



Agenda Date: 9/23/16
Agenda Item: 1A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

AUDITS

IN THE MATTER OF UNITED METRO ENERGY CORP.)
d/b/a UNITED METRO ENERGY SERVICES CORP.)
)
) ORDER TO SHOW CAUSE
) DOCKET NO. EO16090855

Party of Record:

Anthony Valente, Vice President, General Counsel, Secretary, United Metro Energy Services Corp.

BY THE BOARD:

The Board of Public Utilities ("Board"), by way of an Order to Show Cause, says:

1. The Board, pursuant to the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq., specifically, N.J.S.A. 48:3-78 and 48:3-79, has authority and jurisdiction over all electric power suppliers and gas suppliers (collectively, "third party suppliers" or "TPS") in New Jersey. Among other things, the Board licenses third party suppliers. N.J.S.A. 48:3-78 and N.J.S.A. 48:3-79.
2. EDECA defines "gas supplier" as "a person that is duly licensed pursuant to the provisions of [EDECA] to offer and assume the contractual and legal obligation to provide gas supply service to retail customers. . . ." N.J.S.A. 48:3-51. See also, N.J.A.C. 14:4-1.2. EDECA further defines "gas supply service" as "the provision to customers of the retail commodity of gas. . . ." N.J.S.A. 48:3-51. See also, N.J.A.C. 14:4-1.2.
3. Pursuant to N.J.S.A. 48:3-79(a), "a person shall not offer to provide or provide gas supply service to retail customers in this State unless that person has applied for and obtained from the board, a gas supplier license."
4. Pursuant to N.J.S.A. 48:3-79(b), "a license shall expire one year from the date of issuance unless the holder thereof pays to the board, within 30 days before the expiration date, a renewal fee accompanied by a renewal application on a form prescribed by the board." See also, N.J.A.C. 14:4-5.6.

5. The Board, pursuant to EDECA, is vested with the authority to adopt rules and regulations concerning, among other things, licensing standards, safety and service quality standards, and consumer protection standards. Specifically, the Board requires that a TPS provide evidence of financial integrity, meet all reliability standards and maintain a surety bond. See, N.J.S.A. 48:3-79(c), N.J.S.A. 48:3-79(f), N.J.A.C. 14:4-5.2, and N.J.A.C. 14:4-5.3.
6. 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.
7. Pursuant to N.J.S.A. 48:3-80(a)(1), whenever it shall appear to the Board that a gas supplier has engaged in, is engaging in, or is about to engage in any act or practice that is in violation of EDECA, the Board may, among other things, require any person to file a statement or written report under oath as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of EDECA.
8. Pursuant to N.J.S.A. 48:3-81(a)(8), the Board may revoke, suspend, or refuse to issue or renew any gas supplier's license at any time upon a finding that the supplier has violated or failed to comply with the provisions of any law or regulation or order adopted by the Board.
9. Pursuant to N.J.S.A. 48:3-82(a)(3), the Board may order that any person violating any provision of EDECA or any rule adopted pursuant to EDECA cease and desist from future violations thereof.
10. N.J.S.A. 48:3-83 provides that "any person who violates any provision of [EDECA] shall be liable for a civil penalty of not more than \$5,000 for the first offense, except for a violation of [N.J.S.A. 48:3-86] for which a person shall be liable for a civil penalty of not more than \$10,000 for the first offense, and not more than \$25,000 for the second and each subsequent offense, for each day that the violation continues."
11. Pursuant to N.J.A.C. 14:2-3(b), no TPS may submit a change order to a local distribution company ("LDC") unless the change order is transmitted through an Electronic Data Interchange ("EDI") system. See also, N.J.A.C. 14:4-2.3(g).
12. Pursuant to N.J.A.C. 14:4-5.1(d), a person without a gas supplier license cannot: (1) provide gas supply service or offer to provide gas supply service; (2) advertise or market gas supply service; (3) enroll customers for gas supply service; or (4) contract or otherwise assume legal responsibility for gas supply service.
13. Pursuant to N.J.A.C. 14:4-5.2, to be eligible for a gas supplier license, the person must, among other things, maintain an office in New Jersey.
14. Pursuant to N.J.A.C. 14:4-5.3, to be eligible for a gas supplier license, the person must file a complete application with the Board with the applicable fee.

15. Pursuant to N.J.A.C. 14:4-5.4, a gas supplier must also maintain a \$250,000 surety bond for the duration of its license.
16. Pursuant to N.J.A.C. 14:4-5.13, the Board can deny, suspend, or revoke a license, impose financial penalties, and prohibit acceptance of new customers. 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). See also, N.J.A.C. 14:4-2.8.
17. Pursuant to N.J.A.C. 14:8-2.11(a), each TPS must file an annual Renewal Portfolio Standards ("RPS") report with the Board.
18. Pursuant to N.J.S.A. 14A:13-20, "[n]o foreign corporation [can carry] on any activity or [own] or [maintain] any property in [New Jersey] which has not obtained a certificate of authority to do business in this State."
19. On or about July 1, 2016, Public Service Energy & Gas Company ("PSE&G") informed Board Staff that it was concerned that a TPS called Metro Energy Group LLC ("Metro") failed to maintain its Electronic Data Interchange ("EDI"). Because PSE&G was unable to contact Metro, PSE&G made an outreach to Board Staff to determine the licensing status of Metro.
20. Upon a review of Board records, Board Staff determined that Metro's Gas Supplier License No. GSL-0041 expired on February 9, 2012 and its surety bond expired on March 17, 2012.
21. Upon an investigation initiated by Board Staff, Board Staff learned that an entity called United Metro Energy Services Corp. ("United") had acquired Metro.
22. United Metro Energy Corp., d/b/a United Metro Energy Services Corp., is a Delaware corporation with a mailing address of 500 Kingsland Avenue, Brooklyn, New York 11222.
23. Upon a review of Board records, Board Staff determined that United does not possess a gas supplier license.
24. On or about July 1, 2016, Board Staff contacted United to confirm whether it was actively serving customers and the number of customers it serves.
25. In its response, United's counsel confirmed that United was currently serving three customers in New Jersey.
26. United's counsel indicated that United had acquired the assets of a company called Metro Energy Group LLC ("Metro") through bankruptcy.
27. United's counsel indicated that Metro had filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court, Eastern District of New York on September 27, 2012, bearing Docket No. 1-12-46917-ess. The Bankruptcy Court approved the sale of Metro's assets to United on February 15, 2013.

28. To date, United has not filed an application to become a gas supplier in New Jersey.
29. To date, United has not provided a surety bond to the Board.
30. To date, United has not established its eligibility to be a gas supplier.
31. Based upon further investigation, Board Staff believes that United has served and is currently serving two residential customers and one commercial customer who were previously served by Metro.
32. Based upon further investigation, United's New Jersey business charter has been voided and United has not applied for reinstatement.
33. Based upon the above, the Board has reason to believe that United
 - a. has been operating without a valid license as required by N.J.S.A. 48:3-79 and N.J.A.C. 14:4-5.1;
 - b. does not have an active EDI account;
 - c. has not provided a valid New Jersey address as required by N.J.A.C. 14:4-5.2;
 - d. has not established its eligibility to be a gas supplier as required by N.J.A.C. 14:4-5.2;
 - e. has not submitted a timely and complete application with the applicable fee as required by N.J.A.C. 14:4-5.3; N.J.A.C. 14:4-5.6; and N.J.A.C. 14:4-5.7;
 - f. does not have a valid surety bond as required by N.J.A.C. 14:4-5.4;
 - g. is not authorized to conduct business in New Jersey pursuant to N.J.S.A. 14A:13-20.

Therefore, the Board **HEREBY ORDERS** United to **SHOW CAUSE** before the Board, based upon its written submissions, why a Final Order should not be issued:

- a. Requiring Respondents to cease all enrollment of new customers, cease all marketing practices in New Jersey, and return all customers to the gas distribution companies ("GDCs");
- b. Assessing civil penalties of \$5,000 per day for violations of:
 - i. N.J.S.A. 48:3-79;
 - ii. N.J.A.C. 14:4-5.1;
 - iii. N.J.A.C. 14:4-5.2;
 - iv. N.J.A.C. 14:4-5.3;
 - v. N.J.A.C. 14:4-5.4;
 - vi. N.J.A.C. 14:4-5.6;
 - vii. N.J.A.C. 14:4-5.7; and
 - viii. N.J.S.A. 14A:13-20
- c. Imposing other restraints as the Board deems necessary.

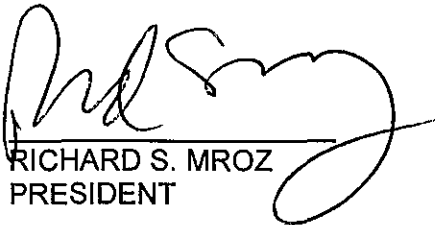
It is **FURTHER ORDERED** that United is to file within twenty (20) days of the effective date of this Order to Show Cause (1) an answer to the Order to Show Cause in accordance with N.J.A.C. 1:1-6.1 and N.J.A.C. 14:1-4.1 et seq., and (2) any exhibits which United intends to rely upon in opposition to the relief sought in this Order to Show Cause, by serving the same upon the Secretary of the Board, 44 South Clinton Avenue, 3rd Floor, P.O. Box 350, Trenton, New Jersey 08625-0350 and Deputy Attorney General Emma Yao Xiao, Department of Law and Public Safety, Division of Law, 124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101. Failure to file an answer will result in a Final Order being issued by the Board consistent with the relief sought herein.

It is **FURTHER ORDERED** that any interested party may file a brief in this matter no later than thirty (30) days of the effective date of this Order to Show Cause, by serving the same upon the Secretary of the Board, 44 South Clinton Avenue, 3rd Floor, P.O. Box 350, Trenton, New Jersey 08625-0350 and Deputy Attorney General Emma Yao Xiao, Department of Law and Public Safety, Division of Law, 124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101.

This Order shall be effective on October 3, 2016.

DATED: 9/23/16

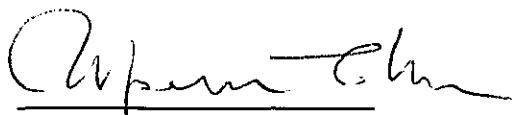
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

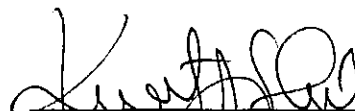

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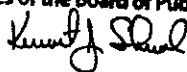

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:


KENNETH J. SHEEHAN
ACTING 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 UNITED METRO ENERGY CORP. d/b/a UNITED METRO ENERGY
SERVICES CORP.

DOCKET NO. EO16090855

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