



Agenda Date: 02/19/20
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)
SHELL ENERGY NORTH AMERICA (US), L.P. TO)
COMPLY WITH CERTAIN PROVISIONS OF N.J.S.A.)
48:3-79 ET SEQ., AND THE NEW JERSEY)
ADMINISTRATIVE CODE, N.J.A.C. 14:4-1.1 ET SEQ.) ORDER ACCEPTING OFFER
OF SETTLEMENT
DOCKET NO. EO20020095

Party of Record:

Robert R. Reilley, Vice President – Regulatory Affairs on behalf of Shell Energy North America (US), L.P.

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. 48:3-79, and N.J.A.C. 14:4-1.1 et seq. (the “Regulations”) by Shell Energy North America (US), L.P. (“Shell Energy”), who has been operating as a third party supplier to provide gas services to commercial and industrial customers in New Jersey.

BACKGROUND

Pursuant to EDECA, the Board has authority and jurisdiction over all electric power suppliers and gas suppliers (collectively, “third party suppliers” or “TPS”) in New Jersey. Among other things, the Board licenses third party suppliers. N.J.S.A. 48:3-78(a) and N.J.S.A. 48:3-79(a) require that a person obtain electric and gas supplier licenses before providing electric and gas supply services to retail customers in this State. See also, N.J.A.C. 14:4-5.1(d)(1). Moreover, pursuant to N.J.S.A. 48:3-78(b) and N.J.S.A. 48:3-79(b), electric and gas supplier licenses are only valid for one year from the date of issuance unless timely renewals are filed.¹ See also, N.J.A.C. 14:4-5.6 and N.J.A.C. 14:4-5.7.

In addition, pursuant to EDECA, the Board requires that a TPS provide evidence of financial integrity, meet all reliability standards, and maintain a surety bond. See N.J.S.A. 48:3-78(c), N.J.S.A. 48:3-79(c), N.J.S.A. 48:3-79(f), N.J.A.C. 14:4-5.2, and N.J.A.C. 14:4-5.4. Pursuant to the Act, the Board, among other things, is vested with investigative power, N.J.S.A. 48:3-81,

¹ The energy licensing and registration laws were amended by P.L. 2019, c. 100-101. The amendments have an operative date of July 9, 2019.

alternative disciplinary power, N.J.S.A. 48:3-82, and authority to assess civil penalties, N.J.S.A. 48:3-83.

Pursuant to N.J.A.C. 14:4-5.1(d), a person without an electric and/or gas supplier license cannot: (1) provide electric and/or gas supply service or offer to provide electric and/or gas supply service; (2) advertise or market electric and/or gas supply service; (3) enroll customers for electric and/or gas supply service; or (4) contract or otherwise assume legal responsibility for electric and/or gas supply service. Moreover, no TPS may submit a change order to a local distribution company ("LDC") unless the change order is transmitted through an EDI system. See N.J.A.C. 14:4-2.3(g) and N.J.A.C. 14:4-2.3(b).

N.J.A.C. 14:4-5.6(a) and N.J.A.C. 14:4-5.7(a) set forth the obligation of the TPS licensee to timely file a renewal application. Specifically, the licensee must file a complete renewal application at least thirty (30) days before the expiration date of the existing license. If a timely renewal application is not submitted, the initial license expires at the end of its term. N.J.A.C. 14:4-5.7(b). In the event a licensee does not submit a renewal application within thirty (30) days before the end of the license term, pursuant to N.J.A.C. 14:4-5.6(b)-(d), the licensee must submit a new license application within forty-five (45) days after the end of the licensee's initial term, or request an extension of the forty-five (45)-day time period based on extraordinary hardship, during which time the licensee must continue servicing existing customers until directed otherwise by Board Staff of the Division of Audit ("Staff").

As a TPS, Shell Energy is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Shell Energy's initial TPS license, License No. GSL-0060, was effective for a renewal term of May 22, 2018 through May 21, 2019. Shell Energy did not renew this license with the Board before it expired on May 21, 2019. Shell Energy continued to provide gas service to an existing commercial customer in New Jersey. Through administrative inadvertence, Shell Energy did not file a timely application for a renewal of its license. On June 5, 2019, Staff directed Shell Energy to file a new initial license application, as required, rather than a renewal license application. Shell Energy did file such an initial application, which was received by the Board on June 17, 2019.

Staff has conducted an investigation regarding Shell Energy's compliance with the Act and the Regulations. Staff has alleged that Shell Energy failed to comply with the licensing and renewal requirements under the Act and the Regulations, including N.J.S.A. 48:3-78, N.J.S.A. 48:3-79, N.J.A.C. 14:4-5.1, N.J.A.C. 14:4-5.6, and N.J.A.C. 14:4-5.7.

Shell Energy has responded promptly and effectively to all Staff requests during the investigation. Staff has determined that no complaints have been filed with the Board or the Division of Consumer Affairs against Shell Energy by any of its New Jersey customers since Shell Energy obtained its TPS renewal on May 22, 2018. In addition, Shell Energy has at all times, since becoming licensed in New Jersey in 2001, maintained a surety bond as required by the BPU.

As a result of correspondence and telephone conversations, Shell Energy submitted an Offer of Settlement ("Offer") (attached) regarding its alleged violations. In the Offer of Settlement, Shell Energy did not admit to any violations and made a monetary offer in the amount of \$1,000.00 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 Shell Energy. The Board will **CONSIDER** under a separate docket number the initial application filed by Shell Energy on June 17, 2019. The Offer of Settlement is accepted subject to the following conditions:

1. Shell Energy will pay to the State of New Jersey the sum of \$1,000.00 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 Shell Energy, up to and including January 13, 2020.
2. The Offer of Settlement shall not relieve Shell Energy or its parents, affiliates, subsidiaries or successors, from any violations, if any, of the Act, the Regulations, or Board Orders that may occur after January 13, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Shell Energy or its parent, 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 provisions of N.J.S.A. 48:3-83.
4. Shell Energy will comply with all provisions of the Act and Regulations regarding TPS licensing requirements as set forth at N.J.S.A. 48:3-78, N.J.S.A. 48:3-79, and N.J.A.C. 14:4-5.6.
5. The execution of this Offer of Settlement shall not be relied upon by Shell Energy or its affiliates, subsidiaries or successors in any 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, Shell Energy shall pay the Settlement Payment of One Thousand Dollars (\$1,000.00). 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
Post Office Box 350
Trenton, New Jersey 08625-0350
Attn: Audits

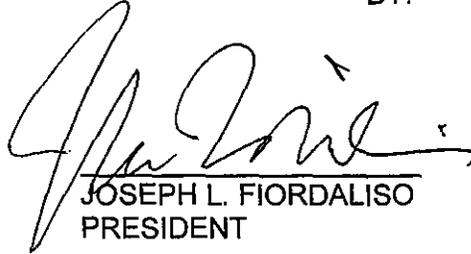
*You must include a copy of this order with your check.

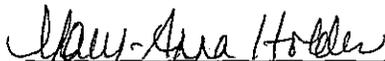
The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses any and all allegations or potential allegations in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting Shell Energy or a successor company.

This Order shall be effective on February 29, 2020.

DATED: 2/19/20

BOARD OF PUBLIC UTILITIES
BY:


JOSEPH L. FIORDALISO
PRESIDENT


MARYANNA 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 SHELL ENERGY NORTH AMERICA
(US), L.P. TO COMPLY WITH CERTAIN PROVISIONS OF N.J.S.A. 48:3-79 ET SEQ.,
AND THE NEW JERSEY ADMINISTRATIVE CODE, N.J.A.C. 14:4-1.1 ET SEQ.**

**OFFER OF SETTLEMENT
DOCKET NO. EO20020095**

SERVICE LIST

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January 13, 2020

**State of New Jersey
Board of Public Utilities
Division of Audits
44 South Clinton Avenue, 3rd floor
Post Office Box 350
Trenton, New Jersey 08625-0350**

Re: Offer of Settlement due to alleged non-compliance of Shell Energy North America (US), L.P. with licensing provisions of the New Jersey Administrative Code, N.J.A.C. 14:4-1.1

WHEREAS, Shell Energy North America (US), L.P. (Shell Energy) is a third-party retail gas supplier (TPS) in New Jersey, pursuant to New Jersey Administrative Code, N.J.A.C.14:4-5.1-5.7, as it provides retail natural gas supply to large commercial and/or industrial customers; and

WHEREAS, as a TPS, Shell Energy is subject to the jurisdiction of the Board of Public Utilities (BPU) which requires retail gas licensees to submit timely renewals within 30 days of the license expiration, pursuant to N.J.A.C. 14:4-5.6; and

WHEREAS, Shell Energy received notification from the BPU on June 5, 2019 that its retail gas license GSL-0060 had expired on 5/21/19; and

WHEREAS, Shell Energy contacted the BPU Audit division in response to Board Staff's electronic communication and proceeded to expedite preparation of a new license application. The new and complete retail gas license application, including fees, was submitted in overnight mail on June 14, 2019, well within the 45-day statutory deadline for resubmittal pursuant to N.J.A.C.14:4-5.6; and

WHEREAS, Shell Energy's retail gas license has been held in good standing since 2001. In addition, the surety bond for \$250,000.00 has remained in effect, with a current expiration date of July, 2020; and

WHEREAS, Shell Energy has not advertised its retail gas supply services, nor has it enrolled any new retail gas customers since May 21, 2019, pursuant to N.J.A.C. 14: 4-5.6(b). In fact, Shell Energy has had only one natural gas retail commercial customer during 2019 that is continuing to receive gas supply service to present day; and

WHEREAS, one element of confusion that has surrounded tracking the effective dates of the New Jersey retail license has been the lack of consistency regarding renewal approval dates. For example, there was a lag of two years that transpired while the Shell Energy license renewal remained pending between its timely July 2014 renewable submittal and its July 2016 approval. However, the improvements in the licensing process made by the NJBPU are indeed noticeable, especially regarding faster renewal approvals in the last few years. In addition, the recently implemented changes in S.604, S.605/P.L. 2019, c. 100-101 should streamline the license renewal process for both licensees and regulators; and

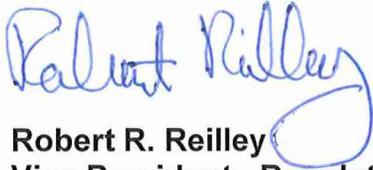
WHEREAS, Shell Energy wishes to amicably resolve the issues raised by Staff without delay;

NOW, THEREFORE, Shell Energy submits this Offer of Settlement, as follows:

- 1. Consistent with our commitment to meeting the NJBPU's licensing compliance standards, and recognizing that the license did lapse, which could be a potential alleged violation of N.J.A.C. 14:4-5.1, Shell Energy proposes paying a fee of \$1,000.00 as a full and final settlement to the NJBPU in order to resolve this matter regarding the inadvertent retail gas license lapse. The single customer that is currently being served sustained no interruption in service, and no market participant has been harmed.**
- 2. If the BPU accepts this offer, Shell Energy respectfully requests that the BPU approve this settlement at the next regularly scheduled Board agenda meeting and approve the initial gas retail license application that is currently pending. Shell Energy has top tier credit ratings from both Standard and Poor's and Moody's credit rating agencies. Shell Energy believes it would be beneficial to all parties, but especially the customers it hopes to serve, if Shell Energy can once again market its services to New Jersey gas customers.**

3. The execution of this Offer of Settlement shall neither be deemed an admission by Shell Energy of any violation of NJBPU regulations, nor a determination by the Board or Staff that a violation has occurred.

Very truly yours,



Robert R. Reilley
Vice President - Regulatory Affairs
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(713) 767-5632
robert.reilley@shell.com



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

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Joseph L. Fiordaliso
President

Mary-Anna Holden
Commissioner

Dianne Solomon
Commissioner

Upendra Chivukula
Commissioner

Bob Gordon
Commissioner

February 19, 2020

Amy Gold
General Manager-Regulatory Affairs
Shell North America (US), L.P.
17 Denison Street, Room 101B
Highland Park, NJ 08904

Re: **Natural Gas Supplier Initial License**
Docket No. GE19060728L

Dear Ms. Gold:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its February 19, 2020 Agenda meeting, the New Jersey Board of Public Utilities (the "Board") voted to issue the Natural Gas Supplier License, number GSL-0214, to Shell North America (US), L.P. Pursuant to signed bill S.605 (2018) [P.L. 2019, c. 101], your license may be renewed without expiring so long as a license renewal fee accompanied by an annual information update form is submitted to the Board within 30 days prior to your annual **anniversary date of February 19th**.

This license is effective February 19, 2020. This license 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 licensee. Licensees shall comply with all applicable laws and regulations, 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,

Aida Camacho-Welch
Secretary of the Board

ACW/dee