

SUKENIK, SEGAL & GRAFF, P.C.

ATTORNEYS AND COUNSELORS AT LAW

450 SEVENTH AVENUE, 42ND FLOOR

NEW YORK, N.Y. 10123

212-725-9300 PHONE

212-481-5520 FAX

December 22, 2017

***Via Email (secretary@dps.ny.gov) and
Via U.P.S. Overnight Delivery***

The Honorable Kathleen H. Burgess, Secretary
Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

Re: Astral Energy, LLC
I.D. No.: PSC-52-15-00015-P
Case No.: 15-E-0556

Dear Secretary Burgess:

The undersigned represents Coltown Properties LLC, 75 Ellwood Property LLC and a number of their affiliates (collectively, "Coltown"). Coltown respectfully requests that the Public Service Commission (the "PSC") revoke the eligibility of Astral Energy, LLC ("Astral"), an energy services company ("ESCO"), to provide ESCO services in the State of New York. Such request is based upon Astral's flagrant overbilling of Coltown, in rank disregard of the contract which Coltown entered into with Astral. Based upon available evidence, it seems clear that Astral's overbilling of Coltown was no isolated event, but part of Astral's regular business practice.¹

Relevant Procedural History:

As a result of many complaints received by the Department of Public Service against Astral, the Department issued a Notice of Apparent Failure (the "NOAF") on August 7, 2015 to Astral alleging breach of fixed price contracts, slamming and various other improper acts. As Astral's responses to the NOAF were inadequate, the PSC issued an Order Instituting Proceeding and to Show Cause dated October 15, 2015 (the "Order"), which instituted proceedings against Astral seeking consequences for violations of the Uniform Business Practices. Among numerous

¹ This firm previously represented Sixty Hotels LLC, Allen Realty Associates NY LLC, Allen Fee Owner LLC and Cromwell Soho Operating LLC f/k/a Thompson Hotel Associates LLC (collectively, "Sixty Hotels") in connection with a claim against Astral involving the same course of conduct on the part of Astral. In 2015, Sixty Hotels both filed a complaint against Astral with the PSC and brought an action against Astral in the Supreme Court of the State of New York, County of New York, wherein Sixty Hotels obtained a default judgment as against Astral. Astral and Sixty Hotels subsequently reached a settlement as to Sixty Hotels' claims.

other alleged improper acts of Astral, the Order noted (on page 7 thereof) numerous complaints that Astral charged various customers at rates well in excess of the rates set forth in the fixed price contracts which were entered into between such customers and Astral.

On November 6, 2015, the PSC suspended Astral's authority to market to and enroll residential and non-residential customers until the PSC ordered otherwise. Since such time, Astral has represented to the PSC that it had undertaken steps to ensure that Astral complies with the Uniform Business Practices, and, in light thereof, the PSC has since permitted Astral to market to and enroll non-residential customers. However, the PSC explicitly found that "Astral's prior actions merit continued vigilance." The PSC further stated that, "should Astral fail to comply with the UBP, the PSL, or the Commission's regulations and orders, the Commission will seriously consider revoking Astral's eligibility to operate an ESCO in New York State or imposing any other consequences the Commission may deem appropriate in light of the circumstances and Astral's past performance."

Coltown's Claim:

Coltown owns/manages various properties located in the State of New York, and, in connection therewith, entered into a contract with Astral (the "Contract," a copy of which is attached hereto as Exhibit A) whereby Astral would provide electricity in connection with such properties at the fixed rate of \$0.0983 per kilowatt hour.

At various time since the execution of the Contract, Astral charged plaintiffs greatly in excess of the fixed rate set in the Contract. To cite but one example, Astral charged plaintiffs \$0.1385 per kilowatt hour for the period from June 26, 2015 through July 28, 2015 for the Ellwood Street Property (*see* page 3 of the ConEdison billing statement for such period which is attached hereto as Exhibit B). This was no isolated event – Astral often shamelessly overbilled Coltown, in rank violation of the Contract.

In fact, and as already noted by the PSC, Astral has a demonstrated history of overbilling its customers. For example, and as set forth above, Astral overbilled Sixty Hotels, again in flagrant violation of a written agreement. Additionally, Coltown has reason to believe that Astral's overbilling of Coltown and Sixty Hotels were not isolated events, as other entities were similarly bilked by Astral. As such, there can be no doubt that Astral's overbilling of its customers, in flagrant violation of its fixed-rate contracts, was intentional and widespread.

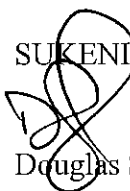
Conclusion:

As such, there is strong reason to believe that Astral's improper overbilling is intentional, widespread and goes to the heart of Astral's business practices. Accordingly, Coltown respectfully requests that the PSC revoke the eligibility of Astral to provide ESCO services in the State of New York.

The undersigned appreciates the PSC's attention to this matter.

Respectfully yours,

SUKENIK, SEGAL & GRAFF, P.C.



Douglas Segal

Enc.

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Exhibit A



16 Tyson Place, Bergenfield, NJ 07621
Tel: 888-850-1872 • Fax: 201-387-2882
www.AstralEnergyLLC.com

Customer Energy Authorization Agreement – New York

Select Customer Type: ☒ Commercial ☐ Residential

Utility / Local Distribution (LDC): ConEd (Select one utility from the list below)

How to find Utility Number? **ConEd:** 15-digit Account number located on P.3 of bill
Central Hudson: 11-digit Account number located on P.1 of bill
National Grid: 10-digit Account number located on P.1 of bill
O&R: 10-digit Account number located on P.1 of bill
NYSEG / RGE: N + 14-digit PoD ID number located on P.3 of bill

Customer's Utility Number: ☒ Electric: Attached accounts
☐ Gas: _____

Customer's Name on Utility Bill: Coltown Properties LLC

Customer's Billing Address: 85 Delancy st. (Line 1)

(Line 2)
NY NY 10002 (City/St/Zip)

Contact Name: Steven Phone: 212-777-2060 Email: sneuman@coltown.com

Terms of Contract: 3/1/15 (mm/dd/yyyy) TO 12/1/15 (mm/dd/yyyy)

Billing Plan (✓one): A ☐ Variable Rate; B ☒ Fixed Price (see below)*; C ☐ Custom

* If "B Fixed Price" is selected, fill in information below:

☐ Gas: NYMEX monthly closing price plus a fixed upcharge \$ _____
☒ Electricity: \$.0983 per KWh

Service Address: ☐ (✓check here if same as Customer's Billing Address)

(If different from Billing Address) See attached service address (Line 1)

(Line 2)

(City/St/Zip)

Customer agrees to purchase from Astral Energy LLC all of their energy requirements for the above listed account(s). Astral Energy LLC will deliver a quantity of natural gas/electricity that is necessary to meet the Customer's requirements based on the information that Astral Energy LLC receives from Customer's local utility.

Customer agrees to designate Astral Energy's LLC to act as Customer's agent in supplying natural gas/electricity and administering contracts with the local utility. Astral Energy LLC will arrange for the transportation of Customer's gas/electricity from the point of purchase to the local utility city gate/distribution point. The local utility will then bill the Customer for the distribution of the gas/electricity to the point of use.

By signing below, Customer agrees to Astral Energy LLC's General Terms and Conditions as listed on their website: www.AstralEnergyLLC.com.

Customer:

Signature

Steven Neuman

Print Name / Title

Date

2/20/15

Astral Energy LLC – Representative

Signature

Power for Less

Print Name / Title / Rep No.

2/20/15

Date

Account number	Service address	Term	Rate
402017255600056	85 DELANCEY ST ENT	9 months	0.0983
451035011500048	418 E 115 ST 1FL	9 months	0.0983
482139157400063	569 ACADEMY ST HLS	9 months	0.0983
482139157410070	569 ACADEMY ST PLP	9 months	0.0983
483237049500063	75 ELLWOOD ST HLSP	9 months	0.0983
483237050000060	75 ELLWOOD ST SUPT	9 months	0.0983
483237067000145	75 ELLWOOD ST 4C	9 months	0.0983
484035133500034	551 W 190 ST HOBM	9 months	0.0983
484035134000042	551 W 190 ST BSMT	9 months	0.0983
484035148000038	559 W 190 ST HLS	9 months	0.0983
484035166500034	565 W 190 ST H&OB	9 months	0.0983
484235139000076	46 WADSWORTH TERR ENTM	9 months	0.0983
484235155200048	54 WADSWORTH TERR ENTM	9 months	0.0983
484235156000058	54 WADSWORTH TERR OB&B	9 months	0.0983
494151270900016	410 ST NICHOLAS AVE HEAT	9 months	0.0983
644260271000046	1030 PARK PLAC HCM	9 months	0.0983
666004079800048	45 LINDEN BLVD PLPM	9 months	0.0983
666004080800136	45 LINDEN BLVD 2B	9 months	0.0983
666004087000029	55 LINDEN BLVD PLPM	9 months	0.0983
666004091300118	55 LINDEN BLVD 1H	9 months	0.0983
666006095601052	221 LINDEN BLVD PLAB	9 months	0.0983
666006095602050	221 LINDEN BLVD PLCD	9 months	0.0983
666050081081127	2107 BEDFORD AVE HCM	9 months	0.0983
666240189500025	280 E 21 ST HOBE	9 months	0.0983
666240220500059	280 E 21 ST 1I	9 months	0.0983
666360160000140	2025 REGENT PLAC HCM	9 months	0.0983
666360172781091	2016 REGENT PLAC HCM	9 months	0.0983
666360173300214	2016 REGENT PLAC 4F	9 months	0.0983
666362125081058	2522 BEDFORD AVE H&CM	9 months	0.0983
666362125083054	2522 BEDFORD AVE 1C	9 months	0.0983
666362125100023	2516 BEDFORD AVE HCM	9 months	0.0983
666378031900041	590 OCEAN AVE HCST	9 months	0.0983
666378108000030	666 OCEAN AVE HCM	9 months	0.0983
666378125500020	670 OCEAN AVE HCM	9 months	0.0983
666378143000029	682 OCEAN AVE HLSP	9 months	0.0983
666378632000027	5 WESTMINSTER RD HCM	9 months	0.0983
666380143900034	816 OCEAN AVE HCM	9 months	0.0983
666384378000023	75 E 21 ST H&CM	9 months	0.0983
666386004800049	91 E 18 ST HCM	9 months	0.0983
666386007400045	95 E 18 ST HCM	9 months	0.0983

Exhibit B



Working for you 24/7.

75 ELLWOOD PROPERTY LLC

Your account number: 48-3237-0495-0006-3

Service delivered to: 75 Ellwood St Hlsm

Your electric rate: EL9 General Large

Next meter reading date: Wednesday, Aug 26, 2015

Avoid estimated bills - please give us access to read your meter.

Your billing summary as of Jul 29, 2015

Your previous charges and payments

Total charges from your last bill	-\$1,304.07
Payments through Jul 27	None

Remaining balance **-\$1,304.07**

Your new charges - details start on page 2

Billing period: Jun 26, 2015 to Jul 28, 2015

Esco electricity supply charges - for 32 days	\$525.94
Con Edison electricity charges	\$423.51

Total new charges **\$949.45**

Total amount due **None**

Message Center

Join our Direct Payment Plan. Just place an 'X' in the DPP enrollment box on your payment slip when you mail back your payment by check. We'll use your banking information to enroll you in the plan. Then, each month, after you've had time to review your bill, we will automatically deduct your Con Edison bill payment from your checking account. Join Now.

AN OPPORTUNITY TO SAVE Sign up for your free energy survey today. Save energy, save money, help the environment and receive financial incentives on energy-efficient lighting, heating and cooling systems for your business. For more information call 1-877-870-6118, or visit www.coned.com/energyefficiency.

YOUR DOLLAR FOR ENERGYSHARE CAN MAKE A DIFFERENCE. If you pay the total amount of this bill and exactly \$1.00 more, that dollar will go into the EnergyShare fund sponsored by Con Edison. And, Con Edison matches each contribution. EnergyShare helps eligible residential customers who are struggling to pay their bills with one-time grants of up to \$200.

Contact us 24 hours a day, 7 days a week

To report a service problem, call 1-800-75-CONED (1-800-752-6633) or visit www.conEd.com

Visit www.conEd.com
 For payments, visit www.conEd.com or call 1-888-925-5016

Con Edison
Cooper Station
P.O. Box 138
New York, NY 10276-0138

For other information, call 1-212-243-2591 or 1-800-758-2481

Tear or Cut here

Say good-bye to paper bills. Go to www.conEd.com and sign up for e*bills.

Page 1 of 3



Payment slip

Please make checks payable to Consolidated Edison Company of N.Y. Inc.

Your account number: 48-3237-0495-0006-3

Total amount due: None

Amount enclosed:

75 ELLWOOD PROPERTY
LLC
COLTOWN PROPERTIES
95-04 DELANCEY ST
MANHATTAN NY 10002-3165

JAF STATION
P.O. BOX 1702
NEW YORK, NY 10116-1702

☐ Mark X to enroll in DPP

483237049500063 30000094945 00000000000



0000244

Your electricity charges

These charges are for the electricity you used (supply) and getting that electricity to you (delivery). Rates are based on a 30 day period. When your billing period is more or less than 30 days, we prorate your bill accordingly.

Electricity you used during this 32 day billing period		
from Jun 26, 2015 to Jul 28, 2015		
Rate: EL9 General Large	Meter# 7838568	
We measure your electricity by how many kilowatt hours (kWh) you use. One kWh will light a 100 watt bulb for 10 hours. The meter multiplier is the factor by which the meter reading difference is multiplied to determine your usage. Demand or kW is the highest amount of electric usage in any half hour during the billing period.		
Jul 28, 15 actual reading	20992	46.32
Jun 26, 15 actual reading	<u>-20790</u>	<u>-45.85</u>
Reading difference	202	0.47
Meter multiplier	<u>X18</u>	<u>X18</u>
Your electricity use	3,636 kWh	8.46 kW

Sales tax @4.5000% \$18.24
Tax collected on behalf of New York City.

Total delivery charges \$423.51

▶▶ Con Edison electric charges \$423.51

▶ Your supply charges

Your electricity is supplied by ASTRAL ENERGY LLC. Your supply charges appear on page 3.

▶ Your delivery charges

Basic service charge	\$7.52
Charge for metering.	
Energy delivery 3,636 kWh	\$119.23
Charge for maintaining the system through which Con Edison delivers electricity to you.	
Demand delivery 8.4 kW	\$227.39
Charge for maintaining the system through which Con Edison delivers electricity to you.	
SBC/RPS charges	\$25.45
The System Benefits Charge/Renewable Portfolio Standard charges fund New York State renewable energy, environmental and other related public policy programs.	
Temporary NY State Surcharge	\$6.02
Covers new fees imposed by the state.	
GRT & other tax surcharges	\$19.66
Taxes on Con Edison gross receipts from sales of utility services and other tax surcharges.	

Ways to pay your Con Edison bill:

If you have a checking or savings account, the easiest way to pay your Con Edison bill is with the Direct Payment Plan (DPP). It's free, and there are no checks to write or stamps to buy. Once you set it up, it's automatic every month. Con Edison also offers Pay-by-Phone and Pay-by-Internet services. Call Payment Express at 1-888-925-5016 for DPP enrollment or to make a payment by phone, or go to www.conEd.com to make a payment. You can also pay your bill by mail in the enclosed envelope. The address to mail all payments is Con Edison, JAF Station, PO Box 1702, New York, NY 10116-1702. Con Edison has a network of Authorized Payment Agents throughout the five boroughs and Westchester County. This option is also free. Go to www.conEd.com to find a location closest to you.

Moving?

Contact us to make sure you have service at your new address.

Changing your mailing address?

Contact us to make sure your bills go to the right place.

For information about your account:

You can speak to someone in person about your Con Edison account at one of the following locations:

- Bronx Walk-in Center - 1775 Grand Concourse
- Brooklyn Walk-in Center at National Grid - One Metrotech Plaza
- Manhattan - 122 East 124th St.
- Queens Walk-in Center at National Grid - 89-67 162nd Street
- Staten Island Walk-in Center - 1140 Richmond Terrace
- Mount Vernon Walk-In Center at Food Bazaar - 1 Bogopa Plaza



conEdison



Working for you 24/7.

Name: 75 ELLWOOD PROPERTY LLC

Account number: 48-3237-0495-0006-3

Billing period ending: Jul 28, 2015

Page 3 of 3

Your electricity supply detail

Your electricity supplier

ASTRAL ENERGY LLC

16 TYSON PLACE

BERGENFIELD NJ 07621

For information call: 1-201-384-5552

► Your electricity supply charges

32 day billing period from Jun 26, 2015 to Jul 28, 2015

kWh used 3636

Customer charge	\$0.00
Supply cost @13.8500¢ per kWh	\$503.59
Sales tax @4.4375%	\$22.35

Total electricity supply charges	\$525.94
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MESSAGES from your electricity ESCO

NEW! Login to My Account at coned.com for a new ESCO bill comparison tool!