



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 THE ALLEGED FAILURE OF)	ORDER ACCEPTING
ACCLAIM ENERGY, LTD. TO COMPLY WITH)	OFFER OF SETTLEMENT
CERTAIN PROVISIONS OF N.J.S.A. 48:3-78 <u>ET</u>)	
<u>SEQ.</u> , AND THE NEW JERSEY ADMINISTRATIVE)	
CODE, N.J.A.C. 14:4-1.1 <u>ET SEQ.</u>)	DOCKET NO. EO20090567

Party of Record:

Ryk J. Holden, Senior Vice President, Acclaim Energy, Ltd.

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 Acclaim Energy, Ltd., ("Acclaim Energy" 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, 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, 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, Acclaim Energy is subject to the jurisdiction of the Board and must comply with EDECA and the Regulations.

DISCUSSION AND FINDINGS

Acclaim Energy's initial registrations, Registrations Nos. EA-0068, PA-0065, and EC-0018, were effective for an initial term of April 27, 2016 through April 26, 2017. Acclaim Energy did not renew these registrations with the Board before they expired on April 26, 2017. The Company continued to arrange energy procurement to customers in New Jersey prior to receiving the Board's notice of the expiration of Acclaim Energy's registration. The Company then immediately ceased all New Jersey activity. On September 26, 2017, an initial application from Acclaim Energy was received by the Board.

Staff has conducted an investigation regarding Acclaim Energy compliance with the Act and the Regulations. Staff has alleged that Acclaim 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), N.J.A.C. 14:4-5.9, and N.J.A.C. 14:4-5.11.

Acclaim Energy has responded promptly and effectively to all Staff requests during the investigation. The Company serves 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 Acclaim Energy by any of its New Jersey customers since being initially being issued registrations on April 27, 2016 ending April 26, 2017. In addition, Acclaim Energy has continued to maintain a surety bond with an indefinite term which began on December 31, 2019.

As a result of correspondence, Acclaim Energy has submitted an Offer of Settlement (“Offer”), which is attached hereto, regarding its alleged violations. In the Offer, Acclaim Energy made a monetary offer in the amount of \$1,150.00 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 Acclaim Energy.

The Board will **CONSIDER** under a separate docket number the initial application filed by Acclaim Energy on September 26, 2017. The Offer of Settlement is accepted subject to the following conditions:

1. Acclaim Energy will pay to the State of New Jersey the sum of One Thousand One Hundred and Fifty Dollars (\$1,150.00) 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 Acclaim Energy, up to and including July 6, 2020.
2. This Offer of Settlement shall not relieve Acclaim 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 July 6, 2020.
3. Any future repeated violation(s) of the Act, the Regulations, or Board Orders by Acclaim 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. Acclaim 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 Acclaim 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, Acclaim Energy shall pay the Settlement Payment of One Thousand One Hundred and Fifty Dollars (\$1,150.00). 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
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 Acclaim Energy, Ltd. or a successor company.

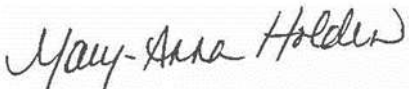
This Order shall be effective on October 3, 2020.

DATED: September 23, 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 ACCLAIM ENERGY, LTD. 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. EO20090567

SERVICE LIST

<p>Board of Public Utilities 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Paul Flanagan, Esq. Executive Director Paul.Flanagan@bpu.nj.gov</p> <p>Division of Audits</p> <p>Alice Bator, Director Alice.bator@bpu.nj.gov</p> <p>William Foley, Chief William.Foley@bpu.nj.gov</p> <p>Valencia Hunt, Auditor 2 Valencia.Hunt@bpu.nj.gov</p> <p>Dante Cusi, Auditor 3 Dante.Cusi@bpu.nj.gov</p> <p>Darren Erbe, Auditor 1 Darren.Erbe@bpu.nj.gov</p> <p>Jehvson Espiritu, Auditor 1 Jehvson.Espiritu@bpu.nj.gov</p> <p>Lanhi Saldana, Esq. Office of the Chief Counsel Lanhi.Saldana@bpu.nj.gov</p>	<p>Ryk J. Holden Senior V.P. Acclaim Energy, Ltd. 1885 St. James, Suite 1220 Houston, TX 77056 RykHolden@acclaimenergy.com</p> <p>Pamela Owen, Esq. Assistant Section Chief Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625 Pamela.Owen@law.njoag.gov</p> <p>Paul Youchak, Esq. Deputy Attorney General 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>
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Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

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*Revised

Joseph L. Fiordaliso
President

Mary-Anna Holden
Commissioner

Dianne Solomon
Commissioner

Bob Gordon
Commissioner

Dr. Zenon Christodoulou
Commissioner

February 13, 2023

Ryk J. Holden
Senior Vice President
Acclaim Energy, LTD.
1885 St. James, Suite 1220
Houston, Texas 77056

Re: **Energy Agent, Private Aggregator and/or Energy Consultant Initial Registrations**
Dkt. Nos. EE19091214L & GE19091215L

Dear Mr. Holden:

In accordance with the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., at its September 23, 2020 Agenda meeting, the New Jersey Board of Public Utilities voted to issue **REGISTRATIONS** as an Energy Agent, Private Aggregator and Energy Consultant to Acclaim Energy, LTD. Unfortunately, due to software updates, our database generated a soft error when issuing your registration numbers. The company's new Energy Agent, Private Aggregator, and Energy Consultant registration numbers are **EA-0666, PA-0273 and EC-0213**.

These registrations are effective September 23, 2020. 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) 913-6260.

Sincerely,

A handwritten signature in cursive script that reads "Carmen D. Diaz".

Carmen D. Diaz
Acting Board Secretary