



Agenda Date: 2/5/20

Agenda Item: 1D

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)
ARA CONSULTING GROUP, LLC D/B/A)
COMMERCIAL POWER 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. EO20010034

Parties of Record:

Michael Mesro, Director of Sales, ARA Consulting Group, LLC d/b/a Commercial Power

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 ARA Consulting Group, LLC d/b/a Commercial Power, ("Commercial Power" or "the Company"), which has been operating as an energy agent ("EA"), private aggregator ("PA), and energy consultant ("EC") in New Jersey.

BACKGROUND

Pursuant to EDECA, the Board has authority and jurisdiction over all EAs, PAs, and ECs 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. A PA is "a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers." See also, N.J.A.C. 14:4-1.2. An EC is "an energy agent that is registered with the Board pursuant to N.J.A.C. 14:4-5.11, and is thereby authorized to receive certain customer information from an LDC through electronic data interchange (EDI)." N.J.A.C. 14:4-1.2 (definition of "energy consultant").

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).

To be eligible to be an EC, a person must meet all the requirements of an EA as well as: (1) have proof that the person is a registered EA, or, alternatively, provide all of the information required under this subchapter to register as an energy agent; (2) have a \$10,000 bond; and (3) documentation that the person maintains an office in New Jersey. N.J.A.C. 14:4-5.11(a)-(b).

Pursuant to N.J.A.C. 14:4-5.8(g) and N.J.A.C. 14:4-5.11(e), the term of an EA, PA, or EC 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) and N.J.A.C. 14:4-5.11(a) set forth the obligation of the EA, PA, or EC to timely file a renewal application. Specifically, the EA, PA, or EC 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, PA, or EC 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, PA, or EC 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, PA, and EC, Commercial Power is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Commercial Power's initial registrations, Registrations Nos. EA-0323, PA-0167, and EC-0103, were effective for a renewed term of October 31, 2016 through October 30, 2017. Commercial Power did not renew these registrations with the Board before they expired on October 30, 2017. The Company continued to arrange energy procurement to customers in New Jersey after expiration. On September 24, 2018, an initial application from Commercial Power was received by the Board.

Staff has conducted an investigation regarding Commercial Power's compliance with the Act and the Regulations. Staff has alleged that Commercial Power 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), N.J.A.C. 14:4-5.9, and N.J.A.C. 14:4-5.11.

Commercial Power 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 Commercial Power by any of its New Jersey customers since the Company's previous renewal on October 31, 2016, ending November 12, 2019. In addition, Commercial Power has continued to maintain a surety bond through October 3, 2019. In accordance with the Company's November 18, 2019 update to the pending initial application, Commercial Power is electing not to reapply for an energy consultant registration.

As a result of correspondence and telephone conversations, Commercial Power has submitted an Offer of Settlement ("Offer"), which is attached hereto, regarding its alleged violations. In the Offer, Commercial Power made a monetary offer in the amount of \$1,450.00 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 Commercial Power.

The Board will **CONSIDER** under a separate docket number the initial application filed by Commercial Power on September 24, 2018. The Offer of Settlement is accepted subject to the following conditions:

1. Commercial Power will pay to the State of New Jersey the sum of One Thousand Four Hundred Fifty Dollars (\$1,450.00) 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 Commercial Power, up to and including January 9, 2020.
2. This Offer of Settlement shall not relieve Commercial Power 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 9, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Commercial Power or its parents, affiliates, subsidiaries, or successors that may now or in the future arrange 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. Commercial Power 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 Commercial Power 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, Commercial Power shall pay the Settlement Payment of One Thousand Four Hundred Fifty Dollars (\$1,450.00). 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

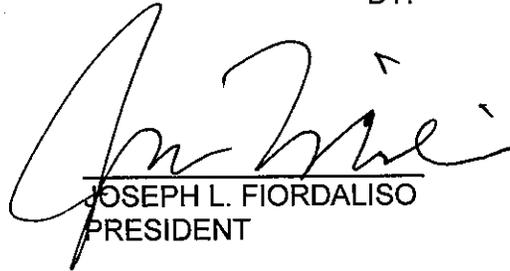
A copy of this Order must be included with the settlement check.

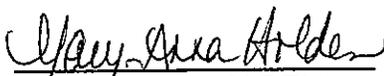
The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses any and all allegations or potential allegations in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting ARA Consulting Group, LLC d/b/a Commercial Power or a successor company.

This Order shall be effective on February 15, 2020.

DATED: 2/5/20

BOARD OF PUBLIC UTILITIES
BY:

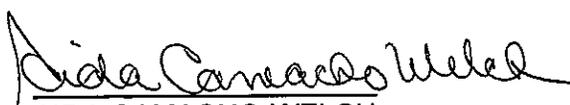

JOSEPH L. FIORDALISO
PRESIDENT


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 ARA CONSULTING GROUP, LLC
D/B/A COMMERCIAL POWER 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. EO20010034**

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

Michael Mesro, Director of Sales
ARA Consulting Group, LLC

d/b/a Commercial Power
151 West Passaic Street

Rochelle Park, NJ 07662

sales@commercialpowerllc.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

151 WEST PASSAIC STREET
ROCHELLE PARK, NJ 07662

PHONE: 1(201) 880-4224

FAX: 1(888) 830-2935

WWW.COMMERCIALPOWERLLC.COM

COMMERCIAL POWER

ELECTRIC & NATURAL GAS SUPPLY

To the New Jersey Board of Public Utilities,

ARA Consulting Group, LLC DBA Commercial Power, is a New Jersey registered LLC, and has been in Good Standing with the State. The primary business we conduct is introducing our clients to third party electric supply. We are an energy agent under New Jersey law and must be licensed and registered. N.J.A.C. 14:4-5.1 et seq.

We did not submit a license renewal in 2017. Following that, we submitted a license application around October 2018, which is on hold pending resolution of the 2017 failure to renew. The employee responsible for filing our licensing changed in 2017, and since we did not operate a lot of business in New Jersey the error was missed. Most of our business has migrated to Mass, Maryland, and New York, due to better rates versus the utility.

Pursuant to New Jersey Regulations, N.J.A.C. 14:4-5.9 and -5.13, ARA Consulting Group is subject to penalties for its registration lapse. ARA Consulting Group offers to pay \$1,450 to settle the violations. Staff for the Board of Public Utilities has agreed to accept the offer and present it and the company's application to the Board for review. The parties agree that the \$1,450 will be paid within 10 days of the effective date of the Board Order that accepts the terms of this offer.

If you require any additional information please do not hesitate to contact me.



Michael Mesro
Director of Sales

1/9/2020

151 WEST PASSAIC STREET
ROCHELLE PARK, NJ 07662

PHONE: 1(201) 880-4224

FAX: 1(888) 830-2935

WWW.COMMERCIALPOWERLLC.COM

COMMERCIAL POWER

ELECTRIC & NATURAL GAS SUPPLY

January 9, 2020

To The New Jersey Board of Public Utilities,

ARA Consulting Group, LLC DBA Commercial Power, has no affiliations with the LDC(s), Third Party Energy Suppliers, or any other affiliates regulated by the New Jersey Board of Public Utilities.

Please let us know if you require any additional information, and we will respond immediately.

Warmest Regards,



Michael Mesro
Director of Sales

1/9/2020



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
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Joseph L. Fiordaliso
President

Mary-Anna Holden
Commissioner

Dianne Solomon
Commissioner

Upendra Chivukula
Commissioner

Bob Gordon
Commissioner

February 5, 2020

Erinn Finnegan, Manager
ARA Consulting Group, LLC
d/b/a Commercial Power
151 West Passaic Street
Rochelle Park, NJ 07662

Re: **Energy Agent and Private Aggregator Initial Registrations**
Docket Nos. EE18091056L and GE18091057L

Dear Ms. Finnegan:

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 **REGISTRATIONS** as an Energy Agent and Private Aggregator to ARA Consulting Group, LLC d/b/a Commercial Power. The company's registration numbers are EA-0622 and PA-0259.

These registrations are effective February 5, 2020 and will expire on February 4, 2021. These registrations 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