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December 31, 2014

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC
Docket No. C-2014-2427655

Dear Secretary Chiavetta:

On behalf of Blue Pilot Energy, LLC, I have enclosed for electronic filing the Motion for Continuance Of February 2-6, 2015 Evidentiary Hearings in the above-captioned matter.

Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



Karen O. Moury

KOM/bb
Enclosure

cc: Administrative Law Judge Elizabeth Barnes (*via email and First Class Mail*)
Administrative Law Judge Joel Cheskis (*via email and First Class Mail*)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**COMMONWEALTH OF PENNSYLVANIA, :
BY ATTORNEY GENERAL KATHLEEN :
KANE, THROUGH THE BUREAU OF :
CONSUMER PROTECTION :**

and :

**TANYA J. McCLOSKEY, ACTING :
CONSUMER ADVOCATE :
Complainants :**

DOCKET NO. C-2014-2427655

v. :

**BLUE PILOT ENERGY, LLC, :
Respondent :**

**MOTION FOR CONTINUANCE OF
FEBRUARY 2-6, 2015 EVIDENTIARY HEARINGS**

TO ADMINISTRATIVE LAW JUDGES BARNES AND CHESKIS:

Blue Pilot Energy, LLC (“BPE”), by and through its undersigned counsel, files this Motion for Continuance, pursuant to Section 1.15 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 1.15, and in connection therewith avers as follows.

I. INTRODUCTION

1. BPE submits this request for a 30-45 day continuance of the evidentiary hearings scheduled for February 2-6, 2015, and for the rescheduling of these hearings in March 2015, depending upon the availability of the Administrative Law Judges (“ALJs”) and the parties.

2. BPE further requests that the due dates for the identification of witnesses, the circulation of hearing exhibits and the filing of motions to strike testimony be changed to conform to the new hearing dates.

3. The Commission's regulations authorize ALJs to grant a continuance on the basis of good cause shown and as necessary to ensure that a party has sufficient time to adequately prepare for and present its case.

4. By this Motion, BPE has demonstrated good cause for a continuance on the basis of the recent unanticipated and extended absence from the office of its lead counsel, its continuing efforts to respond to discovery requests and the desire for additional time to pursue possible settlement of this matter, as more fully explained below.

5. BPE is authorized to represent that the Joint Complainants do not oppose this Motion for Continuance.

II. BACKGROUND

6. BPE is an electric generation supplier ("EGS") licensed by the Commission since June 10, 2011, *see* Docket No. A-2010-2163898, to supply electricity or electric generation services to residential, small commercial, large commercial and industrial customers in electric distribution company service territories throughout the Commonwealth of Pennsylvania.

7. On June 20, 2014, the Joint Complainants, Commonwealth of Pennsylvania ("OAG") and Pennsylvania Office of Consumer Advocate ("OCA") (together, "Joint Complainants"), filed their Joint Complaint ("Complaint") in this case, asserting five causes of action against BPE: (1) Count I – Failing to Provide Accurate Pricing Information; (2) Count II – Prices Nonconforming to Disclosure Statement; (3) Misleading and Deceptive Promises of Savings; (4) Count IV – Lack of Good Faith Handling of Complaints; and (5) Count V – Failure to Comply with the Telemarketer Registration Act.

8. On July 10, 2014, BPE filed an Answer and Preliminary Objections seeking dismissal of Counts I, II, and V. BPE's Preliminary Objections were granted with respect to Count II, and partially granted with respect to Counts I and V. *See* Aug. 20, 2014 Order

Granting in Part and Denying in Part Prel. Objections. On December 11, 2014, the Commission entered an Order, on interlocutory review of the August 20, 2014 Order, answering material questions related to the Commission's jurisdiction over the allegations in Counts I, II and V.

9. On August 25, 2014, the ALJs convened a prehearing conference. At that conference, the ALJs directed the parties to develop a proposed schedule setting forth dates (i) by when the Joint Complainants would serve written direct testimony or affidavits of their consumer witnesses; (ii) for evidentiary hearings wherein written testimony or affidavits from the consumers would be admitted into the record subject to cross examination and/or objections; and (iii) for a further prehearing memorandum conference to schedule remaining deadlines and evidentiary hearings.

10. The parties jointly proposed to the ALJs that the Joint Complainants would provide the testimony of the consumer witnesses by October 17, 2014 and evidentiary hearings would be held on November 13-14, 2014. The ALJs issued Procedural Order #2 on September 3, 2014 incorporating these dates.

11. BPE filed a Motion for Continuance on October 22, 2014, which was granted by the ALJs by Order dated October 28, 2014, due to the much higher volume of testimony by consumer witnesses than had been previously anticipated. The October 28, 2014 Order also set forth dates by which other events must occur, including the identification of consumer witnesses for cross-examination, the circulation of hearing exhibits and the filing of motions to strike testimony. In that Order, the ALJs reminded the parties that Commission policy promotes settlement and directed the parties to advise them of all future settlement activity.

III. ARGUMENT

12. Requests for continuance may be granted by the presiding officer "for good cause" under Section 1.15 of the Commission's regulations, 52 Pa. Code § 1.15.

13. The Commission has held that good cause exists where the movant has acted diligently in preparing its case but requires additional time to prepare and present its case adequately. *See, e.g., Pa. P.U.C., Bureau of Transportation and Safety v. USA Express Moving & storage, Inc.*, No. A-00117215C0701, 2010 WL 1458129 (Pa. P.U.C. Apr. 8, 2010); *Petition of UGI Utilities, Inc. – Gas Div. for an Extension of Time*, No. P-00072269, 2007 WL 1307904 (Pa. P.U.C. Apr. 24, 2007).

14. BPE has acted diligently to prepare and present its case but requires additional time to do so adequately. This request is primarily due to the unanticipated and extended absence from the office of BPE’s lead day-to-day counsel, Daniel S. Blynn, resulting from the sudden death of his father approximately two weeks ago, which has hampered his ability to engage in the necessary hearing preparations.

15. Particularly given the high stakes of this proceeding, in which the Joint Complainants have sought significant relief, including license suspension or revocation, substantial civil penalties and the issuance of refunds to customers, it is critical that BPE be given sufficient time to adequately prepare for litigation.

16. Granting this continuance will also permit BPE to engage in meaningful settlement discussions with the Joint Complainants in view of the proposed term sheet that was provided on December 15, 2014. These efforts had been stalled for a period of time while BPE awaited receipt of the proposed term sheet, which was expected several weeks earlier.

17. Further, rescheduling the hearings provides a cushion for responding to the Joint Complainants’ discovery requests. Due to BPE’s limited resources for responding to discovery, it previously committed to a rolling production of recordings and documents sought by the Joint Complainants’ Interrogatories and Production of Documents – Set IV. Despite its best efforts, that process is continuing and is not expected to be concluded until January 23, 2015. In

addition, the Joint Complainants served Interrogatories and Production of Documents – Set V on BPE on December 17, 2014, for which they have agreed to an extension of time until January 19, 2015 to receive responses.

18. BPE is authorized to represent that the Joint Complainants do not oppose this Motion for Continuance.

19. Therefore, for good cause shown, BPE respectfully requests that evidentiary hearings scheduled for February 2-6, 2015 be continued and rescheduled to dates in March 2015 and that the due dates for the identification of witnesses, the circulation of hearing exhibits and the filing of motions to strike testimony be changed to conform to the new hearing dates.

WHEREFORE, Blue Pilot Energy, LLC respectfully requests that Your Honors grant this Motion for Continuance of the February 2-6, 2015 Evidentiary Hearings.

Respectfully submitted,

Dated: December 31, 2014



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Attorneys for Blue Pilot Energy, LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**COMMONWEALTH OF
PENNSYLVANIA, ET AL.**

v.

BLUE PILOT ENERGY, LLC

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Docket Nos. C-2014-2427655

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 § 1.54 (relating to service by a party).

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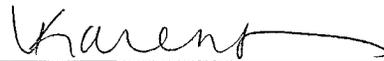
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Dated this 31st day of December, 2014.



Karen O. Moury, Esq.