



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 19, 2014

Via E-Filing

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

Re: Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate v. Blue Pilot Energy, LLC
Docket No. C-2014-2427655

Prehearing Conference Memorandum of I&E

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Prehearing Conference Memorandum of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement in the above-captioned matter.

Copies have been served on the parties of record in accordance with the attached Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Michael L. Swindler
Prosecutor
PA Attorney I.D. No. 43319

Enclosure

cc: Honorable Joel H. Cheskis
Honorable Elizabeth H. Barnes
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, by	:	
Attorney General Kathleen G. Kane,	:	
through the Bureau of Consumer Protection,	:	
and Tanya J. McCloskey, Acting Consumer	:	
Advocate	:	
	:	
	:	
v.	:	Docket No. C-2014-2427655
	:	
	:	
Blue Pilot Energy, LLC	:	

**PREHEARING CONFERENCE MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGES JOEL H. CHESKIS AND ELIZABETH H. BARNES:

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) respectfully submits the following Prehearing Conference Memorandum in the above-captioned proceeding pursuant to the Prehearing Conference Order of the presiding Administrative Law Judges dated August 8, 2014.

I. BACKGROUND

On June 20, 2014, the Office of Attorney General (OAG), through its Bureau of Consumer Protection, and the Office of Consumer Advocate (OCA) filed a Joint Complaint against Blue Pilot Energy, LLC (Blue Pilot or Company) alleging multiple violations of Pennsylvania law and Commission regulations and orders. Blue Pilot is an electric generation supplier (EGS) that became licensed by the Commission to

operate as an EGS in Pennsylvania on or about June 10, 2011 at A-2011-2223888. In the Joint Complaint, the OAG and OCA allege, *inter alia*, that Blue Pilot failed to provide accurate pricing information, charged prices that did not conform to the Company's disclosure statement, engaged in misleading and deceptive promises of savings, failed to handle customer complaints in good faith and failed to comply with the Telemarketer Registration Act, 73 P.S. § 2241 *et seq.*

Blue Pilot filed an Answer to the Joint Complaint on July 10, 2014. Also on July 10, 2014, Blue Pilot filed Preliminary Objections to which the OAG and OCA replied on July 21, 2014. I&E filed a Notice of Intervention on July 31, 2014. A Prehearing Conference has been scheduled for August 25, 2014.

II. PREHEARING CONFERENCE MEMORANDUM

A. Entry on Service List

The I&E Prosecutors in this proceeding are Michael L. Swindler, Stephanie M. Wimer and Wayne T. Scott. Contact information is as follows:

Michael L. Swindler
Prosecutor
mwindler@pa.gov

Stephanie M. Wimer
Prosecutor
stwimer@pa.gov

Wayne T. Scott
First Deputy Chief Prosecutor
wascott@pa.gov

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P.O. Box 3265

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(717) 783-3458 (fax)

Should each party be limited to one entry on the service list, Michael L. Swindler is the I&E Prosecutor who should be served with any and all documents in this proceeding.

B. Statement Regarding Possible Settlement Of Case

I&E is hopeful that this matter can be resolved by a settlement agreement. In the event that a settlement agreement cannot be reached, I&E is fully prepared to litigate this matter.

C. Proposed Modifications to the Commission's Discovery Regulations

I&E does not propose any modifications to the Commission's regulations pertaining to discovery.

D. Proposed Schedule for Litigation

I&E is willing to work with the other parties in this proceeding to arrive at a litigation schedule that is mutually convenient.

E. I&E Witnesses

I&E does not expect to call any witnesses. However, I&E reserves the right to call witnesses, should it become necessary to protect its interest and the public interest.

F. Issues

The following is a list of issues and subissues that I&E intends to ensure are addressed in this case. I&E reserves the right to address other issues, as it deems

appropriate, if any such relevant issues arise. Currently, I&E does not maintain a position with respect to each of the issues and sub-issues listed.

1. Respondent's Disclosure Statement
 - a. Whether Respondent provided accurate information about its electric generation services using plain language and common terms in communications with consumers;
 - b. Whether Respondent explained the conditions of its variable pricing terms; and
 - c. Whether Respondent charged prices to its customers that did not conform to its Disclosure Statement.
2. Whether Respondent's agents engaged in any fraudulent, deceptive or other unlawful marketing or billing acts.
3. Whether Respondent adequately trained and monitored its agents.
4. Whether Respondent properly handled customer complaints.
5. The relief that the Commission should impose upon Respondent if Respondent is found to be in violation of the Public Utility Code and Commission regulations and orders, including but not limited to restitution in the form of customer refunds, the amount of a civil penalty, suspension or revocation of Respondent's EGS license and other remedial measures.

III. CONCLUSION

I&E is willing to make all good faith efforts to successfully resolve this matter through settlement. In the event that settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully litigate this proceeding.

Respectfully submitted,



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Wayne T. Scott
First Deputy Chief Prosecutor
PA Attorney ID No. 29133

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Date: August 19, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail and Email:

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Date: August 19, 2014