



Agenda Date: 7/2/20
Agenda Item: 1A

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/

AUDITS

IN THE MATTER OF THE ALLEGED FAILURE OF)
CHOOSE ENERGY, INC. 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. EO20050367

Parties of Record:

Jeff Mumford, Vice President & General Manager, Choose Energy, Inc.

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 Choose Energy, Inc., (“Choose Energy” or “the company”) who has been operating as a private aggregator (“PA”) in New Jersey.

BACKGROUND

Pursuant to EDECA, the Board has authority and jurisdiction over all EAs and PAs 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.

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) and N.J.A.C. 14:4-5.11(e), the term of an EA or PA, 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 or PA to timely file a renewal application. Specifically, the EA or PA 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 or PA 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 or PA 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 and PA, Choose Energy is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Choose Energy’s initial registration, Registrations No. PA-0119, was effective for a renewed term of December 19, 2012 through December 18, 2013. Choose Energy did not renew this registration with the Board before it expired on December 18, 2013. The company continued to arrange energy procurement to customers in New Jersey after expiration. On March 26, 2018, an initial application from Choose Energy was received by the Board.

Staff has conducted an investigation regarding Choose Energy’s compliance with the Act and the Regulations. Staff has alleged that Choose Energy 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.

Choose Energy 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 Choose Energy by any of its New Jersey customers in the past 12 months.

As a result of correspondence and telephone conversations, Choose Energy has submitted an Offer of Settlement (“Offer”), which is attached hereto, regarding its alleged violations. In the Offer, Choose Energy made a monetary offer in the amount of Eight Thousand And One Hundred Dollars (\$8,100.00) 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 Choose Energy.

The Board will **CONSIDER** under a separate docket number the initial application filed by Choose Energy on March 26, 2018. The Offer of Settlement is accepted subject to the following conditions:

1. Choose Energy will pay to the State of New Jersey the sum of Eight Thousand And One Hundred Dollars (\$8,100.00) 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 Choose Energy, up to and including April 29, 2020.
2. This Offer of Settlement shall not relieve Choose Energy 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 April 29, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Choose Energy 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. Choose Energy 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 Choose Energy 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, Choose Energy shall pay the Settlement Payment of Eight Thousand And One Hundred Dollars (\$8,100.00). 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

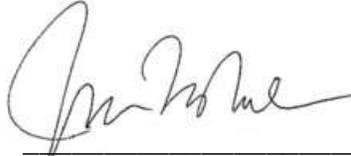
A copy of this Order must be included with the settlement check.

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 Choose Energy, Inc. or a successor company.

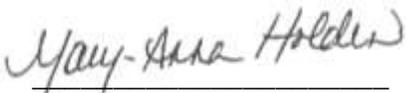
This Order shall be effective on July 12, 2020.

DATED: July 2, 2020

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

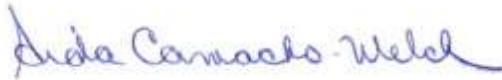


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

**IN THE MATTER OF THE ALLEGED FAILURE OF CHOOSE ENERGY, INC. 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. EO20050367

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*Revised

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Governor

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Carmen D. Diaz
Acting Board Secretary
(609) 913-6241

February 13, 2023

Jeff Mumford
Vice President & General Manager
Choose Energy, Inc.
1101 Red Ventures Drive
Fort Mill, SC 29707

Re: **Energy Agent Initial Registration**
Dkt. No. EE18030340L

Dear Mr. Mumford:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its July 2, 2020 Agenda meeting, the New Jersey Board of Public Utilities voted to issue the **REGISTRATION** as an Energy Agent to Choose Energy, Inc. Unfortunately, due to software updates, our database generated a soft error when issuing your registration number. The company's new Energy Agent registration number is **EA-0664**.

This registration is effective July 2, 2020. 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) 913-6260.

Sincerely,

A handwritten signature in cursive script that reads "Carmen D. Diaz".

Carmen D. Diaz
Acting Board Secretary

CDD/de