



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE ALLEGED FAILURE OF)
SABLE POWER & GAS, 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)

ORDER ACCEPTING)
OFFER OF SETTLEMENT)

DOCKET NO. EO20050354)

Party of Record:

Kris Culpepper, Managing Partner, Sable Power & Gas, 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 Sable Power & Gas, LLC (“Sable” 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 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, disciplinary powers, alternative disciplinary powers, and with the authority to assess civil penalties. See N.J.S.A. 48:3-80 et seq. 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, Sable is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Sable’s initial registration, Registration No. EA-0227, was effective for an initial term of June 21, 2013 through June 20, 2014. It was subsequently renewed for the next two years. Sable did not submit a timely renewal application for this registration with the Board before it expired on June 16, 2016. Staff notified Sable by e-mail on February 20, 2020 that its energy agent registration had expired on June 16, 2016. Staff directed Sable to file a new initial registration application, as required, rather than a renewal registration application. Sable submitted an initial registration application on March 11, 2020.

On April 24, 2020, Sable continued to provide service as a Registrant to two customers that were outstanding as of June 16, 2016. Sable did not add or pursued any new customers or actively marketed their products. Sable’s lapse was initially blamed to one employee responsible for the renewal who took a leave of absence due to a health issue. Secondly, during the transition of the responsibility to another staff, Sable inadvertently overlooked the requisite filling for the renewal.

Staff conducted an investigation regarding Sable compliance with the Act and the Regulations. Staff alleged that Sable 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.

Sable responded promptly and effectively to all Staff requests during the investigation. Sable serves only commercial and industrial customers in New Jersey. No complaints have been filed with the Board or the Division of Consumers Affairs against Sable by any of its NJ customers in the past 12 months ending 4/27/2020.

As a result of correspondence and telephone conversations with Sable, Sable submitted an Offer of Settlement (“Offer”), which is attached hereto, regarding its alleged violations. In the Offer, Sable admitted to the violation and made a monetary offer in the amount of \$4,400.00 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 Sable.

The Board will **CONSIDER** under a separate docket number the initial application filed by Sable on March 11, 2020. The Offer of Settlement is accepted subject to the following conditions:

1. Sable will pay to the State of New Jersey the sum of Four Thousand and Four Hundred Dollars (\$4,400.00) 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 Sable, up to and including May 12, 2020.
2. This Offer of Settlement shall not relieve Sable 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 May 12, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Sable 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. Sable 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 Sable 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, Sable shall pay the Settlement Payment of Four Thousand and Four Hundred Dollars (\$4,400.00). 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
Post Office Box 350
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 Sable or a successor company.

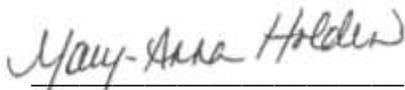
This Order shall be effective on June 20, 2020.

DATED: June 10, 2020

BOARD OF PUBLIC UTILITIES
BY:



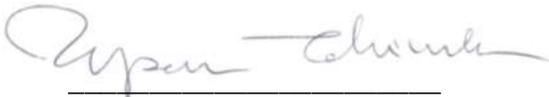
JOSEPH L. FIORDALISO
PRESIDENT



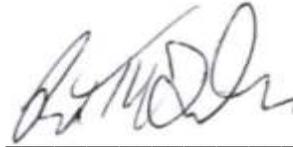
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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OFFER OF SETTLEMENT

DOCKET NO. EO20050354

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Commissioner

Upendra Chivukula
Commissioner

June 10, 2020

Bob Gordon
Commissioner

Kris Culpepper
Managing Partner
Sable Power & Gas, LLC
800 Wilcrest Dr. Suite 301
Houston, TX 77042

Re: **Energy Agent Initial Registration**
Docket No. EE20030234L

Dear Mr. Culpepper:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its June 10, 2020 Agenda meeting, the New Jersey Board of Public Utilities voted to issue the **REGISTRATION** as an Energy Agent to Sable Power & Gas, LLC. The company's registration number is EA-0645

This registration is effective June 10, 2020 and will expire on June 9, 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