



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

**CUSTOMER ASSISTANCE, AUDITS
& ENERGY**

IN THE MATTER OF THE ALLEGED FAILURE OF)
HUDSON ENERGY SERVICES, L.L.C. TO COMPLY)
WITH CERTAIN THIRD PARTY SUPPLIER LICENSING)
REQUIREMENTS FOUND AT N.J.S.A. 48:3-78 ET SEQ.)
AND N.J.A.C. 14:4-1 ET SEQ.)

ORDER

DOCKET NO. EO09121021U

Noreen M. Giblin, Esq., Gibbons P.C., Trenton, New Jersey, on behalf of Hudson Energy Services, L.L.C.

Caroline Vachier, DAG, Division of Law, on behalf of the Staff of the Board of Public Utilities' Divisions of Customer Assistance, Audits and Energy

BY THE BOARD:

This matter involves allegations of a billing error on the part of Hudson Energy Services, L.L.C. ("Hudson Energy"), which caused approximately 2,000 of its customers to be overcharged seven percent for energy services supplied by Hudson Energy from December 2008 through August 2009. Additionally, Staff of the Board of Public Utilities ("Staff") commenced an investigation of Hudson Energy's compliance with certain license requirements and the Board's Retail Choice Consumer Protection rules. Upon review, Staff further alleged that Hudson Energy did not comply with the Board's requirements related to New Jersey offices as set out in N.J.A.C. 14:4-5.2 (a)-(b).

Hudson Energy is a licensed third party natural gas supplier in New Jersey serving approximately 5,000 residential customers. Hudson Energy has recently applied to be an electric power supplier. Hudson Energy's application for an electric power supplier license and the renewal of its gas supplier license are scheduled for consideration at the Board's January 20, 2010 Agenda meeting.

In March of 2009, the Board's Division of Customer Assistance ("Customer Assistance") received a complaint from a customer questioning the rate charged by Hudson Energy. Upon review of the relevant customer bills, it was determined that the customer was billed at the rate of \$1.16 per therm of gas plus New Jersey sales tax (7%). When Hudson Energy was contacted by Customer Assistance, Staff was advised that the customer had signed a contract with Hudson Energy at the rate of \$1.16 per therm of gas plus tax. Staff conveyed this message to the customer, who informed Staff that he had switched to Hudson Energy based upon a postcard that Hudson Energy had sent to him. The postcard stated, in pertinent part, "Your local utility is charging \$1.18. Hudson Energy guarantees your fixed rate at \$1.16." After switching to Hudson Energy, the customer learned that the \$1.18 utility rate shown on the postcard included sales tax, but the \$1.16 Hudson Energy rate did not include sales tax. The customer believed that this was deceptive advertising and sent Hudson Energy's postcard to Staff for investigation.

Working with Customer Assistance, Staff of the Board's Division of Energy ("Energy") contacted Hudson Energy regarding its postcard and was informed that the postcard was correct; but an incorrect rate had been inadvertently used to bill the customer. As a result of further inquiries from Energy Staff, Hudson Energy discovered that an internal billing error had caused approximately 2,000 of its customers to be overcharged for services provided by Hudson Energy from December 2008 through August 2009. These customers, who had contracted at the rate of \$1.16 per therm including New Jersey sales tax, were inadvertently billed at the rate of \$1.24 (\$1.16 per therm plus seven percent sales tax.)

In addition to the billing error investigated by Customer Assistance and Energy, Staff of the Board's Division of Audits ("Audits"), which is responsible for licensing, discovered that Hudson Energy did not comply with the New Jersey Office requirements. Both N.J.S.A. 48:3-79c(3) and N.J.A.C. 14:4-5.2(a)-(b) require that electric and gas third party suppliers maintain a New Jersey office. On its yearly renewal applications, Hudson Energy had listed an office located at 145 Pennington Avenue, Passaic, New Jersey. However, Audits Staff and the Division of Law mailed several letters to this location and they were all returned as undeliverable. Staff also contacted the U.S. Post Office as well as the Tax Assessor's Office for the City of Passaic in an unsuccessful attempt to verify the existence of Hudson Energy's New Jersey office.

As a result of Board Staff's investigation, Hudson Energy took action to address the billing error as well as the allegations of noncompliance with the Board's regulations. Hudson Energy claims to have corrected the billing error on or around August 4, 2009, by notifying its billing department to adjust the rate before sales tax from \$1.16 per therm to \$1.084 per therm. Hudson Energy has since run sample bills to confirm that the inadvertent billing error had been corrected. At the request of Board Staff, Hudson Energy also prepared a spreadsheet identifying the customers affected by this error, along with a breakdown of the customer bills by month, usage, advertised rate, actual rate, and bill amount. This spreadsheet was provided to Board Staff for review of the proposed credit/refund rate calculations. In addition, Hudson Energy has relocated its principal place of business to 7 Cedar Street, Ramsey, New Jersey 07746 and provided a copy of the lease for this location to Board Staff. Hudson Energy has also updated its New Jersey Residential Customer Terms and Conditions to reflect its new address. Pursuant to N.J.A.C. 14:4-7.6(h), a copy of the amended Terms and Conditions has been filed with the Board's Secretary and will be provided to the State Division of Consumer Affairs and Rate Counsel. Finally, Hudson Energy has reviewed its promotional materials.

After consideration of the matter, the Board HEREBY FINDS that

- 1 Hudson Energy overcharged approximately 2,000 of its customers by approximately 7% from December 2008 through August 2009, for a total amount of \$86,853.00.
2. Hudson Energy corrected the billing rate in August of 2009.
3. Hudson Energy's New Jersey office did not comply with N.J.A.C. 14:4-5.2(a)-(b), but has since relocated to Ramsey, NJ. Hudson Energy has submitted its lease to the Board and has updated its Terms and Conditions as well as its promotional materials to reflect its accurate address.

The Board FURTHER FINDS that Hudson Energy, in collaboration with Board Staff, addressed these matters and notified its internal customer service department in the event any customer complaints were received.

Having taken these actions, Hudson Energy submitted an Offer of Settlement to resolve the outstanding violations alleged by Board Staff. The Offer of Settlement, dated December 30, 2009, is attached hereto and made a part hereof. The Offer of Settlement includes the following provisions: (1) Hudson Energy will send letters to all of its affected customers, the text of which has been reviewed by Board Staff and is attached to the settlement as Exhibit A. The letter outlines the billing error and indicates that it was promptly rectified upon discovery. The letter further states that Hudson Energy will provide existing customers with a credit on their account and former customers with a refund check, but customers may wish to terminate their business with Hudson Energy. If customers seek to terminate their relationship with Hudson Energy as a result of this billing error, they will not be assessed a termination fee. (2) Within thirty days of the Board Order accepting the Offer of Settlement, Hudson Energy will issue a credit to existing customers and refund to past customers affected by the billing error in accord with the spreadsheet reviewed by Board Staff. The credits and refunds will total \$86,853. (3) Hudson Energy will make a good faith effort to locate affected customers using electronic databases and the resources of the United States Postal Service. Hudson Energy will also provide a list of affected customers it could not locate to the gas utilities in the State in the event the affected customers had switched supplier. (4) In the event it is discovered that Hudson Energy has assessed a termination fee to any of the affected customers, it will refund the termination fee to that affected customer. As stated in Exhibit A to the Offer of Settlement, Hudson Energy agrees not to assess any termination fees to affected customers who elect to discontinue their relationship with Hudson Energy. (5) Hudson Energy will provide a written update regarding the status of the customer credits/refunds to Energy and Customer Assistance on or before March 1, 2010. (6) Hudson Energy will provide its New Jersey Residential Customer Terms and Conditions to the State Division of Consumer Affairs and Rate Counsel. (7) Hudson Energy will comply with any and all Orders and directives issued by the Board regarding third party suppliers. Hudson Energy will also comply with all requirements set forth at N.J.S.A. 48:3-49 et seq. and N.J.A.C. 14:4-1 et seq.

The Board HEREBY FINDS that the Offer of Settlement represents a fair and reasonable resolution of the alleged violations. The Board FURTHER FINDS that the financial and other remedial actions taken and proposed by Hudson Energy are sufficient to correct the alleged violations of Hudson Energy.

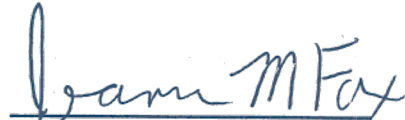
Accordingly, the Board HEREBY ACCEPTS the Offer of Settlement proffered by Hudson Energy. Acceptance of this Offer of Settlement is for purposes of this proceeding only, addresses only those specific allegations and timeframes in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting Hudson Energy or a successor company. Having found that the Offer of Settlement resolves the outstanding allegations and having accepted it for the purposes of this proceeding, the Board HEREBY ORDERS that the investigation initiated in this matter is closed.

DATED: 1/21/10

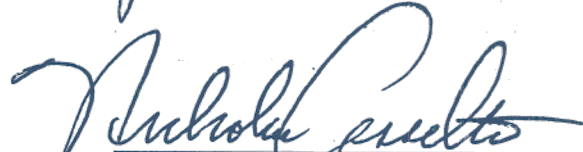
BOARD OF PUBLIC UTILITIES
BY:


ELIZABETH RANDALL
ACTING PRESIDENT

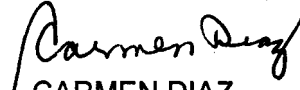

FREDERICK F. BUTLER
COMMISSIONER


JEANNE M. FOX
COMMISSIONER

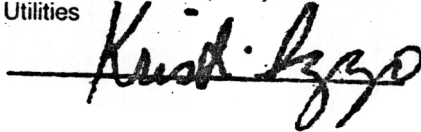

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



**I/M/O OF THE ALLEGED FAILURE OF HUDSON
ENERGY SERVICES, LLC TO COMPLY WITH
CERTAIN THIRD PARTY SUPPLIER LICENSING
REQUIREMENTS FOUND AT N.J.S.A. 48:3-78
et seq., AND N.J.A.C. 14:4-1 et seq.**

BPU DOCKET NO. EO09121021U

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Hudson Energy Services
Four Executive Boulevard
Suite 301
Suffern, New York 10901
(877) HUDSON 9
www.hudsonenergyservices.com

January , 2010

Customer Name
Street Address
Town, New Jersey Zip Code

Dear _____

Hudson Energy Services is committed to providing safe, reliable and competitively priced gas service in an environmentally responsible way. We value you, our customer, and pride ourselves on our responsive customer service.

We regret to inform you that, due to a billing error that occurred during the time period of December 2008 through August 2009, you overpaid for services provided by Hudson Energy Services. The rate for which you contracted was \$1.16 per therm including sales tax. The rate for which you were inadvertently billed was \$1.16 per therm plus sales tax (7%). Please note that immediately upon learning of the billing error in August, Hudson Energy corrected the error. We also had discussions with the Staff of the New Jersey Board of Public Utilities regarding the process for providing you with a full refund. You will be issued a credit for the full amount of this overpayment in your next bill. You are also entitled to terminate the services we provide to you, pursuant to the applicable terms and conditions of your contract. However, because of this billing error you may elect to terminate our services without any early termination fees. A copy of the terms and conditions of your contract is enclosed.

Please contact our Customer Services Division at 1-877-HUDSON 9 or via email at sales@hudson9.com with any questions that you may have.

We apologize for any inconvenience that this error may have caused, and look forward to continue to provide you with quality, cost-effective gas service.

Sincerely,

Hudson Energy Services - Customer Services Division
Enclosure

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
DIVISIONS OF ENERGY, CUSTOMER ASSISTANCE
AND AUDITS**

I/M/O OF THE ALLEGED FAILURE OF)
HUDSON ENERGY SERVICES, LLC)
TO COMPLY WITH CERTAIN THIRD)
PARTY SUPPLIER LICENSING)
REQUIREMENTS FOUND AT N.J.S.A. 48:3-78)
et seq., AND N.J.A.C. 14:4-1 et seq.)

OFFER OF SETTLEMENT

Docket Number:

Hudson Energy Services, LLC
7 Cedar Street
Ramsey, New Jersey 07746

WHEREAS, Hudson Energy Services, LLC (“Hudson Energy”) is licensed as a third party gas supplier in New Jersey (“TPS”), pursuant to N.J.A.C. 14:4-5.2, and provides service to approximately 5,000 residential customers in New Jersey;

WHEREAS, Hudson Energy is subject to the jurisdiction of the Board of Public Utilities (the “Board” or “BPU”), pursuant to the N.J.S.A. 48:2-1 et seq., more specifically, N.J.S.A. 48:3-78 et seq. (the “Act”), and N.J.A.C. 14:4-1 et seq. (the “Regulations”);

WHEREAS, TPSs are required to comply with the Act, the Regulations and Board Orders issued thereunder;

WHEREAS, as a result of the Division of Audit’s review of Hudson Energy’s application for renewal of its gas supplier license and of the Divisions of Energy and Customer Assistance’s receipt and review of customer complaints regarding billing, Board Staff commenced an investigation with regard to Hudson Energy’s compliance with certain TPS requirements, including but not limited to N.J.A.C. 14:4-5.3(b) (New Jersey office) and N.J.A.C. 14:4-7 (Retail Choice Consumer Protection Rules).

WHEREAS, as a result of Board Staff’s investigation, Hudson Energy undertook the following actions:

BILLING ISSUES

On or around August 4, 2009, Hudson Energy learned of a billing error it committed that occurred during the time period of December 2008 through August 2009. As a result, approximately 2,000 Hudson Energy customers overpaid for services provided by Hudson Energy. Hudson Energy's customers contracted for the rate of \$1.16 per therm which price included sales tax. However, Hudson Energy's customers were inadvertently billed \$1.16 per therm plus the sales tax (7%).

Hudson Energy corrected the billing error on or around August 4, 2009, by notifying its billing department to make the necessary change to its computer program to adjust the rate before sales tax from \$1.16 per therm to \$1.084 per therm. Hudson Energy subsequently ran sample bills to confirm that the inadvertent billing error had been corrected.

Hudson Energy addressed these matters with the BPU Staff, and notified its internal customer service department in the event any customer complaints were received.

Pursuant to the request of BPU Staff, Hudson Energy prepared a spreadsheet identifying the customers that were affected by Hudson Energy's error and calculating the total amount that each of the customers was overcharged. This spreadsheet was provided to the BPU Staff for its review of the proposed credit/refund rate calculations.

Pursuant to the request of BPU Staff, Hudson Energy also drafted a correspondence to the affected customers outlining the billing error, indicating that it was promptly rectified upon its discovery, and providing existing customers with a credit on their account and former customers with a refund. The proposed text of this correspondence to Hudson Energy customers has been reviewed by the BPU Staff.

In the proposed correspondence, Hudson Energy indicates that the affected customers may terminate the services that Hudson Energy provides without any early termination fees.

To the best of its knowledge, Hudson Energy did not assess a termination fee to any of the affected customers that terminated service with Hudson Energy.

PRINCIPAL PLACE OF BUSINESS

Hudson Energy recently relocated its principal place of business in New Jersey to 7 Cedar Street, Ramsey, New Jersey 07746. Hudson Energy has provided a copy of the lease for this location to Board Staff and has updated its pending applications for licensure as a third party electric power supplier and for renewal as a gas supplier to reflect this new location.

TERMS AND CONDITIONS

Hudson Energy reviewed its New Jersey Residential Customer Terms and Conditions per the request of BPU Staff and amended it to reflect its Ramsey, New Jersey address. Pursuant to N.J.A.C. 14:4-7.6(h), a copy of the amended Terms and Conditions has been filed with Secretary of the Board. A copy will also be provided to the State Division of Consumer Affairs and Rate Counsel.

PROMOTIONAL MATERIALS

Hudson Energy reviewed its promotional materials pursuant to the request of BPU Staff to ensure compliance with N.J.A.C. 14:4-7.3 and 14:4-7.4. Hudson Energy has provided an updated copy of its promotional materials to BPU Staff.

WHEREAS, Hudson Energy wishes to amicably resolve the issues raised by BPU Staff without incurring the time and expense that would be associated with a formal proceeding.

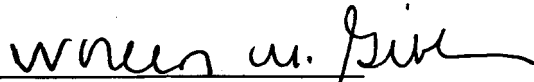
NOW, THEREFORE, Hudson Energy SUBMITS THIS OFFER OF SETTLEMENT as follows:

1. Hudson Energy will send the attached letter to the customers affected by the billing error explaining what occurred (Attachment A);
2. Within thirty (30) days after the date on which a final Board Order accepting this Offer of Settlement is issued, Hudson Energy will issue a credit to existing customers and refund to past customers affected by the billing error in accordance with the September 15, 2009 spreadsheet outlining the proposed refund/credit calculations. The September 15, 2009 spreadsheet is on file with Board Staff. The credits and refunds will total \$86,853.
3. If Hudson Energy is unable to locate affected customers for any reason, it will undertake a good faith effort to locate these customers using various research tools, including electronic databases and the United States Postal Service. Hudson Energy will also provide a list of the customers that they are unable to contact to the gas utilities in the event a customer has or establishes an account with a gas utility.
4. Hudson Energy affirms that it did not assess a termination fee to any of the affected customers that terminated service with Hudson Energy. If Hudson Energy discovers that it did in fact charge termination fees to any of these customers, Hudson Energy will refund the termination fees to the affected customers. Hudson Energy also will not assess any early termination fees to customers who elect not to continue their relationship with Hudson Energy.
5. Hudson Energy will provide a written update to the BPU Divisions of Energy and Customer Assistance as to status of its efforts with respect to customer credits/refunds on or before March 1, 2010.
6. Hudson Energy will provide a copy of its New Jersey Residential Customer Terms and Conditions to the State Division of Consumer Affairs and Rate Counsel.

7. Hudson Energy will comply with all terms and conditions of Orders and directives issued by the Board regarding TPSs and shall comply with all requirements set forth at N.J.S.A. 48:3-78 et seq. and N.J.A.C. 14:4-1 et seq.

THIS OFFER OF SETTLEMENT resolves all BPU issues related to Hudson Energy's billing error.

HUDSON ENERGY SERVICES, LLC

By: 

Noreen M. Giblin, Esq.

Gibbons P.C.

Attorney for Hudson Energy Services, LLC

Dated: December 30, 2009

DRAFT

Hudson Energy Services
Four Executive Boulevard
Suite 301
Suffern, New York 10901
(877) HUDSON 9
www.hudsonenergyservices.com

December , 2009

Customer Name
Street Address
Town, New Jersey Zip Code

Dear _____

Hudson Energy Services is committed to providing safe, reliable and competitively priced gas service in an environmentally responsible way. We value you, our customer, and pride ourselves on our responsive customer service.

We regret to inform you that, due to a billing error that occurred during the time period of December 2008 through August 2009, you overpaid for services provided by Hudson Energy Services. The rate for which you contracted was \$1.16 per therm including sales tax. The rate for which you were inadvertently billed was \$1.16 per therm plus sales tax (7%). Please note that upon learning of the billing error in August, Hudson Energy corrected the error. We also had discussions with the Staff of the New Jersey Board of Public Utilities regarding the process for providing you with a full refund. You will be issued a credit for the full amount of this overpayment in your next bill. You are also entitled to terminate the services we provide to you, pursuant to the applicable terms and conditions of your contract. However, because of this billing error you may elect to terminate our services without any early termination fees. A copy of the terms and conditions of your contract is enclosed.

Please contact our Customer Services Division at 1-877-HUDSON 9 or via email at sales@hudson9.com with any questions that you may have.

We apologize for any inconvenience that this error may have caused, and look forward to continue to provide you with quality, cost-effective gas service.

Sincerely,

Hudson Energy Services - Customer Services Division
Enclosure