



Agenda Date: 5/19/15
Agenda Item: 1B

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 STERLING PLANET INC.'S)
REQUEST FOR A CLEAN POWER MARKETER)
LICENSE RENEWAL)
)
) DOCKET NO. EP14080875L

Parties of Record:

Brittain Valdez for Sterling Planet, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

The Board must register all energy agents and consultants, and the Board must license all third party electric power suppliers and gas suppliers ("TPS"). N.J.S.A. 48:3-78 to-79. The Board also issues licenses to clean power marketers.¹ An electric power supplier, gas supplier, or clean power marketer license shall be valid for one year from the date of issue, except where a licensee has submitted a complete renewal application at least 30 days before the expiration of the existing license, in which case the existing license shall not expire until a decision has been reached upon the renewal application. N.J.A.C. 14:4-5.6(a); N.J.A.C. 14:4-5.7(a). Annually thereafter, licensed electric power suppliers, gas suppliers, and clean power marketers, are required to timely renew their licenses in order to continue to do business in New Jersey. N.J.A.C. 14:4-5.6 to -5.7; N.J.A.C. 14:4-5.9.

When a renewal application is received, Staff reviews the licensee's corporate information, financial information, and any new residential marketing materials and/or contracts for compliance with N.J.A.C. 14:4-5.7, "Application for renewal of an electric power supplier, gas supplier or clean power marketer license," as well as for compliance with the requirements in N.J.S.A. 48:3-49 et seq. ("EDECA") in general.

N.J.A.C. 14:4-5.6 and 14:4-5.7 detail the time frames for the submission of the new renewal application and the ramifications if the renewal application is not timely filed – the electric power

¹ In re the Voluntary Green Power Choice Program, Docket No. EO050100001 (Order dated April 13, 2005).

suppliers, gas suppliers, and clean power marketers must stop all advertising and marketing activities, as well as enrollment of new customers pending the filing of a new application within 45 days.

Despite the clear regulatory language regarding the term of the license and the consequences of failing to file a timely renewal application, Sterling Planet, Inc. ("Sterling"), one of two currently licensed Clean Power Marketers in New Jersey, allowed its license to expire on April 28, 2014 and did not submit a renewal application until July 28, 2014, 90 days after the expiration date. Sterling has requested that the Board waive the provisions of N.J.A.C. 14:4-5.6(a) and 5.7(a), which require that Sterling file its renewal application at least 30 days before the expiration date of its existing license, and instead that the Board process its application as if it had been timely filed.

In 2014, because there were a number of renewals filed late by electric and gas third party suppliers, by Order dated October 22, 2014, the Board authorized staff to process late applications filed prior to December 31, 2014 as if those applications had been filed on time. The two Clean Power Marketers that are currently licensed in New Jersey were not included in the Order although they are subject to most of the same licensing rules as the TPS.

Staff recommends that the Board approve Sterling's request for a waiver under N.J.A.C. 14:1-1.2(b)(1) as in the public interest. In its renewal application, Sterling disclosed that it currently serves a total of 2,829 customers, 2,782 residential and 47 commercial, and allowing the renewal application to be processed as if it were timely filed will prevent a disruption of service to these customers which could otherwise result if Sterling were required to cease doing business until it files a new application and that application is approved. As a Clean Power Marketer, Sterling buys renewable energy certificates ("RECs") on behalf of its customers to support the development of clean energy. To require Sterling to completely cease doing business could create confusion as to the ownership and trading rights to these RECs. Staff contacted both the Board's Division of Customer Assistance and the Division of Consumer affairs, and was advised that there have been no complaints against Sterling within the last twelve months.

Finding that Sterling has otherwise complied with the rules and statutes cited above, Staff is recommending approval of the renewal application of Sterling Power, Inc. as a Clean Power Marketer as if the renewal application had been filed within time.

DISCUSSION

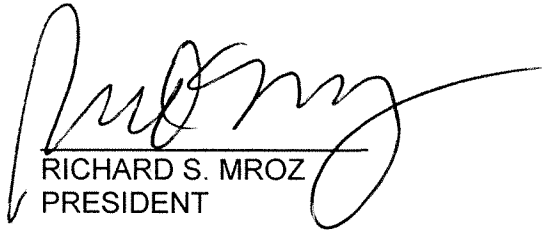
The Board has reviewed this matter and, based on the information provided to the Board, **FINDS** that Sterling Planet, Inc. has filed for its license renewal after the expiration date of its license. The Board may, in special cases and for good cause shown, permit deviation from its rules. N.J.A.C. 14:1-1.2(b)(1). Under the first prong of the waiver test the Board considers whether the request supports the general purpose and intent of the rules. In this instance, the Board's rules governing licensing are designed to ensure that TPS and Clean Power Marketers have the financial capability to satisfy their obligations under their contracts, and that they adhere to the Board's consumer protection standards. Based on the information already provided to Staff, the Board is satisfied that Sterling qualifies to continue to operate as a Clean Power Marketer, providing an enhanced renewable energy product to customers who continue to receive their electric supply through Basic Generation Service. The second prong of the waiver test requires that the Board also consider whether full compliance with the rules would adversely affect the interest of the public. Clearly, the interest of the public in the promotion of

clean energy would not be served by requiring Sterling to cease serving its more than 2,800 customers until a new application is processed since there is only one other provider currently in this market.

Therefore, the Board **GRANTS** Sterling Planet, Inc. a waiver of the time frame for license renewal under N.J.A.C. 14:4-5.6 and 5.7, and **HEREBY APPROVES** the renewal of its license as a Clean Power Marketer.

DATED: *May 19, 2015*


BOARD OF PUBLIC UTILITIES
BY:

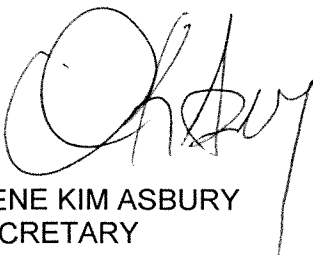

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

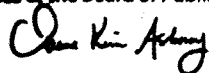

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 STERLING PLANET, INC.'s CLEAN POWER MARKETER
LICENSE RENEWAL

DOCKET NO. EP14080875L

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