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PUCO

Public Utilities Commission of Ohio  
Docketing Division  
180 East Broad Street  
Columbus, OH 43215-3793

October 25, 2018

**RE: Refiling of Exhibit B-3 of Direct Energy Services, LLC's Ohio Power License Renewal (Original CRS Case Number 00-1936-EL-CRS)**

Dear Docketing Division:

Please find enclosed a revised Exhibit B-3, Disclosure of Liabilities and Investigations, for Direct Energy Services, LLC's Electric License Renewal Application that we submitted on October 18, 2018. We are refiling the exhibit at the request of Melissa Scarberry, to add the details of the Notice of Violation that Direct Energy Services, LLC received from the State of Connecticut.

If there are any questions or comments regarding this submission, please contact me at 713-354-4710.

Respectfully,

Barbara Farmer  
Licensing and Reporting Analyst

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician MM Date Processed 10/26/18

## **Exhibit B-3 Disclosure of Liabilities and Investigations**

In the interest of full disclosure, certain Direct Energy entities have been the subject of legal and regulatory proceedings in the past two years, which are summarized directly below with more detailed explanations following.

- Direct Energy, LP has been the subject of legal and/or regulatory proceedings in Texas.
- Direct Energy Business, LLC has been the subject of a regulatory proceeding with the California Public Utilities Commission.
- Direct Energy Services, LLC has been the subject of legal and/or regulatory proceedings in Connecticut and Michigan,
- Gateway Energy Services Corporation (formerly known as ECONergy Energy Company, Inc.) had been the subject of legal and/or regulatory proceedings in New Jersey.

### **Direct Energy, LP**

In August 2017, Direct Energy, LP agreed to pay an administrative penalty in the amount of \$70,000 under a settlement with Staff of the Public Utility Commission of Texas to resolve allegations of non-compliance with Public Utility Regulatory Act §§ 17.001(a) and 39.101(b)(6), as well as 16 Texas Administrative Code §§ 25.474, relating to selection of a retail electric provider; 25.475, relating to general retail electric provider requirements; 25.481, related to unauthorized charges, and 25.495, relating to unauthorized change of retail electric provider. Commission Staff investigated a series of informal complaints relating to door-to-door sales vendors from January 1, 2014 through February 1, 2016. These complaints included both those received by the Commission's Customer Protection Division as well as by Direct Energy. Direct ceased door-to-door solicitations in Texas on December 1, 2016. Door-to-door sales re-commenced approximately a year later after some process improvements and continue today.

[http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/47362\\_4\\_951957.PDF](http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/47362_4_951957.PDF)

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In 2017, Direct Energy, LP received two separate Notices of Investigation from the Public Utility Commission of Texas related to demand response. The first allegation was due to an administrative error in submission of the baseline data

## **Exhibit B-3 Disclosure of Liabilities and Investigations**

for the demand response customer. The second allegation was due to gaps within a demand response customer's usage data that was supplied by the host utility. These separate investigations were combined by commission staff and both were settled with a warning from the Commission.

### **Direct Energy Business, LLC: California (Penalty Assessment – Non-Compliance)**

In July 2017, Direct Energy Business, LLC (“DEB”) was notified by the Energy Division of the California Public Utilities Commission (“CPUC”) that there was a deficiency in DEB’s monthly compliance Resource Adequacy load forecast filing for September 2017 by 16.99 MW. The CPUC allowed a seven day extension to procure the required resources; however, we were unable to execute a contract for the deficiency with the only counterparty that had available supply in time to meet the CPUC’s deadline. This resulted in the CPUC assessing a penalty of \$6.66/kWm, which equaled to \$113,000.

### **Direct Energy Services, LLC: Connecticut**

PUC Docket 13-07-17  
Date of Resolution: Ongoing

In June 2013, the Connecticut Public Utilities Regulatory Authority (“PURA”) opened an investigation into the trade practices of three electric suppliers in the state, which included Direct Energy (“Direct”). The PURA alleged that it had received numerous customer complaints regarding billing, slamming and quality of service against Direct. In October 2013, Direct answered a series of interrogatories issued by the PURA. PURA staff and the Office of Consumer Counsel propounded additional interrogatories in mid-2015, which Direct Energy has answered. The case remains open at PURA, with a notice of violation of \$1.5 million issued in September 2018 with Direct Energy’s intent in seeking a hearing review of the order to clarify some of the legal and factual matters.

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PUC Docket 06-03-06RE03  
Date of Resolution: August 26, 2015

In October 2014, the PURA re-opened Direct’s licensing docket as a result of Direct’s self-report regarding a process breakdown that resulted in a failure to send renewal notices to customers. The PURA intends to fully examine Direct’s compliance with the Connecticut General Statutes, and determine if civil penalties will be applied. Direct had already begun to issue refunds to impacted customers when it submitted the information about its renewal notices.

## **Exhibit B-3 Disclosure of Liabilities and Investigations**

### **Direct Energy Services, LLC: Michigan**

PUC Case U-18121

Date of Resolution: January 12, 2017

On January 12, 2017, the Michigan Public Service Commission ("MPSC") issued an order relating to a settlement with Direct Energy Services, LLC ("DES"). The terms of the settlement agreement is that DES agrees to: (1) pay a fine of \$35,000 to be paid to the State of Michigan within 30 days of the Commission order approving the agreement; (2) continue a moratorium on door-to-door sales that began on November 1, 2016, that shall continue for 90 days following the date of the order approving this agreement; (3) submit new training materials within 45 days of the order approving this agreement with actual training of DES' Michigan agents to be completed within 90 days; (4) present Michigan Agency for Energy (MAE) Staff by March 31, 2017 with technologies that enhance customer identification and consent, and secure enrollment processes; (5) implement the Whitepages process described in Attachment 1 to the settlement agreement; (6) meet monthly with the MAE Staff for a period of 12 months to discuss progress with compliance with this settlement agreement and any other related matter; (7) develop with MAE Staff a template for processing complaints; and (8) reopen this docket should the MAE State Response Division identify any reoccurrence of the unauthorized switching of any customers by DES salesperson, which may result in fines, permanent moratorium on door-to-door sales and telemarketing, and or potential license revocation.

### **Gateway Energy Services Corporation: New Jersey**

Recently in 2018, Gateway Energy Services Corporation submitted a self-report compliance issue to the New Jersey Board of Public Utilities regarding variable rate pricing for some of its customers. Resolution of this matter is expected to be finalized in the next few months.