STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

| Realgy, LLC d/b/a Realgy Energy Services                          | : |                          |
| Application for Certificate of Service Authority under Section 19-110 of the Public Utilities Act | : | 12-0145 |

ORDER

By the Commission:

Introduction


On March 8, 2012, notice of the application was published in the official state newspaper, pursuant to Section 19-110(c) of the Act and Section 551.30(a). On March 12, 2012, the Administrative Law Judge issued a ruling requesting that additional information required under various provisions of Part 551 be provided, that certain deficiencies be corrected and that certain information in the application be clarified. On March 27, 2012, Applicant filed its verified response (“Verified Response” or “Response”) to the ruling, which included several attachments.

Authority

Statutory provisions applicable to the certification of alternative gas suppliers are set forth in Section 19-110 of the Act. Subsection 19-110(a) provides in part that Section 19-110 applies only to alternative gas suppliers serving or seeking to serve residential or small commercial customers. Provisions relating to the AGS application process are contained in Subsections (b), (c), (d) and (e). Among other things, the applicant must identify the areas to be served and types of service to be offered, and demonstrate sufficient technical, financial and managerial fitness to provide the proposed services. Generally speaking, the Commission is required to enter an order within 45 days after publication of a “properly filed”
Commission rules for certification of alternative gas suppliers are set forth in Part 551. Procedures and requirements pertaining to the application process are contained in Sections 551.20 through 551.110. Procedures for reporting continuing compliance are set out in Sections 551.120 through 551.170.

Description of the Applicant and of the Proposed AGS Services

Applicant is a limited liability company originally formed under the laws of Connecticut. Applicant provided documentation from the Office of the Secretary of State, State of Illinois, demonstrating that Applicant is licensed to transact business in the State of Illinois. Applicant indicates that it also does business as Realgy Energy Services.

In Docket No. 07-0224, Applicant was issued a certificate of service authority to operate as an AGS in Illinois. Applicant is currently authorized to offer the sale of natural gas to small commercial customers in the service areas of Nicor Gas Company (“Nicor”), the Peoples Gas Light and Coke Company (“Peoples”). Applicant is not currently authorized to market its services to residential customers in Illinois.

Applicant indicates that it has been providing natural gas service to nonresidential and non-small commercial customers in Illinois since April 2004. Applicant also provides natural gas service to residential, commercial, and industrial customers in Michigan. Applicant also provides natural gas service to residential and commercial customers in Indiana. Applicant represents that it is a licensed alternative retail electricity supplier ("ARES") in Illinois. In Docket No. 09-0555, Applicant was authorized to offer the sale of electricity and power to all eligible nonresidential retail customers with annual electric consumption greater than 15,000 kilowatt-hours in the service area of Commonwealth Edison Company.

In the instant application, Applicant seeks authority to offer retail natural gas service to residential and small commercial customers in the entire State of Illinois. Currently the following utilities have natural gas choice programs in Illinois: Nicor Peoples, and North Shore Gas Company (“North Shore”). In its Verified Response, Applicant stated that it was willing to accept a decision requiring it to file a new application should it wish to operate as an AGS in additional geographic areas. Applicant also indicates it does not seek to serve customers within a geographic area that is smaller than a gas utility’s service area.

AGS Requirements and Obligations
Pursuant to Section 551.20(a), Applicant certifies that it will comply with all applicable regulations, regional and industry rules, practices, policies, procedures, and tariffs for the use, operation, maintenance, safety, integrity, and reliability of the interstate natural gas system; and that it will submit good faith schedules of natural gas deliveries in accordance with applicable tariffs. Applicant also certifies that it will provide service to residential and commercial customers who are eligible to take service from an AGS; that it will comply with informational and reporting requirements established by Commission rule; and that it will comply with all other applicable laws and regulations and Commission rules and orders pursuant to Section 551.20.

In accordance with Section 551.40, Applicant agrees to adopt and follow rules and procedures ensuring that authorizations received from customers, customer billing records, and requests for service transmitted to utilities are retained for a period of not less than two calendar years. In addition, Applicant agrees to confidential treatment of customer data.

Financial qualifications and requirements are addressed in Sections 551.50 and 551.80 of Part 551. Section 551.50 specifies certain “License or Permit Bond Requirements.” Pursuant to Section 551.50, Applicant has provided, as Attachment D to its application, a copy of its “License or Permit Bond.” The surety is Liberty Mutual Surety and the amount of the bond is $150,000, as required by Section 551.50(a). The Commission observes that the requirements of Sections 551.50(b) and (c) remain fully applicable to the Applicant.

Section 551.80 is titled “Financial Qualifications.” It provides that an applicant “shall be deemed to possess sufficient financial resources to be certified as an AGS able to serve available residential or small commercial customers” if it meets any of the criteria set forth in subsections (a) through (g). Applicant asserts that it meets the financial criteria set forth in Section 551.80(g). Section 551.80(g) requires that an applicant earns 12 points on the financial ratios set forth in subsection (g)(1). In addition, Section 551(g) requires an applicant to provide certain supporting documentation.

In support of its assertion, Applicant claims that it earns 20 points on the financial ratios set forth in Section 551.80(g)(1). In addition, Applicant provided Attachment 4 with certain documents that it meets the requirements of Section 551.80.

Applicant also submits that it meets the “Technical Qualifications” and “Managerial Qualifications” which are set forth in Sections 551.90 and 551.100, respectively. Information provided includes an organizational chart, an exhibit containing occupational background information on the “persons being used” to meet the requirements of those sections.

Applicant certifies it has not been denied a natural gas supplier license in any state in the United States. Applicant has not had a natural gas supplier license suspended or revoked in any state in the United States. Applicant does not have any other natural gas supplier license applications pending in the United States. Finally, Applicant certifies it is not
the subject of any lawsuits filed in court or formal complaints filed with a regulatory agency alleging fraud, deception, or unfair marketing practices, or other similar allegations.

In the Response to the Administrative Law Judge’s Ruling, the Applicant indicates that it is currently licensed as an AGS in Illinois, Michigan and Indiana. The Applicant also indicated that it is licensed as an Alternative Retail Electric Supplier in Illinois. In its complaint history, the Applicant indicates that it currently has two complaints pending in Illinois, neither of which has been resolved as of the date of filing. The Applicant further indicates that it has had no other complaints filed against it for its provision of gas or electric services in any other jurisdiction.

**Commission Conclusions, Findings and Ordering Paragraphs**

The Commission has reviewed the application and attachments along with the supplementary information provided by Applicant in its Verified Response. The Commission finds that the application does not satisfy the requirements of the Act and Part 551. The Commission concludes, therefore, that the application for certification as an AGS should be denied without prejudice. The seriousness of the allegations raised in the pending complaint cases against the company, in combination with the conduct of the Applicant in the cases themselves, raises serious concerns about the Applicant’s managerial sufficiency that the Commission cannot ignore. Until all issues in those two pending dockets are adequately resolved, the Commission believes it would be inappropriate to grant this application.

The Commission, having reviewed the entire record, is of the opinion and finds that:

1) Applicant, which is a limited liability company organized under the laws of Connecticut, is licensed to do business in the State of Illinois and seeks to amend its authority to operate as an AGS under Section 19-110 of the Act;

1) the Commission has jurisdiction of the Applicant and the subject matter hereof;

2) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

3) as required by Section 19-110(e)(1) of the Act, Applicant does not possess sufficient technical, financial, and managerial resources and abilities to provide natural gas service to eligible customers throughout the areas certificated herein;

4) Applicant should not be granted an amended Certificate of Service Authority.
IT IS THEREFORE ORDERED by the Commission that the February 28, 2012 application by Realgy, LLC for an amended Certificate of Service Authority as an alternative gas supplier is denied without prejudice.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 18th day of April, 2012

(SIGNED) DOUGLAS P. SCOTT

Chairman