



Agenda Date: 12/1/2021
Agenda Item: 1A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE ALLEGED FAILURE OF)
TITAN GAS, LLC D/B/A CLEANSKY 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.) DOCKET NO. EO21111219

Party of Record:

Yara Abdur-Rahman, Chief Operations Officer, Titan Gas, LLC d/b/a CleanSky Energy

BY THE BOARD:

By this Decision and Order the New Jersey Board of Public Utilities (“Board”) considers an Offer of Settlement (“Offer”) of an alleged violation 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, N.J.S.A. 48:3-79, and N.J.A.C. 14:4-1.1 et seq. (the “Regulations”) by Titan Gas, LLC d/b/a CleanSky Energy (“CleanSky Energy”), who has been operating as a third party supplier to provide electric power and natural gas services to residential and commercial customers in New Jersey.

BACKGROUND

Pursuant to EDECA, the Board 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(a) and N.J.S.A. 48:3-79(a) require that a person obtain electric and gas supplier licenses before providing electric and gas supply services to retail customers in this State. See also, N.J.A.C. 14:4-5.1(d). Moreover, pursuant to N.J.S.A. 48:3-78(b) and N.J.S.A. 48:3-79(b), electric and gas supplier licenses shall not expire so long as the licensee pays to the Board, within 30 days before the anniversary date of the last approved licensing application, a license renewal fee, as determined by the Board, accompanied by an annual information update on a form prescribed by the Board. See also, N.J.A.C. 14:4-5.6 and N.J.A.C. 14:4-5.7.

In addition, pursuant to EDECA, 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. 48:3-78(c), 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. 14:4-5.4. Pursuant to

the Act, the Board, among other things, is vested with investigative power, N.J.S.A. 48:3-81, alternative disciplinary power, N.J.S.A. 48:3-82, and authority to assess civil penalties, N.J.S.A. 48:3-83.

Pursuant to N.J.A.C. 14:4-5.1(d), a person without an electric and/or gas supplier license cannot: (1) provide electric and/or gas supply service or offer to provide electric and/or gas supply service; (2) advertise or market electric and/or gas supply service; (3) enroll customers for electric and/or gas supply service; or (4) contract or otherwise assume legal responsibility for electric and/or gas supply service. Moreover, no TPS may submit a change order to a local distribution company ("LDC") unless the change order is transmitted through an EDI system. See N.J.A.C. 14:4-2.3(g) and N.J.A.C. 14:4-2.3(b).

N.J.A.C. 14:4-5.6(a) and N.J.A.C. 14:4-5.7(a) set forth the obligation of the TPS licensee to timely file an annual information update form. Specifically, the licensee must file a complete annual information update form within thirty (30) days before the anniversary date of the license. If a timely annual information update form is not submitted, the initial license expires. N.J.A.C. 14:4-5.7(b). In the event a licensee does not submit an annual information update form within thirty (30) days before the license's anniversary date, pursuant to N.J.A.C. 14:4-5.6(b)-(d), the licensee must submit a new license application within forty-five (45) days after the end of the licensee's initial term, or request an extension of the forty-five (45)-day time period based on extraordinary hardship, during which time the licensee must continue servicing existing customers until directed otherwise by Board Staff of the Division of Audit ("Staff").

As a TPS, CleanSky Energy is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

CleanSky Energy's initial TPS licenses, License Nos. ESL-0222 and GSL-0196, were issued on August 29, 2018 and effective through August 29, 2020. CleanSky Energy did not submit a timely annual information update form for year 2020 to the Board before their August 29th anniversary date, resulting in the expiration of CleanSky Energy's licenses. CleanSky Energy continued to provide electric and gas service to existing residential and commercial customers in New Jersey. Through administrative inadvertence, CleanSky Energy did not file a timely annual information update form to maintain their licenses. On August 26, 2021, CleanSky Energy submitted a late annual information update form. Staff then directed CleanSky Energy to file a new initial license application, as required, which was received by the Board on September 3, 2021.

Staff has conducted an investigation regarding CleanSky Energy's compliance with the Act and the Regulations. Staff has alleged that CleanSky Energy failed to comply with the licensing requirements under the Act and the Regulations, including N.J.S.A. 48:3-78, N.J.S.A. 48:3-79, N.J.A.C. 14:4-5.1, N.J.A.C. 14:4-5.6, and N.J.A.C. 14:4-5.7.

CleanSky Energy has responded promptly and effectively to all Staff requests during the investigation. Staff has determined that one billing complaint have been filed with the Board or the Division of Consumer Affairs against CleanSky Energy by any of its New Jersey customers in the past twelve months. In addition, CleanSky Energy has at all times, since becoming licensed in New Jersey in 2018, maintained surety bonds as required by the Board.

CleanSky Energy stated that it has ceased all marketing and advertising activities and has not added new customers since notification of the lapse by the Board on August 26, 2021. In response to Staff's data request, CleanSky Energy provided that 7,759 customer enrollments occurred following the licenses expiration between the dates of August 29, 2020 and August 26, 2021.

As a result of correspondence and telephone conversations, CleanSky Energy submitted an Offer of Settlement (attached) regarding its alleged violations. In the Offer of Settlement, CleanSky Energy did not admit to any violations and made a monetary offer in the amount of \$10,000.00 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 CleanSky Energy. The Board will **CONSIDER** under a separate docket numbers the initial application filed by CleanSky Energy on September 3, 2021. The Offer of Settlement is accepted subject to the following conditions:

1. CleanSky Energy will pay to the State of New Jersey the sum of \$10,000.00 in full and final settlement to the Board in order to resolve this matter regarding the inadvertent retail electric power and gas supplier licenses lapse.
2. The execution of this Offer of Settlement shall neither be deemed an admission by CleanSky Energy of any violation of the Act, the Regulations, or any Board Order, nor a determination by the Board or Staff that a violation has occurred.

The Board **FURTHER ORDERS** that no later than ten (10) days from the Effective Date of this Order, CleanSky Energy shall pay the Settlement Payment of Ten Thousand Dollars (\$10,000.00). Payment must be made out to the **TREASURER, STATE OF NEW JERSEY** and

Sent to: Elvin Curtis, Chief Fiscal Officer
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
Attn: Audits

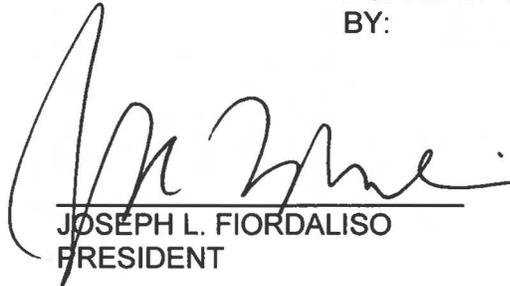
*You must include a copy of this order with your check.

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 CleanSky Energy or a successor company.

This Order shall be effective on December 8, 2021.

DATED: December 1, 2021

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 TITAN GAS, LLC D/B/A CLEANSKY 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.

DOCKET NO. EO21111219

SERVICE LIST

<p>Yara Abdur-Rahman Chief Operations Officer Titan Gas, LLC d/b/a CleanSky Energy 3355 W. Alabama St., Suite 500 Houston, TX 77098 YRahman@CleanSkyEnergy.com</p> <p>Ayo Ekisola Manager of Compliance & Regulatory Affairs Titan Gas, LLC d/b/a CleanSky Energy 3355 W. Alabama St., Suite 500 Houston, TX 77098 AEkisola@CleanSkyEnergy.com</p> <p>Paul Youchak, Esq. Deputy Attorney General NJ Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625 Paul.Youchak@law.njoag.gov</p> <p>Board of Public Utilities 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Aida Camacho-Welch, Secretary Board.secretary@bpu.nj.gov</p> <p>Robert Brabston, Executive Director Executive Director's Office Robert.Brabston@bpu.nj.gov</p> <p>Lanhi Saldana, Esq. Office of the General Counsel Lanhi.Saldana@bpu.nj.gov</p>	<p>Board of Public Utilities</p> <p><u>Division of Audits</u></p> <p>Alice Bator, Director Alice.Bator@bpu.nj.gov</p> <p>William Foley, Chief Bureau of Management Audits William.Foley@bpu.nj.gov</p> <p>Paul Buhagiar, Chief Bureau of Financial Audits Paul.Buhagiar@bpu.nj.gov</p> <p>Darren Erbe, Administrative Analyst 3 Division of Audits Darren.Erbe@bpu.nj.gov</p> <p>Dante Cusi, Auditor 3 Division of Audits Dante.Cusi@bpu.nj.gov</p> <p>Valencia Hunt, Auditor 2 Division of Audits Valencia.Hunt@bpu.nj.gov</p> <p>Jehvson Espiritu, Auditor 1 Division of Audits Jehvson.Espiritu@bpu.nj.gov</p>
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November 3, 2021

State of New Jersey Board of Public Utilities
Division of Audits
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: Offer of Settlement due to alleged non-compliance of Titan Gas, LLC DBA CleanSky Energy ("CleanSky Energy") with licensing provisions of the New Jersey Administrative Code, N.J.A.C. 14:4-1.1 et seq. (the "Regulations")

WHEREAS, CleanSky Energy is a third-party retail electric power and gas supplier ("TPS") in New Jersey, pursuant to New Jersey Administrative Code, N.J.A.C.14:4-5.1, as it provides retail electric power and natural gas supply to residential, small, large commercial and/or industrial customers; and

WHEREAS, as a TPS, CleanSky Energy is subject to the jurisdiction of the New Jersey Board of Public Utilities (the "Board") pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-78 et seq. (the "Act") and the administrative regulations promulgated thereunder at N.J.A.C. 14:4-1.1 et seq.; and

WHEREAS, pursuant to N.J.A.C. 14:4-5.6, retail electric power and gas supplier licensees are required to submit a timely annual license filing within the 30-day deadline at N.J.A.C. 14:4-5.7(a); and

WHEREAS, CleanSky Energy discovered on August 26, 2021 that its retail electricity and gas licenses GSL-0196 and ESL-0222 had expired on August 29, 2020 while attempting to renew applications for the year 2021; and

WHEREAS, CleanSky Energy contacted the Board's Division of Audits in response to Board Staff's electronic communication dated August 26, 2021 and proceeded to expedite preparation of a new initial application for retail electric power and gas supplier licenses. The new and complete application, including fees, was submitted in overnight mail on September 3, 2021; and

WHEREAS, CleanSky Energy has not advertised its retail electric power and gas supply services, nor has it enrolled any new retail electric power or gas customer since August 26, 2021 pursuant to N.J.A.C. 14: 4-5.6; and

WHEREAS, CleanSky Energy wishes to amicably resolve the issues raised by Staff without delay;

NOW, THEREFORE, CleanSky Energy submits this Offer of Settlement, as follows:

1. Consistent with our commitment to meeting the Board's licensing compliance standards, and recognizing that the license did lapse, which could be a potential alleged violation of N.J.A.C. 14:4-5.1, CleanSky Energy proposes paying a fee of Ten Thousand Dollars (\$10,000.00) as a full and final settlement to the Board in order to resolve this matter regarding the inadvertent retail electric power and gas supplier licenses lapse. None of our customers that are currently being served sustained any interruption in service, and no market participant has been harmed.
2. If the Board accepts this offer, CleanSky Energy respectfully requests that the Board approve this settlement at the next regularly scheduled Board agenda meeting and approve the initial application for retail electric power and gas supplier licenses, respectively, which is currently pending. CleanSky Energy believes it would be beneficial to all parties, but especially the customers it hopes to serve, if CleanSky Energy can once again market its services to New Jersey electricity and gas customers.
3. The execution of this Offer of Settlement shall neither be deemed an admission by CleanSky Energy of any violation of the Act, the Regulations, or any Board Order, nor a determination by the Board or Staff that a violation has occurred.

Yours sincerely,



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Chief Operations Officer
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