

**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;¹ and

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

WHEREAS, Agera Energy, LLC is an Obligated Entity under R.I. Gen. Laws § 39-26-2(16);³ 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;⁴ and

¹ R.I. Gen. Laws § 39-26-6(e).

² 810-RICR-40-05-2.

³ 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).

⁴ 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;⁵ 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

⁵ 810-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;⁶ and

⁶ 815-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;⁷ 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.

⁷ 810-RICR-40-05-2.10B.

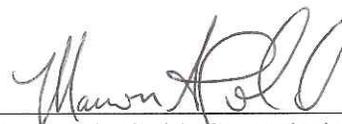
6. The Clerk shall transmit a copy of this Order to the Division of Public Utilities and Carriers for enforcement action under its Rules Applicable to Nonregulated Power Producers.

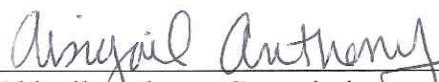
DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON AUGUST 28, 2019, PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED AUGUST 28, 2019.

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.