

March 22, 2022

VIA ELECTRONIC FILING

CONTAINS PUBLIC REDACTED APPENDICES

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Petition of Energy Harbor LLC for Renewal of its Current 5% Financial Security Requirement for the Period July 1, 2022 through June 30, 2023 - Docket No. A-110078

Dear Secretary Chiavetta:

Pursuant to 52 Pa Code § 54.40(d) and the April 8, 2016 Secretarial Letter¹, enclosed for filing is a **REDACTED** version of the Petition of Energy Harbor LLC ("Energy Harbor") for approval to renew its current five percent (5%) security requirement level. The **CONFIDENTIAL VERSION** of this filing will be sent to you via overnight mail later today.

In support of said Petition, and pursuant to both the Commission's Final Order entered in Docket No. M-2013-2393141 and the April 8, 2016 Secretarial Letter issued in that same docket, Energy Harbor has attached the following documents to the Petition:

- a. A Tax Letter of Good Standing from the Pennsylvania Department of Revenue, which is attached as **PUBLIC REDACTED APPENDIX A**.
- b. The amount of the Company's gross receipts from electric generation sales to retail customers in Pennsylvania for the most recent four quarters (ending December 31, 2021), which is attached as **PUBLIC REDACTED APPENDIX B**.

¹ *Guidance on Electric Generation Supplier Licensee Financial Security*, Docket No. M-2013-2393141, Secretarial Letter (April 8, 2016).

- c. Evidence of the Company's prepayment of its estimated gross receipts tax for 2022, which is attached as **PUBLIC REDACTED APPENDIX C**.
- d. A letter from the Pennsylvania AEPS Administrative Team in which the AEPS Team verifies the Company's compliance with the AEPS requirements for the most recent reporting period, which is included as **APPENDIX D**.
- e. An email confirmation that Energy Harbor is a member of PJM Interconnection, LLC in good standing and that the Company has met its credit requirements, which is attached as **APPENDIX E**.
- f. Because this filing is being made electronically, the \$350 filing fee will be paid online at the time of filing.
- g. A Certificate of Service indicating that this Petition (public version) has been served on the statutory advocates and affected EDCs, which is included at the end of this Petition.

Should you or the Staff have any questions or require any additional information to support the enclosed Petition, please contact me as indicated below.

Respectfully submitted,



Kathy J. Kolich
Attorney No. 92203
Kolich & Associates, LLC
1521 Hightower Drive
Uniontown, OH 44685
(330) 316-2378
Email: kjklaw@yahoo.com

KJK:kmp

cc:

Certificate of Service (public version)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Energy Harbor LLC for	:	
Renewal of its Current 5% Financial	:	
Security Requirement for the Period July	:	Docket No. A-110078
1, 2022 through June 30, 2023	:	
	:	
	:	
	:	

**PETITION OF ENERGY HARBOR LLC FOR RENEWAL OF ITS
CURRENT FIVE PERCENT FINANCIAL SECURITY REQUIREMENT
FOR THE PERIOD JULY 1, 2022 THROUGH JUNE 30, 2023**

PUBLIC REDACTED VERSION

Now comes Petitioner, Energy Harbor LLC (hereinafter “Energy Harbor” or “Company”), by and through counsel and, pursuant to 52 Pa. Code § 54.40(d) and the April 8, 2016 Secretarial Letter¹, asks Staff to approve the Company’s request to renew its current five percent financial security requirement.² Further, because the Company’s bonds expire annually on July 1, and the Company must submit proof of bond at the appropriate level within 30 days of said expiration, the Company asks that such approval be given no later than May 12, 2022,³ so as to provide the Company with sufficient time to obtain the necessary bond and file it no later than June 1, 2022. As is more fully discussed below, the 5% bonding level is more than sufficient to meet the risks intended to be secured by said bonds during the period July 1, 2022 through June 30, 2023.

¹ *Guidance on Electric Generation Supplier Licensee Financial Security*, Docket No. M-2013-2393141, Secretarial Letter (April 8, 2016).

² The Commission delegated the review of such requests to its Staff in its Final Order entered on July 24, 2014 in Docket No. M-2013-2393141.

³ This is the last scheduled public meeting of the Commission that would allow sufficient time for the Company to obtain the necessary bonds.

I. BACKGROUND AND HISTORY

1. Pennsylvania law sets forth various licensing requirements that must be met by an electric generation supplier (“EGS”) in order to maintain its license, including certain financial responsibilities. 66 Pa C.S. §2809(c)(1)(i) provides in pertinent part:

In order to ensure the safety and reliability of the generation of electricity in the Commonwealth, no energy supplier license shall be issued or remain in force unless the holder complies with all of the following:

- (i) Furnishes a bond or other security approved by the commission in form and amount to ensure the financial responsibility of the electric generation supplier and the supply of electricity at retail in accordance with contracts, agreements or arrangements.

* * *

2. The Commission’s regulations state in 52 Pa Code § 54.40(d) that “the security level will be 10% of the licensee’s reported gross receipts.”
3. However, on December 5, 2013; the Commission issued a Tentative Order in Docket No. M-2013-2393141 in which it proposed both an adjustment to the bonding requirements for EGSs as well as an expansion of the forms of acceptable security instruments, and requested formal comments on the same.⁴
4. After considering the comments submitted by various interested parties, the Commission announced in its Final Order issued in Docket No. M-2013-2393141 (hereinafter, “Final Security Reduction Order”) a new policy, stating:

[T]he bond or security for an EGS after the first year of operation should be in the amount of 5% of the EGS’s most recent twelve months of revenue or \$250,000, whichever is higher, as we find that this bonding/security amount is commensurate with the nature and scope of a typical EGS’s operations. ... Accordingly, it shall be the policy of the Commission to

⁴ *Public Utility Commission Bonding/Security Requirements for Electric Generation Suppliers; Acceptable Security Instruments*, Docket No. M-2013-2393141, Final Order at 1 (Entered July 24, 2014) (hereinafter, “Final Security Reduction Order”).

accept a request by an EGS to reduce its level of security after the first year of operation, *consistent with this Final Order, the Public Utility Code and our regulations.*⁵

5. In that same Final Security Reduction Order, the Commission delegated its authority to review uncontested petitions for requests for reduction of security requirements to the Bureau of Technical Utility Services (“TUS”).⁶ The Final Security Reduction Order further provides that the Staff, at a minimum, will require the following information from an EGS seeking a change to its security requirement:

- Gross receipts revenues for the sale of electricity to retail customers in Pennsylvania for the most recent 12 months;
- The amount of gross receipts taxes that the EGS has prepaid towards its estimated revenues for the current calendar year;
- If the EGS is proposing to utilize a parental or corporate guarantee, documentation that demonstrates that the guarantor meets the required long-term bond rating from two of the approved rating agencies;⁷
- Available AEPS compliance data from the most recent 12 months; and
- Copies of all Department of Revenue documents that support the EGS’s request.⁸

And, depending on the nature of the EGS’s request, Staff may seek more information from the EGS.⁹

6. Further, in an April 8, 2016 Secretarial Letter, the Commission stated:

To be eligible for the renewal [of a reduction in security requirements], your company must provide annual documentation of its eligibility for a bond reduction at least [ninety] (90) days prior to the current security’s expiration date. Such documentation should include but may not be limited to:

- a petition for renewal, filed with the Commission’s Secretary’s Bureau,
- a \$350 filing fee,
- proof of service of the petition on the statutory advocates and affected EDCs,
- a Tax Letter of Good Standing from the Department of Revenue, and
- the company’s gross receipts for the most recent four quarters.¹⁰

⁵ *Id.* at 10-11 (italics added) (citations omitted).

⁶ *Id.* at 13.

⁷ The Company does not intend to utilize a parental or corporate guarantee.

⁸ Final Security Reduction Order at 16.

⁹ *Id.*

7. The Letter further requires an EGS to submit its bond to Staff at least 30 days prior to the EGS's current bond's expiration.¹¹
8. On or about June 9, 2021, the Commission Staff approved the Company's request to reduce its security requirement from ten percent (10%) to five percent (5%) for the period July 1, 2021 through June 30, 2022.¹² And now the Company seeks to renew the 5% security level by providing the following information:

A. Documents in Support of the Company's Request

9. Enclosed for Commission Staff's review are the following documents consistent with both the Commission's Final Security Reduction Order and the April 8, 2016 Secretarial Letter:
 - a. A Tax Letter of Good Standing from the Pennsylvania Department of Revenue, which is attached as **PUBLIC REDACTED APPENDIX A**.
 - b. The amount of the Company's gross receipts from electric generation sales to retail customers in Pennsylvania for the most recent four quarters (ending December 31, 2021), which is attached as **PUBLIC REDACTED APPENDIX B**.
 - c. Evidence of the Company's prepayment of its estimated gross receipts tax for 2022, which is attached as **PUBLIC REDACTED APPENDIX C**.
 - d. A letter from the Commission's AEPS Administrative Team in which the AEPS Team verifies the Company's compliance with the AEPS requirements for the most recent reporting period, which is included as **APPENDIX D**.

¹⁰ *Guidance on Electric Generation Supplier Licensee Financial Security*, Docket No. M-2013-2393141, Secretarial Letter, p. 2 (April 8, 2016).

¹¹ *Id.* at 1.

¹² *Financial Security Reduction Petition for Electric Generation Suppliers*, Docket No. A-110078, Secretarial Letter, p. 1 (June 9, 2021).

- e. An email confirmation that Energy Harbor is a member of PJM Interconnection, LLC in good standing and that the Company has met its credit requirements, which is attached as **APPENDIX E**.
 - f. Because this filing is being made electronically, the \$350 filing fee was paid online at the time of filing.
 - g. A Certificate of Service indicating that this Petition (public version) has been served on the statutory advocates and affected EDCs, which is included at the end of this Petition.
10. Additionally, upon authorization of the Company's security level, the Company intends to submit a security bond in the form substantially similar to those submitted (and approved by the Commission) in the past. It will also provide any additional information requested by Staff in order to demonstrate its compliance with Commission prerequisites for approval.

I. CONCLUSION

WHEREFORE, based upon the foregoing, Energy Harbor LLC respectfully requests that Staff (i) approve the Company's request to renew its security level at five percent (5%) of its gross receipts for the most current four quarters; (ii) authorize such security level for the period July 1, 2022 through June 30, 2023; and (iii) provide such approval no later than May 12, 2022 so as to provide the Company sufficient time in which to obtain the bond at the appropriate security level and provide said bond to Staff at least 30 days before the Company's current bond expires on July 1, 2022.

Respectfully submitted,

Dated: March 22, 2022



Kathy J. Kolich
Attorney No. 92203
Kolich & Associates, LLC
1521 Hightower Drive
Uniontown, OH 44685
Direct Dial: (330) 316-2378
Facsimile: (330) 436-7757
Email: kjklaw@yahoo.com

Counsel for Energy Harbor LLC

CERTIFICATE OF SERVICE
CASE NO. A-110078
ENERGY HARBOR LLC

I hereby certify that I have this day served a true copy of the Petition of Energy Harbor LLC for Renewal of its Current Five Percent Financial Security Requirement for the Period July 1, 2022 through June 30, 2023 (public version) upon the parties, listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA FIRST CLASS MAIL:

Bureau of Investigation & Enforcement Pennsylvania Public Utility Commission Commonwealth Keystone Building P. O. Box 3265 Harrisburg, PA 17105-3265	Duquesne Light Attn: Regulatory Affairs 411 Seventh Street, MD I 6-4 Pittsburgh, PA 15219
Office of Consumer Advocate Forum Place, 5 th Floor 555 Walnut Street Harrisburg, PA 17101-1923	Metropolitan Edison Company Pennsylvania Electric Company Pennsylvania Power Company Attn: FirstEnergy Legal Department 2800 Pottsville Pike Reading, PA 19612
Office of Small Business Advocate Forum Place, 1 st Floor 555 Walnut Street Harrisburg, PA 17101	Citizens' Electric Company Attn: EGS Coordination 1775 Industrial Boulevard Lewisburg, PA 17837
Pennsylvania Department of Revenue Bureau of Compliance Strawberry Square, 1 st Floor Fourth and Walnut Streets Harrisburg, PA 17128	Wellsboro Electric Company Attn: EGS Coordination 33 Austin Street P.O. Box 138 Wellsboro, PA 16901
PA Office of Attorney General Bureau of Consumer Protection Strawberry Square, 16 th Floor Fourth and Walnut Streets Harrisburg, PA 17120	PECO Energy Company Attn: Mgr. Energy Acquisition 2301 Market Street Philadelphia, PA 19103

<p>Department of Technical Utility Services Pennsylvania Public Utility Commission Commonwealth Keystone Building P.O. Box 3265 Harrisburg, PA 17105-3265</p>	<p>PPL Electric Utilities PPL Corporation Attn: Legal Department 2 North Ninth Street Allentown, PA 18101</p>
<p>UGI Utilities, Inc. Attn: Rates Dept- Choice Coordinator PO Box 13009 Reading, PA 19612-3009</p>	<p>West Penn Power Company d/b/a Allegheny Power Attn: FirstEnergy Legal Department 800 Cabin Hill Drive Greensburg, PA 15601</p>
<p>Pike County Light & Power Company Attn: Dir of Customer Energy Services 105 Schneider Lane Milford, PA 18337</p>	

Dated: March 22, 2022



Kathy J. Kolich (Attorney Reg No. 92203)

APPENDIX A – PUBLIC REDACTED

Bureau of Compliance
P.O. Box 280231
Harrisburg, PA 17128-0231
717-787-3911 (Option 5)
www.revenue.pa.gov

CASE NO. A-110078
Energy Harbor LLC

Tax Letter of Good Standing



Wednesday, March 16, 2022

Attention: Jackie Henry, Accounting Operations Manager

RE: Energy Harbor LLC
168 East Market Street
Akron OH 44308

Federal EIN: [REDACTED]
Social Security Number: [REDACTED]
Business Partner Number: [REDACTED]

Dear Requester,

I am writing to confirm that the above-referenced tax accounts for Energy Harbor LLC are current. All returns have been filed with payment as of Wednesday, March 16, 2022. This confirmation is not intended to represent a "Bulk Sale Clearance" under the provision of section 1403 of the fiscal code. This letter does confirm that the account above is in good standing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ernard S. Robinson, Jr.', written in a cursive style.

Ernard S. Robinson, Jr
PA Department of Revenue
Bureau of Compliance
Business License Clearance Division

APPENDIX B – PUBLIC REDACTED
CASE NO. A-110078
Energy Harbor LLC

Company's gross receipts from electric generation sales to retail customers in Pennsylvania for the most recent four quarters (ending December 2021)

PUBLIC REDACTED

EGS	Reported Quarter	State of Pennsylvania Sum of Revenue	
Energy Harbor LLC	Q1 2021		
	Q2 2021		
	Q3 2021		
	Q4 2021		
Energy Harbor LLC Total			

APPENDIX C – PUBLIC REDACTED

CASE NO. A-110078

Energy Harbor LLC

Company's evidence of prepayment of its estimated gross receipts tax for 2022.

PUBLIC REDACTED

Display Document: Line Item 001

Additional Data Withholding Tax Data

Vendor 2343024 PENNSYLVANIA DEPARTMENT OF REVENUE G/L Acc [REDACTED]
Company Code 1100 BUREAU OF RECEIPTS & CONTROL
Energy Harbor LLC HARRISBURG
Line Item 1 / Invoice / 31 Doc. no. 1902001585

Amount [REDACTED] USD
Tax code **
W.tax base 0.00 USD W.tax exempt [REDACTED] W.Tax Code 00

Additional Data

Disc. base [REDACTED] USD Disc. amount 0.00 USD
Payt Terms 0101 Days/percent 0 0.000 % 0 0.000 % 0
Blne Date 03/08/2022 Fixed
Pmnt Block Invoice Ref. / / 0
Pmt Method Pmt meth.supl.
Clearing 03/10/2022 / 2000001375

Assignment

Text *TXP*1000194566*1014*221231*T*1320000000\

Long text

APPENDIX D
CASE NO. A-11078
Energy Harbor LLC



Via Email to: Energy Harbor LLC (Lphillips@energyharbor.com, rmcgovern@energyharbor.com)

3 September, 2021

Dear Pennsylvania Electric Supplier:

This letter is to inform you that Energy Harbor LLC has met the non-solar Tier I, solar Tier I and Tier II AEC retirement requirements for energy year 2021.

If you have any questions regarding this letter please contact InClima, the Pennsylvania AEPS Administrator, at customerservice@pennaeps.com or by phone at 877-333-0573.

Best,

Pennsylvania AEPS Administration Team

APPENDIX E
CASE NO. A-11078
Energy Harbor LLC

From: Million, Mark A.
To: Thomas, Lynne
Cc: Credit
Subject: [External] Confirmation of Member Status - Energy Harbor LLC
Date: Thursday, February 24, 2022 12:27:41 PM

Lynne

As requested, I am writing to confirm that according to our records, **Energy Harbor LLC** is a PJM member as of this date (**2/24/2022**). **Energy Harbor LLC** is current on its billing and settlement obligations and has satisfied the minimum credit and/or collateral requirements to participate in the PJM Markets.

Sincerely

Mark Million

Senior Lead Collateral Analyst | Credit Risk & Surveillance
PJM Interconnection, LLC | 2750 Monroe Blvd. | Audubon, PA 19403
mark.million@pjm.com | credit_hotline@pjm.com
610-635-3418 | hotline 866-400-8980