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JAN 19 2016

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

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January 19, 2016

VIA OVERNIGHT MAIL

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 ("Blue Pilot Energy"), enclosed for filing is a Petition for Certification, in the above-captioned matter. Please return one filed copy in the envelope provided.

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

3. The Joint Complaint does not allege, and has not been amended to address, any of the issues that are the subject of the Joint Complainants Interrogatories and Requests for Production – Set XIII (“Discovery Requests”).

4. Since the Discovery Requests seek information that does not pertain to the allegations in the Joint Complaint, they are outside of the scope of issues that may be raised during the hearings. As such, they seek irrelevant information that is not reasonably calculated to lead the discovery of admissible evidence. Any consideration of this information during the evidentiary hearings would be a violation of BPE’s fundamental rights of due process.

5. Commission review of the Interim Order is essential to prevent substantial prejudice to BPE.

II. ARGUMENT

6. The Commission’s regulations provide that “a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.” 52 Pa. Code § 5.321(c). The regulations further state that while inadmissibility at the hearing is not a ground for objection, the information sought must be “reasonably calculated to lead to the discovery of admissible evidence.” *Id.*

7. As a fundamental matter of due process, BPE has a right to notice and opportunity to be heard on any allegations that the Joint Complainants seek to pursue. *See Commonwealth v. Thompson*, 444 Pa. 312, 316, 281 A.2d 856, 858 (1971). It is well settled that issues that are not raised in a complaint may not be raised at hearing. *O’Toole v. Metropolitan Edison Company*, Docket No. C-2008-2045487 (Initial Decision served February 10, 2009 and Final Order entered April 20, 2009).

8. The Joint Complaint's allegations relate to the provision of accurate pricing information to consumers, charging prices that conform to BPE's disclosure statement, honoring any promises of savings that were made by BPE, the handling of consumer complaints and compliance with the Telemarketer Registration Act. The information sought through the Discovery Requests pertaining to BPE's bond, the status of participation in the PJM wholesale market and the payment of gross receipts taxes are wholly unrelated to those allegations.

9. Since due process principles prohibit issues from being raised at the hearing that were not included in the Joint Complaint, the information sought by the Discovery Requests is not reasonably calculated to lead to the discovery of admissible evidence.

10. By limiting discovery to information that is relevant to the issues raised in the proceeding, the Commission's regulations are designed to protect companies from enduring fishing expeditions. The Joint Complainants' curiosity about the information sought through the Discovery Requests does not prevail over BPE's fundamental due process rights.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, Blue Pilot Energy, LLC respectfully requests that Administrative Law Judges Barnes and Cheskis grant this Petition for Certification.

Respectfully submitted,

January 19, 2016



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Counsel 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 No. 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
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Dated this 19th day of January, 2016.

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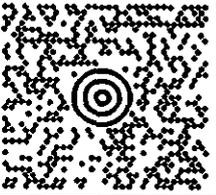
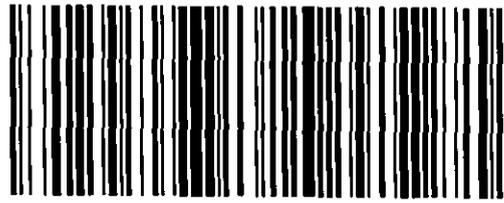
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