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April 8, 2022

Consumer Services Division  
New Hampshire Department of Energy  
21 South Fruit St, Suite 10  
Concord, NH 03301

**Re: Information Update – SmartEnergy Holdings, LLC License [DM 16-839]**

SmartEnergy is hereby submitting an update to the information previously filed in accordance with the New Hampshire Code of Administrative Rules §§ Puc 2003.02 and Puc 2006.01.

The changes to information previously filed are detailed below:

1. Actions Against Licensees (Attachment A: Update to the NY Order)

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lidia Chávez".

Lidia Chávez  
Director of Regulatory Compliance  
SmartEnergy Holdings LLC  
400 Madison Avenue Suite 9A  
New York, New York 10017  
[regulatory@smartenergy.com](mailto:regulatory@smartenergy.com)

## NEW YORK

- Case Title: In the Matter of Eligibility Criteria for Energy Service Companies Case; Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non- Residential Energy Markets in New York State; In the Matter of Retail Access Business Rules
- Case Number: Cases 98-M-134312-M-0476; 15-M-0127
- Agency Involved: NY PSC
- Status: SE Preparing to Respond to Adverse License Action Due to Alleged Misrepresentations on Application Materials
  
- Summary: NY PSC required all ESCOs to submit a new eligibility application, which SE did in November 2020 and NY PSC approved in January 2021. In September 2021, NY PSC issued Order to Show Cause why SE's ESCO license should not be revoked because of alleged misrepresentations in response to a question in the application materials. SE responded comprehensively on October 22, 2021 explaining its answer to the question as a good faith response to an ambiguous question that was submitted with the assistance of experienced counsel, and did not amount to a statement that was knowingly false or intentionally misleading that would justify license action. On March 21, 2022, the NY PSC issued an Order to Deny SE's Application for Eligibility rejecting SE's arguments in the Response and requiring SE to return all residential customers to standard service within sixty days.  
SE is highly disappointed in the Order, which it views as based on findings lacking substantial evidence, arbitrary and capricious reasoning and/or errors of law. SE is currently engaged in preparing a comprehensive response to the Order which will likely include requests for a stay and for rehearing and/or reconsideration on several grounds, including legal defects in the Order, that SE cured the alleged misrepresentations, that NY Department of Public Service had already prior to the Order issued a March 4, 2022 letter order confirming SE's compliance with NY Uniform Business Practices law, that multiple other ESCOs interpreted the question in the same manner as SE, thereby confirming SE's claims relative to the ambiguous nature of the question asked, and that NY PSC departed from its longstanding and usual practice of advising companies of apparent noncompliance issues and allowing them to correct or update filings before taking any license action.
  
- Conclusion: Awaiting preparation and filing of pleading seeking relief from NY PSC Order (due in April 2022).