



Agenda Date: 3/27/20
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/

ENERGY

IN THE MATTER OF THE ALLEGED FAILURE OF)
M&L SERVICES PROVIDERS LLC D/B/A DIAMOND) ORDER ACCEPTING OFFER
ENERGY TO COMPLY WITH CERTAIN) OF SETTLEMENT
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. EO20030193

Party of Record:

Moishe Ungarischer, Owner, M&L Services Providers LLC d/b/a Diamond Energy

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 M&L Services Providers LLC d/b/a Diamond Energy, (“Diamond Energy” 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 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) 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, Diamond Energy is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Diamond Energy’ initial registration, Registration No. EA-0310, was effective for an initial term of February 11, 2015 through February 10, 2016. Diamond Energy did not renew this registration with the Board before it expired on February 10, 2016. The Company continued to arrange energy procurement to customers in New Jersey. On November 13, 2017, the Board received an initial application from Diamond Energy.

Staff has conducted an investigation regarding Diamond Energy’s compliance with the Act and the Regulations. Staff has alleged that Diamond 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), and N.J.A.C. 14:4-5.9.

Diamond Energy has responded promptly and effectively to all Staff requests during the investigation. The Company serves commercial customers in New Jersey. Staff has determined that no complaints have been filed with the Board or the Division of Consumer Affairs against Diamond Energy by any of its New Jersey customers since the Company’s registration was issued on February 11, 2015 through February 25, 2020.

As a result of correspondence and telephone conversations, Diamond Energy has submitted an Offer of Settlement (“Offer”), which is attached hereto, regarding its alleged violations. In the Offer, Diamond Energy made a monetary offer in the amount of \$1,350.00 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 Diamond Energy.

The Board will **CONSIDER** under a separate docket number the initial application filed by Diamond Energy on November 13, 2017. The Offer of Settlement is accepted subject to the following conditions:

1. Diamond Energy will pay to the State of New Jersey the sum of One Thousand Three Hundred Fifty Dollars (\$1,350.00) 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 Diamond Energy, up to and including February 25, 2020.
2. This Offer of Settlement shall not relieve Diamond 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 February 25, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Diamond 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. Diamond 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 Diamond 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, Diamond Energy shall pay the Settlement Payment of One Thousand Three Hundred Fifty Dollars (\$1,350.00). 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
Post Office Box 350
Trenton, New Jersey 08625-0350
Attn: Audits

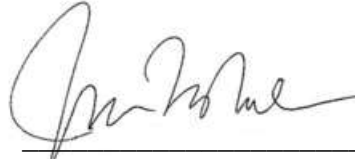
A copy of this Order must be included with the settlement check.

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 Diamond Energy or a successor company.

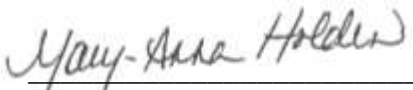
This Order shall be effective on April 6, 2020.

DATED: March 27, 2020

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

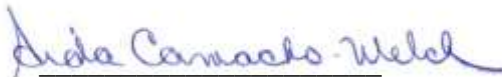


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

**IN THE MATTER OF THE ALLEGED FAILURE OF M&L SERVICES PROVIDERS LLC
D/B/A DIAMOND ENERGY 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. EO20030193**

SERVICE LIST

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Mary-Anna Holden
Commissioner

Dianne Solomon
Commissioner

Upendra Chivukula
Commissioner

Bob Gordon
Commissioner

March 27, 2020

Moishe Ungarischer, Owner
M&L Services Providers LLC
d/b/a Diamond Energy
134 Leonard Street
Lakewood, New Jersey 08701

Re: **Energy Agent Initial Registration**
Docket No. EE17111196L

Dear Mr. Ungarischer:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its March 27, 2020 Agenda meeting, the New Jersey Board of Public Utilities voted to issue the **REGISTRATION** as an Energy Agent to M&L Services Providers LLC d/b/a Diamond Energy. The company's registration number is EA-0539

This registration is effective March 27, 2020 and will expire on March 26, 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 Jehvson Espiritu at (609) 292-0744.

Sincerely,

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

Aida Camacho-Welch
Secretary of the Board

ACW/joe