

American PowerNet

Tuesday, July 31, 2012

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JUL 31 2012

Rosemary A. Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth of Pennsylvania
PO Box 3265
Harrisburg, PA 17105-3265

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Modification of EGS bonding requirement for American PowerNet Management, LP, License #A-110173

Dear Ms. Chiavetta:

On February 9, 2012, American PowerNet Management (APM) filed a petition requesting an alternative level of bonding.

One of the matters that American PowerNet was requested to complete in connection with our petition was to serve certain parties with a copy of our petition in this matter. All parties named were served with a redacted copy of our original petition, namely the Office of Consumer Advocate; the Office of the Small Business Advocate, the Public Utility Commission; Bureau of Investigation and Enforcement, the Department of Revenue; Bureau of Compliance; and all Pennsylvania Electric Distribution Companies (EDC's).

We were contacted by Mr. James Shurskis (by email) on Monday, July 30, 2012 requesting a copy of the redacted document that was served as requested. I provided that document to Mr. Shurskis (by email) on that same date. Subsequently, Mr. Shurskis reminded me of our obligation to file this redacted document with the Secretary as well.

A copy of the redacted document accompanies this letter and is intended to satisfy our filing obligation.

Please contact me directly if you need anything further in this matter.

Sincerely,



Eugene F. Carter, Jr.
Controller

Managing the Energy Evolution®

American PowerNet

Wednesday, February 29, 2012

Rosemary A. Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth of Pennsylvania
PO Box 3265
Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Secretary Chiavetta:

Re: American Powernet Management, LP - Surety Requirements

American Powernet Management, LP (APN) is a licensed electricity supplier in the Commonwealth of Pennsylvania.

APN has been doing business in Pennsylvania for over 20 years, the last 12 years as a Pennsylvania domiciled limited partnership. In addition to Pennsylvania, APN conducts business in 9 other states and in the District of Colombia. Its owners and all but one of its employees are residents of the Commonwealth.

APN has been a vigorous participant in the competitive energy supply markets and has been able to deliver safe and reliable service and financial value to our customers. Over the span of time that APN has been serving customers in Pennsylvania there have no adverse actions ever filed with the Commission.

APN wants to continue to grow its business but we genuinely want to compete in Pennsylvania's electric markets and provide value to these customers allowing them to grow their businesses and create jobs in the Commonwealth. APN continuously monitors the regulatory environment in the states where it conducts business. No state contiguous to Pennsylvania has bonding requirements as onerous as those in Pennsylvania. A summary of state requirements accompanies this letter.

APN is aware of the Commission's surety target of 10% of a licensee's Pennsylvania gross receipts. Our Pennsylvania business has grown substantially and as a result of our growth the Commission has requested that APN increase the level of surety that is presently in place from \$250,000 to [REDACTED].

APN is contacting the Pennsylvania Public Utility Commission (Commission) seeking the Commission's acceptance of a level of surety more commensurate with the nature of our business and our demonstrated compliance with the laws and regulations of the Commonwealth.

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APN acknowledges that one of the main reasons for such a large surety ratio is that the Commission does not have the ability to quickly suspend or terminate a PUC issued EGS license, thus exposing the Commonwealth to the possibility of extended periods without gross receipts or sales tax collections should an EGS fail to remit the taxes it collected from its customers. APN hereby proposes that it will agree to voluntarily surrender its EGS license within six months of default of any financial obligation to the Commonwealth or any unresolved matter related to its performance as an EGS if APN can also have its cash surety amount placed at [REDACTED] based upon current service levels. APN also acknowledges that the Commonwealth has certain other protections available to it in the form of our Pennsylvania sited real estate. The estimated cash value of our real estate is [REDACTED]. This act of voluntarily surrendering our license would serve to significantly reduce the exposure to gross receipts and sales tax collections and the need for the large amount of surety as collateral.

APN has demonstrated to the Commonwealth that its practice is to process and pay its Utilities Gross Receipts Tax (UGRT) and Sales Tax (ST) obligations in a timely, complete and accurate manner. Our UGRT obligation alone was in excess of [REDACTED] for 2011. Because of pricing and volume fluctuations APN performs a "true-up" calculation at the end of every monthly billing cycle and remits any additional tax due to the Commonwealth without delay.

The attached spreadsheet reflects that the surety level currently held by the PUC exceeded APN's tax obligations throughout all of 2011. Increasing our current level of cash surety to [REDACTED] (plus the real estate rights that the Commonwealth has) increases the total surety to roughly [REDACTED]. This matches closely to APN's projected tax obligations for a six-month timeframe and the six-month period of time corresponding to APN's license surrender period. Additionally, we prepay our taxes in full rather than take advantage of the statutory safe harbor provisions. APN will continue our practice of remitting all collected taxes on a monthly basis limiting our obligations to the Commonwealth to the lowest possible level.

In conjunction with this matter, APN is also engaged with the Department of Revenue to help design a more competitive and business-friendly approach to tax policy and collections. The current prepayment rules deprive APN and other EGS's of considerable amounts of working capital that could more effectively be use to promote competitive markets. APN is very willing to apply our industry knowledge to assisting the Commonwealth with this matter.

This is a sensitive business matter and APN requests that our correspondence and discussions remain confidential.

We would appreciate receiving a reply from the Commission at its earliest convenience.

Sincerely,

Eugene F. Carter, Jr.
Controller

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SECRETARY'S BUREAU

16

FedEx NEW Package
Express US Airbill

FedEx
Tracking
Number

8003 2444 7614

SPH1

Form
ID No.

0215

Recipient's Copy

RECIPIENT: PEEL HERE

1 From This portion can be removed for Recipient's records.
Date 7-31-12 FedEx Tracking Number 800324447614

Sender's Name GENE CARTER Phone 610 372-8500

Company AMERICAN POWER NET

Address 45 COMMERCE DR
Dept./Floor/Suite/Room

City WYOMISSING State PA ZIP 19610-1038

2 Your Internal Billing Reference

3 To Recipient's Name ROSEMARY CHIAVITA Phone 717 772-7777

Company PA PUBLIC UTILITY Commission

Address 400 NORTH ST.
cannot deliver to P.O. boxes or P.O. ZIP codes. Dept./Floor/Suite/Room

Address KEYSTONE BUILDING
Use this line for the HOLD location address or for continuation of your shipping address.

City HARRISBURG State PA ZIP 17102

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4 Express Package Service * To most locations.
NOTE: Service order has changed. Please select carefully. Packages up to 150 lbs.
For packages over 150 lbs., use the new FedEx Express Freight US Airbill.

Next Business Day	2 or 3 Business Days
<input type="checkbox"/> FedEx First Overnight Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.	<input type="checkbox"/> NEW FedEx 2Day A.M. Second business morning.* Saturday Delivery NOT available.
<input type="checkbox"/> FedEx Priority Overnight Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.	<input type="checkbox"/> FedEx 2Day Second business afternoon.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
<input checked="" type="checkbox"/> FedEx Standard Overnight Next business afternoon.* Saturday Delivery NOT available.	<input type="checkbox"/> FedEx Express Saver Third business day.* Saturday Delivery NOT available.

5 Packaging *Declared value limit \$500.
 FedEx Envelope* FedEx Pak* FedEx Box FedEx Tube Other

6 Special Handling and Delivery Signature Options

SATURDAY Delivery
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

No Signature Required
Package may be left without obtaining a signature for delivery.

Direct Signature
Someone at recipient's address may sign for delivery. Fee applies.

Indirect Signature
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. Fee applies.

Does this shipment contain dangerous goods?
One box must be checked.

No Yes Yes
As per attached Shipper's Declaration. Shipper's Declaration NOT REQUIRED.

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

Dry Ice
Dry Ice, 8, UN 1845 _____ kg

Cargo Aircraft Only

7 Payment Bill to: Enter FedEx Acct. No. or Credit Card No. below. Obtain recip. Acct. No.

Sender Acct. No. in Section 1 will be billed. Recipient Third Party Credit Card Cash/Check

Total Packages 1 Total Weight 25 lbs. Credit Card Acct. [REDACTED]

Your liability is limited to \$100 unless you declare a higher value. See the current FedEx Service Guide for details.

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