



Agenda Date: 2/5/20

Agenda Item: 1A

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

ENERGY

IN THE MATTER OF THE ALLEGED FAILURE OF)
APOLLO EDISON, 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.) DOCKET NO. EO20010014

Parties of Record:

Kenneth S. Antos, Principal, Apollo Edison 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 Apollo Edison, LLC, ("Apollo Edison" or "the Company"), which has been operating as an energy agent ("EA"), private aggregator ("PA), and energy consultant ("EC") in New Jersey.

BACKGROUND

Pursuant to EDECA, the Board has authority and jurisdiction over all EAs, PAs, and ECs 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. An EC is "an energy agent that is registered with the Board pursuant to N.J.A.C. 14:4-5.11, and is thereby authorized to receive certain customer information from an LDC through electronic data interchange (EDI)." N.J.A.C. 14:4-1.2 (definition of "energy consultant").

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).

To be eligible to be an EC, a person must meet all the requirements of an EA as well as: (1) have proof that the person is a registered EA, or, alternatively, provide all of the information required under this subchapter to register as an energy agent; (2) have a \$10,000 bond; and (3) documentation that the person maintains an office in New Jersey. N.J.A.C. 14:4-5.11(a)-(b).

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, PA, or EC 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/EC to timely file a renewal application. Specifically, the EA, PA, or EC 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, PA, or EC 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, 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. Pursuant to N.J.A.C. 14:4-5.1(f) and -5.9(b)(3), a person without a valid EA, PA, or EC 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, PA, and EC, Apollo Edison is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Apollo Edison's initial registrations, Registrations Nos. EA-0517, PA-0221, and EC-0168, were effective for an initial term of August 29, 2018 through August 28, 2019. Apollo Edison did not renew these registrations with the Board before they expired on August 28, 2019. The Company continued to arrange energy procurement to a customer in New Jersey prior to receiving the Board's notice of the expiration of Apollo Edison's registration on September 12, 2019. The Company then immediately ceased all New Jersey activity. On October 11, 2019, an initial application from Apollo Edison was received by the Board.

Staff has conducted an investigation regarding Apollo Edison's compliance with the Act and the Regulations. Staff has alleged that Apollo Edison 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.

Apollo Edison 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 Apollo Edison by any of its New Jersey customers since being initially issued registrations on August 29, 2018, ending November 12, 2019. In addition, Apollo Edison has continued to maintain a surety bond from April 18, 2018 through April 17, 2020.

As a result of correspondence and telephone conversations, Apollo Edison has submitted an Offer of Settlement ("Offer"), which is attached hereto, regarding its alleged violations. In the Offer, Apollo Edison made a monetary offer in the amount of \$600.00 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 Apollo Edison.

The Board will **CONSIDER** under a separate docket number the initial application filed by Apollo Edison on October 11, 2019. The Offer of Settlement is accepted subject to the following conditions:

1. Apollo Edison will pay to the State of New Jersey the sum of Six Hundred Dollars (\$600.00) 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 Apollo Edison, up to and including December 31, 2019.
2. This Offer of Settlement shall not relieve Apollo Edison 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 December 31, 2019.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Apollo Edison or its parents, affiliates, subsidiaries, or successors that may now or in the future arrange 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. Apollo Edison 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 Apollo Edison 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, Apollo Edison shall pay the Settlement Payment of Six Hundred Dollars (\$600.00). 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
Trenton, New Jersey 08625-0350
Attn: Audits

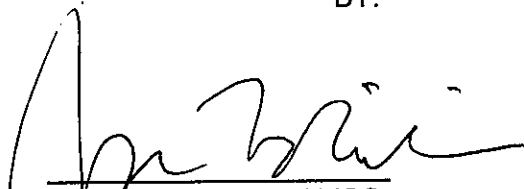
A copy of this Order must be included with the settlement check.

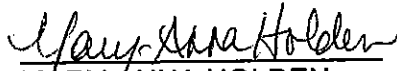
The Board's acceptance of the Offer of Settlement is for purposes of this proceeding only, addresses any and all allegations or potential allegations in the Offer of Settlement, and shall not be construed as limiting the Board's authority in any other matter affecting Apollo Edison LLC or a successor company.

This Order shall be effective on February 15, 2020.

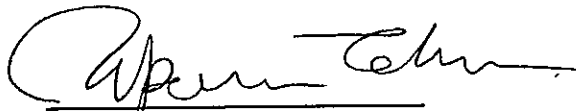
DATED: 2/5/20

BOARD OF PUBLIC UTILITIES
BY:

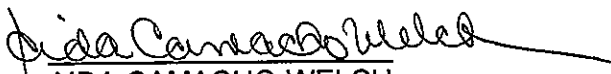

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PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER


ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
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 THE ALLEGED FAILURE OF APOLLO EDISON, 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.

**OFFER OF SETTLEMENT
DOCKET NO. EO20010014**

SERVICE LIST

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December 31, 2019

The New Jersey Board of Public Utilities:

Apollo Edison LLC (Apollo Edison) is a Pennsylvania-based, Delaware Limited Liability Company. Apollo Edison engages customers in various energy management services including energy supply consulting, demand response programs, and energy efficiency programs throughout the United States.

Apollo Edison holds licenses in several states to engage customer in electricity and natural gas supply brokering and consulting. On August 28, 2018, Apollo Edison was granted approval as an Energy Agent and Consultant by the New Jersey Board of Public Utilities.

Apollo Edison performed limited active marketing in New Jersey over the 12-month period since approved. Apollo Edison also failed to realize that a renewal application was required to be filed 30 days prior to August 28, 2019. On September 12, 2019, Apollo Edison was notified by the Division of Audits of this oversight. Upon notification, Apollo Edison diligently worked to complete a new application that was submitted on October 11, 2019. Pursuant to New Jersey Regulations, N.J.A.C. 14:4-59 and -5.13, Apollo Edison is subject to penalties for its registration lapse.

Apollo Edison will pay \$600 in full and final settlement of the violations. The parties agree that the \$600 payment will be made within 10 days of the effective date of the Board Order that accepts this offer of settlement. Apollo Edison is requesting the new application to be deemed complete and placed on the agenda for the next available Board Meeting.

Apollo Edison is looking forward to conducting energy business activities in New Jersey and file renewal applications in a timely manner going forward. Thank you in advance for your consideration!

Kind Regards,

A handwritten signature in black ink that reads "Kenneth S. Antos".

Kenneth S. Antos
Principal



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Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

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Upendra Chivukula
Commissioner

Bob Gordon
Commissioner

February 5, 2020

Kenneth S. Antos, Principal
Apollo Edison LLC
310 Nottingham Drive
Spring City, PA 19475

Re: **Energy Agent, Private Aggregator, and Energy Consultant Initial Registrations**
Docket Nos. EE19101379L and GE19101380L

Dear Mr. Antos:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its February 5, 2020 Agenda meeting, the New Jersey Board of Public Utilities voted to issue the **REGISTRATIONS** as an Energy Agent, Private Aggregator, and Energy Consultant to Apollo Edison LLC. The company's registration numbers are EA-0620, PA-0258, and EC-0202.

These registrations are effective February 5, 2020 and will expire on February 4, 2021. These registrations 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) 292-1406.

Sincerely,

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

Aida Camacho-Welch
Secretary of the Board

ACW/dee