsidiaries.





**Exhibit B-1 "Jurisdictions of Operation"**

<b><u>State</u></b>	<b><u>License Number</u></b>
Connecticut	License # 07-08-17
Delaware	Order # 7860
Illinois	Order # 11-0479
Massachusetts	License # CS-089
Maryland	License # IR-2009
Maine	Docket # 2012-00376
New Jersey	License # ESL-0089
New York	
Ohio	License # 12-451E(1)
Pennsylvania	License # A-2010-2152506
Rhode Island	Docket # 2379 W2
Texas	License # 10129
Washington, D.C.	License # 15972



**Exhibit B-2 "Experience & Plans"**

Clearview Electric, Inc. ("Clearview") has over 7 years of experience serving retail, commercial, and industrial customers across multiple markets. Clearview currently serves more than 80,000 customers offering multiple products in electric choice markets, and a variable rate gas product in New York and New Jersey.

Clearview contracts with customers through a variety of marketing channels including: telemarketing, door-to-door, inbound sales and service, and Clearview's website. Currently Clearview contracts with multiple external telemarketing and door-to-door marketing firms.

Clearview owns a proprietary billing system allowing it to bill customers through all commonly utilized methods (e.g. consolidated rate ready, consolidated bill ready, and dual billing) in conjunction with the Local Distribution Companies (LDC) whose territories Clearview is registered to offer electric or gas supply. Clearview chooses to utilize consolidated rate ready billing with the Purchase of Receivables (POR) program offered by the LDC whenever possible.

Clearview has a customer service call center that can handle up to 100 call center representatives. Clearview has been expanding its staffing to accommodate the recent rapid growth it has achieved, and will add additional positions as needed throughout the year to accommodate further growth in the customer base.

Clearview's Regulatory Department is responsible for the timely response and resolution to all customer complaints that are received from a state agency (e.g. Public Utilities Commission, Attorney General's Office). In an effort to continually reduce complaints, Clearview has a Quality Assurance Department responsible for ensuring that all of our external marketing firms adhere to Clearview policies and procedures.



**Exhibit B-3 "Disclosure of Liabilities and Investigations"**

Clearview has no existing, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact Clearview's financial or operational status or ability to provide the services it is seeking to be certified to provide.



**Exhibit B-5 "Disclosure of Certification, Denial, Curtailment, Suspension, or Revocation"**

On October 12, 2011, Clearview Electric Inc.'s Certification in Texas was suspended and reinstated on December 17, 2012.

At issue was a requirement under PUC SUBST.R.25.107(f)(1), adopted after Clearview's certification, that electric supply companies be investment grade credits, or post a \$500,000 letter of credit. As a privately held entity with a history of self-finance and little debt, Clearview would need to have posted the letter of credit. Given the very small exposure (< 25 customers) Clearview had in Texas and the fact Clearview is privately owned, Clearview applied for a waiver stipulated in the regulation.

To satisfy the financial requirements of PUC SUBST.R.25.107 (f)(1), Clearview entered into an Energy Market Support Agreement with Luminant Energy Company LLC whereby Luminant has agreed to act as Clearview's guarantor.

The suspension did not affect Clearview's financial future in any meaningful way, nor its ability to meet its financial obligation in Ohio, nor did it exempt Clearview from continuing to meet all of its Texas regulatory obligations with the exception of PUB SUBST.R.25.107(f)(1).

Related documents attached.

PUC DOCKET NO. 38446  
SOAH DOCKET NO. 473-10-5991

APPLICATION OF CLEARVIEW  
ELECTRIC INC. FOR A WAIVER OF  
P.U.C. SUBST. R. 25.107

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PUBLIC UTILITY COMMISSION  
OF TEXAS

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PUC DOCKET NO. 38645  
SOAH DOCKET NO. 473-11-0070

PETITION OF COMMISSION STAFF TO  
REVOKE THE RETAIL ELECTRIC  
PROVIDER CERTIFICATION OF  
CLEARVIEW ELECTRIC INC.

§  
§  
§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

### ORDER

This Order addresses Clearview Electric Inc.'s request for a waiver of the Commission's retail electric provider (REP) rule, that requires Clearview to provide a \$500,000 irrevocable letter of credit to the Commission and Commission Staff's petition to revoke the REP certification of Clearview because it has failed to provide the required \$500,000 letter of credit. The SOAH administrative law judge (ALJ) joined the cases for purposes of a hearing and issuance of a proposal for decision. The ALJ's proposal for decision, filed on August 2, 2011 in both dockets recommends that Clearview's request for a good cause waiver be denied.<sup>1</sup> Nevertheless, the ALJ does not recommend that Clearview's REP certification be revoked due to the minimal risk to the existing customers and the avoidance of customers having to switch REPS.<sup>2</sup> Instead, the ALJ recommends that Clearview's REP certification be suspended until such time as it can show complete compliance with the requirements of P.U.C. SUBST. R. 25.107.<sup>3</sup>

<sup>1</sup> PFD at 1, 8-9 (Aug. 2, 2011).

<sup>2</sup> *Id.* at 12-13.

<sup>3</sup> PFD, CoL 15 (Aug. 2, 2011).

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The Commission determines that Clearview has failed for more than a year to comply with the financial requirements of P.U.C. SUBST. R. 25.107(f) which constitutes a continuing significant violation of Commission rules. The Commission will not allow Clearview to continue to remain in violation of its rules for an indefinite period in the future. As an alternative to revocation Clearview has offered to agree to a suspension of its REP certificate under terms set by the Commission and if it fails to meet those terms, a revocation. Therefore, the Commission orders a suspension of Clearview's REP certificate, as provided by P.U.C. SUBST. R. 25.107(j), until December 31, 2012, so long as Clearview complies with the Commission's conditions and during which time Clearview shall not add any Texas customers. Consequently, the Commission adopts in part and rejects in part the proposal for decision issued by the ALJ in this proceeding, including the findings of fact and conclusions of law.

The Commission deems it necessary to add new finding of fact 10A to reflect that Clearview's \$30,000 irrevocable stand-by letter of credit provided to the Commission is admitted in the record by the Commission. Additionally, the Commission deems it necessary to add new finding of fact 23A to memorialize Clearview's agreement to a suspension and new finding of fact 23B to memorialize Clearview's agreement to a revocation of its REP certificate if it fails to comply with the conditions imposed by the Commission during the pendency of the suspension of its REP certificate. The Commission deletes conclusion of law 15 and adds new conclusion of law 15A for the reason that conclusion of law 15 allows for an indefinite period of suspension of Clearview's REP certificate that the Commission rejects as a continuing significant violation of P.U.C. SUBST. R. 25.107(f).

#### **I. Findings of Fact**

The Commission adopts the following findings of fact and conclusions of law:

1. Clearview Electric Inc. (Clearview) has been a certificated retail electric provider (REP) in Texas since October 27, 2006.
2. In 2009, the Public Utility Commission (PUC or Commission) amended P.U.C. SUBST. R. 25.107, raising the requirements for REPs to meet to obtain and maintain their certification.



PUC Docket Nos. 38446 and 38645  
SOAH Docket No. 473-10-5991 and 473-11-0070

Order

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3. Clearview was in compliance with P.U.C. SUBST. R. 25.107(f) before the Commission's 2009 amendments.
4. REPs that were certificated prior to the 2009 rule amendments were given a 12-month phase-in period to comply with the requirements of the amended rule.
5. The phase-in period expired on May 21, 2010, and the rule has since been revised and the phase-in period has been removed.
6. Currently, all REPs are required to comply with the requirements of P.U.C. SUBST. R. 25.107.
7. Among other requirements set forth in P.U.C. SUBST. R. 25.107, a REP must demonstrate that it has adequate access to capital by providing evidence of either: (1) an investment-grade credit rating; (2) tangible net worth greater than or equal to \$100 million, a minimum current ratio of 1.0, and a debt-to-total capitalization ratio of 0.60; or (3) shareholders' equity of not less than \$1 million and an irrevocable stand-by letter of credit with a face value of \$500,000 payable to the Commission, as required by P.U.C. SUBST. R. 25.107(f)(1).
8. As applied to this case, it is undisputed that Clearview must demonstrate its access to capital by providing an irrevocable stand-by letter of credit in the amount of \$500,000 payable to the Commission.
9. Clearview has never provided the required \$500,000 irrevocable stand-by letter of credit to the Commission.
10. Clearview has provided a \$30,000 irrevocable stand-by letter of credit to the Commission.
- 10A. The Commission admitted into the record, Clearview's \$500,000 irrevocable stand-by letter of credit payable to the Commission.
11. Clearview currently has only 28 customers in Texas.
12. Clearview currently has only \$4,562 in average monthly billings for all of its customers in Texas.

PUC Docket Nos. 38446 and 38645  
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13. As of the time of the hearing, Clearview provided service to customers in seven states: Texas, Connecticut, New York, New Jersey, Pennsylvania, Maryland, and Delaware.
14. Although Clearview has only 28 customers in Texas, it has approximately 37,000 customers in the other six states in which it provides service.
15. Clearview is a financially-stable company that is not in imminent danger of default.
16. Clearview expects its total customer count in the United States to grow to between 50,000 and 75,000 customers by the end of 2011.
17. On July 13, 2010, Clearview filed with the Commission a request for a good-cause waiver from the requirements of P.U.C. SUBST. R. 25.107(f) and (k).
18. On August 24, 2010, the Commission referred Clearview's request for a waiver in P.U.C. Docket No. 38446 to the State Office of Administrative Hearings (SOAH) for assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if necessary.
19. On September 8, 2010, Commission Staff filed a petition to revoke the REP certificate of Clearview. This action was assigned P.U.C. Docket No. 38645.
20. On September 10, 2010, the Commission referred Staff's enforcement action in P.U.C. Docket No. 38645 to SOAH.
21. On October 21, 2010, the Commission issued a preliminary order in P.U.C. Docket No. 38446, as well as a separate preliminary order in P.U.C. Docket No. 38645, identifying the issues to be addressed by the parties in the proceedings.
22. On October 25, 2010, a joint prehearing conference was held in the two dockets. At that time, the parties agreed the two dockets should be joined for purposes of a hearing and issuance of a single PFD. The parties further agreed upon a procedural schedule and hearing date and time for the dockets, which was adopted by order of the ALJ.
23. On May 10, 2011, an evidentiary hearing on the merits in the two dockets was conducted before ALJ Craig R. Bennett in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff appeared and was represented by Jeff Stuart and Jennifer Littlefield, attorneys with the Commission's legal division. Clearview was

PUC Docket Nos. 38446 and 38645  
SOAH Docket No. 473-10-5991 and 473-11-0070

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represented by attorney Christopher Malish. The hearing concluded that same day and the record closed on July 14, 2011, with the filing of reply briefs.

- 23A. Clearview has agreed to a temporary suspension of its REP certificate until December 31, 2012, during which time it will not add Texas customers.
- 23B. Clearview has agreed to a revocation of its REP certificate if it fails to comply with the conditions imposed by the Commission during the pendency of the temporary suspension of its REP certificate. The Commission imposed conditions to which Clearview has agreed are set forth in the ordering paragraphs nos. 2 through 4 below.

## II. Conclusions of Law

- 1. The Commission has jurisdiction over this proceeding, including the authority to grant a good-cause waiver, or to revoke or suspend a REP certificate for a significant violation of the Public Utility Regulatory Act (PURA) or the Commission's rules. PURA §§ 14.051, 17.051, 39.352, and 39.356(a).
- 2. SOAH has jurisdiction over this proceeding, including the authority to issue a proposal for decision pursuant to PURA § 14.053 and TEX. GOV'T. CODE ANN. § 2001.058.
- 3. Staff provided proper notice of the petition to revoke to Clearview's REP certificate.
- 4. Proper notice of the hearing was provided in accordance with the Texas Administrative Procedure Act §§ 2001.051, 2001.052, and 2001.054.
- 5. A REP that obtained certification prior to the amendments adopted in P.U.C. SUBST. R. 25.107 (adopted on May 1, 2009, and effective on May 21, 2009), was allowed to continue to operate as a REP for not more than twelve months after May 21, 2009, without meeting the requirements of the amended rule. Former P.U.C. SUBST. R. 25.107 (adopted May 1, 2009 and effective on May 21, 2009).
- 6. Clearview was required to be in compliance with P.U.C. SUBST. R. 25.107 by May 21, 2010.
- 7. Clearview has failed to demonstrate that it had adequate access to capital by providing evidence of either: (1) an investment-grade credit rating; (2) tangible net worth greater

PUC Docket Nos. 38446 and 38645  
SOAII Docket No. 473-10-5991 and 473-11-0070

Order

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- than or equal to \$100 million, a minimum current ratio of 1.0, and a debt-to-total capitalization ratio of 0.60; or (3) shareholders' equity of not less than \$1 million and an irrevocable stand-by letter of credit with a face value of \$500,000 payable to the Commission, as required by P.U.C. SUBST. R. 25.107(f)(1).
8. Both PURA and the Commission's rules allow the Commission to suspend or revoke a REP's certificate for a significant violation of PURA or rules adopted under PURA, which would include the requirements of P.U.C. SUBST. R. 25.107(f)(1), PURA § 39.356(a) and P.U.C. SUBST. R. 25.107(j).
  9. A violation of P.U.C. SUBST. R. 25.107(f)(1) is a significant violation. P.U.C. SUBST. R. 25.107(j)(6).
  10. The Commission may make exceptions to the requirements of its rules for good cause. P.U.C. SUBST. R. 25.3.
  11. A small customer base and load size are insufficient, in themselves, to establish good cause for waiving the requirements of P.U.C. SUBST. R. 25.107(f)(1).
  12. Clearview has failed to establish good cause for the Commission to grant a waiver of the requirements of P.U.C. SUBST. R. 25.107(f)(1)(B).
  13. Given the size of its customer base and the manner in which it conducts its business operations, Clearview has sufficient financial strength to participate in the ERCOT market.
  14. Other than the \$500,000 irrevocable stand-by letter of credit requirement of P.U.C. SUBST. R. 25.107(f)(1)(B), Clearview has complied with all the requirements of current P.U.C. SUBST. R. 25.107 that are applicable to it.
  15. Deleted
  - 15A Clearview's REP certificate is suspended pursuant to P.U.C. SUBST. R. 25.107(j), but only for a limited time period with revocation to occur if Clearview fails to comply with one or more of the Commission's ordering paragraphs 2 through 4.

### III. Ordering Paragraphs

1. As a result of Clearview's continuing violation of P.U.C. SUBST. R. 25.107(f), which is a significant violation pursuant to P.U.C. SUBST. R. 25.107(j)(6), Clearview's REP certificate is temporarily suspended until December 31, 2012.
2. Clearview's REP certificate shall be revoked if it fails to comply with P.U.C. SUBST. R. 25.107(f)(1)(B) (or any intervening amendment to this rule) on or before December 31, 2012.
3. Clearview's REP certificate shall be revoked if the Commission determines that Clearview has committed any other significant violation of P.U.C. SUBST. R. 25.107 (or any intervening amendment to this rule) before December 31, 2012.
4. Clearview's REP certificate shall be revoked if its \$30,000 irrevocable standby letter of credit identified as No. IS0001372, issued July 5, 2011, with its beneficiary being the Texas Public Utility Commission, is withdrawn or terminated before Clearview files a \$500,000 letter of credit complying with P.U.C. SUBST. R. 25.107(f)(4)(F).
5. Upon revocation of Clearview's REP certificate for any reason or upon Clearview voluntarily ceasing service to customers in Texas, Clearview's \$30,000 irrevocable standby letter of credit identified as No. IS0001372 is immediately due and payable to the Public Utility Commission of Texas under the terms of the letter of credit.
6. Clearview shall not add any new Texas customers until it meets the conditions of P.U.C. SUBST. R. 25.107.
7. Clearview shall, in addition to any filing requirements of P.U.C. SUBST. R. 25.107, file a status report at least 90 days in advance of the December 31, 2012 deadline advising the Commission of its intention to either cease operations in Texas in compliance with P.U.C. SUBST. R. 25.107(i)(6) or to timely provide a letter of credit complying with P.U.C. SUBST. R. 25.107(f).


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SOAH Docket No. 473-10-5991 and 473-11-0070

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SIGNED AT AUSTIN, TEXAS the 12<sup>th</sup> day of October 2011.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**DONNA L. NELSON, CHAIRMAN**



**KENNETH W. ANDERSON, JR., COMMISSIONER**

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DOCKET NO. 40996 2012 NOV 29 PM 2:49

APPLICATION OF CLEARVIEW	§	PUBLIC UTILITY COMMISSION
ELECTRIC, INC. FOR AMENDMENT	§	OF
TO A RETAIL ELECTRIC	§	TEXAS
PROVIDER CERTIFICATION	§	

**APPLICATION FOR AMENDMENT TO  
RETAIL ELECTRIC PROVIDER CERTIFICATION**

**Name of Applicant:** Clearview Electric, Inc. ("Clearview")

**Authorized Company Representative:**

**Representative Name:** Christopher Malish

**Representative Title:** Attorney in fact

**Representative Address:** 1403 West Sixth Street

**(City, State, Zip Code):** Austin, TX 78703

**Representative Phone Number:** 512-476-8591

**Representative Fax Number:** 512-477-8657

**Representative Email Address:** cmalish@malishcowan.com

**PART A – COMPANY ADMINISTRATIVE INFORMATION**

A-1 (a) Type of application (check only one):

- ☐ Application for New Option 1 REP Certification
- ☐ Application for New Option 2 REP Certification
- ☒ Amendment to Existing REP Certification No. 10129

(b) If you are filing an amendment, check one or more of the following amendment categories requested in this filing:

Option 1 REP

- ☒ Name Change
- ☐ Change in Ownership or Control
- ☐ Corporate Restructuring
- ☐ Transfer of Certificate
- ☐ Change in Service Area
- ☐ Change in Technical / Managerial Qualifications
- ☒ Change in Financial Qualifications
- ☐ Cessation of Operations
- ☐ Other (Explain below):  
\_\_\_\_\_  
\_\_\_\_\_

Option 2 REP

- ☐ Name Change
- ☐ Change in Ownership or Control
- ☐ Corporate Restructuring
- ☐ Transfer of Certificate
- ☐ Change in Service Area
- ☐ Change in Technical / Managerial Qualifications
- ☐ Change in Financial Qualifications
- ☐ Cessation of Operations
- ☐ Other (Explain below):  
\_\_\_\_\_  
\_\_\_\_\_

(c) Provide a summary explanation of all items checked in "b" above.  
Clearview Electric, Inc. would like to add a d/b/a and provide the Commission with the financial security required under PUC SUBST. R. 25.107(f).

A-2 Provide required contact information:

(a) **Company Physical Address:**

Certificated/Primary Company Name: Clearview Electric, Inc.



Company Contact: Peter Jucha  
Contact Title: Vice President  
Company/Physical Address (Street Address): 600 N. Pearl Street  
(Suite, Floor, Apartment Number, etc.): Suite S-104  
(City, State, Zip Code): Dallas, TX 75201-2822  
Company Phone Number: 888-884-1760  
Toll-free customer service telephone number: 800-746-4702  
Fax number: 972-546-9991  
Website address: www.clearviewenergy.com  
Email address: execs@clearviewelectric.net

(b) **Mailing Address (If Different from Company Physical Address):**

Company Contact: Jeremy Reed  
Contact Title: Regulatory Analyst  
(Street/P.O. Box): P.O. Box 130659  
(City, State, Zip Code): Dallas, TX 75313-0659

(c) **Texas Office Address:**

Company Contact: Jeremy Reed  
Contact Title: Regulatory Analyst  
Company/Physical Address (Street Address): 600 N. Pearl Street  
(Suite, Floor, Apartment Number, etc.): Suite S-104  
(City, State, Zip Code): Dallas, TX 75201-2822  
Company Phone Number: 888-884-1760  
Toll-free customer service telephone number: 800-746-4702  
Fax number: 972-546-9991  
Website address: www.clearviewenergy.com  
Email address: regulatory@clearviewelectric.net

(d) **Regulatory Contact Information:**

Regulatory Contact Name: Jeremy Reed  
Regulatory Contact Title: Regulatory Analyst  
Regulatory Contact Address: 600 N. Pearl Street  
(Suite, Floor, Apartment Number, etc.): Suite S-104  
(City, State, Zip Code): Dallas, TX 75201-2822  
Regulatory Contact Phone Number: 214-884-1725  
Regulatory Contact Fax Number: 972-546-9991  
Regulatory Contact Email Address: regulatory@clearviewelectric.net

(e) **Complaint Contact Information:**

Contact Name: Alexander Schwarze  
Contact Title: Regulatory Analyst

Required Contact Address: 600 N. Pearl Street  
(Suite, Floor, Apartment Number, etc.): Suite S-104  
(City, State, Zip Code): Dallas, TX 75201-2822  
Contact Phone Number: 214-884-1735  
Contact Fax Number: 972-546-9991  
Contact Email Address: regulatory@clearviewelectric.net  
Preferred Complaint Email Address: regulatory@clearviewelectric.net

- (f) Officers, Directors and Principals. Provide as Attachment A-2 the name, title, address, phone number, facsimile number and email address of each of the applicant's officers, directors and principals.

A-3 Name(s) on certificate.

- (a) State the Certificated Name of the Applicant. If the applicant is requesting a Certificated Name or the addition of a d/b/a name, provide verification of each authorization to conduct business in Texas. If the applicant is a corporation, partnership, or limited liability company, provide a copy of the Office of the Secretary of State Certificate of Filing or provide the file number and the date of authorization for each requested name. If the applicant is a Sole Proprietorship, provide a copy of the County Certificate of Filing or provide the name of the county, file number, and date of authorization for each requested name.

**Certificated Name:** Clearview Electric, Inc.  
**File Number:** 10129 **Date:** 10/27/2006 (For new Certificated Names Only)

EXISTING Approved d/b/as (if applicable):

- (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_  
(4) \_\_\_\_\_  
(5) \_\_\_\_\_

REQUESTED d/b/as (if applicable)

(1) Requested d/b/a: BrightStar Power  
File Number: 800702201 Date: 10/30/2012

(2) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_

(3) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_

(4) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_

(5) Requested d/b/a: \_\_\_\_\_  
File Number: \_\_\_\_\_ Date: \_\_\_\_\_

DELETION of d/b/as (if applicable):

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_

(b) Form of business (check one):

Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Private Company \_\_\_\_\_  
Limited Liability Company X Sole Proprietorship \_\_\_\_\_  
Other (specify) \_\_\_\_\_

**PART B is not applicable.**

**PART C – FINANCIAL REQUIREMENTS**

C-1 Access to Capital. An applicant must choose one of the three methods below to demonstrate that the applicant meets the capital requirements of §25.107(f)(1).

- \_\_\_\_ (a) Investment-grade credit rating. If the applicant elects to meet the requirements of §25.107(f)(1)(A)(i), provide as Attachment C-1 the documentation required by §25.107(f)(4)(A) demonstrating an investment-grade credit rating. If the applicant relies on a guarantor to satisfy this requirement, provide the documentation required by §25.107(f)(1)(A)(i) for the guarantor and provide agreements or commitments demonstrating compliance with §25.107(f)(4)(G).
- X (b) Tangible net worth. If the applicant elects to meet the requirements of §25.107(f)(1)(A)(ii), provide as Attachment C-1 the documentation required by §25.107(f)(4)(B) demonstrating tangible net worth greater than or equal to \$100,000,000, a minimum current ratio of 1.0, and a debt to total capitalization ratio not greater than 0.60. If the applicant relies on a guarantor to satisfy these requirements, provide the documentation required by §25.107(f)(1)(A)(ii) for the guarantor and provide agreements or commitments demonstrating compliance with §25.107(f)(4)(G).
- \_\_\_\_ (c) Shareholders' equity and letter of credit. If the applicant elects to meet the requirements of §25.107(f)(1)(B), provide as Attachment C-1 the documentation required by §25.107(f)(4)(C) and (F) demonstrating shareholders' equity of not less than \$1,000,000 and an irrevocable stand-

by letter of credit payable to the Commission of \$500,000. If the applicant believes that it is exempt from the shareholders' equity requirement under §25.107(f)(1)(B)(iii), include in Attachment C-1 the documentation required by §25.107(f)(4)(F) and provide documentation demonstrating that the applicant began serving load on or before January 1, 2009.

- C-2 Protection of Customer Deposits. An applicant that wishes to have the option of collecting customer deposits or residential advance payments must indicate its intention to do so and must comply with the requirements of §25.107(f)(2).

Yes\_\_\_ No X Does the applicant wish to have the option of collecting deposits or advance payments from customers? If Yes, provide as Attachment C-2 the documentation required by §25.107(f)(4)(D), (E), or (F) to demonstrate compliance with §25.107(f)(2).

- C-3 Financial standards required for billing and collection of transition charges.

Yes X No\_\_\_ Will the applicant comply with §25.107(f)(5), relating to financial standards required of REPs for the billing and collection of transition charges?

- C-4 Yes\_\_\_ No X Does the applicant or a predecessor in interest of the applicant have any history of insolvency, bankruptcy, dissolution, merger, or acquisition during the 60 months immediately preceding the application? If Yes, provide as Attachment C-4 an explanation of each incident.

- C-5 Identify the last month and day of the fiscal reporting year of the applicant and its guarantor, if applicable.

Clearview Electric, Inc.'s fiscal reporting year ends on December 31<sup>st</sup>. Clearview's guarantor Luminant Energy Company LLC's fiscal reporting year also ends on December 31<sup>st</sup>.

**PARTS D and E are not applicable.**

**ATTACHMENT A-2**

**Officers of Clearview Electric, Inc.**

Francis X. McGovern  
President and Chief Executive Officer  
600 N. Pearl Street  
Suite S-104  
Dallas, TX 75201-2822  
Telephone: 214-746-6363  
Facsimile: 972-546-9991  
E-mail: [execs@clearviewelectric.net](mailto:execs@clearviewelectric.net)

Peter Jucha  
Vice President  
600 N. Pearl Street  
Suite S-104  
Dallas, TX 75201-2822  
Telephone: 214-884-1740  
Facsimile: 972-546-9991  
E-mail: [execs@clearviewelectric.net](mailto:execs@clearviewelectric.net)

Derek Campbell  
Chief Financial Officer  
600 N. Pearl Street  
Suite S-104  
Dallas, TX 75201-2822  
Telephone: 214-884-1770  
Facsimile: 972-546-9991  
E-mail: [execs@clearviewelectric.net](mailto:execs@clearviewelectric.net)

#### ATTACHMENT C-1

Clearview Electric, Inc. ("Clearview") has entered into an *Energy Market Support Agreement* ("Agreement," attached hereto as Exhibit C-1) with Luminant Energy Company LLC ("Luminant") whereby Luminant has agreed to act as Clearview's guarantor in order to satisfy the financial requirements set forth in PUC SUBST. R. 25.107(f)(1)(A)(ii). The *Agreement* satisfies the documentation required by an applicant relying on a guarantor as specified in PUC SUBST. R. 25.107(f)(4)(G). The *Agreement* is considered confidential and is filed under seal.

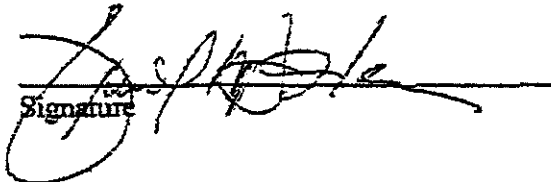
Furthermore, PUC SUBST. R. 25.107(f)(4)(B) requires that "[t]angible worth shall be documented by the audited financial statements of the REP or its guarantor for the most recently completed calendar or fiscal year, and unaudited financial statements for the most recently completed quarter." Luminant has previously provided such financial information under seal in PUC Docket No. 40081. Specifically, this information is found in items number 96 and 299 in the above docket. Clearview respectfully asks the PUC to take judicial notice of that previously filed material and incorporates same by reference as if set forth at length herein.

AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF DALLAS §

1. My name is Francis X. McGovern. I am President & Chief Executive Officer  
(Executive Officer) of the Applicant.

2. I swear or affirm that I have personal knowledge of the facts stated in this application for, or amendment to, a REP, that I am competent to testify to those facts, and that I have the authority to make this Application on behalf of the Applicant. I further swear or affirm that all of the statements and representations made in this application are true and correct. I swear or affirm that the Applicant understands and will comply with all requirements applicable to a Retail Electric Provider.

  
Signature

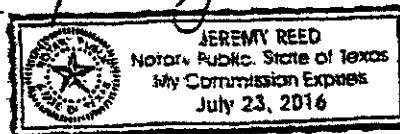
Francis X. McGovern  
Typed or Printed Name

President & Chief Executive Officer  
Title of Signatory

SWORN TO AND SUBSCRIBED before me on the 28<sup>TH</sup> day of NOVEMBER 2012.

Notary Public In and For the  
State of: TEXAS

My commission expires: 07/23/2016



## DOCKET NO. 40996

APPLICATION OF CLEARVIEW	§	PUBLIC UTILITY COMMISSION
ELECTRIC, INC. TO AMEND ITS	§	
RETAIL ELECTRIC PROVIDER	§	OF TEXAS
CERTIFICATION	§	

ORDER NO. 2  
GRANTING ADMINISTRATIVE APPROVAL

On November 29, 2012, Clearview Electric, Inc. (Clearview or Applicant) filed an application with the Public Utility Commission of Texas (Commission) for an amendment to its Retail Electric Provider (REP) Certification. The Applicant holds REP Certificate No. 10129.<sup>1</sup>

The Applicant requested an amendment to its REP certificate to add the d/b/a name of BrightStar Power and to update its financial qualifications.

On December 17, 2012, Commission Staff filed a recommendation for approval of the application. Based on Commission Staff's recommendation, the application to amend REP Certificate No. 10129 is approved.<sup>2</sup>

SIGNED AT AUSTIN, TEXAS the \_\_\_\_\_ day of December 2012.

PUBLIC UTILITY COMMISSION OF TEXAS

\_\_\_\_\_  
IRENE MONTELONGO  
DIRECTOR, DOCKET MANAGEMENT

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<sup>1</sup> Application of Clearview Electric, Inc. for Retail Electric Provider (REP) Certification Pursuant to SUBST. R. 25.107, Docket No. 33226(Oct. 27, 2006).

<sup>2</sup> Administrative approval of this uncontested application has no precedential value in a future proceeding.



This was filed today.

Thank you

Angie Sell

Commission Advising & Docket Management

512-936-7219

# FAX

**To: Christopher Malish**  
Company: Malish & Cowan, PLLC  
Fax: (512) 477-8657  
Phone: (512) 476-8591

**From: Sell, Angie**  
Fax: (512) 936-7208  
Phone: (512) 936-7219  
E-mail: Angie.Sell@puc.texas.gov

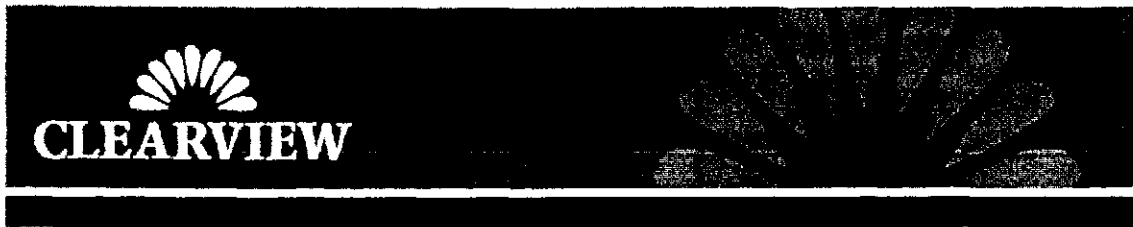
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**NOTES:**

PUC Docket No. 40996 - Order No.. 2

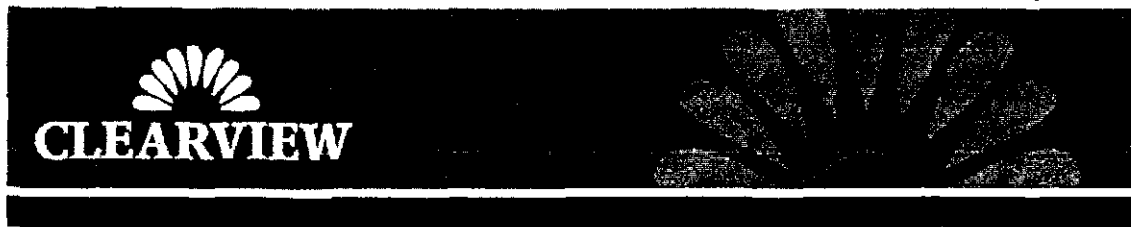
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Date and time of transmission: Tuesday, December 18, 2012 2:31:30 PM  
Number of pages including this cover sheet: 03



**Exhibit C-1 "Annual Reports"**

Exhibit C-1 is not applicable because Clearview Electric Inc. is owned solely by Francis X. McGovern and he is the only Shareholder.



**Exhibit C-2 "SEC Filings"**

Clearview Electric Inc. is not required to file with the SEC because Clearview is a privately held corporation.

**C-3 REDACTED**

**C-4 REDACTED**

**C-5 REDACTED**

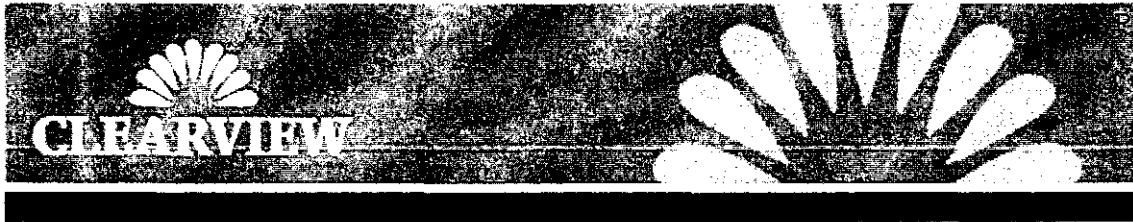


**Exhibit C-6 "Credit Rating"**

Clearview Electric Inc. is a privately held corporation and does not have a credit rating reported from a national credit rating agency such as Dun and Bradstreet or Moody's Investor Services. Clearview internally finances its energy transactions through a credit sleeving arrangement with an organization that does have a reported credit rating. The complete agreement is included under Exhibit C-4 "Financial Arrangements".

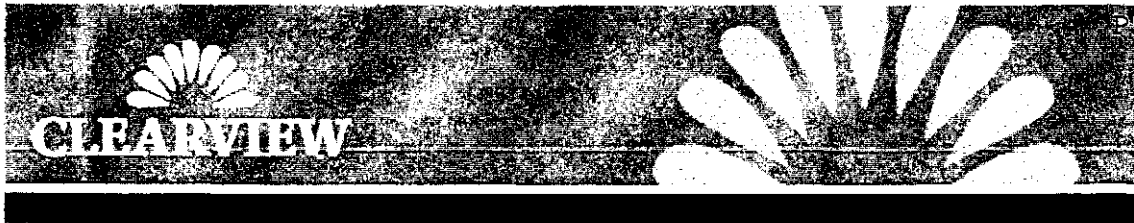


**C-7 REDACTED**



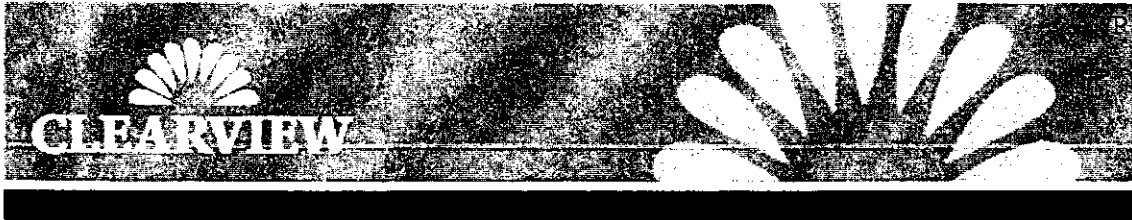
**Exhibit C-8 "Bankruptcy Information"**

Neither Clearview Electric Inc nor any of its officers have declared any form of bankruptcy in the current year or within the two most recent years preceding this application.



**Exhibit C-9 "Merger Information"**

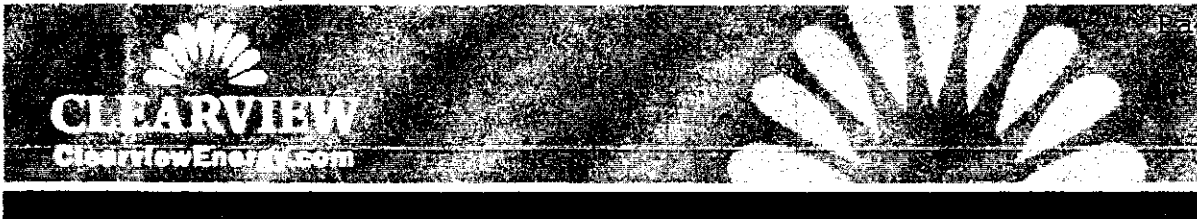
Clearview Electric Inc. has not had any dissolution or merger or acquisition within the five most recent years preceding this application.



### **Exhibit D-1 "Operations"**

Clearview Electric Inc. is engaged in the competitive retail sale of electric power to end-users customers, utilizing the jurisdictional transmission and distribution facilities of electric distribution utilities. Clearview is currently licensed to provide retail electricity service in 12 states and the District of Columbia.

Clearview is a market participant in PJM and PPL, but owns no generating units or transmission facilities. Clearview contracts with outside vendors for the generation of power for retail sales, the scheduling of retail power for transmission and delivery, the provision of retail ancillary services as well as other services used to arrange for the purchase and delivery of electricity to retail customers.



**Exhibit D-2 "Operations Expertise"**

Clearview Electric, Inc. ("Clearview") has over 7 years of experience serving retail, commercial, and industrial customers across multiple markets. Clearview currently serves more than 70,000 customers offering multiple products in electric choice markets, and a variable rate gas product in New York and New Jersey.

Clearview utilizes the services of Enhanced Energy Services for all scheduling of electricity and natural gas delivery from the commodity's source to the grid/city gate. In the more than seven Years that Clearview has been in operation it has never failed to acquire and deliver the appropriate amount of commodities to its customers. No registration with a Local Distribution Company (LDC) or a state Commission has ever been questioned due to a failure to perform its contracted service.

Clearview has utilized the services of EC Infosystems for all Electronic Data Interchange (EDI) transactions between Clearview and the LDC since its inception in 2006. This relationship ensures that all communications of customer sensitive information maintain the highest level of security while being transferred between trading partners. Clearview's information technology staff has successfully integrated the communications requirements between Clearview and 38 individual LDCs into Clearview's proprietary customer billing system to date.

**D-3 REDACTED**