



Agenda Date: 2/19/20  
Agenda Item: 1C

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE ALLEGED FAILURE OF )  
BLUE AND SILVER ENERGY CONSULTING LLC )  
D/B/A PRO-STAR ENERGY SERVICES (PSES) 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. EO20010044

**Party of Record:**

**Todd Sherrod**, on behalf of Pro-Star Energy Services (PSES).

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 Energy 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 Pro-Star Energy Services (“PSES”) who 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 certificate is valid for one year from the date of issuance unless timely renewal is filed. See also, N.J.A.C. 14:4-5.9 and 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, PSES is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

### **DISCUSSION AND FINDINGS**

PSES initial registration, Registrations No. EA-0113, was effective for an initial term of April 25, 2018 through April 24, 2019. PSES did not renew this registration with the Board before it expired on April 24, 2019. On June 7, 2019, Staff learned that PSES continued to arrange electric power service as a Registrant to one customer in New Jersey although its original registration had expired and it did not submit a timely renewal application for this registration.

On June 7, 2019, PSES submitted an initial registration application. On August 30, 2019, PSES represented that it was currently serving 1 customer with multiple facilities comprising of 9 commercial and industrial consumers.

Staff conducted an investigation regarding PSES compliance with the Act and the Regulations. Staff alleged that PSES 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. 14:4-5.8, and N.J.A.C. 14:4-5.9.

PSES responded promptly and effectively to all Staff requests during the investigation. PSES serves only commercial and industrial customers in New Jersey. No complaints have been filed with the Board or the Division of Consumers Affairs against PSES by any of its NJ customers in the past 12 months ending January 28, 2019.

As a result of correspondence and telephone conversations with PSES, PSES submitted an Offer of Settlement (“Offer”), which is attached hereto, regarding its alleged violations. In the Offer, PSES admitted to the violation and made a monetary offer in the amount of \$600.00 to resolve all issues concerning the violation 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 PSES.

The Board will **CONSIDER** under a separate docket number the initial application filed by PSES on June 7, 2019. The Offer of Settlement is accepted subject to the following conditions:

1. PSES will pay to the State of New Jersey the sum of Six Hundred Dollars (\$600.00) 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 PSES, up to and including December 20, 2019.
2. This Offer of Settlement shall not relieve PSES 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 December 20, 2019.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by PSES 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. PSES 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 PSES 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, PSES shall pay the Settlement Payment of Six Hundred Dollars (\$600.00). Payment must be made out to the **TREASURER, STATE OF NEW JERSEY** and

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

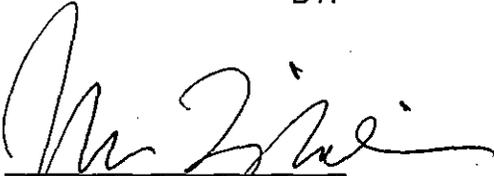
A copy of this Order must be included with the settlement check.

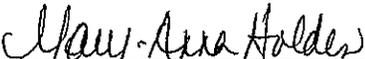
The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses any and all allegations or potential allegations in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting PSES or a successor company.

This Order shall be effective on February 29, 2020.

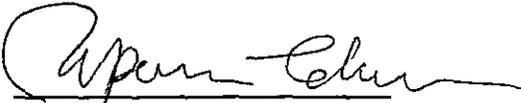
DATED: 2/19/20

BOARD OF PUBLIC UTILITIES  
BY:

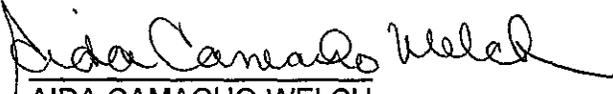
  
JOSEPH L. FIORDALISO  
PRESIDENT

  
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 BLUE AND SILVER ENERGY CONSULTING LLC D/B/A PRO-STAR ENERGY SERVICES (PSES) 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. EO20010044**

**SERVICE LIST**

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Date: December 20, 2019

To: New Jersey Board of Public Utilities (NJBPU)

Fr: Blue & Silver Energy Consulting LLV dba Pro-Star Energy Services (PSES)

Re: NJBPU – PSES Settlement Offer Letter

Pursuant to the request from NJBPU received from Mr. Youchak. PSES would like to offer a settlement regarding the lapse in license coverage as described in our previously submitted Lapse Letter on or about August 30, 2019. In consideration of the relatively short period of time of the lapse, and considering the employee changes PSES would request consideration of a settlement offer of six-hundred dollars (\$600) upon completion of our in-process NJBPU license renewal. PSES has taken multiple notable steps to prevent future license renewal issues like we have experienced this year. We have hired a full time Controller, as well as contracted with a third-party license administrator. As a result of both of these items, timely renewal application will be administered going forward.

Thank you for your consideration. Have a good day,

A handwritten signature in black ink that reads "Todd Sherrod". The signature is fluid and cursive.

Todd Sherrod

V.P. – Operations & Market Analytics



Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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Joseph L. Fiordaliso  
President

Mary-Anna Holden  
Commissioner

Dianne Solomon  
Commissioner

Upendra Chivukula  
Commissioner

Bob Gordon  
Commissioner

February 19, 2020

Todd Sherrod  
V.P. Operations & Market Analytics  
Blue & Silver Energy Consulting LLC  
d/b/a Pro-Star Energy Services  
8000 Warren Pkwy Ste 200  
Frisco, TX 75034

Re: **Energy Agent Initial Registration**  
Docket No. EE19060707L

Dear Mr. Sherrod:

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 issued the **REGISTRATION** as an Energy Agent to Blue & Silver Energy Consulting LLC d/b/a Pro-Star Energy Services. Your registration number is EA-0572.

The enclosed registration is effective February 19, 2020 and will expire on February 18, 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 Dante Cusi at (609) 292-1356.

Sincerely,

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

Aida Camacho-Welch  
Secretary of the Board

ACW/dec  
Encl.(s)