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15-116-GA-CRS

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October 10, 2019

Via FedEx Overnight


Commission Secretary  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, OH 43215**RE: Agera Energy, LLC – License Update (License No.: 14-881(E) & 15-415(G))****energy.me Midwest LLC d/b/a energy.me – License Update (License No.: 12-594(E))**

Dear Commission Secretary:

Agera Energy, LLC ("Agera") and energy.me Midwest LLC d/b/a energy.me ("energy.me") submit this letter as notice that Rhode Island Public Utilities Commission issued a Notice on September 13, 2019 suspending the license of Agera Energy, LLC. A copy of the Notice is attached as **Exhibit 1**. The Notice references a prior Order on Finding of Non-Compliance with Renewable Energy Standard and to Draw on Agera's Letter of Credit Dated September 20, 2018, which is attached as **Exhibit 2**.

Please feel free to contact me should you have any questions at 914-236-1406, or [regulatory@ageraenergy.com](mailto:regulatory@ageraenergy.com).

Sincerely,

  
Stephen Perrot  
ParalegalRECEIVED-BOOKETING DIV  
2019 OCT 11 PM 12:12  
PUCO

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS  
89 Jefferson Boulevard  
Warwick R.I. 02888  
(401) 941-4500

FAX (401) 941-9207  
TDD (401) 941-4500

IN RE: **AGERA ENERGY LLC, RENEWABLE  
ENERGY STANDARD COMPLIANCE**

**Docket No. D-19-26**

**NOTICE OF PUBLIC HEARING**  
**AND**  
**SUSPENSION ORDER**

Pursuant to R.I. Gen. Laws §§ 39-1-1, 39-1-3, 39-1-15, 39-1-19, 39-1-20, 39-1-27.1, 39-1-38, 39-4-1 *et seq.*, 39-26.7-1 *et seq.*, and R.I. Code of Regulations Part 815-RICR-30-05-1, the Rhode Island Division of Public Utilities and Carriers (Division) will conduct a public hearing on **Tuesday, October 22, 2019, at 10:00 a.m., in Hearing Room B at the Division's office** located at 89 Jefferson Boulevard, Warwick, Rhode Island.

At this hearing, the Division will consider whether or not Agera Energy LLC's certification to sell energy within the State of Rhode Island as a nonregulated power producer should be rescinded in view of the recent decision of the Rhode Island Public Utilities Commission (Commission), issued in *In Re Agera Energy LLC Renewable Energy Standard Compliance*, Commission Order number 23659 dated and effective August 28, 2019, in Commission Docket No. 4964, holding that "Agera Energy LLC has failed to comply with the 2018 Renewable Energy Standard." Commission Order number 23659 found that Agera Energy LLC's Alternative Compliance Payment obligation to the State of Rhode Island Renewable Energy Development Fund far exceeded the Letter of Credit on file with the Commission and Division. The Commission Order also held that once demand was made for the full amount of the Letter of Credit and the funds released to the State, Agera Energy LLC would be out of compliance with the

Division's *Rules Applicable To Nonregulated Power Producers* (R.I. Code of Regulations Part 815-RICR-30-05-1).

In view of the Commission's finding in Order number 23659 that Agera Energy LLC has failed to comply with the 2018 Renewable Energy Compliance Payment Obligation, Agera Energy LLC is hereby placed on notice that its certification to sell energy within the State of Rhode Island is hereby suspended pending the Division's final order in this matter. Agera Energy LLC may not enter into new contracts to sell energy to consumers within the State of Rhode Island, nor may it renew existing contracts as they reach the end of the contract term while its certification is suspended. Existing energy contracts with Rhode Island consumers are not affected by this suspension during the original contract period.

*In Re Agera Energy LLC Renewable Energy Standard Compliance*, Commission Order number 23659 dated and effective August 28, 2019, in Commission Docket No. 4964, is on file for examination at the Division's office. Docket filings are filed at [https://www.ripuc.org/eventsactions/docket/D\\_19\\_26.html](https://www.ripuc.org/eventsactions/docket/D_19_26.html). Reference is made to Chapters 39-1, 39-2, 39-4, 39-26.7 and 42-35 of the R.I. General Laws.

The Division of Public Utilities and Carriers is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Clerk's office at (401) 780-2107 seventy-two hours in advance of the hearing date.

### **SUSPENSION ORDER**

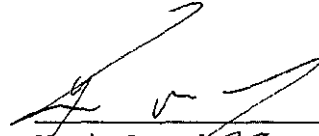
It is hereby

#### **(23663) ORDERED:**

1. That in view of the Rhode Island Public Utilities Commission's finding in its Order number 23659 that Agera Energy LLC has failed to comply with the 2018 Renewable Energy Compliance Payment Obligation, Agera Energy LLC is hereby placed on notice that its certification to sell energy within the State of Rhode Island is hereby suspended pending the Division's final order in Division Docket number D-19-26.
2. That Agera Energy LLC may not enter into new contracts to sell energy to consumers within the State of Rhode Island, nor may it renew existing contracts as they reach the end of the contract term while its certification is suspended.

3. That Agera Energy LLC's existing energy contracts with Rhode Island consumers are not affected by this suspension during the original contract period.

**DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND, SEPTEMBER 13, 2019**

  
\_\_\_\_\_  
Kevin Lynch  
Interim Administrator  
Division of Public Utilities and Carriers  
September 13, 2019

cc: Service List (attached)

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

**IN RE: AGERA ENERGY, LLC** :  
**RENEWABLE ENERGY STANDARD** : **DOCKET NO. 4964**  
**COMPLIANCE** :

**ORDER ON FINDING OF NON-COMPLIANCE  
WITH RENEWABLE ENERGY STANDARD AND  
TO DRAW ON AGERA'S LETTER OF CREDIT DATED SEPTEMBER 20, 2018**

WHEREAS, R.I. Gen. Laws § 39-26-6 vests the Rhode Island Public Utilities Commission (RIPUC) with enforcing the Renewable Energy Standard;<sup>1</sup> and

WHEREAS, The RIPUC has adopted rules governing the Implementation of a Renewable Energy Standard which includes compliance reporting and enforcement procedures;<sup>2</sup> and

WHEREAS, Agera Energy, LLC is an Obligated Entity under R.I. Gen. Laws § 39-26-2(16);<sup>3</sup> and

WHEREAS, Agera Energy, LLC submitted to the RIPUC a 2018 Renewable Energy Standard compliance filing on July 16, 2019; and

WHEREAS, The 2018 Renewable Energy Standard compliance filing had deficiencies and showed that Agera Energy, LLC had neither settled sufficient Rhode Island-eligible renewable energy certificates nor made Alternative Compliance Payments to the Rhode Island Renewable Energy Development Fund administered by the Rhode Island Commerce Corporation, leaving an outstanding obligation for Compliance Year 2018;<sup>4</sup> and

<sup>1</sup> R.I. Gen. Laws § 39-26-6(e).

<sup>2</sup> 810-RICR-40-05-2.

<sup>3</sup> Agera Energy, LLC is a registered Nonregulated Power Producer authorized to sell electric energy to end-use customers. Division Letter to Agera (Nov. 14, 2014). In compliance year 2018, each Obligated Entity was required to obtain at least 13% of the electricity they sell at retail from eligible renewable energy resources. R.I. Gen. Laws § 39-26-4(a)(4).

<sup>4</sup> Agera Energy, LLC 2018 Renewable Energy Standard Compliance Filing (confidential).

WHEREAS, On August 2, 2019, the RIPUC provide electronic notification to Agera Energy, LLC's regulatory contact and attorney of the deficiencies in the 2018 Renewable Energy Standard compliance filing and gave Agera Energy, LLC until August 16, 2019, an opportunity to cure; and

WHEREAS, Agera Energy, LLC filed a Revised 2018 Renewable Energy Standard compliance filing on August 16, 2019, which had deficiencies and showed that Agera Energy, LLC had neither settled sufficient Rhode Island-eligible renewable energy certificates nor made Alternative Compliance Payments to the Rhode Island Renewable Energy Development Fund; and

WHEREAS, On August 16, 2019, the RIPUC issued a Warning Letter as contemplated by the RIPUC's rules allowing Agera Energy, LLC an additional week to cure and providing notice that the RIPUC would docket the matter at an August 28, 2019, Open Meeting to find Agera Energy, LLC out of compliance if the non-compliance was not cured;<sup>5</sup> and

WHEREAS, Agera Energy, LLC has not provided evidence that it either settled the requisite number of Rhode Island-eligible renewable energy certificates or made payment to Commerce RI; and

WHEREAS, R.I. Gen. Laws § 39-1-27.1(c)(9) and 815-RICR-30-05-1.3A(9)(a)-(c), requiring financial assurance was met by Agera Energy, LLC through the filing of a Letter of Credit dated September 20, 2018; and

WHEREAS, R.I. Gen. Laws § 39-1-27.1(c)(9) and 815-RICR-30-05-1.3A(9)(b) provide that payments made for violation of the provisions of R.I. Gen. Laws § 39-26-4 shall be forfeited and shall be remitted to the Renewable Energy Development Fund established by R.I. Gen. Laws § 39-26-7; and

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<sup>5</sup> 810-RICR-40-05-2.10A.

WHEREAS, At an Open Meeting on August 28, 2019, the RIPUC considered the filings and found Agera Energy, LLC has failed to comply with the 2018 Renewable Energy Standard for Compliance Year 2018. Agera Energy, LLC's obligation for Compliance Year 2018 was met in part by banked Renewable Energy Certificates (RECs) from Compliance Year 2017. After accounting for these banked RECs, Agera Energy, LLC still has an unsettled obligation. Agera Energy, LLC has provided no additional evidence that the company has eligible RECs to meet its obligation for 2018, and staff has confirmed that Agera Energy, LLC's NEPOOL-GIS account has no remaining RECs eligible to be retired. Agera Energy, LLC has also not made Alternative Compliance Payments to the Rhode Island Commerce Corporation to settle the outstanding obligation; and

WHEREAS, The RIPUC further found that the amount of Alternative Compliance Payments owed to the Renewable Energy Development Fund far exceeds the amount of the Letter of Credit on file with the RIPUC and Division of Public Utilities and Carriers; and

WHEREAS, The RIPUC penalizes Agera Energy, LLC pursuant to R.I. Gen. Laws § 39-26-4 and § 39-1-27.1(c)(9) and 815-RICR-30-05-1.3A(9)(b), in the amount of \$250,000 for violating the provisions of R.I. Gen. Laws § 39-26-4; and

WHEREAS, The RIPUC has designated the RIPUC Chairperson to demand release of the full amount of the Letter of Credit dated September 20, 2018; and

WHEREAS, Once the demand is made for the full amount of the Letter of Credit and the funds are released, Agera Energy, LLC will be out of compliance with the Division of Public Utilities and Carriers' Rules Applicable to Nonregulated Power Producers and, accordingly, cannot enroll new customers;<sup>6</sup> and

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<sup>6</sup> 815-RICR-30-05-1.

WHEREAS, Remittance of the funds available under the Letter of Credit does not in any way relieve Agera Energy, LLC from its remaining obligation to the Renewable Energy Development Fund;<sup>7</sup> and

WHEREAS, The RIPUC directs the Clerk to transmit this Order to the Division of Public Utilities and Carriers for enforcement action under its Rules Applicable to Nonregulated Power Producers.

Accordingly, it is hereby,

(23659) ORDERED:

1. Agera Energy, LLC has failed to comply with the 2018 Renewable Energy Standard.
2. Agera Energy, LLC's Alternative Compliance Payment obligation to the State of Rhode Island Renewable Energy Development Fund far exceeds the Letter of Credit on file with the Rhode Island Public Utilities Commission and Rhode Island Division of Public Utilities and Carriers.
3. The Chairperson of the Rhode Island Public Utilities Commission has been designated to demand release of the full amount of the Letter of Credit dated September 20, 2018.
4. Once demand is made for the full amount of the Letter of Credit and the funds are released, Agera Energy, LLC will be out of compliance with the Division of Public Utilities and Carriers' Rules Applicable to Nonregulated Power Producers.
5. This Order does not relieve Agera Energy, LLC from its 2018 Renewable Energy Standard obligation.

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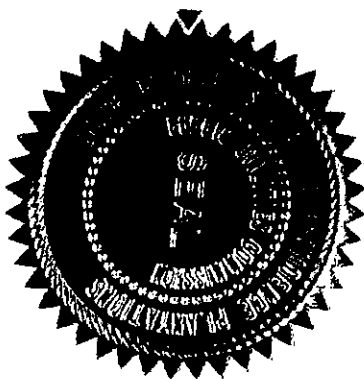
<sup>7</sup> 810-RICR-40-05-2.10B.



6. The Clerk shall transmit a copy of this Order to the Division of Public Utilities and Carriers for enforcement action under its Rules Applicable to Nonregulated Power Producers.

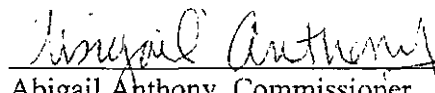
DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON AUGUST 28, 2019.  
PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED AUGUST 28,  
2019.

PUBLIC UTILITIES COMMISSION



  
Margaret E. Curran, Chairperson

  
Marion S. Gold, Commissioner

  
Abigail Anthony, Commissioner

**NOTICE OF RIGHT OF APPEAL:** Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.