



Agenda Date: 2/5/20
Agenda Item: 1B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE ALLEGED FAILURE OF)
US ENERGY SOURCE, LLC TO COMPLY WITH)
CERTAIN PROVISIONS OF N.J.S.A. 48:3-78 ET)
SEQ., AND THE NEW JERSEY ADMINISTRATIVE)
CODE, N.J.A.C. 14:4-1.1 ET SEQ.) DOCKET NO. EO20010020

Parties of Record:

Biana R. Terpack, President, US Energy Source, LLC

BY THE BOARD:

By this Decision and Order the New Jersey Board of Public Utilities (“Board”) considers an Offer of Settlement of any and all potential violations under the Electric Discount and Energy Competition Act (“EDECA”, or “Act”), N.J.S.A. 48:3-49 et seq. and more specifically, N.J.S.A. 48:3-78 and N.J.A.C. 14:4-1.1 et seq. (the “Regulations”) by US Energy Source, LLC, (“US Energy Source” or “the Company”), which has been operating as an energy agent (“EA”) in New Jersey.

BACKGROUND

Pursuant to EDECA, the Board has authority and jurisdiction over all EAs in New Jersey. EDECA defines an EA as “a person that is duly registered pursuant to the provisions of [EDECA], that arranges the sale of retail electricity or electric related services, or retail gas supply or gas related services, between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold.” N.J.S.A. 48:3-51 (definition of “energy agent”). See also, N.J.A.C. 14:4-1.2.

The Board’s implementing rules are found at N.J.A.C. 14:4-1.1 et seq. (the “Regulations”). Pursuant to N.J.A.C. 14:4-5.1(f), “[a] person shall not arrange the retail sale of electricity, electric-related services, gas supply or gas-related services between an energy aggregator and a TPS without first registering as an energy agent.” N.J.S.A. 48:3-78(i) specifies that “any person acting as an energy agent shall be required to register with the board . . . This registration shall be updated annually.” See also, N.J.A.C. 14:4-5.8(g).

Pursuant to N.J.A.C. 14:4-5.8(g), the term of an EA registration is valid for one year from the date of issuance unless timely renewals are filed. See also, N.J.A.C. 14:4-5.9. N.J.A.C. 14:4-5.9(a) set forth the obligation of the EA to timely file a renewal application. Specifically, the EA

must file a complete renewal application at least thirty (30) days before the expiration date of the existing registration. If a timely renewal application is not submitted, the initial registration expires at the end of its term. In the event an EA does not submit a renewal application within thirty (30) days before the end of the registration term, the Registrant must submit a new registration application.

Pursuant to EDECA, the Board, among other things, is vested with investigative powers, N.J.S.A. 48:3-80, disciplinary powers, N.J.S.A. 48:3-81, alternative disciplinary powers, N.J.S.A. 48:3-82, and with the authority to assess civil penalties, N.J.S.A. 48:3-83. Pursuant to N.J.A.C. 14:4-5.1(f) and -5.9(b)(3), a person without a valid EA registration, cannot “act as, or represent themselves to others as, an energy agent . . .” In addition, the Board can deny, suspend, or revoke a registration; impose financial penalties; and prohibit acceptance of new customers. N.J.A.C. 14:4-5.13. In determining the amount of the fines, the Board may consider each day of each violation against each customer as a separate offense. N.J.A.C. 14:4-5.13(c). The Board may also consider any good faith efforts made by the Company; the gravity of the violation; the number of past violations; and the appropriateness of the sanction or fine. N.J.A.C. 14:4-5.13(b).

As an EA, US Energy Source is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

US Energy Source’s initial registration, Registration No. EA-0187, was effective for a renewed term of April 27, 2016 through April 26, 2017. US Energy Source did not renew this registration with the Board before it expired on April 26, 2017. US Energy Source, LLC filed a late renewal application on August 23, 2017. The Company continued to arrange energy procurement to customers in New Jersey prior to receiving the Board’s notice of the expiration of US Energy Source’s registration on October 9, 2018. On October 17, 2018, an initial application from US Energy Source was received by the Board.

Staff has conducted an investigation regarding US Energy Source’s compliance with the Act and the Regulations. Staff has alleged that US Energy Source failed to comply with the registration and renewal requirements under the Act and the Regulations, including N.J.S.A. 48:3-78, N.J.A.C. 14:4-5.1(a)(3), and N.J.A.C. 14:4-5.9.

US Energy Source has responded promptly and effectively to all Staff requests during the investigation. The Company serves residential, commercial, and industrial customers in New Jersey. Staff has determined that no complaints have been filed with the Board or the Division of Consumer Affairs against US Energy Source by any of its New Jersey customers since the Company’s registration was last renewed on April 27, 2016, ending November 12, 2019.

As a result of correspondence and telephone conversations, US Energy Source has submitted an Offer of Settlement (“Offer”), which is attached hereto, regarding its alleged violations. In the Offer, US Energy Source made a monetary offer in the amount of \$900.00 to resolve all issues concerning the violations alleged by Staff.

The Board has reviewed the matter and **HEREBY FINDS** that the Offer represents a reasonable settlement of the alleged violations. Therefore, the Board **HEREBY ACCEPTS** the Offer of Settlement proffered by US Energy Source.

The Board will **CONSIDER** under a separate docket number the initial application filed by US Energy Source on October 17, 2018. The Offer of Settlement is accepted subject to the following conditions:

1. US Energy Source will pay to the State of New Jersey the sum of Nine Hundred Dollars (\$900.00) in full and final settlement of any and all potential violations under the Act and/or the Regulations, which have been or could have been alleged by the Board or the Staff against US Energy Source, up to and including January 7, 2020.
2. This Offer of Settlement shall not relieve US Energy Source or its parents, affiliates, subsidiaries or successors, from any liability for violations, if any, of the Act, the Regulations, or Board Orders that may occur after January 7, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by US Energy Source or its parents, affiliates, subsidiaries, or successors that may now or in the future arranges energy services that is the subject of this Offer of Settlement, shall be deemed to be a second, third, or subsequent violation, as appropriate, pursuant to provisions of N.J.S.A. 48:3-83.
4. US Energy Source will comply with all provisions of the Act and Regulations regarding registration renewal requirements as set forth at N.J.S.A. 48:3-78, N.J.A.C. 14:4-5.8 and N.J.A.C. 14:4-5.9.
5. The execution of this Offer of Settlement shall not be relied upon by US Energy Source or its affiliates, subsidiaries or successors in an attempt to mitigate any future claim that any such entity has violated the terms and conditions of the Act, the Regulations, or any Board Order.

The Board **FURTHER ORDERS** that no later than ten (10) days from the Effective Date of this Order, US Energy Source shall pay the Settlement Payment of Nine Hundred Dollars (\$900.00). Payment must be made out to the **TREASURER, STATE OF NEW JERSEY** and

Sent to: Jonathan Wallace, Interim Chief Fiscal Officer
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
Attn: Audits

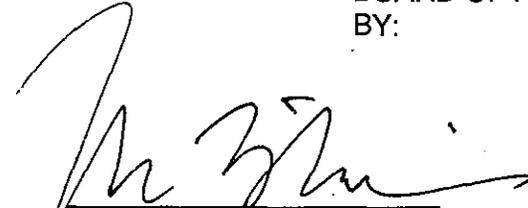
A copy of this Order must be included with the settlement check.

The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses any and all allegations or potential allegations in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting US Energy Source, LLC or a successor company.

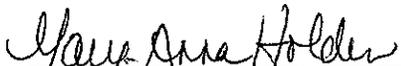
This Order shall be effective on February 15, 2020.

DATED: 2/5/20

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



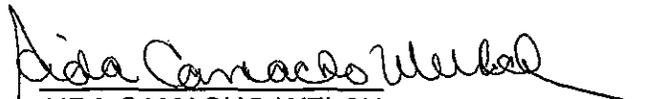
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

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

**IN THE MATTER OF THE ALLEGED FAILURE OF US ENERGY SOURCE, LLC TO
COMPLY WITH CERTAIN PROVISIONS OF N.J.S.A. 48:3-78 ET SEQ., AND THE NEW
JERSEY ADMINISTRATIVE CODE, N.J.A.C. 14:4-1.1 ET SEQ.**

**OFFER OF SETTLEMENT
DOCKET NO. EO20010020**

SERVICE LIST

Board of Public Utilities

44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350

Paul Flanagan, Esq.
Executive Director

Paul.flanagan@bpu.nj.gov

Alice Bator, Director
Division of Audits

Alice.bator@bpu.nj.gov

William Foley, Chief
Division of Audits

William.foley@bpu.nj.gov

Dante Cusi, Auditor 3
Division of Audits

Dante.Cusi@bpu.nj.gov

Darren Erbe, Auditor 1
Division of Audits

Darren.Erbe@bpu.nj.gov

Valencia Hunt, Auditor 2
Division of Audits

Valencia.Hunt@bpu.nj.gov

Lanhi Saldana, Esq.
Office of the Chief Counsel

Lanhi.Saldana@bpu.nj.gov

Biana R. Terpack, President
US Energy Source, LLC

107 Old Forge Road
Millington, NJ 07946

bterpack@usenergysource.com

Pamela Owen, Esq.

Deputy Attorney General

Department of Law and Public Safety

Richard J. Hughes Justice Complex

Public Utilities Section

25 Market Street, P.O. Box 112

Trenton, NJ 08625

Pamela.Owen@law.njoag.gov

Paul Youchak, Esq.

Deputy Attorney General

Department of Law and Public Safety

Richard J. Hughes Justice Complex

Public Utilities Section

25 Market Street, P.O. Box 112

Trenton, NJ 08625

Paul.Youchak@law.njoag.gov

STATE OF NEW JERSEY BOARD OF PUBLIC UTILITIES

OFFER OF SETTLEMENT

IN THE MATTER OF US ENERGY SOURCE, LLC

US Energy Source, LLC. (USES) is a New Jersey Corporation that provides services as an energy agent ("EA"), pursuant to the New Jersey Administrative Code, N.J.A.C. 14:4-5.8; and WHEREAS, as an EA, USES is subject to the jurisdiction of the Board of Public Utilities (the "Board") pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (the "Act") and specifically N.J.S.A. 48:3-78, and the administrative regulations promulgated thereunder at N.J.A.C. 14:4-1.1 et seq. (the "Regulations"); and WHEREAS, N.J.S.A. 48:3-51 defines an "energy agent" as "a person that is duly registered pursuant to the provisions of [the Act], that arranges the sale of retail electricity or electric related services, or retail gas supply or gas related services, between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold"; and WHEREAS, N.J.S.A. 48:3-78(i) and N.J.A.C. 14:4-5(f) require that any person acting as an EA register with the New Jersey Board of Public Utilities ("Board") annually; and WHEREAS, in the event an EA does not submit a renewal application within thirty (30) days before the end of the registration term, pursuant to N.J.A.C. 14:4-5.9(b)-(d), the company must submit a new registration application with Board Staff of the Division of Audit ("Staff") and cease acting as an EA; and WHEREAS, in 2017, USES held an EA registration in the State of New Jersey; and WHEREAS, on April 27, 2017, USES let its New Jersey EA registration lapse; and WHEREAS, on August 7, 2017, USES submitted the renewal Application to the Board to renew its EA registration; and WHEREAS, in August 2018, Board Staff notified USES that the Renewal Application was deficient; and WHEREAS, USES did submit another Initial Application on September, 2018; WHEREAS, USES has responded promptly and effectively to all Staff requests; and WHEREAS, no complaints were filed with the Board or with the Division of Consumer Affairs against USES by any of its New Jersey customers; and WHEREAS, Board Staff has reviewed the initial registration application filed by USES and WHEREAS, USES wishes to amicably resolve the issues raised by Staff without delay; NOW THEREFORE, USES submits this Offer of Settlement, as follows:

1. USES will pay to the State of New Jersey the sum of Nine Hundred Dollars (\$900.00) in full and final settlement of any and all potential violations under the Act and/or Regulations which have been or could have been alleged by the Board or the Staff against USES, up to and including January 7, 2020.
2. At the next regularly scheduled Board agenda meeting, subject to scheduling considerations, Staff agrees to accept this Offer of Settlement and present the EA initial registration applications of USES to the Board for review.
3. This Offer of Settlement shall not relieve the USES or its parents, affiliates, subsidiaries or successors, from any liability for violations, if any, of the Act, the Regulations, or Board Orders that may occur after January 7, 2020.
4. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by the USES or its parents, affiliates, subsidiaries or successors that may now or in the future provide energy services that is the subject of this Offer of Settlement, shall be deemed to be a second, third, or subsequent violation, as appropriate, pursuant to the provisions of N.J.S.A. 48:3-83.

5. USES will comply with all provisions of the Act and Regulations regarding registration renewal requirements as set forth at N.J.S.A. 48:3-78 and N.J.A.C. 14:4- 5.8 and-9.
6. The parties agree that the Nine Hundred Dollar (\$900.00) payment will be made within ten (10) days of the effective date of the Board Order adopting the terms of this Offer of Settlement.
7. The execution of this Offer of Settlement shall neither be deemed an admission by USES or its officers, directors, affiliates, subsidiaries or successors of an violation of the Act, the Regulations, or any Board Order, nor a determination by the Board or Staff that such a violation has occurred, nor shall Board approval of this Offer of Settlement be deemed a determination that a violation has occurred.
8. The execution of this Offer of Settlement shall not be relied upon by USES or its affiliates, subsidiaries or successors in an attempt to mitigate any future claim that any such entity has violated the terms and conditions of the Act, the Regulations, or any Board Order.

US ENERGY SOURCE, LLC

BY: 
Biana R. Terpack
President
Dated: January 7, 2020



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

Joseph L. Fiordaliso
President

Mary-Anna Holden
Commissioner

Dianne Solomon
Commissioner

Upendra Chivukula
Commissioner

Bob Gordon
Commissioner

February 5, 2020

Biana Terpack, President
US Energy Source, LLC
107 Old Forge Road
Millington, NJ 07946

Re: **Energy Agent Initial Registration**
Docket No. EE18101141L

Dear Ms. Terpack:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its February 5, 2020 Agenda meeting, the New Jersey Board of Public Utilities voted to issue the **REGISTRATION** as an Energy Agent to US Energy Source, LLC. The company's registration number is EA-0531.

This registration is effective February 5, 2020 and will expire on February 4, 2021. This registration and the rights thereunder are **Non-Transferable**.

This letter is not an endorsement of, nor is it intended for use in, the marketing promotions of the registrant. Registrants shall comply with all applicable law, including the Electric Discount and Energy Competition Act, which prohibits the unauthorized change of a customer's energy provider and other fraudulent and illegal marketing activities.

If you have any questions, please contact Darren Erbe at (609) 292-1406.

Sincerely,

A handwritten signature in blue ink that reads "Aida Camacho-Welch".

Aida Camacho-Welch
Secretary of the Board

ACW/dee