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August 29, 2012

**Via Hand Delivery**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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SECRETARY'S BUREAU

Re: Docket Number A-2009-2139745: License Information Update for Energy Plus Holdings LLC

Dear Secretary Chiavetta:

On behalf of Energy Plus Holdings LLC ("Energy Plus" or "EPH"), we are forwarding materials to supplement Energy Plus's license information. Energy Plus and/or its subsidiaries Energy Plus Natural Gas LLC ("EPNG"), Independence Energy Group LLC, and Independence Energy Alliance LLC, were recently named in lawsuits in New York, New Jersey, and Maryland. Energy Plus and EPNG were also recently served a subpoena by the Attorney General of the State of New York, and Energy Plus is named in a petition for investigation by the Connecticut Public Utilities Regulatory Authority. The information herein is intended to supplement Energy Plus's response to Question 16 (Compliance) in its EGS license application.

- **Wise, et al. v. Energy Plus Holdings LLC:** On October 18, 2011, a lawsuit was filed against EPH in the U.S. District Court for the Southern District of New York (the "Wise" case). The case alleges deceptive trade practices and unjust enrichment. On March 23, 2012, an order was entered dismissing the plaintiffs' claims for unjust enrichment and that EPH's disclosures were inadequate. The purported class action is now limited to plaintiffs' claims of potential misrepresentation in EPH's advertising of its products. The case is pending.
- **Melaleuca, Inc. v. Independence Energy Alliance, LLC, Jeffrey Meiler, Chet Seely, Jason Arfmann:** On January 30, 2012, a lawsuit was filed in the District Court of the Seventh Judicial District of the State of Idaho. The claim alleges misappropriation of trade secrets, inducement of breaches of contracts and other torts. Plaintiff later amended the Complaint on February 21, 2012 to add Paul and Michelle Johnson as additional defendants. This case is pending.

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- **Nuss v. Elite Promotional Marketing, Inc., Energy Plus Holdings LLC, John O'Brier and NRG Energy, Inc.:** On February 16, 2012, a lawsuit was filed in the Superior Court of New Jersey Law Division, Sussex County. The claim alleges wrongful dismissal and is pending.
  - **Bank v. Independence Energy Group LLC and Independence Energy Alliance LLC:** On March 19, 2012, a lawsuit was filed in the U.S. District Court for the Eastern District of New York. The claim alleges violation of TCPA and FCC regulations. A motion to dismiss is pending.
  - **Yu, et al. v. Energy Plus Holdings LLC and Energy Plus Natural Gas LLP:** On May 2, 2012, a lawsuit was filed in the U.S. District Court for the District of New Jersey, Newark Division (the "Yu" case). The case is a purported class action and alleges deceptive trade practices and unjust enrichment. A motion to dismiss was filed on August 9, 2012.
  - **Faistl v. Energy Plus Holdings LLC, Energy Plus Natural Gas LLP and NRG Energy, Inc.:** On May 14, 2012, a lawsuit was filed in the U.S. District Court for the District of New Jersey, Newark Division. The claims are substantially similar to the allegations of deceptive trade practices and unjust enrichment made in the Yu case. A motion to dismiss all claims was filed on July 10, 2012 and is scheduled to be heard on September 4, 2012.
  - **The State of New York Department of State Do Not Call Complaint File: 12-DNC-0467:** On June 26th, 2012, a complaint was received alleging that customers were contacted by EPH even though they are on the National Do Not Call List. EPH submitted a reply on August 7, 2012. On August 17, 2012 the complaint was closed by the State of New York Department of State with no action taken.
  - **Danuff v. Independence Energy Alliance LLC:** On July 16, 2012 a demand for arbitration was filed with the American Arbitration Association. The claim alleges RICO-related claims involving a pyramid scheme. A response to the demand for arbitration is due on September 7, 2012.
  - **Petition of George Jepsen, Attorney General for the State of Connecticut, and the Office of Consumer Counsel for an Investigation into the Manner and Operation of Energy Plus Holdings LLC: Docket #: 12-07-13:** On July 26, 2012, the Connecticut Office of the Attorney General and the Connecticut Office of Consumer Counsel filed a petition with the Connecticut Public Utilities Regulatory Authority ("PURA") requesting that PURA commence an investigation regarding certain marketing and pricing activities in connection with EPH's competitive electric offerings in Connecticut.

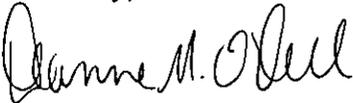
- **Subpoena of Energy Plus Holdings LLC and Energy Plus Natural Gas LLC by the Attorney General of the State of New York:** On August 6, 2012, the Attorney General of the State of New York served a Subpoena asking for delivery of certain information by August 28, 2012. A thirty (30) day extension was granted.
- **Fortney v. Energy Plus Holdings LLC:** On August 8, 2012, a lawsuit was filed in the U.S. District Court for the District of Maryland, Greenbelt Division. The case is a purported class action and the claims are similar to the allegations of deceptive trade practices and unjust enrichment made in the Wise case. EPH's response is forthcoming.

While Energy Plus believes that it has complied with applicable legal requirements, it takes these allegations very seriously. For this reason, it has commenced an internal investigation in order to appropriately respond to the allegations in the Petition and to continue to ensure that its activities remain in compliance with the applicable requirements in all of the states in which it does business.

We felt it was in the best interest of the Commission and Energy Plus to bring these issues forward and to engage in a full and frank discussion. Energy Plus welcomes the opportunity to meet with Commission staff to order to discuss these matters.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Deanne M. O'Dell

DMO/lww

cc: Heather Farber, Senior Director, Strategic Market Development, Energy Plus (via electronic mail only, w/ attachments)

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