

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**License Application of EnerPenn USA, LLC      Public Meeting held March 15, 2012**  
**d/b/a Y.E.P., d/b/a YEP Energy for Approval      2248532-OSA**  
**to Offer, Render, Furnish or Supply              Docket No. A-2011-2248532**  
**Electricity or Electric Generation Services as**  
**a Supplier of Retail Electric Power**

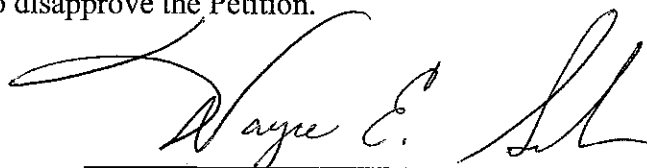
**JOINT DISSENTING STATEMENT OF COMMISSIONER WAYNE E. GARDNER**  
**AND COMMISSIONER JAMES H. CAWLEY**

On June 17, 2011, EnerPenn USA d/b/a YEP Energy (EnerPenn) filed an Application with this Commission seeking an electric generation supplier (EGS) License. In its Application, EnerPenn disclosed a regulatory proceeding involving its Texas affiliate, Texpo Power. In that proceeding, the Public Utility Commission of Texas (PUCT) investigated Texpo for violations of PUCT customer protection rules for retail electric service. The PUCT found that Texpo had violated numerous customer protection rules including, among other things, failing to provide per kWh pricing, failing to inform customers of their right of rescission, not allowing customers to nullify an enrollment during third party verification, and failing to inform customers of early termination fees. In January 2011, Texpo entered into a Settlement with the PUCT and agreed to pay a \$19,000 administrative penalty.

On November 12, 2011, this Commission approved EnerPenn's request for an EGS license but imposed conditions intended to ensure appropriate customer protections. On November 29, 2011, EnerPenn filed a Petition for Reconsideration requesting that the Commission remove the conditions from its license stating that these conditions put it at a competitive disadvantage.

The actions of EnerPenn's Texas affiliate have called into question the overall corporate culture of the companies. As we take seriously our duties to ensure a properly functioning and transparent retail market, we believe the imposition of some conditions is warranted. The Commission's current regulations do not specifically address the areas of concern demonstrated by EnerPenn's affiliate. At a minimum, the Commission's Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers should be imposed as mandatory. As such, we will vote to disapprove the Petition.

**March 15, 2012**  
**Date**



**Wayne E. Gardner, Commissioner**



**James, H. Cawley, Commissioner**