

# Buchanan Ingersoll & Rooney PC

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February 20, 2015

## 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 Application for Subpoena 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: Certificate of Service



Mark R. Robeck  
(admitted *pro hac vice*)  
Travis G. Cushman  
(*pro hac vice* application pending)  
KELLEY DRYE & WARREN LLP  
3050 K Street, NW, Suite 400  
Washington, DC 20007  
Telephone: (202) 342-8400  
Facsimile: (202) 342-8451

*Attorneys for Blue Pilot Energy, LLC*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>COMMONWEALTH OF</b>	:
<b>PENNSYLVANIA, ET AL.,</b>	:
	:
<b>Complainants,</b>	:
	:
<b>v.</b>	: <b>Docket No. C-2014-2427655</b>
	:
<b>BLUE PILOT ENERGY, LLC,</b>	:
	:
<b>Respondent.</b>	:

**APPLICATION FOR SUBPOENA**

AND NOW comes Respondent Blue Pilot Energy, LLC (“BPE”) and files this Application to Subpoena five of BPE’s Pennsylvania customers whom Complainants have advised both the ALJs and BPE that they intend to use in support of their claims alleged in this proceeding. Accordingly, BPE seeks to take the pre-hearing oral depositions of these five individuals pursuant to 52 Pa. Code § 5.421(a)(2). In support thereof, BPE avers as follows:

**I. INTRODUCTION**

1. Complainants initiated this action by filing a Joint Complaint on June 20, 2014, in which they alleged that BPE committed violations of certain Public Utility Code and regulations of the Pennsylvania Public Utility Commission (the “Commission”).

2. Thereafter the parties engaged in formal discovery.

3. On or about October 17, 2014, Complainants served BPE with two volumes of a document entitled “Consumer Direct Testimony,” which purports to be the statements of 97 consumers that Complainants have advised both the ALSs and BPE they intend to rely on in this proceeding.

4. On February 4, 2015, the parties appeared before the ALJs for a Further Prehearing Conference. During that Prehearing Conference, BPE advised both the ALJs and Complainants planned to take a limited number of depositions of the 97 consumers whose statements appear in the document entitled “Consumer Direct Testimony.” That notice was received without objection by Complainants.

5. To the extent that Complainants intend to use any of the consumer statements contained in the document entitled “Consumer Direct Testimony,” BPE has a right to cross-examine all of those consumers at pre-hearing depositions prior to the hearings scheduled for March 30 to April 3, 2015. Rather than take the depositions of all 97 consumers, however, BPE desires to take a very small number of depositions of those consumers.

6. BPE intends to use these limited depositions to better understand the process by which Complainants obtained the consumer statements, to prepare for the hearings scheduled for March 30 to April 3, 2015, and to determine the most efficient means by which to cross-examine other consumer witnesses at the hearings.

7. BPE intends to take the pre-hearing depositions of the following consumers:

<u>Name</u>	<u>Date</u>	<u>Time</u>	<u>Place</u>
Katherine Williams (Waverly, PA)	March 12, 2015	10:30 a.m.	Forty Fort, PA
Karen Mauro (Dingman’s Ferry, PA)	March 12, 2015	1:30 p.m.	Forty Fort, PA
Grace Witmer (New Holland, PA)	March 16, 2015	10:00 a.m.	Reading, PA
John Cassel (Allentown, PA)	March 16, 2015	12:00 p.m.	Reading, PA
Dennis Frey (Lebanon, PA)	March 16, 2015	2:00 p.m.	Reading, PA

8. BPE has scheduled the depositions for a central location for each consumer.

## **II. GROUNDS FOR THE SUBPOENA**

9. Section 5.421(a)(2) of the Commission's regulations permits a party to submit a written application for a subpoena to the presiding officer. 52 Pa. Code § 5.421(a)(2). The application for a subpoena must specify the general relevance, materiality and scope of the testimony or documentary evidence sought, including specification of the documents desired. 52 Pa. Code § 5.421(b)(1).

10. BPE does not seek any documents from these witnesses.

11. While BPE objects to the admission of any of the consumer statements that appeared in the document entitled "Consumer Direct Testimony" for any purpose in this proceeding, BPE understands that Complainants intend to rely on those statements to prove the allegations in their Complaint. BPE therefore desires to question the above-referenced consumers regarding the process by which Complainants obtained the consumer statements, prepare for the hearings scheduled for March 30 to April 3, 2015, and to determine if the most efficient means by which to cross-examine other consumer witnesses at the hearings. BPE understands that the consumer statements were obtained by Complainants in response to a questionnaire that Complainants sent to various consumers and that the questionnaire was not approved by the ALJs, nor was it sent with notice to BPE. The cover letter that accompanied the questionnaire and sent by Complainants to the consumers specifically noted that "by law, [Complainants] cannot act as your private individual counsel, but can answer questions about this case and your involvement."

12. A proposed subpoena for each of the five consumers has been included with this Application.

### III. CONCLUSION

WHEREFORE, for all the foregoing reasons, BPE respectfully requests that the presiding Administrative Law Judges issue Subpoenas requiring the five consumers list above to attend pre-hearing depositions in this matter at the times and places set forth above and in each Subpoena.

February 20, 2015

BUCHANAN INGERSOLL & ROONEY PC

By: 

Karen O. Moury  
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Travis G. Cushman  
(*pro hac vice* application pending)  
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*Attorneys for Blue Pilot Energy, LLC*



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

COMMONWEALTH OF  
PENNSYLVANIA, ET AL.,

Complainants,

v.

BLUE PILOT ENERGY, LLC,

Respondent.

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: Docket No. C-2014-2427655  
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SUBPOENA

To: Katherine L. Williams, 2004 Delaware Street, Unit D, Dunmore, PA 18512  
(Name and Address)

Pursuant to the authority of this Commission under §§3309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Stevens & Lee  
(place)  
1460 Wyoming Avenue  
, at Forty Fort, PA 18704

Pennsylvania, on March 12, 2015, at 10:30 a.m. o'clock, in the  
above case to testify on behalf of the Respondent and to remain until excused;

2. And bring with you and produce the following: N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date \_\_\_\_\_

Joel H. Cheskis and Elizabeth Barnes  
Administrative Law Judges

Commonwealth of Pennsylvania )  
 ) SS:  
County of )

**AFFIDAVIT OF SERVICE**

Before me, the undersigned authority, personally appeared \_\_\_\_\_  
who, being duly sworn according to law, deposes and says that he/she served a true and correct  
copy of the within SUBPOENA upon \_\_\_\_\_  
by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
*Notary Public*



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

COMMONWEALTH OF  
PENNSYLVANIA, ET AL.,

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Docket No. C-2014-2427655

SUBPOENA

To: Karen M. Mauro, 104 Rock Court, Dingmans Ferry, PA 18328  
(Name and Address)

Pursuant to the authority of this Commission under §§3309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Stevens & Lee  
(place)  
1460 Wyoming Avenue  
, at Forty Fort, PA 18704

Pennsylvania, on March 12, 2015, at 1:30 p.m. o'clock, in the  
above case to testify on behalf of the Respondent and to remain until excused;

2. And bring with you and produce the following: N/A

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date \_\_\_\_\_

Joel H. Cheskis and Elizabeth Barnes  
Administrative Law Judges

Commonwealth of Pennsylvania )  
 ) SS:  
County of )

**AFFIDAVIT OF SERVICE**

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by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
*Notary Public*



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

COMMONWEALTH OF PENNSYLVANIA, ET AL.,  
Complainants,  
v.  
BLUE PILOT ENERGY, LLC,  
Respondent.  
: : : : : : : : : :  
: Docket No. C-2014-2427655

SUBPOENA

To: Grace M. Witmer, 36 Ashlea Village, New Holland, PA 17557  
(Name and Address)

Pursuant to the authority of this Commission under §§3309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Stevens & Lee  
(place)  
111 North Sixth Street  
Reading, PA 19601

Pennsylvania, on March 16, 2015, at 10:00 a.m. o'clock, in the  
above case to testify on behalf of the Respondent and to remain until excused;

2. And bring with you and produce the following: N/A  
\_\_\_\_\_  
\_\_\_\_\_

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date \_\_\_\_\_

Joel H. Cheskis and Elizabeth Barnes  
Administrative Law Judges

Commonwealth of Pennsylvania )  
 ) SS:  
County of )

**AFFIDAVIT OF SERVICE**

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by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
*Notary Public*

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**COMMONWEALTH OF  
PENNSYLVANIA, ET AL.,**

**Complainants,**

**v.**

**BLUE PILOT ENERGY, LLC,**

**Respondent.**

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**: Docket No. C-2014-2427655**

**SUBPOENA**

To: John J. Cassel, 5522 Holiday Drive, Allentown, PA 18104

(Name and Address)

Pursuant to the authority of this Commission under §§3309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Stevens & Lee  
(place)

111 North Sixth Street  
Reading, PA 19601

Pennsylvania, on March 16, 2015, at 12:00 p.m. o'clock, in the

above case to testify on behalf of the Respondent and to remain until excused;

2. And bring with you and produce the following: N/A

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

**BY THE COMMISSION**

Date \_\_\_\_\_

Joel H. Cheskis and Elizabeth Barnes  
Administrative Law Judges

Commonwealth of Pennsylvania )  
 ) SS:  
County of )

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by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
*Notary Public*



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Docket No. C-2014-2427655

SUBPOENA

To: Dennis Frey, 1874 Colebrook Road, Lebanon, PA 17042  
(Name and Address)

Pursuant to the authority of this Commission under §§3309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Stevens & Lee  
(place)  
111 North Sixth Street  
, at Reading, PA 19601

Pennsylvania, on March 16, 2015, at 2:00 p.m. o'clock, in the  
above case to testify on behalf of the Respondent and to remain until excused;

2. And bring with you and produce the following: N/A

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date \_\_\_\_\_

Joel H. Cheskis and Elizabeth Barnes  
Administrative Law Judges

Commonwealth of Pennsylvania )  
 ) SS:  
County of )

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by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
*Notary Public*

**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).

**Via Email and First Class Mail**

Elizabeth Barnes  
Joel Cheskis  
Administrative Law Judges  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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Bureau of Investigation & Enforcement  
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Harrisburg, PA 17105-3265

Barbara R. Alexander  
83 Wedgewood Drive  
Winthrop, Maine 04364

Dated this 20<sup>th</sup> day of February, 2015.



\_\_\_\_\_  
Karen O. Moury, Esq.