



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

May 21, 2012

VIA ELECTRONIC FILING

Rosemary Chiavetta
Pa. Public Utility Commission
2nd Floor, 400 North Street
P.O. Box 3265
Harrisburg, PA 17105

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Glacial Energy of Pennsylvania, Inc.; C-2012-2297092

Dear Secretary Chiavetta:

Enclosed please find an Answer to New Matter along with the electronic filing confirmation page in the above referenced matter. As evidenced by the enclosed certificate of service, all parties have been served as indicated.

If you have any further questions regarding this matter, please contact me at 717-214-9594.

Sincerely,

Heidi Wushinske
Prosecutor

Enclosures

cc: As per Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, BUREAU OF
INVESTIGATION AND ENFORCEMENT

V.

DOCKET NO: C-2012-2297092

GLACIAL ENERGY OF PENNSYLVANIA, INC.

ANSWER TO NEW MATTER

Now comes, Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement (I&E), and files this Answer to New Matter. I&E hereby represents as follows:

New Matter

20. Denied. Question 16 of Glacial Energy of Pennsylvania's (Glacial) application required it to disclose Mr. Mole's ownership of Franklin Power Company (Franklin) on the basis that it was instructed to:

Identify all proceedings by name, subject and citation, dealing with business operations, in the last five (5) years, whether before an administrative body or in a judicial forum, in which the Applicant, an affiliate, a predecessor of either, or a person identified herein has been a defendant or a respondent.

21. Denied. Question 16 of Glacial's application required it to disclose Mr. Mole's ownership of Franklin on the basis that it was instructed to:

Identify all proceedings by name, subject and citation, dealing with business operations, in the last five (5) years, whether before an administrative body or in a judicial forum, in which the Applicant, an affiliate, a predecessor of either, or a person identified herein has been a defendant or a respondent.

22. Denied. The responses to Question 16 of the Application regarding Mr. Mole's previous affiliations were not accurate. See paragraphs 20-21 above.

23. Admitted in part and denied in part. It is admitted that 66 Pa. C.S. § 2809(b) does not authorize the imposition of penalties against an electric generation supplier (EGS). However, Section 3301 of the Public Utility Code, 66 Pa. C.S. §3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission's authority, for violation(s) of the Public Utility Code and/or Commission regulations.

24. Denied. Glacial's application did not contain such information as the Commission required. See paragraphs 20-21 above.

25. Denied. 52 Pa. Code § 1.35(c) empowers the Commission to impose "an appropriate sanction" if a document is signed in violation of it.

26. Denied. Glacial's application was not grounded in fact or was signed by a representative of Glacial without knowing the contents thereof, in that Glacial's vice president signed and verified the application and did not disclose that Gary Mole (Glacial's Chief Operate Officer) formerly had ownership interests and experience with company(s) that have had certifications revoked, namely Franklin or Energy West Resources, in violation of 52 Pa. Code § 1.35(c).

27. Denied. 52 Pa Code § 1.35(c) applies to documents filed with the Commission.

28. Admitted. It is admitted that no provision of the Public Utility Code or regulations sets forth the required content of a professional resume. However, the omission of Franklin on Gary Mole's resume, and on any other portion of the application, supports an intent to withhold this information from the Commission.

29. I&E lacks sufficient knowledge to admit or deny the allegation contained in Paragraph 29. To the extent a response is necessary, this averment is denied.

30. I&E lacks sufficient knowledge to admit or deny the allegation contained in Paragraph 30. To the extent a response is necessary, this averment is denied.

31. Denied. The assertions in paragraph 31 are speculative. The Commission specifically has the authority to deny an applicant under these circumstances and was deprived of the opportunity to do so.

32. Denied. Revocation is the appropriate penalty for failing to disclose information requested on the application, including Mr. Mole's affiliation with Franklin.

33. Admitted in part and denied in part. It is admitted that Mr. Mole did not hold shares in Franklin in his name. However, he was the sole shareholder of Touchdown Properties, LLC, which acquired 60% of Franklin's stock.

34. Admitted.

35. Admitted.

36. I&E lacks sufficient knowledge to admit or deny the allegation contained in Paragraph 36. To the extent a response is necessary, this averment is denied.

37. Admitted in part. It is admitted that Franklin was operating as a PUCT-licenses retail electric provider (REP) in Texas prior to Mr. Mole's involvement with the company. I&E lacks sufficient knowledge to admit or deny the allegation that Touchdown and Mr. Mole were purely passive investors in Franklin, did not provide the initial capitalization of Franklin, and did not manage its day-to-day business activities. To the extent a response is necessary, this averment is denied.

38. I&E lacks sufficient knowledge to admit or deny the allegation contained in Paragraph 38. To the extent that a response is required, I&E believes that Mr. Mole may have been a member of Franklin's Board of Directors.

39. I&E lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 39. To the extent a response is necessary, this averment is denied.

40. I&E lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 40. To the extent a response is necessary, this averment is denied.

41. Admitted in regard to the first statement in Respondent's paragraph 41. I&E lacks sufficient knowledge to admit or deny the allegations contained in the second statement of paragraph 41. To the extent a response is necessary, this averment is denied.

42. I&E lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 42. To the extent a response is necessary, this averment is denied.

43. Admitted.

44. Admitted in part and denied in part. It is admitted that the Commission has not found that Glacial violated the Commission's regulations or consumer protection rules. However, Glacial currently has eight pending complaints before the Commission.

I&E lacks sufficient knowledge to admit or deny the allegations contained in the second sentence of Paragraph 44. To the extent a response is necessary, this averment is denied.

45. I&E lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 45. To the extent a response is necessary, this averment is denied.

46. I&E lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 46. To the extent a response is necessary, this averment is denied.

47. Paragraph 47 states a legal conclusion that requires no response.

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that, after consideration of the record, the Office of Administrative Law Judge and the Commission find Glacial in violation of the Public Utility and Pennsylvania Codes and revoke Glacial's certificate of public convenience.

Respectfully submitted,



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Dated: May 21, 2012

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the persons listed and in the manner indicated below:

Notification by first class mail addressed as follows:

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