

**ECKERT
SEAMANS**
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL 717 237 6000
FAX 717 237 6019
www.eckertseamans.com

Robert B. Hoffman
717.237.7182
rhoffman@eckertseamans.com

Via Hand Delivery

March 1, 2013

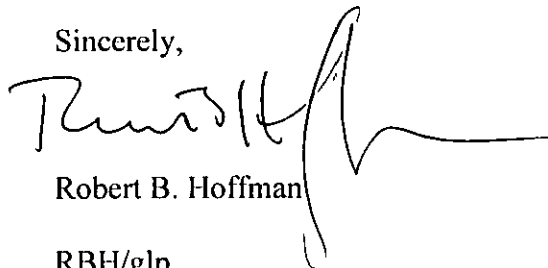
Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: PA Public Utility Commission, Bureau of Investigation and Enforcement v.
Glacial Energy of Pennsylvania, Inc., Docket No. C-2012-2297092

Dear Secretary Chiavetta:

Enclosed please find Glacial Energy PA's Motion for Summary Judgment and Brief and Statement of Facts re: same.

Sincerely,



Robert B. Hoffman

RBH/glp

Enclosures

cc: Heidi L. Wushinske
Wayne T. Scott

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PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

Glacial Energy of Pennsylvania, Inc.,
Respondent

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Docket No. C-2012-2297092

PA PUC
SECRETARY'S BUREAU

**GLACIAL ENERGY OF PENNSYLVANIA, INC.'S
MOTION FOR SUMMARY JUDGMENT AND BRIEF**

Glacial Energy of Pennsylvania, Inc. ("Glacial PA") respectfully submits this Motion for Summary Judgment and supporting brief pursuant to 52 Pa. Code § 5.102. There are no material facts in dispute, and, based on those facts, Glacial PA is entitled to judgment. The material facts are set forth in a separate Statement of Material Facts ("SOF").

PRELIMINARY STATEMENT AND SUMMARY OF ARGUMENT

The Bureau of Investigation and Enforcement ("I&E") has filed a Formal Complaint (the "Complaint") requesting that the Public Utility Commission ("Commission") find Glacial-PA in violation of 66 Pa. C.S. § 2809(b) and 52 Pa. Code § 1.35(c) and revoke its certificate of public convenience. The sole basis for I&E's request is that Glacial PA purportedly had an obligation to disclose in its April 22, 2009 Application (the "Application") its Chief Executive Officer's ("CEO's") former ownership interest and "experience" with Franklin Power Company ("Franklin"), a defunct retail electric provider ("REP") in Texas that had been the subject of revocation proceedings in 2005 and 2006 by the Public Utility Commission of Texas ("PUCT").

That CEO, Gary Mole,¹ had been an indirect investor in Franklin through his ownership interest in Touchdown Properties LLC, which acquired 60 percent of Franklin's stock. *See* SOF ¶¶ 8-9.

As explained below, I&E's allegations are contravened by the plain language of the Application. The Application simply did not request the information that I&E claims Glacial PA deliberately withheld; and unless the Application asks, I&E cannot complain that Glacial PA did not answer. Furthermore, I&E points to no laws or regulations that mandate the disclosure of this information, a requisite for a violation of 66 Pa. C.S. § 2809(b). In short, the central facts are undisputed and indisputable, and I&E's claims fail as a matter of law. No amount of further discovery will change this basic failing of I&E's Complaint.

Since obtaining its license in Pennsylvania, Glacial PA has been in good standing with the Commission and has provided reliable electric service to customers in Pennsylvania. Glacial PA has cooperated with I&E's investigation in this matter; but the mere existence of these charges harms Glacial PA's reputation with both regulators and potential and existing customers.

Therefore, Glacial PA respectfully requests that the Hearing Examiner bring this matter to a conclusion by granting Glacial PA's motion.

LEGAL STANDARD

The PUC has interpreted 52 Pa. Code § 5.102(c) in conformity with the summary judgment rules in the Pennsylvania Rules of Civil Procedure. *See, e.g., Joint Application of Columbia Water Company and Marietta Gravity Water Company*, Docket Nos. A-2012-2282219, A-2012-228221 (Opinion and Order entered on July 20, 2012) at 7. Under those standards, summary judgment is proper when there exists no genuine issue as to a material fact and the movant is entitled to judgment as a matter of law. *See* 52 Pa. Code § 5.102(d)(2);

¹ I&E mistakenly identifies Mr. Mole as Glacial PA's Chief Operating Officer ("COO")

Summers v. Certaineed Corp., 997 A.2d 1152, 1159 (Pa. 2010). A fact is material if “its resolution could affect the outcome of the case under the governing law.” *Farabaugh v. Pa. Tpk. Comm’n*, 911 A.2d 1264, 1267 (Pa. 2006); see also *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-248 (1986) (“[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment. . . . Factual disputes that are irrelevant or unnecessary will not be counted.”). Only disputes over facts that might affect the outcome of the suit will properly preclude the entry of summary judgment. *Id.* at 248.

A moving party satisfies its burden of proof in a summary judgment proceeding by demonstrating that if the case proceeded to trial, its opponent could produce no competent evidence to support a contrary position. *Cnty. Med. Servs. of Clearfield Inc. v. Local 2665, AFSCME*, 437 A.2d 23, 27 (Pa. Super. 1981) (citing 10 Wright & Miller, § 2727, at 531). A *prima facie* showing by the moving party shifts the burden of producing evidence to the party opposing the motion. *Id.* Summary judgment should be granted unless the opposing party offers competent evidence that would be admissible at trial showing that there is a genuine issue as to material fact. *Id.* Finally, an adverse party may not rest upon the mere allegations or denials of its pleadings but must set forth specific facts showing that there is a genuine issue for trial. See, e.g., *O’Donoghue v. Laurel Sav. Ass’n*, 728 A.2d 914, 916 (Pa. 1999), quoting Pa. R. Civ. P. 1035(d).

I&E cannot sustain its burden to demonstrate any genuine issues as to the material facts in this matter. Accordingly, Glacial PA’s summary judgment motion must be granted.

in its Complaint. See Complaint ¶ 11.

ARGUMENT

The broad premise of I&E's Complaint is that "[i]n no way did [Glacial PA's] April 22, 2009 application ... disclose Gary Mole's former ownership interests and experience with Franklin" See Complaint ¶ 16. The necessary prerequisite is, of course, that Glacial PA was somehow required to provide this information in the first place. I&E's allegations fail because no reasonable reading of the EGS application requests, let alone requires, disclosure of the financial interests of an applicant's officers or principals. See Application of Glacial Energy of Pennsylvania, Inc. ("Application"), attached to the SOF as Exhibit A. Glacial PA answered the questions that the Application asked, including as to its "Compliance History." Application, SOF Ex. A. That I&E has more recently become interested in Mr. Mole's investments and "experience" with Franklin does not change the fact that the EGS Application neither solicited nor required disclosure of that information.

A. Glacial PA Had No Obligation to Disclose Mr. Mole's "Involvement" with Franklin in Response to Question No. 16 of the Application

I&E specifically alleges that Mr. Mole's "involvement" with Franklin should have been disclosed in response to the application's "Compliance Question," No. 16. Complaint ¶¶ 13, 19. Question No. 16 provides as follows:

COMPLIANCE: State specifically whether the Applicant, an affiliate, a predecessor of either, or a person identified in this Application has been convicted of a crime involving fraud or similar activity. 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. Provide a statement as to the resolution or present status of any such proceedings.

See SOF ¶ 20; Application (at SOF Ex. A), at 8; Complaint ¶ 13. Mr. Mole, because of the responses to an earlier question, qualified as “a person identified in the application.” SOF ¶ 19; Application (SOF Ex. A) at Attachment 2 (“Principal Officers”).

Question 16 thus only presents two questions with regard to Mr. Mole: (1) whether Mr. Mole had been “convicted of a crime involving fraud or similar activity,” and (2) whether he had ever been “a defendant or respondent” in any administrative or judicial proceedings “dealing with business operations.” See SOF ¶ 20; Application (SOF Ex. A) at 8. Nowhere does the Application request that a “person identified in this Application” identify ownership interests and experience with companies that have had certifications revoked. Furthermore, at the time the Application was submitted, Mr. Mole had not been convicted of any crimes (and I&E does not allege that he had)² nor had he been a defendant or respondent in any legal action dealing with business operations. SOF ¶¶ 22-23.

Moreover, Mr. Mole is not a defendant or respondent to the PUCT matters that I&E identifies; rather, the defendant/respondent in those actions is Energy West Resources (d/b/a/ Franklin Power Company), as the caption of those matters clearly disclose. See SOF ¶¶ 13-15; Complaint ¶¶ 10, n. 2, and ¶ 16, n. 4. In order to accept I&E’s position, this tribunal would have to redefine the well-settled terms “defendant” and “respondent” to include anyone who was “involved” with or had “experience” with the entity that is the actual named defendant or respondent—regardless of whether such “involved” individual or other entity is named as a party in that matter. For I&E to attempt to expand the scope of the two Texas proceedings identified

² Glacial PA asked I&E in discovery (Interrogatory 4) to “Identify all information in your possession that supports the assertion that Gary Mole was convicted of a crime involving fraud or a similar activity as of April 22, 2009.” I&E responded that its “complaint makes no specific reference to such an allegation.” See SOF ¶ 23 and Exhibit G thereto (I&E Response to Interrogatory No. 4).

by I&E so as to include Gary Mole in this fashion is arbitrary and inappropriate. In short, with respect to Mr. Mole, there was no information responsive to this question to disclose, and accordingly, Glacial PA had no obligation to provide any more information in its Application than it did.

Similarly, I&E does not allege that Mr. Mole was an officer, board member, or employee of Franklin. *See, e.g.*, Complaint ¶ 11 (alleging only that Mr. Mole “held an ownership interest in Franklin Power”); *see also* SOF ¶¶ 8-9. But even if I&E’s Complaint had included such allegations, and even if Mr. Mole had been one or all of those things, the required disclosure to Question 16 would not change: that question does not ask about officers, board membership, or employment, but *only* about criminal cases and proceedings dealing with business operations. Thus, the nature and extent of Mr. Mole’s “involvement” or “experience” with Franklin are not material facts, and regardless of what those facts might be, they will not change the outcome of this case. *See Farabaugh*, 911 A.2d at 1267. Significantly, I&E itself admitted as much in response to Glacial PA’s discovery requests, objecting that “Gary Mole’s position in Franklin ... is not relevant to the sole count in the complaint.” *See* SOF ¶ 33 and Exhibit I (I&E Objections to Respondent’s First Set of Interrogatories and Request for Production of Documents, Objection to Interrogatory 8 and Document Request 9).

Furthermore, there is no ambiguity in the language of Question No. 16. *See* Complaint ¶13; Application, SOF Ex. A, at 8. Yet I&E intends to present expert testimony to explain the requirements of the license application form. *See* SOF ¶ 34 and Exhibit J thereto (I&E’s Responses to Glacial Interrogatories and Request for Documents – Set I, Response to Interrogatory No. 16 (Scott Granger “is expected to testify [as an expert] about ... the requirements of the license application form.”)). Glacial PA respectfully submits that if I&E

needs an expert to interpret the license application, it cannot legitimately allege that Glacial PA readily comprehended and deliberately withheld information that the PUC was seeking. An action based on an applicant's asserted failure to disclose required information on its license application form should be based on a fair, not a tortured, reading of the application questions. And yet, I&E would have this tribunal do exactly that – stretch the interpretation of Question 16 (and the Application more generally) beyond any reasonable bounds. Where language is not ambiguous, however, the agency's interpretation is not entitled to deference. *See, e.g., Tritt v. Cortes*, 851 A.2d. 903, 905 (Pa. 2004); *Seeton v. Pa. Game Comm'n*, 937 A.2d 1028, 1037 and n.12 (Pa. 2007) (acknowledging that deference never comes into play when the statute is clear, and noting the dangers of deferring to agency interpretations forwarded for the first time in connection with litigation).

I&E does not allege in its Complaint that Glacial PA is an affiliate of or successor to Franklin (which, in any event, it is not), or that either Mr. Mole or Glacial PA were named as respondents in the PUCT proceedings (which they were not). *See generally* Complaint; *see also* SOF ¶¶ 13-15. Moreover, the Application specifically limits the required disclosures regarding affiliates and predecessors to *the Applicant* (here, Glacial PA). Specifically, Question 16 seeks information concerning about “*the Applicant, an affiliate [of the Applicant], a predecessor of either [Applicant or Affiliate]. OR a person identified in this Application ...*” *See* Question 16, SOF Ex. A, at 8 (emphasis added). Since individuals do not have affiliates or predecessors, Glacial PA's interpretation is the only one that makes sense.³ When language is clear and unambiguous, it must be given effect in accordance with its plain and common meaning. *See,*

³ To find otherwise would result in companies being deemed affiliates or predecessor/successors simply because they had common investors, or even common board members – a result that defies common sense.

e.g. *Commonwealth v. Burnsworth*, 669 A.2d 883, 886 (Pa. 1995); 1 Pa.C.S.A. § 1903 (a) (statutory construction rule that words and phrases “shall be construed ... according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning ... shall be construed according to such peculiar and appropriate meaning or definition.”).

I&E has belatedly tried to raise the issue in its Prehearing Conference Memorandum, alleging that “Glacial’s failure to identify Franklin Power as a predecessor of the applicant, Glacial Energy, in response to Question No. 1 of the application” is a sub-issue to be resolved at the Hearing).⁴ *See* Prehearing Conference Memorandum of the Public Utility Commission, at 4. But the Complaint never mentions Question 1, and I&E has neither alleged nor presented any evidence to suggest that Glacial PA is a corporate successor to Franklin. *See generally* Complaint.

There is no PUC-specific definition of the terms “predecessor” and “successor,” nor does the Application define them. In the corporate context, “predecessor” is “the correlative to successor, as ancestor is to heir.” *The Law Dictionary* (7th ed. 2002). A successor is “[a] corporation that, through amalgamation, consolidation, or other assumption of interests, is vested with the rights and duties of an earlier corporation.” *Black’s Law Dictionary* (9th ed. 2009). Here, Glacial PA was incorporated in 2009 while Franklin was dissolved in 2006, making any predecessor/successor relationship highly dubious. *See* SOF ¶¶ 16-17. Further, I&E has identified no evidence suggesting that Glacial PA has been vested with the rights and duties of Franklin. Mere allegations in its pleadings (and certainly not statements in a Prehearing

⁴ Question No. 1 states: “Please identify any predecessor(s) of the Applicant and provide other names under which the Applicant has operated within the preceding five (5) years, including name, address, and telephone number.” *See* Application, SOF Ex. A.

Conference Memorandum) are not enough for I&E to satisfy its summary judgment burden. *See O'Donoghue*, 728 A.2d at 916. Accordingly, Glacial PA's motion must be granted.⁵

B. Glacial PA Had No Obligation to Identify Mr. Mole's "Involvement" with Franklin on His Resume, and the Dunn & Bradstreet Report Does Not Indicate An "Intent to Withhold" Information

I&E's Complaint makes two additional but related, and similarly flawed, allegations of wrong-doing. First, I&E alleges that Glacial was required to disclose Mr. Mole's "involvement with Franklin" on the resume submitted with the Application. Complaint ¶ 14. Second, I&E alleges that Glacial PA sought to conceal Mr. Mole's purported affiliation with Franklin by submitting with the Application a Dunn & Bradstreet ("D&B") Report that did not discuss Mr. Mole's "involvement with Franklin." Complaint ¶ 15.

As a threshold matter, it is not common or standard practice to include information regarding financial ownership interests in a professional resume. Indeed, I&E has since acknowledged that it "is aware of no regulation, rule, policy, or other document that outlines the information that should be included in a professional resume submitted with a license application." *See* SOF ¶ 28 and Exhibit H (I&E Responses to Glacial Interrogatories and Request for Documents – Set I). Even more significantly, there was nothing in the Application that expressly (or even implicitly) required the inclusion of such information. Question 19(B) merely states that the Applicant must identify its chief officers, "including names and their

⁵ Nor can I&E successfully prove that Franklin is an "affiliate" of Glacial PA. An "affiliate" is "a subsidiary, parent, or sibling corporation" to another corporation. *Black's Law Dictionary* (9th ed. 2009). Glacial PA's Application, at Attachment 7, identified its parent corporation (Glacial Energy Holdings) and its sibling corporations (Glacial Energy of New York; Glacial Energy of Texas, Inc.; Glacial Energy of Maryland, Inc.; Glacial Energy of New England, Inc.; Glacial Energy of New Jersey, Inc.; Glacial Energy of Washington D.C., Inc.; Glacial Energy of California, Inc.; Glacial Energy of Illinois, Inc.; Glacial Energy of Michigan, Inc.). I&E has identified no information or documents suggesting those identifications were in error at the time they were made.

professional resumes.” See SOF ¶ 25; SOF Ex. A (Application) at 9. Glacial PA did both, providing names and resumes. *Id.* Since nothing in this Question specifically asked that information concerning investments or other such information be included, there was no reason for Mr. Mole to specifically identify Franklin.⁶ Accordingly, there was no failure to disclose in response to Question 19B.

Glacial PA submitted the D&B Report in response to Question 19(A), which requested in pertinent part that Glacial PA provide “[p]ublished parent company financial and credit information.” See SOF ¶ 29; Application (SOF Ex. A) at 8, Attachment 3. The portion of that report that forms the basis of I&E’s allegation (the “History” section, which stated in part as to Gary Mole and two other individuals that “antecedents are undetermined”) was, in fact, *non-responsive* to the Application question for which it was submitted since it did not relate to “financial and credit information.”⁷ Rather than provide an incomplete or redacted copy of the Report, however, Glacial PA provided the entire report, including the irrelevant information. See Application (SOF Ex. A) at Attachment 3. Penalizing Glacial PA for providing *more* information than was required is inappropriate. The suggestion that Glacial PA deliberately submitted this Report in an effort to *withhold* information from the Commission is absurd and has no factual basis.⁸ For the foregoing reasons, I&E cannot show intent on the part of Glacial

⁶ Moreover, the Commission staff had ample opportunity to question the resumes submitted at the time the Application was filed, and elected not to do so (notwithstanding the rather brief nature of each of the resumes).

⁷ Glacial PA assumes that the D&B Report accurately stated D&B’s knowledge as to Mr. Mole and the others and that it had no intent to mislead or obfuscate.

⁸ Furthermore, as with the resumes submitted in response to Question 9, the Commission had ample opportunity to question this D&B entry when it conducted its original review of the Application, and elected not to do so.

PA or Mr. Mole to withhold information, and Glacial PA's motion for summary judgment must be granted.

C. I&E's Attempt to Model its Action after the PUCT's Fails As a Matter of Law

I&E has made no secret of the fact that it has modeled its enforcement action after a pending enforcement action brought by the PUCT against Glacial Energy of Texas, Inc. ("Glacial TX"). *See, e.g.*, SOF ¶ 35 and Ex. K thereto. I&E's response to this Motion may suggest, explicitly or otherwise, that this Commission should follow Texas's lead. Had I&E carefully reviewed the Texas law upon which that action is based, however, it would have realized that the PUCT proceeding is based on asserted violations of regulations that have no Pennsylvania counterparts.

In pertinent part, the PUCT Staff issued a Notice of Violation against Glacial TX in January 2012, principally alleging that Glacial TX did not comply with former PUCT SUBST. R. 25.107(g)(9)(A) (the regulation in force at the time Glacial TX filed its license application). That Texas Rule required an applicant to include in its initial license application "[p]rior experience of the applicant or one or more of the applicant's principals or employees in the retail electric industry or a related industry." *See* former PUCT SUBST. R. 25.107(g)(9)(A). Based on that Texas regulation, the PUCT alleges that Glacial's failure to disclose Mr. Mole's former ownership interest and experience with Franklin was a material omission from Glacial's application. I&E has pled virtually the same thing in this proceeding, but it did so without the regulatory basis that existed in Texas.

Glacial TX denies the PUCT's allegations; nevertheless, the fact remains that there is no Pennsylvania counterpart to Texas's Rule 25.107(g)(9)(A). While the Texas regulations ask for specific information regarding the retail energy experience of an applicant's principals,

Pennsylvania's Application and regulations do not do so. Accordingly, I&E's attempt to model its proceeding after Texas's is unavailing and fails as a matter of law.

D. The Application Was Grounded in Fact, the Verification Was Made in Good Faith, and I&E's Sole Count in its Complaint Fails As a Matter of Law

The sole count in I&E's Complaint, rather than referencing any specific reporting requirements, instead alleges that the 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 ... formerly had ownership interests and experience with company(s) that have had certifications revoked, namely Franklin Power Company or Energy West Resources." *See* Complaint ¶ 19. In other words, the only evidence I&E can point to in support of its allegation that the Application "was not grounded in fact or was signed by a representative of Glacial without knowing the contents thereof," is that the Application does not disclose Mr. Mole's former ownership interests in and "experience" with Franklin. I&E's fatal flaw is that it cannot demonstrate that such disclosure was required in the first place.

I&E goes on to allege that Glacial PA, by signing the Application, violated 66 Pa. C.S. § 2809(b) and 52 Pa. Code § 1.35(c). Complaint ¶ 19. The former merely provides that "[a]n application for an electric generation supplier license must be made to the commission in writing, be verified by oath or affirmation and be in such form and contain such information as the commission may by its regulations require."⁹ The latter, a general provision in the PUC

⁹ 66 Pa. C.S. § 2809(b) provides in its entirety:

(b) License application and issuance. – An application for an electric generation supplier license must be made to the commission in writing, be verified by oath or affirmation and be in such form and contain such information as the commission may by its regulations require. A license shall be issued to any qualified applicant, authorizing the whole or any part of the service covered by the application, if it is found that the applicant is fit, willing

Regulations regarding the execution of documentary filings with the Commission, states in pertinent part that the “signature of the individual signing a document filed with the Commission constitutes a certificate by the individual that the document is “well grounded in fact ... to the best of the individual’s knowledge, information and belief formed after reasonable inquiry.”¹⁰ Furthermore, 66 Pa. C.S. § 2809(b) does not authorize the imposition of any penalty against an EGS, let alone revocation of its certificate of public convenience.

and able to perform properly the service proposed and to conform to the provisions of this title and the lawful orders and regulations of the commission under this title, including the commission’s regulations regarding standards and billing practices, and that the proposed service, to the extent authorized by the license, will be consistent with the public interest and the policy declared in this chapter; otherwise, such application shall be denied.

¹⁰ 52 Pa. Code § 1.35(c) provides in its entirety:

(c) *Effect.*

- (1) The signature of the individual signing a document filed with the Commission constitutes a certificate by the individual that:
 - (i) The individual has read the document being signed and filed, and knows the contents thereof.
 - (ii) The document has been signed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.
 - (iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the individual’s knowledge, information and belief formed after reasonable inquiry.
 - (iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
- (2) If a document is signed in violation of this subsection, the presiding officer or the Commission, upon motion or its own initiative, may impose upon the individual who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of civil penalties under section 3301 of the act (relating to civil penalties for violations).

Most importantly, I&E has no evidence to support either of these allegations (either now, or at the time it filed its Complaint). In the language of 66 Pa. C.S. § 2809(b), there is no allegation, let alone adequate proof, that the Application does not “contain such information as the commission may by its regulations require.” The Complaint identifies no regulation requiring disclosure of the information I&E contends was improperly omitted; that failure constitutes a clear basis for this tribunal to rule in Glacial PA’s favor as to the asserted violation of § 2809(b). As we have noted, the Application’s plain language does not require the disclosure of Mr. Mole’s former ownership interests in and “experience” with Franklin. *See* Sections A and B, *supra*. Turning to the regulation (§ 1.35(c)), there is no allegation, or evidence, that the signer violated the oath the Regulation required: that the Application was “well grounded in fact ... to the best of the individual’s knowledge, information and belief formed after reasonable inquiry.” 52 Pa. Code § 1.35(c).

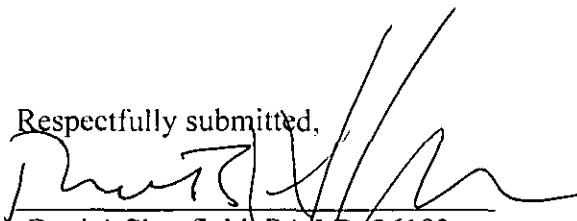
In effect, I&E is asking this Court to look outside the four corners of the Application form to find evidence of intent to withhold information that was not asked for in the first place. Given the clear language of the Application, however, there is no need to take the inquiry beyond the four corners of the document itself. *See, e.g., Kripp v. Kripp*, 849 A.2d 1159, 1163 (Pa. 1986). Only where a document’s language is ambiguous does a court admit parol evidence “to explain or clarify or resolve the ambiguity.” *Kripp*, 849 A.2d at 1163 (citation omitted); *see also PPL Electric Utilities Corp. v. Pennsylvania PUC*, 912 A.2d 386, 400-404 (Pa. Commw. 2006) (applying statutory interpretation principles to a tariff, and concluding that “when a tariff is plain on its face, the Commission need not and cannot look beyond the four corners of the tariff to determine its meaning...extrinsic evidence should not be used to create an ambiguity”). Furthermore, the Commission drafted the Application form, so any alleged ambiguity of its

terms (of which there is none) must be interpreted in Glacial PA's favor. *See, e.g., Rekun v. Pelaez*, 976 A.2d 578, 579 (Pa. Super. 2009)

In this case, the plain language of the Application is clear, and it simply did not request the information I&E claims Glacial PA deliberately withheld. Furthermore, I&E can point to no laws or regulations that otherwise mandate the disclosure of this information. There are no genuine issues of material fact for this Court to decide that will change the outcome of this case, and I&E's claims fail as a matter of law.

WHEREFORE, Respondent Glacial PA respectfully requests that the Commission act expeditiously to grant its motion for summary judgment.

Respectfully submitted,



Daniel Clearfield, PA I.D. 26183
Robert B. Hoffman, PA I.D. No. 23846
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, Eighth Floor
Harrisburg, PA 17101
(717) 237-7182
dclearfield@eckertseamans.com
rhoffman@eckertseamans.com

John McGahren, Esq.
Stephanie Feingold, Esq.
Patton Boggs LLP
One Riverfront Plaza, 6th Floor
Newark, NJ 07102
(973) 848-5600
jmcgahren@pattonboggs.com
sfeingold@pattonboggs.com
Admitted Pro Hac Vice

*Attorneys for Glacial Energy of
Pennsylvania, Inc.*

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Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement, Complainant	:	
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	:	Docket No. C-2012-2297092
v.	:	
	:	
Glacial Energy of Pennsylvania, Inc., Respondent	:	

**GLACIAL ENERGY OF PENNSYLVANIA, INC.'S STATEMENT OF
UNDISPUTED MATERIAL FACTS RE: MOTION FOR SUMMARY JUDGMENT**

Glacial Energy of Pennsylvania, Inc. submits the following Statement of Undisputed Material Facts regarding its Motion For Summary Judgment.

1. The Pennsylvania Public Utility Commission ("Commission"), with a mailing address of P.O. Box 3265, Harrisburg, PA, 17105-3265, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa. C.S. §§ 101 *et seq.* (Formal Complaint [hereinafter "Complaint"] ¶ 1)

2. Complainant is the Commission's Bureau of Investigation and Enforcement ("I&E") and is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa. C.S. §308.2(a)(11). (Complaint ¶ 2)

3. Respondent Glacial Energy of Pennsylvania, Inc. ("Glacial PA") is an electric generation supplier with offices located at 2602 McKinney Ave., #220, Dallas, TX 75204, and a main mailing address of 5326 Yacht Haven Grande, Box 36, St. Thomas, V.I. 00802.

(Complaint ¶ 3; *see also* Application of Glacial Energy of Pennsylvania, Inc. [“Application”], attached hereto as Exhibit A.)

4. Glacial PA is an electric generation supplier (“EGS”), as that term is defined in the Public Utility Code, 66 Pa. C.S. § 2803, and holds a duly authorized EGS license (No. A-2009-2109572) issued by the Commission on July 23, 2009. (Complaint ¶ 4)

5. Gary Mole is Glacial PA’s Chief Executive Officer. (Complaint ¶ 11)

6. Energy West Resources, Ltd. (“Energy West”) was incorporated in February 2000, and submitted its license application to the Public Utility Commission of Texas (“PUCT”) to operate as a retail electric provider (“REP”) in Texas on February 28, 2003. (Answer and New Matter [hereinafter “New Matter”] ¶¶ 34, 35; I&E’s Answer to New Matter [hereinafter “I&E Answer”] ¶¶ 34, 35)

7. Energy West became known as Franklin Power Company (“Franklin”) on or about October 31, 2003. (Complaint ¶ 11, n. 3)

8. Gary Mole obtained an indirect ownership interest in Franklin. (New Matter ¶ 33; I&E Answer ¶ 33; Complaint ¶ 11)

9. Mr. Mole was the sole shareholder of Touchdown Properties, LLC, which acquired 60% of Franklin’s stock. (I&E Answer ¶ 33)

10. Franklin was already operating as a PUCT-licensed REP in Texas when Touchdown invested in Franklin. (New Matter ¶ 37; I&E Answer ¶37)

11. On or about July 17, 2006, the PUCT issued an Order formally revoking the REP certification of Energy West d/b/a Franklin. (*Complaint of TXU Electric Delivery Company and CenterPoint Houston Energy, LLC, to Revoke Retail Electric Service Provider Certificate No. 10068 of Energy West Resources, LTD.* Final Order, Docket No. 31166 (July 17, 2006) (“PUCT Final Order”). The Final Order is publicly available at http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/31166_45_518398.PDF. A true and correct copy of the Final Order obtained from that web address is attached hereto as Exhibit B.

12. The PUCT Final Order resolved a complaint filed by TXU Energy Delivery Company on May 9, 2005 against Energy West (PUCT Docket No. 31082) (the “TXU Complaint”), and a similar complaint filed by CenterPoint Houston Energy, LLC against Energy West, on May 27, 2005 (PUCT Docket No. 31166) (the “CenterPoint Complaint”). (Complaint ¶ 10, n. 2; *see also* Exhibit B)

13. The TXU Complaint was captioned “*TXU Electric Delivery Company’s Complaint to Revoke Retail Electric Provider Certification No. 10068 of Energy West Resources, Ltd.*” This complaint is publicly available at http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/31082_1_477747.PDF. A true and correct copy of the TXU Complaint obtained from that web address is also attached hereto as Exhibit C.

14. The CenterPoint Complaint was captioned “*Complaint of Centerpoint Energy Houston Electric, LLC Regarding Retail Electric Provider Energy West of Texas Resources, Ltd.*” This complaint is publicly available at http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/31166_1_479670.PDF. A true and correct copy of the CenterPoint Complaint obtained from that web address is attached hereto as Exhibit D.

15. Neither Gary Mole nor Glacial PA was named as a respondent or defendant to the TXU Complaint or the CenterPoint Complaint. (See Exhibits C and D).

16. As of March 1, 2006, Franklin ceased to exist. (See Delaware Department of State website at <http://delecorp.delaware.gov/tin/GINameSearch.jsp/> under file 3711871, attached hereto as Exhibit E).

17. Glacial Energy of Pennsylvania was formed on March 6, 2009. (See www.nvsos.gov.) True and correct copies of the current Entity Details for Glacial Energy of Pennsylvania from the aforementioned website, along with the Corporate Charter, Certificate of Existence with Status in Good Standing, and Articles of Incorporation for Glacial Energy of Pennsylvania, are attached hereto as Exhibit F.

18. On April 22, 2009, Glacial PA submitted to the Pennsylvania Public Utility Commission ("PA PUC") an application for approval as an electric generation supplier. (Complaint ¶ 12; Application, Ex. A)

19. Gary Mole was identified in the application as the President and CEO of Glacial PA in response to Question 5, which requested the name and address of Glacial PA's officers. (Application, Ex. A, at 4, Attachment 2)

20. In response to Question 16 of its application, Glacial PA was asked to:

[s]tate specifically whether the Applicant, an affiliate, a predecessor of either, or a person identified in this Application has been convicted of a crime involving fraud or similar activity. 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. Provide a statement as to the resolution or present status of any such proceeding.

(Application, Ex. A, at 8; Complaint ¶ 13)

21. Glacial PA responded to Question 16 by stating that neither Glacial Energy Holdings nor any of the Glacial entities had been cited or sanctioned for criminal activity or fraud. (Complaint ¶ 13; New Matter ¶ 13; Application, Ex. A, at Attachment 4)

22. At the time of the Application, Mr. Mole had not been convicted of any crimes nor had he been a named defendant or respondent in any legal action dealing with business operations.

23. I&E does not allege that either Mole or Glacial PA had been convicted of any crime. (I&E Response to Interrogatory No. 4, attached hereto as Exhibit G.)

24. I&E does not allege in its Complaint that Glacial PA is an “affiliate” or “predecessor” of Franklin. (*See generally* Complaint.)

25. Question 19(B) of the Application requested the Applicant’s chief officers’ names and their professional resumes. (Complaint ¶ 14; Application, Ex. A, at 9)

26. The Application provides no direction on the contents of the professional resume. (Application, Ex. A, at 9)

27. No provision of the Pennsylvania Public Utility Code or regulations sets forth the required content of a professional resume. (New Matter ¶ 28; I&E Answer, ¶ 28)

28. There is no regulation, rule, policy, or other document that outlines the information that should be included in a professional resume submitted with a license application. (I&E Responses to Glacial Interrogatories and Request for Documents – Set I, Interrogatory 14, attached hereto as Exhibit H)

29. Glacial attached a Dunn & Bradstreet (“D&B”) report (entitled “D&B Comprehensive Insight Plus Report”) to its Application in response to the portion of Question 19 requesting “Published parent company financial and credit information.” (Complaint ¶ 15; Application, Ex. A, at 8, Attachment 3)

30. The D&B report stated in its “History” section regarding Gary Mole and two other individuals, “antecedents are undetermined.” (Complaint ¶ 15; Application, Ex. A, Attachment 3)

31. Joel Glassman, Vice President of Corporate Development for Glacial, signed an affidavit attached to Glacial’s Pennsylvania application, in which he affirmed “[t]hat the facts ... set forth [in the application] are true and correct to the best of [his] knowledge, information and belief, and that [he] expects said Applicant to be able to prove the same at hearing.” (Complaint ¶ 17; Application, Ex. A, Attachment 12)

32. Since obtaining its license in Pennsylvania, Glacial PA has been in good standing with the Commission and has a history of providing reliable electric service to primarily commercial customers within Pennsylvania. (New Matter, ¶ 43; I&E Answer ¶ 43)

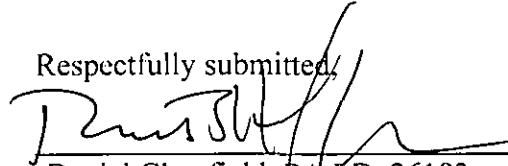
33. I&E admits that any position Gary Mole may have held in Franklin, as officer, director, or employee, “is not relevant to the sole count in the complaint.” (I&E Objections to

Respondent's First Set of Interrogatories and Request for Production of Documents, Objection to Interrogatory 8 and Document Request 9, true and correct copies of which are attached hereto as Exhibit I.)

34. I&E intends to present expert testimony to explain the requirements of the license application form. (I&E's Responses to Glacial Interrogatories and Request for Documents – Set I, Response to Interrogatory No. 16, stating that Scott Granger “is expected to testify [as an expert] about ... the requirements of the license application form,” attached hereto as Exhibit J.)

35. I&E has been in communication with the Public Utility Commission of Texas with regard to Glacial PA and/or its related companies. (I&E's Responses to Glacial Interrogatories and Request for Documents – Set I, Response to Interrogatory No. 12, attached hereto as Exhibit K.)

Respectfully submitted,



Daniel Clearfield, PA I.D. 26183
Robert B. Hoffman, PA I.D. No. 23846
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, Eighth Floor
Harrisburg, PA 17101
(717) 237-7182
dclearfield@eckertseamans.com
rhoffman@eckertseamans.com

John McGahren, Esq.
Stephanie Feingold, Esq.
Patton Boggs LLP
One Riverfront Plaza, 6th Floor
Newark, NJ 07102
(973) 848-5600

jmcgahren@pattonboggs.com
sfeingold@pattonboggs.com
Admitted Pro Hac Vice
Attorneys for Glacial Energy of
Pennsylvania, Inc.

SECRETARY'S BUREAU
PA PUC

2013 MAR -1 PM 12:00

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EXHIBIT A

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2013 MAR -1 AM 11:59

PA PUC
SECRETARY'S BUREAU



GLACIAL ENERGY

Wednesday, April 22, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Keystone Building, 2nd Floor Room N201
Harrisburg, PA 17120

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APR 22 2009

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Glacial Energy of Pennsylvania, Inc.

Dear Sir,

Attached is the Electric Generation Supplier application for the Pennsylvania Public Utility Commission for Glacial Energy of Pennsylvania, Inc. The audited financial statements of Glacial Energy will be sent under separate cover due to confidentiality concerns. Documentation regarding the \$250,000 letter of credit will be forwarded to you shortly.

If you have any questions or concerns, please contact me at 203-273-2074.

Respectfully submitted,

Joel Glassman
Vice President of Corporate Development
Glacial Energy V.I.
5060 Forts Straede
St. Thomas, V.I. 00802
Ph 203-273-2074
Fax 888-704-6769
<http://www.glacialenergy.com>
joel.glassman@glacialenergy.vi

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Glacial Energy of Pennsylvania, Inc

Application of _____, d/b/a _____, for approval to offer, render, furnish, or supply electricity or electric generation services as a(n) _____ [as specified in item #8 below] to the public in the Commonwealth of Pennsylvania.

To the Pennsylvania Public Utility Commission:

1. **IDENTITY OF THE APPLICANT:** The name, address, telephone number, and FAX number of the Applicant are:

Glacial Energy of Pennsylvania, Inc
2602 McKinney Ave, Suite 220
Dallas, TX 75204
Ph. 469-467-8332
Fax. 214-593-3214

Please identify any predecessor(s) of the Applicant and provide other names under which the Applicant has operated within the preceding five (5) years, including name, address, and telephone number.

2. a. **CONTACT PERSON:** The name, title, address, telephone number, and FAX number of the person to whom questions about this Application should be addressed are:

Joel Glassman, Vice President of Corporate Development
5060 Forts Straede, Charlotte Amalie
St. Thomas, VI 00802
Ph. 203-273-2074 Fax 888-704-6769

- b. **CONTACT PERSON-PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY:** The name, title, address telephone number and FAX number of the person with whom contact should be made by PEMA:

Joel Glassman, Vice President of Corporate Development
5060 Forts Straede, Charlotte Amalie
St. Thomas, VI 00802
Ph. 203-273-2074 Fax 888-704-6769

- 3.a. **ATTORNEY:** If applicable, the name, address, telephone number, and FAX number of the Applicant's attorney are:

Michael B. Giery Esq.
Senior Corporate Counsel
5060 Forts Straede, Charlotte Amalie
St. Thomas, VI 00802
Ph. 857-222-0958
Fax. 888-767-6761

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- b. **REGISTERED AGENT:** If the Applicant does not maintain a principal office in the Commonwealth, the required name, address, telephone number and FAX number of the Applicant's Registered Agent in the Commonwealth are:

Business Filings Incorporated
116 Pine Street, Suite 320
Harrisburg, PA 17101
Ph. 800-638-2320
Fax. 608-827-5501

4. **FICTITIOUS NAME:** (select and complete appropriate statement)

The Applicant will be using a fictitious name or doing business as ("d/b/a"):

Attach to the Application a copy of the Applicant's filing with the Commonwealth's Department of State pursuant to 54 Pa. C.S. §311, Form PA-953.

or

The Applicant will not be using a fictitious name.

5. **BUSINESS ENTITY AND DEPARTMENT OF STATE FILINGS:** (select and complete appropriate statement)

The Applicant is a sole proprietor.

If the Applicant is located outside the Commonwealth, provide proof of compliance with 15 Pa. C.S. §4124 relating to Department of State filing requirements.

or

The Applicant is a:

- domestic general partnership (*)
- domestic limited partnership (15 Pa. C.S. §8511)
- foreign general or limited partnership (15 Pa. C.S. §4124)
- domestic limited liability partnership (15 Pa. C.S. §8201)
- foreign limited liability general partnership (15 Pa. C.S. §8211)
- foreign limited liability limited partnership (15 Pa. C.S. §8211)

Provide proof of compliance with appropriate Department of State filing requirements as indicated above.

Give name, d/b/a, and address of partners. If any partner is not an individual, identify the business nature of the partner entity and identify its partners or officers.

* If a corporate partner in the Applicant's domestic partnership is not domiciled in Pennsylvania, attach a copy of the Applicant's Department of State filing pursuant to 15 Pa. C.S. §4124.

or

The Applicant is a :

- domestic corporation (none)
- foreign corporation (15 Pa. C.S. §4124)
- domestic limited liability company (15 Pa. C.S. §8913)
- foreign limited liability company (15 Pa. C.S. §8981)
- Other _____

Provide proof of compliance with appropriate Department of State filing requirements as indicated above. Additionally, provide a copy of the Applicant's Articles of Incorporation. See Attachment 1.

Give name and address of officers.

See Attachment 2

The Applicant is incorporated in the state of Nevada

6. **AFFILIATES AND PREDECESSORS WITHIN PENNSYLVANIA:** (select and complete appropriate statement)

Affiliate(s) of the Applicant doing business in Pennsylvania are:

Give name and address of the affiliate(s) and state whether the affiliate(s) are jurisdictional public utilities.

Attachment 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU
206 NORTH OFFICE BUILDING
P.O. BOX 8722
HARRISBURG, PA 17105-8722
WWW.CORPORATIONS.STATE.PA.US/CORP

GLACIAL ENERGY OF PENNSYLVANIA, INC.

THE CORPORATION BUREAU IS HAPPY TO SEND YOU YOUR FILED DOCUMENT. THE CORPORATION BUREAU IS HERE TO SERVE YOU AND WANTS TO THANK YOU FOR DOING BUSINESS IN PENNSYLVANIA.

IF YOU HAVE ANY QUESTIONS PERTAINING TO THE CORPORATION BUREAU, PLEASE VISIT OUR WEB SITE LOCATED AT WWW.CORPORATIONS.STATE.PA.US/CORP OR PLEASE CALL OUR MAIN INFORMATION TELEPHONE NUMBER (717)787-1057. FOR ADDITIONAL INFORMATION REGARDING BUSINESS AND / OR UCC FILINGS, PLEASE VISIT OUR ONLINE "SEARCHABLE DATABASE" LOCATED ON OUR WEB SITE.

ENTITY NUMBER: 3872019

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Glassman, Joel
5060 Forts Straede, Charlotte Amalie
Saint Thomas, VI 00802

PENNSYLVANIA DEPARTMENT OF STATE
CORPORATION BUREAU

Application for Certificate of Authority
(15 Pa.C.S.)

- Foreign Business Corporation (§ 4124)
 Foreign Nonprofit Corporation (§ 6124)

Name	Joel Glassman		
Address	5060 Forté Stroede, Charlotte Amalie		
City	State	Zip Code	
St. Thomas	VI	00802	

Document will be returned to the name and address you enter to the left.

Commonwealth of Pennsylvania
CERTIFICATE OF AUTHORITY 3 Page(s)

Fee: \$250



In compliance with the requirements of the applicable provisions of 15 Pa.C.S. (relating to corporations and unincorporated associations), the undersigned, hereby states that:

1. The name of the corporation is:
GLACIAL ENERGY OF PENNSYLVANIA, INC.

2. Complete only when the corporation must adopt a corporate designator for use in Pennsylvania.
The name which the corporation adopts for use in this Commonwealth is:

3. If the name set forth in paragraph 1 or 2 is not available for use in this Commonwealth, complete the following:
The fictitious name which the corporation adopts for use in transacting business in this Commonwealth is:

The corporation shall do business in Pennsylvania only under such fictitious name pursuant to the attached resolution of the board of directors under the applicable provisions of 15 Pa.C.S. (relating to corporations and unincorporated associations) and the attached form DSCB:34-311 (Application for Registration of Fictitious Name).

4. The name of the jurisdiction under the laws of which the corporation is incorporated is: NEVADA

5. The address of its principal office under the laws of the jurisdiction in which it is incorporated is:
2602 McKinney Ave, #220 Dallas TX 75204
Number and street City State Zip

PA DEPT. OF STATE

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6. The (a) address of this corporation's proposed registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is:

(a) Number and street	City	State	Zip	County
(b) Name of Commercial Registered Office Provider				
do: <i>Business Filings Incorporated</i>				<i>Dauphin</i>

7. Check one of the following:

Business Corporation: The corporation is a corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.

Nonprofit Corporation: The corporation is a corporation incorporated for a purpose or purposes not involving pecuniary profit, incidental or otherwise.

IN TESTIMONY WHEREOF, the undersigned corporation has caused this Application for Certificate of Authority to be signed by a duly authorized officer thereof

this 12th day of March,
2009.

Glacial Energy of Pennsylvania, Inc.
Name of Corporation

[Signature]
Signature

VP of Corporate Development
Title

Attachment 2

Principal Officers

Gary Mole
President/CEO
2602 McKinney Ave, Suite 220
Dallas, TX 75204

J. Michael Shivers
CFO
2602 McKinney Ave, Suite 220
Dallas, TX 75204

Jay Silva
COO
2602 McKinney Ave, Suite 220
Dallas, TX 75204

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

- If the Applicant or an affiliate has a predecessor who has done business within Pennsylvania, give name and address of the predecessor(s) and state whether the predecessor(s) were jurisdictional public utilities.

or

- The Applicant has no affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania.

7. APPLICANT'S PRESENT OPERATIONS: (select and complete the appropriate statement)

- The Applicant is presently doing business in Pennsylvania as a
- vertically-integrated provider of generation, transmission, and distribution services.
 - municipal electric corporation providing service outside its municipal limits.
 - electric cooperative
 - local gas distribution company
 - nonintegrated provider of electric generation, transmission or distribution services.
 - Other. (Identify the nature of service being rendered.)

or

- The Applicant is not presently doing business in Pennsylvania.

8. APPLICANT'S PROPOSED OPERATIONS: The Applicant proposes to operate as a:

- Generator and supplier of electric power.
- Municipal generator and supplier of electric power.
- Electric Cooperative and supplier of electric power
- Broker/Marketer engaged in the business of supplying electricity.
- Aggregator engaged in the business of supplying electricity
- Other (Describe):

9. **PROPOSED SERVICES:** Generally describe the electric services or the electric generation services which the Applicant proposes to offer.

Provide retail energy to commercial, industrial and government customers.

10. **SERVICE AREA:** Generally describe the geographic area in which Applicant proposes to offer services.

All of Pennsylvania

11. **CUSTOMERS:** Applicant proposes to initially provide services to:

- Residential Customers
- Commercial Customers - (25 kW and Under)
- Commercial Customers - (Over 25 kW)
- Industrial Customers
- Governmental Customers
- All of above
- Other (Describe):

12. **FERC FILING:** Applicant has:

- Filed an Application with the Federal Energy Regulatory Commission to be a Power Marketer.
- Received approval from FERC to be a Power Marketer at Docket or Case Number ER08-852-000.
- Not applicable

13. **START DATE:** The Applicant proposes to begin delivering services on July 1, 2009 (approximate date).

14. **NOTICE:** Pursuant to Section 5.14 of the Commission's Regulations, 52 Pa. Code §5.14, serve a copy of the signed and verified Application with attachments on the following:

Irwin A. Popowsky
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17120

Office of the Attorney General
Bureau of Consumer Protection
Strawberry Square, 14th Floor
Harrisburg, PA 17120

William R. Lloyd, Jr.
Commerce Building, Suite 1102
Small Business Advocate
300 North Second Street
Harrisburg, PA 17101

Commonwealth of Pennsylvania
Department of Revenue
Bureau of Compliance
Harrisburg, PA 17128-0946

Any of the following Electric Distribution Companies through whose transmission and distribution facilities the applicant intends to supply customers:

Frank M. Nadolny, General
Manager of Regulatory Affairs Unit
Duquesne Light Company
411 Seventh Street
P.O. Box 1930
Pittsburgh, PA 15230-1930

John P. Litz, Division Controller
UGI Utilities, Inc.
Electric Division
400 Stewart Road
P.O. Box 3200
Hanover Industrial Estates
Wilkes-Barre, PA 18773-3200

(Metropolitan Edison Company or Pennsylvania Electric Company)

Blaine W. Uplinger, Jr., Director of Governmental and
Regulatory Affairs
FirstEnergy
100 APC Building
800 North third Street
Harrisburg, PA 17102-2025

Paul E. Russell, Associate
General Counsel
PPL
Two North Ninth Street
Allentown, PA 18108-1179

Carlo L. Ciabattoni, Manage Energy Acquisition
PECO Energy Company
2301 Market Street
Philadelphia, PA 19101-8699
215.841.4210
carlo.ciabattoni@exeloncorp.com

Stephen L. Feld, Attorney
Pennsylvania Power Company
First Energy Corporation
76 South Main Street
Akron, OH 44308

John L. Munsch, Attorney
Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601-1689

Pursuant to Sections 1.57 and 1.58 of the Commission's Regulations, 52 Pa. Code §§1.57 and 1.58, attach Proof of Service of the Application and attachments upon the above named parties. Upon review of the Application, further notice may be required pursuant to Section 5.14 of the Commission's Regulations, 52 Pa. Code §5.14.

15. **TAXATION:** Complete the TAX CERTIFICATION STATEMENT attached as Appendix B to this application.

See Attachment 3

16. **COMPLIANCE:** State specifically whether the Applicant, an affiliate, a predecessor of either, or a person identified in this Application has been convicted of a crime involving fraud or similar activity. 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. Provide a statement as to the resolution or present status of any such proceedings.

See Attachment 4

17. **STANDARDS, BILLING PRACTICES, TERMS AND CONDITIONS OF PROVIDING SERVICE AND CONSUMER EDUCATION:** Electricity should be priced in clearly stated terms to the extent possible. Common definitions should be used. All consumer contracts or sales agreements should be written in plain language with any exclusions, exceptions, add-ons, package offers, limited time offers or other deadlines prominently communicated. Penalties and procedures for ending contracts should be clearly communicated.

a. **Contacts for Consumer Service and Complaints:** Provide the name, title, address, telephone number and FAX number of the person and an alternate person responsible for addressing customer complaints. These persons will ordinarily be the initial point(s) of contact for resolving complaints filed with Applicant, the Electric Distribution Company, the Pennsylvania Public Utility Commission or other agencies.

See Attachment 5

b. Provide a copy of all standard forms or contracts that you use, or propose to use, for service provided to residential customers.

c. If proposing to serve Residential and/or Small Commercial (under 25 kW) customers, provide a disclosure statement. A sample disclosure statement is provided as Appendix C to this Application.

See Attachment 6

18. **BONDING:** In accordance with 66 PA. C.S. Section 2809(C) (1)(I), the Applicant is:

Furnishing a copy of initial bond, letter of credit or proof of bonding to the Commission in the amount of \$250,000.

Furnishing proof of other initial security for Commission approval, to ensure financial responsibility.

Filing for a modification to the \$250,000 and furnishing a copy of an initial bond, letter of credit or proof of bonding to the Commission for the amount of \$_____. Applicant is required to provide information supporting an amount less than \$250,000.

At the conclusion of Applicant's first year of operation it is the intention of the Commission to tie security bonds to a percentage of Applicant's gross receipts resulting from the sale of generated electricity consumed in Pennsylvania. The amount of the security bond will be reviewed and adjusted on an annual basis.

19. **FINANCIAL FITNESS:**

A. Applicant shall provide sufficient information to demonstrate financial fitness commensurate with the service proposed to be provided. Examples of such information which may be submitted include the following:

• Actual (or proposed) organizational structure including parent, affiliated or subsidiary companies.

See Attachment 7

• Published parent company financial and credit information.

See Attachment 8

• Applicant's balance sheet and income statement for the most recent fiscal year. Published financial information such as 10K's and 10Q's may be provided, if available.

• Evidence of Applicant's credit rating. Applicant may provide a copy of its Dun and Bradstreet Credit Report and Robert Morris and Associates financial form or other independent financial service reports.

Attachment 4

Compliance

Glacial Energy Holdings Inc. and any of the Glacial entities currently licensed in 11 States and the District of Columbia have not been cited nor sanctioned of a crime involving criminal activity or fraud. Furthermore, Glacial Energy has not been a defendant or a respondent to any proceedings dealing with business operations.

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

Attachment 5

Contact for Customer Service and Complaints

Primary:

Jessica Evans
Director of Customer Care
5060 Forts Straede
Charlotte Amalie
St. Thomas, VI 00802
Ph: (888) 452-2425
Fax: (888) 333-7911

Alternate:

Denise Christopher
Customer Care Representative
5060 Forts Straede
Charlotte Amalie
St. Thomas, VI 0080s
Ph: (888) 452-2425
Fax: (888) 333-7911

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

Glacial Energy of Pennsylvania, Inc. Commercial/Industrial Electricity EFT Agreement

Company Name _____
 Tax ID# _____
 Billing Address _____
 City _____ Zip _____
 Desired Start Date _____
 Number of Accounts _____
 Check if Tax Exempt (Proof of Tax Exempt status must be provided)
 Please provide all account numbers and service address information on attachment

Primary Contact Name _____
 Phone(s) _____
 Fax _____
 Email _____
 Secondary Contact Name _____
 Phone _____
 Fax _____
 Email _____

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 PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

Key Terms: Price per kWh: Indexed Term: 12 months Customer Contract # _____
 Estimated Annual kWh _____ Payment Type: EFT Glacial Energy Pennsylvania State Contract ID - _____

General Terms and Conditions

1. **Agreement to Sell and Purchase:** Glacial Energy of Pennsylvania, Inc., a Nevada Corporation, ("Glacial Energy"), agrees to sell and provide and Customer agrees to buy and receive the quantity of electricity necessary to meet Customer's full requirements during the term of this Agreement as reflected in the electricity consumption data provided to Glacial Energy or as directed by the Local Distribution Company ("LDC"). In no event shall Glacial Energy be bound by this agreement until it has received complete and accurate consumption data describing customer's consumption for at least the twelve months preceding the month in which this agreement is executed.
2. **Electricity Pricing:** The price for electricity sold during the Term of this Agreement, "Price per kWh", is based upon all electricity charges imposed by the PJM Interconnection [PJM], including, but not limited to PJM based charges such as energy costs, fees for electric energy losses, congestion charges, scheduling services, PJM imposed administrative fees, "uplifted" imbalance charges, capacity, and ancillary services plus Glacial Energy's mark-up. The total energy price paid by Customer for each day are the charges described in the previous sentence, multiplied by Customer's usage (in kWh). The price does not include Customer's LDC charges and fees, non-bypass able charges, any non-recurring fees, transition charges, base service charge, taxes or applicable fees and/or penalties. If Customer is tax exempt, it is Customer's responsibility to provide Glacial Energy with the necessary tax exemption certificate. The Glacial Energy electricity price, and any applicable taxes or assessments will appear as separate items on Customer's bill.
3. **Term:** Customer's service under this Agreement begins on the date that Customer's LDC switches Customer's service to Glacial Energy and will continue for an initial term equal to the number of calendar months described above as "Term". Either party may cancel this Agreement effective no sooner than the conclusion of the initial term by providing no less than 30 calendar days written notice to the other party. If cancellation is not received prior to conclusion of the initial term, Agreement will automatically renew for an additional term of twelve (12) months. It may take up to sixty (60) days for LDC to switch Customer upon expiration of contract term. Customer is responsible for all Glacial Energy supply charges until Customer goes to another ESCO or the Utility. A final bill will be rendered within twenty (20) days after the final scheduled meter reading or, if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued up subsequent to the final meter reading.
4. **Billing:** On the 1st calendar day of the month following the month in which power is being provided (or the first business day thereafter), Glacial Energy will make available to customer via email, fax, or regular mail a bill for monthly usage. On the 10th day of the month following the month in which service is provided (or the first business day thereafter), Glacial Energy will debit Customer's account through an EFT transaction in an amount corresponding to the bill. If adequate funds are not available in Customer's account, Customer agrees to be charged an insufficient funds fee of 1.5% of the total bill or the maximum allowable by law, whichever is greater. Glacial Energy will reattempt billing under the same terms five business days following the previous attempt. For the first month, Customer shall receive a pro-rated bill in the same manner as previously described. If, however, the meter read date is in the last ten calendar days of the month, the first bill will be sent concurrently with the bill for the subsequent month. Glacial Energy and Customer agree that the monthly amount of energy to be billed for will be based upon monthly meter readings and or estimates. If Customer's LDC is unable to read Customer's meter, Customer LDC will estimate Customer's charges based on previous usage history, and later adjust it based on actual usage shown by a meter reading. Glacial Energy shall make a similar adjustment to Customer's bill. Customer shall reimburse Glacial Energy for any collection fees Glacial Energy incurs in collecting Customer's outstanding invoices. Glacial Energy may require a security deposit of up to two months estimated usage, and Customer agrees to provide such deposit upon written request. Customer may receive a single bill for both commodity and delivery costs from either Glacial Energy (when available) or the LDC, or each of the LDC or Glacial Energy may invoice separately. In the event of failure to provide for payment when due, Glacial Energy shall have the right to terminate this Agreement in accordance with the applicable PUC notice requirements, including the requisite advance notice provisions. Customer shall be liable for all costs and expenses including reasonable attorney's fees incurred in the collection of any amounts due. Customer agrees to be charged an interest rate of 1.5% per month of the total past due amount or the maximum allowable by law, whichever is greater, until such time as payment is received by Glacial Energy.
5. **Information Release Authorization:** Customer authorizes Glacial Energy to obtain and review information regarding the customer's credit history from credit reporting agencies and consumption history, billing determinant, and credit information from the LDC. This information may be used by Glacial Energy to determine whether it will commence and/or continue to provide electricity supply service to Customer and will not be disclosed to a third-party unless required by law. Customer's execution of this Agreement shall constitute authorization for the release of this information to Glacial Energy. This authorization will remain in effect during the initial Term and any renewal Term of this Agreement. Customer may rescind this authorization at any time by providing written notice thereof to Glacial Energy. Glacial Energy reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

Customer initials _____

COMMERCIAL CUSTOMER DISCLOSURE STATEMENT

- 1) Price - all variable rates shall be calculated on a monthly basis in response to market conditions. All charges shall be determined by Glacial Energy by no later than the 5th business day of each month
- 2) Agreement Term - Unless otherwise noted, the term of this agreement shall be for an initial period of one year.
- 3) Termination Fee and method of calculation - Customers purchasing electricity on a month to month basis with Glacial Energy may cancel without any charges if 30 days prior written notice is provided to Glacial Energy. All fixed rate contracts under term are subject to cancellation charges as defined under "Billing" section 4 below.
- 4) Late payment fee and calculation - Customer will pay each invoice in full within 10 days of the invoice date or be subject to a late payment charge of 1.5% per month. Said fee shall be calculated by multiplying the Customers' outstanding balance by the number of days such balance remains unpaid.
- 5) Renewal - Upon completion of the Initial Term, this Agreement will automatically renew on a month to month basis at the same terms unless Glacial Energy sends Customer written notice of proposed changes to such terms in advance of the renewal date (the "Renewal Term"). Any such written notice will be sent at least 45 days and no more than 90 days prior to the renewal date. Customer shall retain the right to renew, terminate or renegotiate this Agreement prior to the anniversary date of the renewal period.
- 6) Guaranteed Savings -there is no guaranteed savings from the utility commodity rate unless otherwise specified in the product offering as may be noted in section 2 of the general terms and conditions

Customer initials _____

Glacial Energy of Pennsylvania, Inc. Commercial Terms of Service

1. Customer Cancellation Rights and Waiver: Market rules provide that Customer has the right to cancel a service request with Glacial Energy without any exit fee or penalty of any kind until midnight of within three (3) federal business days of signature and receiving the Terms of Service document. Customer hereby willingly and knowingly waives that right under this Agreement and acknowledges any cancellation will be governed by the following language in this paragraph. If Customer cancels this Agreement for any reason before the end of the initial term, Customer's payment of damages shall be equal to the lesser of: a) the price for energy supply in \$/kWh multiplied by the average monthly usage for the last twelve months multiplied by three (3) or b) the average price for energy supply in \$/kWh multiplied by average monthly usage for the last twelve months multiplied by the remaining term of this Agreement. Customer shall also be liable to Glacial Energy for payments of all outstanding charges incurred prior to cancellation by customer.
2. Credit Requirement: Glacial Energy reserves the right to conduct a credit review of Customer prior to offering service and to refuse service to anyone who does not meet the Company's credit standards. Customer agrees to provide Glacial Energy with any reasonable information requested in order to complete the credit review. In the event that Glacial Energy determines at any time during the term of this Agreement that Customer's credit is unsatisfactory or that Customer has experienced an adverse change in its financial condition Glacial Energy may require Customer to provide security or a credit facility acceptable to Glacial Energy. If Customer fails to comply with said requirement within two business days following Glacial Energy's written request, Glacial Energy may immediately terminate this Agreement by providing written notice to Customer. Such termination will be subject to early termination fees as described in paragraph one as above.
3. DISPUTE RESOLUTION - In the event of a billing dispute or disagreement involving Glacial Energy service, Customer must notify Glacial Energy in writing within 60 days after the due date, otherwise the dispute is deemed waived. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute. If the parties cannot resolve the dispute within 45 days, either party may avail itself of all remedies available under law or equity. The DPS will not resolve non-residential disputes associated with the services provided under this Sales Agreement.
4. Force Majeure/Excuse: Glacial Energy will endeavor in a commercially reasonable manner to provide service, but does not guarantee a continuous supply of electrical energy. The term "Force Majeure" shall mean any cause not reasonably within the control of the Party claiming suspension and which by the exercise of due diligence, such Party is unable to prevent or overcome, including but not limited to, any act or cause which is deemed a Force Majeure by the LDC or any transmitting entity, acts of God, extraordinary weather occurrence, war, civil disturbance or other national emergency, acts of any governmental authority, including the Public Utility Commission or PJM, accidents, strikes, labor trouble, required maintenance work, inability to access the LDC system, nonperformance of the LDC (including facilities or distribution line outages), delay of deregulation or changes in laws, rules, regulations, practices or procedures of any governmental authority or PJM, or any cause beyond Glacial Energy's control including insolvency and bankruptcy of generator or wholesaler. If either party is unable, wholly or in part, by Force Majeure to perform or comply with any obligations or conditions of this Agreement, they shall give immediate notice to the maximum extent practicable in writing and provide particulars to the other party. Such obligations or conditions, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, and such party shall be relieved of liability and shall suffer no prejudice for failure to perform the same during the period. The party claiming suspension of obligations must in good faith attempt to mitigate and/or terminate the Force Majeure.
5. Limitations of Liability: GLACIAL ENERGY WILL PROVIDE ELECTRIC ENERGY TO CUSTOMER THROUGHOUT THE TERM OF THIS AGREEMENT. THE PARTIES UNDERSTAND AND ACKNOWLEDGE, HOWEVER, THAT NEITHER PARTY CONTROLS NOR PHYSICALLY TAKES POSSESSION OF THE ELECTRIC ENERGY PRIOR TO DELIVERY TO THE CUSTOMER. THEREFORE, NEITHER PARTY WILL BE RESPONSIBLE TO THE OTHER FOR ANY DAMAGES ASSOCIATED WITH FAILING TO DELIVER THE ELECTRIC ENERGY NOR FOR ANY DAMAGES IT MAY CAUSE PRIOR TO DELIVERY TO CUSTOMER. THE ELECTRIC ENERGY WILL BE DELIVERED TO CUSTOMER WHERE IT WILL BE DEEMED IN CUSTOMER'S POSSESSION AND CONTROL. AFTER THE ELECTRIC ENERGY IS DELIVERED TO CUSTOMER, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS GLACIAL ENERGY, ITS PARENT COMPANY AND AFFILIATES, AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, ASSOCIATES, EMPLOYEES, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ALL CLAIMS, LOSSES, EXPENSES, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION OR SUITS OF ANY KIND, INCLUDING BUT NOT LIMITED TO, CLAIMS FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, ARISING OUT OF OR RELATING TO THE ELECTRIC ENERGY SOLD UNDER THIS AGREEMENT. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY IS PROVIDED, SUCH EXPRESS REMEDY WILL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY WILL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY WILL NOT APPLY. IF NO EXPRESS REMEDY IS PROVIDED, GLACIAL ENERGY'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY (WHICH WILL NOT TO EXCEED THE AMOUNT OF CUSTOMER'S SINGLE LARGEST MONTHLY INVOICE AMOUNT IN THE PAST 12 MONTHS). SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES AT LAW OR IN EQUITY ARE WAIVED. GLACIAL ENERGY WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION

OR OTHERWISE. THE PARTIES INTEND THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSES RELATED THERETO INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

6. UCC/Disclaimer of Warranties: Customer and Glacial Energy acknowledge and agree that the electricity delivered hereunder is a "good" as that term is understood under the Uniform Commercial Code ("UCC"). The Parties further agree that the rules promulgated therein, to the extent that they can be, are waived and they do not apply to this Agreement, except as provided for herein. If there is any conflict between the UCC and this Agreement, this Agreement will control. Further, Customer agrees and acknowledges that Glacial Energy EXPRESSLY NEGATES AND DISCLAIMS ALL REPRESENTATION OF WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OF WARRANTY WITH RESPECT TO CONFORMITY, TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

7. Assignment: Customer may not assign this Agreement, in whole or in part, or any of its rights or obligations hereunder without the prior written consent of Glacial Energy. Such consent shall not be unreasonably withheld if new customer has a credit rating equal to or better than the existing customer's. Glacial Energy may, without Customer's consent; (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial Agreement; and (b) transfer or assign this Agreement to another Electric Generation Supplier, or another entity as authorized by the PUC. Upon any such assignment, Customer agrees that Glacial Energy shall have no further obligations hereunder.

8. Governing Law and Regulations: This Agreement shall be governed by, construed, enforced and performed in accordance with the laws of the State of Pennsylvania. In the event a regulatory or judicial ruling or decision shall have a detrimental economic impact upon Glacial Energy's performance under this Agreement, or in the event that compliance with such change shall result in a material change in the method by which prices are calculated under this Agreement, or a material change in the level of components of pricing under this Agreement, then Glacial Energy shall have the right to notify Customer within 30 calendar days of becoming aware of such ruling or decision in order to negotiate a modification to the terms of this Agreement so as to mitigate the impact of such ruling or decision. If, after 20 calendar days beyond the date of the notice, the parties have been unable to negotiate a mutually satisfactory modification of the terms of this Agreement, Glacial Energy shall have the right to terminate this Agreement upon 15 calendar day's prior written notice to the Customer. If such right to terminate is not exercised within 45 calendar days after the original notice hereunder, Glacial Energy's right to terminate shall be deemed waived with respect to the particular decision or rule. This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder.

9. Miscellaneous: (a) A waiver of any provision in this Agreement, or of any default by either Party, will not be construed as a waiver of any other (or like) provision or default in the future. (b) No amendment hereto will be enforceable unless in writing and executed by both Parties unless otherwise provided for herein. (c) Any provision herein deemed unenforceable or illegal will be ineffective to the extent of such unenforceability or unlawfulness without invalidating the remaining provisions hereof. (d) Facsimile copies and photocopies of this Agreement are to be treated as originals in the event an original is not available. (e) This Agreement may be executed in counterparts, each of which is an original and all of which constitute one Agreement. (f) Each of the parties hereby expressly waives any right or claim to any right to a jury trial in respect of any dispute arising hereunder, and further agrees that any dispute hereunder will be submitted to arbitration conducted through the American Arbitration Association. (g) If more than one Customer is a party to this Agreement, each is jointly and severally liable. (h) At Glacial Energy's option, any default of any obligation under any other agreements between Glacial Energy and a subsidiary or affiliate of Customer, shall be deemed a default under this Agreement. (i) Customer shall pay all of Glacial Energy's reasonable fees and expenses incurred to enforce or collect any of the Customer's obligations under this Agreement, including arbitration, attorneys and experts' fees and expenses.

10. Consumer Protections. The services provided by Glacial Energy are protected by the terms and conditions of this Agreement. Glacial Energy will provide at least fifteen (15) calendar days notice prior to any cancellation of service to Customer. Customer may obtain additional information by contacting Glacial Energy at 1-877-569-2841, or the Public Utility Commission ("PUC") at 1-800-692-7380.

11. Agency. Customer appoints Glacial Energy as its agent to acquire the supplies necessary to meet its electricity needs, contract for and administer transmission and related services over interstate facilities and those of the LDC needed to deliver electricity to the Customer's premises.

12. Title. Title to and possession of all electricity sold and delivered under this Agreement shall pass from Glacial Energy to Customer at the Point of Delivery. Glacial Energy will indemnify and hold harmless the Customer from all taxes, royalties, fees or other charges incurred with respect to the electricity before title passes. Except as provided in this Agreement, all taxes of whatever kind, nature and description, due and payable with respect to Customer's performance of its obligations under this Agreement, shall be paid by Customer, and Customer hereby indemnifies and shall hold harmless Glacial Energy from all liability associated with such taxes.

13. Measurement. The parties accept for purposes of accounting for electricity supplied under this Agreement, the quantity, quality, and measurement determined by the LDC.

14. Entire Agreement. This Agreement sets forth the entire Agreement between the parties with respect to the terms and conditions of this transaction; any and all other Agreements, understandings and representations by and between the parties with respect to the matters addressed herein are superseded by this Agreement.

Customer initials _____

Glacial Energy Use only: Contract #: _____
Addendum #: _____

Addendum to Glacial Energy of Pennsylvania, Inc. Commercial Electric Sales Agreement: Additional Accounts

This addendum to the Glacial Energy of Pennsylvania, Inc. Commercial Electric Sales Agreement binds the below listed additional Accounts to the above terms:

1	Account# _____ Service Address: _____ City _____ Zip _____
2	Account# _____ Service Address: _____ City _____ Zip _____
3	Account# _____ Service Address: _____ City _____ Zip _____
4	Account# _____ Service Address: _____ City _____ Zip _____
5	Account# _____ Service Address: _____ City _____ Zip _____
6	Account# _____ Service Address: _____ City _____ Zip _____
7	Account# _____ Service Address: _____ City _____ Zip _____
8	Account# _____ Service Address: _____ City _____ Zip _____
9	Account# _____ Service Address: _____ City _____ Zip _____

My initials below (facsimile accepted as if it were an original) hereby acknowledge that the above listed Accounts are correct and they are obligated by the terms and conditions set forth above and to the Terms of Service Agreement. I again affirm that I am a duly authorized agent for Customer with legal authority to switch the electricity provider for Customer, and authorize the Customer's financial institution to permit Glacial Energy to Debit all monthly charges for Customer's electric service.

Customer Duly Authorized Signature

Date: _____

Glacial Energy of Pennsylvania, Inc.
ELECTRONIC FUNDS TRANSFER AUTHORIZATION FORM

EFT Information and Authorization:

Customer Name:
Customer Address:
City, State, Zip:
Phone:
Fax:
Financial Institution:
Financial Account Number:
ABA/Routing Number:

To ensure accurate processing, please attach a VOIDED check.

As a duly authorized check signer on the financial institution account identified herein, I authorize Glacial Energy to perform scheduled or periodic electronic funds transfer debits to the financial institution account identified herein for payments due or when applicable, apply electronic funds transfer credits to same.

If any such electronic debit(s) should be returned as Non-Sufficient Funds (NSF), Glacial Energy is hereby authorized to collect such NSF items(s) by subsequent electronic debit and to subsequently collect a fee equal to \$100.00 or 1.5% of the amount debited, whichever is greater, by electronic debit from the financial institution account identified herein.

For accounting purposes, all electronic debits will be reflected in the monthly bank statement that corresponds with the financial institution account identified herein. Customer will attach a blank voided check from the designated financial institution account.

I understand and authorize all of the above as evidenced by my signature below.

_____ Customer Duly Authorized Signature
_____ Print Name & Title
Date: _____

_____ Glacial Energy of Pennsylvania, Inc. Executive Signature
_____ Print Name & Title
Date: _____

Attachment 7

Parent Company: Glacial Energy Holdings

Entities under Glacial Energy Holdings

Glacial Energy of New York - Active

Glacial Energy of Texas, Inc. - Active

Glacial Energy of Maryland, Inc. - Active

Glacial Energy of New England, Inc. - Active in Connecticut, Maine, Massachusetts,
New Hampshire and Rhode Island.

Glacial Energy of New Jersey, Inc. - Active

Glacial Energy of Washington D.C., Inc - Active

Glacial Energy of California, Inc. - will be submitting application soon

Glacial Energy of Illinois, Inc. - Active

Glacial Energy of Michigan, Inc. - licensing in process

Glacial Energy of Pennsylvania, Inc. - licensing in process

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



Small Business Solutions

Comprehensive Insight Plus Report for
GLACIAL ENERGY OF NEW YORK
Report Printed: October 24, 2008

D-U-N-S #: 60-551-5472

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[Company Snapshot](#) [Creditworthiness](#) [Payment History & Trends](#) [Public Filings](#) [History & Operations](#) [Banking & Finance](#)

Company Snapshot

Business Summary

Profile

GLACIAL ENERGY OF NEW YORK
2602 Mc Kinney Ave Ste 220
Moved From: 25 Highland Park Vlg Ste 100, Dallas, Tx
Dallas, TX 75204

Tel: 469 467-6406
D-U-N-S #: 60-551-5472
(SUBSIDIARY OF GLACIAL ENERGY HOLDINGS, INC.,
DALLAS, TX)
D&B Rating: ..

Company Stats

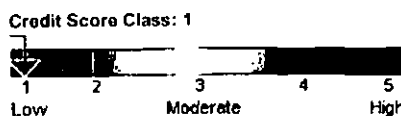
Year incorporated	2005
Year started	2005
Employees	5 (3 here)
Chief Executive	Gary Mole, Chm
S.I.C.	1731

Industry
Electrical contractor

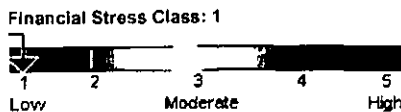
This is a **headquarters (subsidiary) location**.
Branch(es) or division(s) exist.

The Net worth amount in this section may have been adjusted by D&B to reflect typical deductions, such as certain intangible assets.

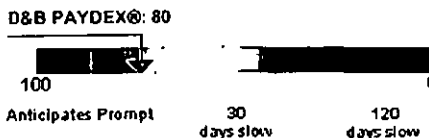
Likelihood this company will not pay on time over the next 12 months **LOW**



Likelihood this company will experience financial distress in the next 12 months **LOW**



Timeliness of historical payments for this company** **PROMPT**



Industry benchmark: Prompt
**Based on 4 trade experiences on file with D&B

Payment performance trend over the past 90 days **UNCHANGED**

D&B offers guidance on credit limits for this company based on its profile as well as profiles of other companies similar in size, industry, and credit usage [Get details](#)

Evidence of bankruptcy, fraud, or criminal proceedings in the history of this business or its management **N/A**

Noteworthy special events in this company's file **YES**

Total number of suits, liens and judgments in this company's file **0**

Value of open suits, liens and judgments for this company **\$0**

Value of open records refers only to 10 most recent filings for each record type. There may be additional suits, liens, judgments, or UCC filings in D&B's file on this company available by contacting 1-866-472-7362.

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Creditworthiness

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Summary

Likelihood this company will experience financial distress in the next 12 months **LOW**

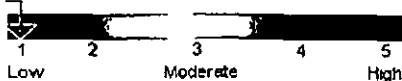
Likelihood this company will not pay on time over the next 12 months **LOW**

D&B Rating: --
 The blank rating symbol should not be interpreted as indicating that credit should be denied. It simply means that the information available to D&B does not permit us to classify the company within our rating key and that further enquiry should be made before reaching a decision. Some reasons for using a "--" symbol include: deficit net worth, bankruptcy proceedings, insufficient payment information, or incomplete history information. For more information, see the D&B Rating Key.

Default on Payment: Financial Stress Summary

Likelihood this company will experience financial distress in the next 12 months **LOW**

Financial Stress Class: 1



Key Factors
 - 4 trade experiences exist for this company.
 - Financial Stress Score: 1353 (high risk: 1,001; low risk: 1,875)
 - Payment information in the D&B files indicates no slow payment(s) nor negative comment(s).
 - No record of open suit(s), lien(s), or judgment(s) in the D&B files.

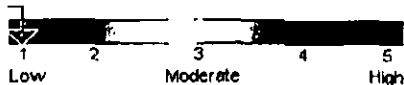
During the prior year, firms in this Financial Stress Class had a failure rate of 1.2%, which is 0.46 times lower than the national average.

Financial stress national percentile: 37 (high risk: 1%; low risk: 100%)
 National percentile industry norm: 38 (high risk: 1%; low risk: 100%)

Payment within Terms: Credit Score Summary

Likelihood this company will not pay on time over the next 12 months **LOW**

Credit Score Class: 1



Key Factors
 - 4 trade experiences exist for this company.
 - Payment information in the D&B files indicates no slow payment(s) nor negative comment(s).
 - No record of open suit(s), lien(s), or judgment(s) in the D&B files.

The Credit Score class of 1 for this company shows that 2.0% of firms with this classification paid one or more bills severely delinquent, which is lower than the average of businesses in D&B's database.

Credit score percentile: 91 (high risk: 1%; low risk: 100%)
 Industry norm percentile: 51 (high risk: 1%; low risk: 100%)

Additional Information

Financial Stress Summary

- The Financial Stress Class indicates that this firm shares some of the same business and financial characteristics of other companies with this classification. It does not mean the firm will necessarily experience financial stress.
- The Incidence of Financial Stress shows the percentage of firms in a given Class that discontinued operations over the past year with loss to creditors. The Incidence of Financial Stress - National Average represents the national failure rate and is provided for comparative purposes.
- The Financial Stress National Percentile reflects the relative ranking of a company among all scorable companies in D&B's file.
- The Financial Stress Score offers a more precise measure of the level of risk than the Class and Percentile. It is especially helpful to customers using a scorecard approach to determining overall business performance.
- All Financial Stress Class, Percentile, Score and Incidence statistics are based on 2004.

Credit Score Summary

- The Incidence of Delinquent Payment is the percentage of companies with this classification that were reported 90 days past due or more by creditors. The calculation of this value is based on an inquiry weighted sample.
- The Percentile ranks this firm relative to other businesses. For example, a firm in the 80th percentile has a lower risk of paying in a severely delinquent manner than 79% of all scorable companies in D&B's files.

Payment History

Summary

Average payment performance trend when weighted by dollar amount

UNCHANGED

Company's payment performance over the past 12 months compared with its peers

AHEAD

Payment History Overview

Payment experiences on file with D&B:	4	Average highest credit:	\$762
Payments made within terms:	4 (100%)	Largest high credit:	\$2,500
Amount placed for collections:	0 (0%)	Highest now owing:	\$0
		Highest past due:	\$0

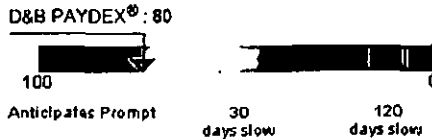
Historical Payment Trends: PAYDEX®

Average payment performance trend when weighted by dollar amount

Last 3 months: Trend is unchanged

UNCHANGED

Last 12 months: Generally within terms
Industry benchmark: Prompt



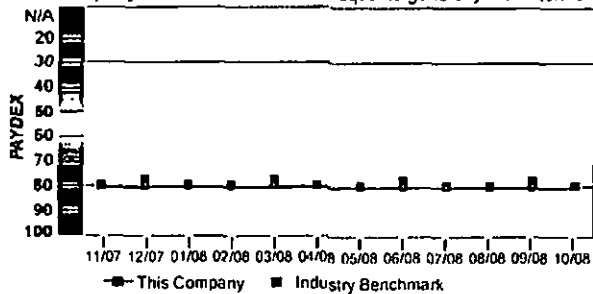
Based on payments collected over last 12 months. Indications of slowness can be the result of dispute over merchandise, skipped invoices, etc. Accounts are sometimes placed for collection even though the existence or amount of the debt is disputed.

Historical Payment Trends: PAYDEX® Comparison to Industry

Company's payment performance over the past 12 months compared with its peers

AHEAD

This company's 12-month high: 80, or equal to generally within terms
This company's 12-month low: 80, or equal to generally within terms



Shows PAYDEX scores of this Business compared to the Primary Industry from each of the last four quarters. The Primary Industry is Electrical contractor, based on SIC code 1731.

Payment History Details

Date Reported	Paying Record	High Credit (\$)	Now Owes (\$)	Past Due (\$)	Selling Terms	Last Sale Within (months)
07/08	(001) Satisfactory.	50				4-5
01/08	Prompt	250	0	0		6-12
01/08	Prompt	250	0	0		6-12
08/07	Prompt	2,500				1

Payment experiences reflect how bills are met in relation to the terms granted. In some instances payment beyond terms can be the result of dispute over merchandise, skipped invoices, etc. Each experience shown is from a separate supplier. Updated trade experiences replace those previously reported.

Payment Analysis By Industry

Company's dollar-weighted payments listed by the primary industries of its suppliers

Industry	Total Received (#)	Total Dollar Amount (\$)	Largest High Credit (\$)	Within Terms	Slow 1-30	Slow 31-60	Slow 61-90	Slow 91+
					(% of dollar amount)			
Nonclassified	2	500	250	100	0	0	0	0
Public finance	1	2,500	2,500	100	0	0	0	0
Executive office	1	50	50	100	0	0	0	0
Other payment categories								
Cash experiences	0	0	0					
Payment record unknown	0	0	0					
Unfavorable comments	0	0	0					
Placed for collection								
With D&B	0	0	0					
Other	0	N/A	0					
Total in D&B's file	4	3,050	2,500					

There are 4 payment experiences in D&B's file for the most recent 12 months, with 0 experiences reported during the last three month period.

[Company Snapshot](#) [Creditworthiness](#) [Payment History & Trends](#) [Public Filings](#) [History & Operations](#) [Banking & Finance](#)

Public Filings

Summary of Court Actions

The following data includes both open and closed filings found in D&B's database on the subject company.

Record Type	Open Records	Open Value	Total Records	Most Recent Filing Date
Suits	0	0	0	-
Liens	0	0	0	-
Judgments	0	0	0	-
UCC Filings	12	N/A	18	03/15/2007
Bankruptcy Proceedings	0	N/A	0	-

Public filing data is for informational purposes only and is not the official record. Certified copies can only be obtained from the official source. Number and value of open records refers only to 10 most recent filings for each record type. There are additional suits, liens, judgments, or UCC filings in D&B's file on this company available by contacting 1-866-472-7362.

Special Events

02/08/2008 Business address has changed from 25 Highland Park Vlg Ste 100, Dallas, TX, 75205 to 2602 Mc Kinney Ave Ste 220, Dallas, TX, 75204.

UCC Filings

Collateral	Type	Sec. Party	Debtor	Date Filed	Additional Details
All Negotiable instruments including proceeds and products - All Accounts receivable including proceeds and products - All Inventory including proceeds and products - All Account(s) including proceeds and products - and OTHERS	Original	FIRST TEXOMA NATIONAL BANK, SHERMAN, TX	GLACIAL ENERGY OF NEW YORK	09/09/2005	Filing number: 0509098325205 Filed with: SECRETARY OF STATE/UCC DIVISION, ALBANY, NY Latest info Received: 09/19/2005
Unavailable	Assignment	FIRST TEXOMA NATIONAL BANK, SHERMAN, TX	GLACIAL ENERGY OF NEW YORK	02/16/2007	Filing number: 0702160129954 Filed with: SECRETARY OF STATE/UCC DIVISION, ALBANY, NY Latest info Received: 04/09/2007

Negotiable instruments including proceeds and products - Accounts receivable including proceeds and products - Inventory including proceeds and products - Account(s) including proceeds and products - and OTHERS	Original	FIRST TEXOMA NATIONAL BANK, SHERMAN, TX	GLACIAL ENERGY OF NEW YORK	09/09/2005	Filing number: 050028233770 Filed with: SECRETARY OF STATE/UCC DIVISION, AUSTIN, TX Latest info Received: 09/23/2005
Unavailable	Assignment	FIRST TEXOMA NATIONAL BANK, SHERMAN, TX THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY OF NEW YORK	02/16/2007	Filing number: 0700054800 Filed with: SECRETARY OF STATE/UCC DIVISION, AUSTIN, TX Latest info Received: 03/06/2007
All Accounts receivable including proceeds and products - All Account(s) including proceeds and products - All Computer equipment including proceeds and products - All General intangibles(s) including proceeds and products - All Chattel paper including proceeds and products	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS and OTHERS	03/15/2007	Filing number: 011896499 Filed with: SECRETARY OF STATE/UCC DIVISION, SPRINGFIELD, IL Latest info Received: 03/22/2007
Accounts receivable including proceeds and products - Account(s) including proceeds and products - Computer equipment including proceeds and products - General intangibles(s) including proceeds and products - Chattel paper including proceeds and products	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS and OTHERS	02/16/2007	Filing number: 00000181297378 Filed with: UCC DIVISION, BALTIMORE, MD Latest info Received: 05/11/2007
Accounts receivable including proceeds and products - Account(s) including proceeds and products - Computer equipment including proceeds and products - General intangibles(s) including proceeds and products - Chattel paper including proceeds and products	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS and OTHERS	02/16/2007	Filing number: 0702160129978 Filed with: SECRETARY OF STATE/UCC DIVISION, ALBANY, NY Latest info Received: 04/09/2007
Accounts receivable including proceeds and products - Account(s) including proceeds and products - Computer equipment including proceeds and products - General intangibles(s) including proceeds and products - Chattel paper including proceeds and products	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS and OTHERS	02/16/2007	Filing number: 24029124 Filed with: SECRETARY OF STATE/UCC DIVISION, TRENTON, NJ Latest info Received: 03/23/2007
Accounts receivable including proceeds and products - Account(s) including proceeds and products - Computer equipment including proceeds and products - General intangibles(s) including proceeds and products - Chattel paper including proceeds and products	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS and OTHERS	02/16/2007	Filing number: 077103541917 Filed with: SECRETARY OF STATE/UCC DIVISION, SACRAMENTO, CA Latest info Received: 03/09/2007
Accounts receivable including proceeds and products - Account(s)	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS,	GLACIAL ENERGY OF NEW YORK and	02/16/2007	Filing number: 070005479941 Filed with: SECRETARY OF STATE/UCC DIVISION,

including proceeds and products - General intangibles(s) including proceeds and products - Computer equipment including proceeds and products - Challel paper including proceeds and products		WACO, TX	OTHERS		AUSTIN, TX Latest Info Received: 03/06/2007
Unavailable	Original	THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS and OTHERS	02/16/2007	Filing number: 2007005074-6 Filed with: SECRETARY OF STATE/UCC DIVISION, CARSON CITY, NV Latest Info Received: 02/21/2007
Unavailable	Assignment	FIRST TEXOMA NATIONAL BANK, SHERMAN, TX THE FIRST NATIONAL BANK OF CENTRAL TEXAS, WACO, TX	GLACIAL ENERGY HOLDINGS	02/16/2007	Filing number: 2007005082-3 Filed with: SECRETARY OF STATE/UCC DIVISION, CARSON CITY, NV Latest info Received: 02/21/2007

The public record items contained in this report may have been paid, terminated, vacated or released prior to the date this report was printed. There are additional suits, liens, judgments, or UCC filings in D&B's file on this company available by contacting 1-866-472-7362. Any public filings displayed in red are open.

Government Activity

Activity Summary		Possible Candidate for Socio-Economic Program Consideration	
Borrower (Dir/Guar)	No	Labor Surplus Area	N/A
Administrative Debt	No	Small Business	Yes (2008)
Contractor	No	8(A) Firm	N/A
Grantee	No		
Party Excluded from Federal Program(s)	No		

The details provided in the Government Activity section are as reported to D&B by the federal government and other sources.

[Company Snapshot](#) [Creditworthiness](#) [Payment History & Trends](#) [Public Filings](#) [History & Operations](#) [Banking & Finance](#)

History & Operations

Topic	Description
History	Detailed information on the history of a company, including background information on the management team and key principals, and information on related companies.
Corporate Family	Detailed information on all related companies, including subsidiaries, affiliates and branches.
Registration & Incorporation	Detailed registration and incorporation information, including the date and state of incorporation and the type of corporation formed.
Company Operations	Detailed information on a company's operations, including the identity of the parent company, the geographic scope of the business, and the key holdings.
Industry Classification	Details on the specific industry within which a company is classified.

History

Officer(s):
GARY MOLE, CHM
MIKE SHIVERS, CEO
ROBERT CHAPEL, CFO

Director(s):
THE OFFICER(S)

Business started 2005. 100% of capital stock is owned by Parent Company.

GARY MOLE. Antecedents are undetermined.

MIKE SHIVERS. Antecedents are undetermined.

ROBERT CHAPEL. Antecedents are undetermined.

Business address has changed from 25 Highland Park Vlg Ste 100, Dallas, TX, 75205 to 2602 Mc Kinney Ave Ste 220, Dallas, TX,

75204.

Corporate Family**Parent:***Glacial energy holdings*

Dallas, TX

DUNS # 79-062-6449

Affiliates (US):*Glacial Energy of New England, Inc.*

24 Route 6a, Sandwich, MA

DUNS # 79-632-4833

Registration & Incorporation

Registered Name:	Glacial energy of new york	Filing Date:	May 18, 2005
Business Type:	Domestic corporation	Registration ID:	E0305002005-7
Corporation Type:	Profit	Where filed:	CORPORATION DIV, CARSON CITY, NV
Date incorporated:	May 18, 2005	Registered Agent:	CORPORATE SERVICE CENTER, INC., 5190 NEIL ROAD SUITE 430, RENO, NV, 895020000
State of incorporation:	Nevada	Principals:	GARY MOLE, PRESIDENT, 25 HIGHLAND PARK VILLAGE SUITE 100-516, DALLAS, TX, 752050000
Status:	Active		GARY MOLE, SECRETARY, 25 HIGHLAND PARK VILLAGE;SUITE 100-516, DALLAS, TX, 752050000
Status attained :	July 24, 2007		GARY MOLE, TREASURER, 25 HIGHLAND PARK VILLAGE;SUITE 100-516, DALLAS, TX, 752050000
			GARY MOLE, DIRECTOR, 25 HIGHLAND PARK VILLAGE;SUITE 100-516, DALLAS, TX, 752050000

Corporate and business registrations provided by management or other source.

Company Operations

Description: Subsidiary of Glacial Energy Holdings, Inc., Dallas, TX.

 Provides electrical services (100%).

 Terms are undetermined. Sells to undetermined. Territory : undetermined.

 Nonseasonal.

Employees: 5 which includes officer(s). 3 employed here.

Facilities: Occupies premises in building.

Branches: Maintains a branch location in Long Island, NY.

Industry Classification

SIC		NAICS	
17310100	Electric power systems contractors	238210	Electrical Contractors

Based on information in our file, D&B has assigned this company an extended 8-digit SIC. D&B's use of 8-digit SICs enables us to be more specific to a company's operations than if we use the standard 4-digit code. The 4-digit SIC numbers link to the description on the Occupational Safety & Health Administration (OSHA) Web site. Links open in a new browser window.

[Company Snapshot](#) [Creditworthiness](#) [Payment History & Trends](#) [Public Filings](#) [History & Operations](#) [Banking & Finance](#)

Banking & Finance**Key Business Ratios**

D&B has been unable to obtain sufficient financial information from this company to calculate business ratios. Our check of additional outside sources also found no information available on its financial performance.

To help you in this instance, ratios for other firms in the same industry are provided below to support your analysis of this business.

Industry Norms based on 254 establishments			
	This Business	Industry Median	Industry Quartile
Profitability			
Return on Sales	UN	5.0	UN
Return on Net Worth	UN	24.3	UN
Short-Term Solvency			
Current Ratio	UN	2.2	UN
Quick Ratio	UN	1.5	UN
Efficiency			
Assets Sales	UN	35.0	UN
Sales / Net Working Capital	UN	7.2	UN
Utilization			
Total Liabilities / Net Worth	UN	76.1	UN

UN = Unavailable

Finance


01/04/2008

On JAN 04 2008 Gary Mole, Pres. deferred all information.

Incomplete history caption has been applied due to stock ownership has not been clearly established.

[Company Snapshot](#) [Creditworthiness](#) [Payment History & Trends](#) [Public Filings](#) [History & Operations](#) [Banking & Finance](#)

Customer Service

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- A description of the types and amounts of insurance carried by Applicant which are specifically intended to provide for or support its financial fitness to perform its obligations as a licensee.
- Audited financial statements
Requires disclosure of privileged and confidential information, under separate cover.
- Such other information that demonstrates Applicant's financial fitness.

B. Applicant must provide the following information:

- Identify Applicant's chief officers including names and their professional resumes.
See Attachment 9
- Provide the name, title, address, telephone number and FAX number of Applicant's custodian for its accounting records.
See Attachment 10

20. **TECHNICAL FITNESS:** To ensure that the present quality and availability of service provided by electric utilities does not deteriorate, the Applicant shall provide sufficient information to demonstrate technical fitness commensurate with the service proposed to be provided. Examples of such information which may be submitted include the following:

- The identity of the Applicant's officers directly responsible for operations, including names and their professional resumes.

See Attachment 11

- Proposed staffing and employee training commitments
- Business plans
- Documentation of membership in ECAR, MAAC or other regional reliability councils shall be submitted if applicable to the scope and nature of the applicant's proposed services.
- An affidavit stating that you will adhere to the reliability protocols of the North American Electric Reliability Council, the appropriate regional reliability council(s), and the Commission, and that you agree to comply with the operational requirements of the control area(s) within which you provide retail service.

See Attachment 12

21. **TRANSFER OF LICENSE:** The Applicant understands that if it plans to transfer its license to another entity, it is required to request authority from the Commission for permission prior to transferring the license. See 66 Pa. C.S. Section 2809(D). Transferee will be required to file the appropriate licensing application.

22. **ASSESSMENT:** The Applicant acknowledges that Title 66, Chapter 5, Section 510 grants to the Commission the right to make assessments to recover regulatory expenses and that as a supplier of electricity or an electric generation supplier it will be assessed under that section of the Pennsylvania Code. The Applicant also acknowledges that the continuation of its license as a supplier of electricity or an electric generation supplier will be dependent upon the payment of all prior years assessments.

23. **UNIFORM STANDARDS OF CONDUCT AND DISCLOSURE:** As a condition of receiving a license, Applicant agrees to conform to any Uniform Standards of Conduct and Disclosure as set forth by the Commission.

24. **REPORTING REQUIREMENTS:** Applicant agrees to provide the following information to the Commission or the Department of Revenue, as appropriate:

Chief Officer's Resumes

Gary Mole

President/CEO

Mr. Mole set-up Glacial Energy in 2005, first entering New York, and expanding quickly into Texas, New England and Mid-Atlantic deregulated energy markets. Prior to Glacial Energy, Mr. Mole moved to the US and established EUC/USA serving as its CEO.

Prior to EUC/USA, Mr. Mole founded Essential Utilities Energy Corporation ("EUC")-Australia, and served as its managing director from 1995 to 2001, where he was responsible entering into major power agreements with generators such as TXU, Entergy and AEP.

J. Michael Shivers

CFO

Mr. Shivers joined Glacial Energy in 2006 as its Chief Financial Officer. Prior to joining Glacial, he had over 20 years of experience in banking and finance. Most recently, Mr. Shivers was the President of the Texas Division of First Texoma Bank where his primary responsibility was for the overall banking operations which included loan and deposit generation.

Before that position, he held several senior positions with various Texas banking institutions, including Legacy Bank of Texas, Mid-American Capital Resource Group and State Bank and Trust Company. Mr. Shivers was also a Vice President of Panda Energy Corporation of Dallas, TX, and held various banking positions handling energy related services including development of energy loans in the State of Texas prior to joining Panda.

Mr. Shivers holds a BA in Finance and an MBA from Baylor University.

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SECRETARY'S BUREAU**

Jay Silva

COO

Mr. Silva joined Glacial Energy in 2008 as its Chief Operations Officer, and is responsible for billing, customer care, information and technology, and market operations. Prior to joining Glacial, he had over 20 years in the energy industry. Most recently, Mr. Silva was the Director of Forecasting and Wholesale Operations at Constellation NewEnergy, where his primary responsibilities included pricing, portfolio management, scheduling, CRM facilities, billing and EDI operations.

Before that position, he held several senior positions with energy efficiency companies.

Mr. Silva holds a BA in Mathematics and French from Amherst College and a BS in Mechanical Engineering from Worcester Polytechnic Institute.

Attachment 10

Custodian for Accounting Records

Angie Borg
Vice President of Finance
5060 Forts Straede, Charlotte Amalie
St. Thomas, VI 00802
Ph: (903) 271-8128
Fax: (214) 594-0000

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Attachment 11

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Technical Fitness

Where we don't have industry experts, we outsource select functions to industry professionals. For instance, our EDI (send, receive and translation) communication function with the distribution companies is outsourced to a company called Energy Services Group (ESG). ESG provides billing and transaction management services to 80 different customers, and is a market leader. Also, our weather forecasting function, required for accurate load forecasting and scheduling, is handled by Weatherbank Inc.

Jay Silva, CFO

Jay Silva is the Chief Operating Officer of Glacial Energy. He has been working for retail energy suppliers throughout North America for over 15 years. His current role at Glacial Energy includes responsibility for billing, contract administration, enrollments, pricing, customer care, IT, supply procurement and scheduling.

Oscar Frowijn, Sr. VP of Operations

Oscar Frowijn is the SR VP of Information Technology. Mr Frowijn has been working in the IT field for over 14 years and his current role at glacial energy includes the responsibility to manage the network infrastructure, security, EDI transactions with over 41 utilities in 13 states, software development and deployment. He has been working in the retail energy field for over 4 years.

Joe Jerz, VP of Operations

Joe Jerz is the VP of Operations of Glacial Energy. Mr. Jerz has been working in the regulated and unregulated energy field for the past 27 years, focusing on forecasting, scheduling and system development. His current role at Glacial covers all responsibilities for operations, including billing, wholesale reconciliations, and ISO market operations.

Ryan Park, National Director of Pricing

Ryan Park is the National Director of Pricing for Glacial Energy, VI. He has worked in the deregulated North American natural gas and power industry since 2000, with a focus on market and pricing analysis. He has been employed with Glacial Energy since February of 2008, where his current role entails the establishment, management and development of customer data analysis and product pricing and structuring.

Jamie King, Director of Contract Administration and Data Services

Jamie King is the Director of Contract Administration and Data Services of Glacial Energy. She has been working in the industry for two years. Her current role at Glacial Energy includes overseeing Client Enrollments and Data Services.

Chris Leveriza, Director of Energy Trading

Christopher Leveriza is the Director of Energy Trading for Glacial Energy. He has worked in the deregulated power and natural gas industry since 2005. His experience includes wholesale market analysis, pricing, hedging, and trading in the real time, short term, and forward markets. His current role

at Glacial Energy includes responsibility for scheduling, regulatory compliance, forward market pricing, renewable portfolio standard portfolio management, and energy purchases in the wholesale markets.


State of St. Thomas, US Virgin Islands

Joel Glassman, Affiant, being duly affirmed according to law, deposes and says that:

He is the Vice President of Corporate Development of Glacial Energy, and that he is authorized to and does make this affidavit for Glacial Energy.

That Glacial Energy will adhere to the reliability protocols of the North American Electric Reliability Council, the appropriate regional reliability council(s), and the Commission, and that Glacial Energy agrees to comply with the operational requirements of control area(s) within which Glacial Energy will provide retail service.

That the facts above set forth are true and correct/true to the best of his knowledge, information, and belief.


Signature of Affiant

Sworn and subscribed before me this 20th day of April, 2009.


Signature of official administering oath

My commission expires October 11, 2011

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

- a. Reports of Gross Receipts: Applicant shall report its Pennsylvania intrastate gross receipts to the Commission on a quarterly and year to date basis no later than 30 days following the end of the quarter.
- b. The Treasurer or other appropriate officer of Applicant shall transmit to the Department of Revenue by March 15, an annual report, and under oath or affirmation, of the amount of gross receipts received by Applicant during the prior calendar year.
- c. Applicant shall report to the Commission the following information on an annual basis:
 - the percentages of total electricity supplied by each fuel source

Applicant will be required to meet periodic reporting requirements as may be issued by the Commission to fulfill the Commission's duty under Chapter 28 pertaining to reliability and to inform the Governor and Legislature of the progress of the transition to a fully competitive electric market.

25. **FURTHER DEVELOPMENTS:** Applicant is under a continuing obligation to amend its application if substantial changes occur in the information upon which the Commission relied in approving the original filing.
26. **FALSIFICATION:** The Applicant understands that the making of false statement(s) herein may be grounds for denying the Application or, if later discovered, for revoking any authority granted pursuant to the Application. This Application is subject to 18 Pa. C.S. §§4903 and 4904, relating to perjury and falsification in official matters.
27. **FEE:** The Applicant has enclosed the required initial licensing fee of \$350.00 payable to the Commonwealth of Pennsylvania.

Applicant: Glacial Energy of Pennsylvania

By: Joel Glassman

Title: Vice President of Corporate Development

AFFIDAVIT

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[Commonwealth/State] of St. Thomas, US Virgin Islands :

ss. PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

County of N/A :

Joel Glassman, Affiant, being duly [sworn/affirmed] according to law, deposes and say:
that:

[He/she is the VP of Corporate Development (Office of Affiant) of Glacial Energy (Name of Applicant);]

[That he/she is authorized to and does make this affidavit for said Applicant;]

That Glacial Energy, the Applicant herein, acknowledges that [Applicant] may have obligations pursuant to this Application consistent with the Public Utility Code of the Commonwealth of Pennsylvania, Title 66 of the Pennsylvania Consolidated Statutes; or with other applicable statutes or regulations including Emergency Orders which may be issued verbally or in writing during any emergency situations that may unexpectedly develop from time to time in the course of doing business in Pennsylvania.

That Glacial Energy, the Applicant herein, asserts that [he/she/it] possesses the requisite technical, managerial, and financial fitness to render electric service within the Commonwealth of Pennsylvania and that the Applicant will abide by all applicable federal and state laws and regulations and by the decisions of the Pennsylvania Public Utility Commission.

That Glacial Energy, the Applicant herein, certifies to the Commission that it is subject to , will pay, and in the past has paid, the full amount of taxes imposed by Articles II and XI of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Act of 1971 and any tax imposed by Chapter 28 of Title 66. The Applicant acknowledges that failure to pay such taxes or otherwise comply with the taxation requirements of Chapter 28, shall be cause for the Commission to revoke the license of the Applicant. The Applicant acknowledges that it shall report to the Commission its jurisdictional Gross Receipts and power sales for ultimate consumption, for the previous year or as otherwise required by the Commission. The Applicant also acknowledges that it is subject to 66 Pa. C.S. §506 (relating to the inspection of facilities and records).

As provided by 66 Pa. C.S. §2810 (C)(6)(iv), Applicant, by filing of this application waives confidentiality with respect to its state tax information in the possession of the Department of Revenue, regardless of the source of the information, and shall consent to the Department of Revenue providing that information to the Pennsylvania Public Utility Commission.

That Glacial Energy, the Applicant herein, acknowledges that it has a statutory obligation to conform with 66 Pa. C.S. §506, §2807 (C), §2807(D)(2), §2809(B) and the standards and billing practices of 52 PA. Code Chapter 56.

That the Applicant agrees to provide all consumer education materials and information in a timely manner as requested by the Bureau of Public Liaison or other Commission bureaus. Materials and information requested may be analyzed by the Commission to meet obligations under applicable sections of the law.

That the facts above set forth are true and correct/true and correct to the best of his/her knowledge, information, and belief.

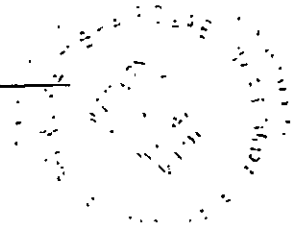


Signature of Affiant

Sworn and subscribed before me this 20th day of April, 2009.



Signature of official administering oath



My commission expires October 11, 2011.

AFFIDAVIT

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APR 22 2009

[Commonwealth/State] of St. Thomas, US Virgin Islands:

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

County of N/A

Joel Glassman, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

[He/she is the VP of Corporate Development (Office of Affiant) of Glacial Energy (Name of Applicant);]

[That he/she is authorized to and does make this affidavit for said Applicant;]

That the Applicant herein Glacial Energy has the burden of producing information and supporting documentation demonstrating its technical and financial fitness to be licensed as an electric generation supplier pursuant to 66 Pa. C.S. § 2809 (B).

That the Applicant herein Glacial Energy has answered the questions on the application correctly, truthfully, and completely and provided supporting documentation as required.

That the Applicant herein Glacial Energy acknowledges that it is under a duty to update information provided in answer to questions on this application and contained in supporting documents.

That the Applicant herein Glacial Energy acknowledges that it is under a duty to supplement information provided in answer to questions on this application and contained in supporting documents as requested by the Commission.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief, and that he/she expects said Applicant to be able to prove the same at hearing.

Joel Glassman
Signature of Affiant

Sworn and subscribed before me this 20th day of April, 2009.

Sheriqua Rose
Signature of official administering oath



My commission expires October 11, 2011.

FedEx International Air Waybill

Express

FedEx Tracking Number **8672 9459 9581** Form ID No. **0402**

Origin Copy

1 From
 Date 4/22/09 Sender's FedEx Account Number 468109549
 Sender's Name Joel Glassman Phone 203-273-2074
 Company Glacial Energy
 Address 5060 Ferts Strasse
 Address Charlotte Amalie
 City St. Thomas State Province VI
 Country _____ ZIP Postal Code 00802

2 To
 Recipient's Name Jonas J. McNulty Phone _____
 Company Pennsylvania Public Utility Commission
 Address Keystone Building, 2nd Floor, Room N201
 Address _____
 City Harrisburg State Province PA
 Country _____ ZIP Postal Code 17120
 Recipient's Tax ID Number for Customs Purposes
 e.g. GST/RFC/VAT/INVE/CARN, or as locally required.

3 Shipment Information For EU Only Tick here if goods are not in free circulation and provide C.I.

Total Packages 1 Total Weight 1 lbs 21 kg DIM 1 1 1 W 1 H 1 in 1 cm

Commodity Description DETAIL REQUIRED	Harmonized Code	Country of Manufacture	Value for Customs REQUIRED
<u>Documents</u>			<u>0</u>

Has EEVSED been filed in AES? For U.S. Export Only: Check One No EEVSED required, value \$2,500 or less per Sch. B N. number, no license required (NLR, not subject to ITR). Total Declared Value for Carriage _____ Total Value for Customs (Society Currency) 0

No EEVSED required, enter exemption number: _____ If other than NLR, enter License Exception: _____
 Yes - Enter AES proof of filing citation.

4 Express Package Service
 FedEx Intl. Priority FedEx Intl. First Available to select locations. Higher rates apply.
 _____ FedEx Intl. Economy FedEx Envelope and FedEx Pak rates not available.

5 Packaging
 FedEx Envelope FedEx Pak FedEx Box FedEx Tube
 Other _____ PW FedEx 10kg Box* PX FedEx 25kg Box*
*These unique brown boxes with special pricing are provided by FedEx for FedEx Int. Priority only.

6 Special Handling
 HOLD at FedEx Location SATURDAY Delivery Available to select locations for FedEx Int. Priority only.

7a Payment Bill transportation charges to:
 Sender Acct. No. in Section 1 will be billed. Recipient Third Party Credit Card Cash Check/ Cheque
 Enter FedEx Acct. No. or Credit Card No. below.
 FedEx Acct. No. _____ Total Transportation _____
 Credit Card Exp. Date _____ Specialty Currency _____

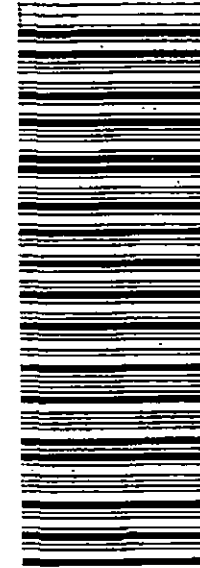
7b Payment Bill duties and taxes to:
 Sender Acct. No. in Section 1 will be billed. Recipient Third Party Cash Check/ Cheque
 Enter FedEx Acct. No. below.
 FedEx Acct. No. _____

8 Your Internal Billing Reference First 24 characters will appear on invoice

9 Required Signature
 Use of this Air Waybill constitutes your agreement to the Conditions of Contract on the back of this Air Waybill, and you represent that this shipment does not require a U.S. State Department License or contain dangerous goods. Certain international treaties, including the Warsaw Convention, may apply to this shipment and limit our liability for damage, loss, or delay, as described in the Conditions of Contract. **WARNING:** These commodities, technology, or software were exported from the United States in accordance with Export Administration Regulations. Diversion contrary to U.S. law prohibited.
 Sender's Signature: [Signature]
 This is not authorization to deliver this shipment without a recipient signature.
 Received above shipment in good order and condition. We agree to pay all charges, including Customs duties and taxes as applicable, and we agree to the Conditions of Contract as stated on the reverse side of the Recipient's Copy.
 Recipient's Signature: _____

FedEx Tracking Number **8672 9459 9581** Form ID No. **0402**

Not all services and options are available to all destinations. Dangerous goods cannot be shipped using this Air Waybill.



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Origin Station ID <u>STTA</u>	Destination Station ID <u>MOTA</u>	URSA Routing <u>XHIMOTA</u>	Handling Units
Received At <input type="checkbox"/> Reg. Stop <input checked="" type="checkbox"/> Go-Call Stop <input type="checkbox"/> Drop Box <input type="checkbox"/> World Service Center <input type="checkbox"/> Station	Forms Attached: <input type="checkbox"/> CI <input type="checkbox"/> CO		Total Volume (cm)
Rate Charges FedEx Emp. # <u>468826</u>	Declared Val. Chg. <u>4/22</u>	Other <u>4/22</u>	DDA/ OPA Credit Card Auth.
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EXHIBIT B

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Control Number: 31166



Item Number: 45

Addendum StartPage: 0

**PUC DOCKET NO. 31166
SOAH DOCKET NO. 473-06-0696**

COMPLAINT OF TXU ELECTRIC DELIVERY COMPANY AND CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC TO REVOKE RETAIL ELECTRIC PROVIDER CERTIFICATE NO. 10068 OF ENERGY WEST RESOURCES, LTD	§ § § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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ORDER

This Order addresses the complaints of TXU Electric Delivery Company and CenterPoint Energy Houston with the Public Utility Commission of Texas against Energy West Resources, Ltd., a retail electric provider (REP). Energy West d/b/a Franklin Power Company is registered with the Electric Reliability Council of Texas (ERCOT) as a REP. Complainants request that the Commission enforce the financial standards of P.U.C. SUBST. R. 25.107(f)(1); require Energy West to pay amounts owed from required "unused cash" resources; and revoke Energy West's REP certificate. The State Office of Administrative Hearings (SOAH) administrative law judge (ALJ) issued a proposal for decision (PFD) on April 19, 2006, in which she recommended that the Commission revoke Energy West's REP certification, that any amounts in Energy West's "unused cash resources" are subject to the Commission's authority to compel Energy West to transfer such resources, that the Commission should compel Energy West pay ERCOT \$396,558.30. The ALJ modified her recommendation by letter dated May 24, 2006. In her modification, the ALJ recommended that the Commission order Energy West pay TXU \$571,742.

Consistent with the discussion below, the Commission adopts the PFD in part including findings of fact and conclusions of law. In particular, the Commission modifies the findings of fact and conclusions of law as noted below.

I. Discussion

The Commission finds that certain findings of fact and conclusions of law relating to ERCOT are extraneous to this proceeding and therefore deletes them. While ERCOT is an intervenor in this docket, it has never made a formal request for relief for debts owed to it by Energy West. Additionally, P.U.C. SUBST. R. 25.107(f)(1)(A)(iii), the Commission rule under which the complainants based their complaint in part, makes no mention of ERCOT and is not an appropriate provision for ERCOT to gain redress in this situation. The Commission declines to find broad, general authority to issue an order compelling Energy West to pay money to creditors beyond those creditors implicated by the specific provisions found in the Commission's rules. Accordingly, findings of fact 27, 28, and 29 and conclusion of law 11 are deleted.

II. Findings of Fact

1. CenterPoint Energy Houston Electric, LLC (CenterPoint Energy) is a transmission and distribution utility (TDU) and an electric and public utility as defined in the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.04 and 31.002(6) (Vernon 1998 and Supp. 2005) (PURA).
2. TXU Electric Delivery Company (TXU Electric Delivery) is a TDU and an electric and public utility as defined in PURA.
3. Energy West Resources, Ltd. (Energy West) is a retail electric provider (REP) certificated by the Public Utility Commission of Texas.
4. The Commission granted Energy West its certification, No. 10068, in Application of Energy West Resources, Ltd for Retail Electric Provider (REP) Certification, Docket No. 27435 (Apr. 7, 2003).
5. Energy West amended its certificate in Application of Energy West Resources, Ltd for an Amendment to its Retail Electric Provider (REP) Certification, Docket

- No. 29055 (Jan. 20, 2004), to reflect a change in owner and Texas address and to add the d/b/a of Franklin Power Company to its certificate.
6. Energy West amended its certificate again in Application of Energy West Resources, Ltd for an Amendment to its Retail Electric Provider (REP) Certification, Docket No. 29537 (Apr. 27, 2004) to add the d/b/a of Franklin Power of Fire Fly Powered by Franklin to its certificate.
 7. Energy West is a REP.
 8. On May 9, 2005, TXU Electric Delivery filed a complaint to revoke the REP certificate of Energy West. This complaint was assigned PUC Docket No. 31082.
 9. On May 20, 2005, Energy West agreed that the Commission had jurisdiction over the complaint and requested that the Commission allow it to voluntarily surrender its certificate.
 10. CenterPoint Energy filed a motion to intervene in Docket No. 31082 on May 25, 2005.
 11. On May 31, 2005, AEP Texas North Company and AEP Texas Central Company (together AEP Companies) filed a motion to intervene in Docket No. 31082.
 12. The Commission granted the AEP Companies' and Centerpoint Energy's motions to intervene in Docket No. 31082 on June 13, 2005.
 13. On May 27, 2005, CenterPoint Energy filed a complaint to revoke the REP certificate of Energy West. This complaint was assigned PUC Docket No. 31166.
 14. On June 9, 2005, the AEP Companies filed motions to intervene in Docket No. 31166.

15. On July 13, 2005, PUC Docket Nos. 31166 and 31082 were consolidated, with all future filings styled as Complaint of TXU Electric Delivery Company and CenterPoint Energy Houston Electric, LLC to Revoke Retail Electric Provider Certificate No. 10068 of Energy West Resources, Ltd, Docket No. 31166.
16. On July 19, 2005, Fire Fly Electricity, LLC (Fire Fly) filed a motion to intervene stating that it is a REP that has no affiliate relationship with Energy West. Fire Fly does have a contractual relationship with Energy West related to the processing of certain electronic transactions at the Electric Reliability Council of Texas (ERCOT).
17. On August 8, 2005, ERCOT filed a motion to intervene.
18. On August 16, 2005, the Commission granted intervention to the AEP Companies, Fire Fly, and ERCOT.
19. On January 24, 2006, Fire Fly filed a notice of withdrawal.
20. The Commission referred this case to the State Office of Administrative Hearings (SOAH) on January 27, 2006, requesting that a SOAH Administrative Law Judge (ALJ) address issues arising from the complainants' allegations and conduct a hearing.
21. By Preliminary Order dated January 27, 2006, the Commission found that the provisions of P.U.C. SUBST. R. 25.107(f)(1)(A)(iii) authorize it to directly compel a REP to transfer funds out of its "unused cash resources."
22. CenterPoint Energy began providing transmission and distribution service to Energy West d/b/a Franklin Power Company (Franklin) pursuant to CenterPoint Energy's Tariff for Retail Delivery Service (CenterPoint Energy Tariff) in December 2003.

23. Invoices issued by CenterPoint Energy to Energy West that were due as of April 18, 2004, subsequently were not paid on the due date and became delinquent.
24. CenterPoint Energy notified Energy West on April 20, 2005, that Energy West was delinquent and requested payment of invoiced charges in the amount of \$46,084.11.
25. On May 10, 2005, CenterPoint Energy sent a certified letter to Energy West requesting payment, and informing Energy West that if payment was not received within ten days, Energy West would be in default under the terms of the CenterPoint Energy's Tariff.
26. By letter dated May 25, 2005, CenterPoint Energy notified Energy West that because payment of the delinquent balance of \$46,084.11 was not received, Energy West was in default of the CenterPoint Energy's Tariff.
27. Deleted.
28. Deleted.
29. Deleted.
30. TXU Electric Delivery began providing retail delivery service to Energy West in December 2003.
31. With respect to certain invoices that became delinquent as of April 6, 2005, TXU Electric Delivery sent Energy West a letter on April 7, 2005, notifying Energy West that TXU Electric Delivery had not received payment of the invoiced charges, and that if payment was not received within ten calendar days, Energy West would be in default of TXU's retail delivery tariff (TXU Tariff).

32. Energy West failed to pay TXU Electric Delivery the delinquent amounts within the 10-day grace period.
33. On April 19, 2005, TXU Electric Delivery sent Energy West a letter notifying Energy West that because it failed to pay certain delinquent amounts, it would be in default of Sections 4.4.6 and 4.6.1(1) of the TXU Tariff and that Energy West was required to provide TXU Electric Delivery a deposit of \$420,132.14 by no later than April 29, 2005.
34. Energy West made its last payment to TXU Electric Delivery on April 19, 2005, but it did not fully satisfy the delinquent balance.
35. As of the close of business on May 6, 2005, the total amount owed by Energy West to TXU Electric Delivery for retail delivery service that was in either delinquent or default status was \$168,942.75.
36. As of the close of business on January 20, 2006, the total amount owed by Energy West to TXU Electric Delivery for retail delivery service that was in default status was \$571,742.00.
37. Energy West has never provided TXU Electric Delivery with a deposit, other than for transition charges, as required by TXU's April 19, 2005 letter.
38. Energy West no longer maintains an office located within Texas and has not requested an amendment to its REP certificate to reflect that fact.
39. Energy West admits that it no longer meets the financial requirements established in P.U.C. SUBST. R. 25.107(f), which are required to maintain certification as a REP.
40. Energy West does not oppose the revocation of its REP certificate No. 10068.

41. Energy West made no filing in this proceeding (SOAH Docket No. 473-06-0696, PUC Docket No. 31166) and did not appear at the hearing.
42. In its application for REP certification, dated April 1, 2004, Energy West listed the following agent and address for service of process: Roger McAulay, 3500 Maple Avenue, Suite 1340, Dallas, Texas, 75219.
43. Staff served Energy West in the following manner: (a) Energy West Resources, Ltd, c/o Franklin Power Company, 3500 Maple Avenue, Suite 1340, Dallas, Texas, 75219; (b) Roger McAulay, Franklin Power Company, 14550 Torrey Chase Boulevard, Suite 220, Houston, Texas, 77014; and (c) Mr. John Noble, 301 Montecello, Odessa, Texas, 79763.
44. TXU Electric Delivery served Energy West of its initial complaint in Docket No. 31082 via Roger McAulay, 3500 Maple Avenue, Suite 1340, Dallas, Texas, 75219, and Cathi Echols, 301 Montecello, Odessa, Texas, 79763.
45. Notice of the hearing on the merits was timely sent to Energy West, Roger McAulay, 3500 Maple Avenue, Suite 1340, Dallas, Texas, 75219.
46. A hearing was held on February 28, 2006, at the SOAH's offices. Appearances were made by representatives of TXU Electric Energy, CenterPoint Energy, ERCOT, and Commission Staff. The record closed that day.

III. Conclusions of Law

1. Energy West, as a certificated REP, is subject to the Commission's jurisdiction pursuant to PURA § 39.352.
2. The Commission has jurisdiction and authority over this matter pursuant to PURA §§ 39.352 and 39.356, and P.U.C. SUBST. R. 25.107.

3. SOAH has jurisdiction over this proceeding, including the authority for the preparation of this proposal for decision, pursuant to PURA § 14.053 and TEX. GOV'T CODE ANN. § 2001.058.
4. Proper notice of the hearing was provided in accordance with the Administrative Procedure Act, TEX. GOV'T CODE ANN. § 2001.051.
5. Energy West failed to notify the Commission of any change in office address, business address, telephone number(s), or other contact information, as required by P.U.C. SUBST. R. 25.107(h).
6. Energy West no longer meets the financial requirements established in P.U.C. SUBST. R. 25.107(f), which are required to maintain certification as a REP.
7. Energy West failed to timely remit payment for invoiced charges to a TDU pursuant to the terms of relevant tariffs, which is grounds for certification revocation pursuant to P.U.C. SUBST. R. 25.107(j)(8).
8. Energy West failed to observe procedures established by ERCOT, which is grounds for certification revocation pursuant to P.U.C. SUBST. R. 25.107(j)(9).
9. Pursuant to PURA § 39.356, the Commission may revoke a REP's certificate if the provider significantly violates Commission rules adopted under PURA.
10. Based on the foregoing findings of fact and conclusions of law, the Commission should revoke the REP certification of Energy West.
11. Deleted.

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

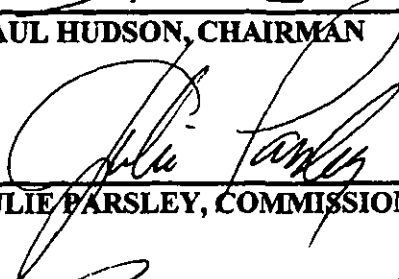
1. The retail electric provider certificate granted to Energy West Resources, Ltd. d/b/a Franklin Power Company and Fire Fly Powered by Franklin, Certificate No. 10068, is revoked.
2. Energy West is ordered to draw upon its unused cash resources and apply those funds to its obligation to TXU Electric Delivery Company.
3. All other motions, requests for entry of specific fact findings and legal conclusions, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 17th day of July 2006.

PUBLIC UTILITY COMMISSION OF TEXAS



PAUL HUDSON, CHAIRMAN



JULIE PARSLEY, COMMISSIONER



BARRY T. SMITHERMAN, COMMISSIONER

EXHIBIT C

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Control Number: 31082



Item Number: 1

Addendum StartPage: 0

DOCKET NO. 31082

COMPLAINT OF TXU ELECTRIC §
DELIVERY COMPANY TO REVOKE §
RETAIL ELECTRIC PROVIDER §
CERTIFICATE NO. 10068 OF ENERGY §
WEST RESOURCES, LTD §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

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PUBLIC UTILITY COMMISSION

**TXU ELECTRIC DELIVERY COMPANY'S COMPLAINT
TO REVOKE RETAIL ELECTRIC PROVIDER CERTIFICATE NO. 10068
OF ENERGY WEST RESOURCES, LTD**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW TXU Electric Delivery Company ("Electric Delivery" or "Company"), and files this its Complaint to Revoke Retail Electric Provider Certificate No. 10068 of Energy West Resources, LTD ("Energy West"), and would respectfully show the following:

I. JURISDICTION

Electric Delivery is a transmission and distribution utility, and thus an electric utility, as those terms are defined in Sections 31.002(6) and (19) of the Public Utility Regulatory Act, Tex. Util. Code Title 2 (Vernon Supp. 2005). Pursuant to PURA §39.352, by Order dated April 7, 2003, in Docket No. 27435, Energy West was granted Retail Electric Provider Certificate No. 10068. In Docket No. 29055, Energy West's REP certificate was on January 20, 2004, amended to reflect a change in owner and Texas address, and to add the d/b/a of Franklin Power Company. In Docket No. 29537, Energy West's REP certificate was amended to add the d/b/a of Firefly Powered by Franklin. Energy West is thus a retail electric provider as that term is defined in PURA §31.002(17).

PURA §39.356 authorizes the Commission to "suspend, revoke, or amend a retail electric provider's certificate for significant violations of this title or the rules adopted under this title ..."

Commission Substantive Rule 25.107(j) provides:

Pursuant to PURA §39.356, certificates granted pursuant to this section are subject to suspension and revocation for significant violations of PURA, commission rules, or reliability standards adopted by an independent organization. The commission may also amend the certificate or impose an administrative penalty for a significant violation. The commission or any affected person may bring a complaint seeking to suspend or revoke a REP's certificate. Significant violations include, but are not limited to, the following:

- (7) Bankruptcy, insolvency, or the inability to meet financial obligations on a reasonable and timely basis;
- (8) Failure to timely remit payment for invoiced charges to a transmission and distribution utility pursuant to the terms of the statewide standardized tariff adopted by the commission;

This Complaint seeks to revoke Energy West's REP certificate for failure to timely remit payment for invoiced charges to Electric Delivery and for failure to provide a deposit, both of which constitute violations of Electric Delivery's Tariff for Retail Delivery Services ("Tariff") and of Substantive Rule 25.107(j). The Commission has jurisdiction to hear this Complaint pursuant to PURA §39.356 and Commission Substantive Rule 25.107(j).

II. BACKGROUND

Energy West began providing retail electric provider service in Electric Delivery's certificated service area beginning in December 2003, pursuant to a Delivery Service Agreement dated December 9, 2003. Energy West continues to provide such service in Electric Delivery's service area through the date of this filing. Beginning in late January 2005, Energy West began to fail to make timely payment of invoiced charges sent by Electric Delivery for transmission and distribution services provided pursuant to Electric Delivery's Tariff. Electric Delivery would send Energy West a letter indicating that the payments were delinquent, and Energy West always made payment within the 10 day grace period that is allowed under the Tariff before such delinquent charges constitute a default.

As with earlier delinquent invoices, with respect to the invoices that became delinquent as of April 6, 2005, Electric Delivery sent Energy West a letter on April 7, 2005, notifying Energy West that Electric Delivery had not received payment of invoiced charges, and that if payment was not received within 10 calendar days, Energy West would be in default and subject to the remedies in Energy Delivery's Tariff, including Section 4.5 (Security Deposits) and Section 4.6 (Default).¹ Unlike its earlier delinquencies, in this instance Energy West failed to pay the delinquent amounts owed to Electric Delivery within the 10 day grace period, and on April 19, 2005, Electric Delivery sent Energy West a letter notifying Energy West that it was in default of Sections 4.4.6 and 4.6.1(1) of the Company's Tariff, and that pursuant to Section 4.5

¹ A copy of the letter, without the attached invoices, is attached hereto as Exhibit A.

of the Tariff, Energy West was required to provide Electric Delivery with a deposit of \$420,132.14 by April 29, 2005.²

Energy West's last payment to Electric Delivery was on April 19, 2005, and even after that payment Energy West still had a delinquent balance.

On April 28, 2005, a representative of Electric Delivery spoke to Mr. Roger McAulay, the Chief Executive Officer of Energy West. Mr. McAulay indicated that Energy West could not provide the required deposit or letter of credit, but would make a payment of approximately \$168,000, which would have brought Energy West's account to a current status. In response, and while not required to do so either by its Tariff or the Commission's Rules, on May 3, 2005, Electric Delivery sent Energy West a letter in which Electric Delivery proposed certain terms that Electric Delivery would accept in order for Energy West to remedy its default situation.³ Energy West was given until 5:00 p.m. on May 4, 2005, to accept the proposed terms. To date, Energy West has not accepted the terms, nor provided the required deposit, nor has it made any payment since April 19, 2005. As of the close of business on Friday, May 6, 2005, the total amount owed by Energy West to Electric Delivery for retail delivery service that was in either delinquent or default status was \$168,942.75.⁴

III. REQUEST FOR RELIEF

As set out above, PURA §39.356 authorizes the Commission to "suspend, revoke, or amend a retail electric provider's certificate for significant violations of this title or the rules adopted under this title ..." Commission Substantive Rule 25.107(j) provides that significant violations include: "(7) Bankruptcy, insolvency, or the inability to meet financial obligations on a reasonable and timely basis; (8) Failure to timely remit payment for invoiced charges to a transmission and distribution utility pursuant to the terms of the statewide standardized tariff adopted by the commission" Here, Energy West has failed to timely remit payment for invoiced charges to Electric Delivery pursuant to the terms of the Company's Tariff, which incorporates the standardized tariff provisions found in Substantive Rule 25.214(d)(1). Section 4.4.6 of the Company's Tariff provides:

² A copy of the letter is attached hereto as Exhibit B.

³ A copy of the letter is attached hereto as Exhibit C.

⁴ An affidavit supporting these facts is attached as Exhibit D.

4.4.6 DELINQUENT PAYMENTS

Payments for Delivery Charges invoiced to Competitive Retailer shall be considered delinquent if not received by 5:00 p.m. (Central Prevailing Time) of the due date stated on the validated invoice. Delinquent payments will be subject to a one-time late fee of 5% of the delinquent balance existing on the day after the due date stated on the validated invoice. Competitive Retailer shall be considered in default only after a ten calendar day grace period has passed without the Competitive Retailer fully paying the delinquent balance. Upon delinquency of Competitive Retailer, Company shall provide notice to Competitive Retailer stating that Competitive Retailer is delinquent and shall be in default if payment is not received within ten calendar days. If the amount of the penalty is the sole remaining past-due amount after the ten calendar day grace period, the Competitive Retailer shall not be considered to be in default unless the penalty is not paid within an additional 30 calendar days.

By failing to pay the required invoices, Energy West has defaulted under Section 4.6.1(1) of the Tariff, which provides that

4.6.1 COMPETITIVE RETAILER DEFAULT

A Competitive Retailer shall be considered to be in default if the Competitive Retailer:

- (1) Fails to remit payment to the Company as set forth in Section 4.4.6, DELINQUENT PAYMENTS;
- (2) Fails to satisfy any material obligation under this Tariff, including failure to fulfill the security requirements set forth in Section 4.5, SECURITY DEPOSITS AND CREDITWORTHINESS; or
- (3) Loses its Commission certification as a Retail Electric Provider.

Having defaulted under the Tariff, Energy West was required to provide a deposit, pursuant to the requirements of Section 4.5.1 of the Company's Tariff:

4.5.1 SECURITY RELATED TO OTHER DELIVERY CHARGES

4.5.1.1 DEPOSIT REQUIREMENTS

Except as provided for in Schedule TC of this Tariff and P.U.C. SUBST. R. 25.108, Financial Standards for Retail Electric Providers Regarding the Billing and Collection of Transition Charges, Company shall not require deposits for a Competitive Retailer that has not defaulted under Section 4.6, DEFAULT AND REMEDIES ON DEFAULT, within the past 24 months. If a Competitive Retailer has defaulted under Section 4.6 within the past 24 months, Company shall require the Competitive Retailer to provide a deposit as security for payments of amounts billed under this Tariff. Competitive Retailers who do not provide and maintain the security required by this section shall be considered in default, as provided in Section 4.6.

4.5.1.2 SIZE OF DEPOSIT

Deposits shall be equal to one-sixth of the estimated annual amount to be billed under this Tariff by Company to Competitive Retailer. The computation of the size of a required deposit shall be mutually agreed upon by the Competitive

Retailer and Company. The amount of deposit shall be adjusted, if necessary, during the first month of each calendar quarter to ensure that the deposit accurately reflects the required amount.

Having failed to timely provide the deposit, Energy West is in default under the terms of Section 4.6.1(1) of the Tariff, cited above.

Consistent with Substantive Rule 25.107(j), Tariff Section 4.6.2.2 expressly authorizes the Company to seek revocation of the defaulting REP's certificate:

4.6.2.2 DEFAULT RELATED TO FAILURE TO SATISFY OBLIGATIONS UNDER TARIFF

Upon failure of Competitive Retailer to satisfy material obligations under this Tariff, Company shall provide notice of default to Competitive Retailer that explains the reason(s) for default. Competitive Retailer shall have ten Business Days to cure such reasons for default. Upon failing to do so, Company may pursue any or all of the following:

* * *

- (2) Notify the Commission that Competitive Retailer is in default and request that certification be suspended or cancelled;

In sum, Energy West is in default both for failure to timely pay undisputed invoiced charges, and for failure to provide a deposit. These two instances of default constitute significant violations of the Standard Tariff adopted in Substantive Rule 25.214(d)(1) and, thus, justify revocation of Energy West's Retail Electric Provider Certificate No. 10068 pursuant to PURA §39.356(a), Substantive Rule 25.107(j) and Tariff Section 4.6.2.2(2).

As Energy West has failed to make any payment for 20 days, and has failed to provide the necessary deposit, Electric Delivery hereby requests that a hearing be scheduled in this matter as soon as possible, that the Commissioners themselves preside over the hearing, that following the hearing the Commission enter an order revoking Energy West's REP Certificate No. 10068, and that the Commission order such other actions as may be necessary for the timely switching of Energy West's customers to either a successor competitive retailer or the Provider of Last Resort.

IV. CONCLUSION AND PRAYER

Energy West is in default under Section 4.6.1 of the Company's Tariff. This default constitutes significant violations of the Commission's Rules, and thus supports revocation of Energy West's REP certificate pursuant to PURA §39.356(a).

WHEREFORE, PREMISES CONSIDERED, TXU Electric Delivery prays that a hearing be scheduled in this matter as soon as possible, that the Commissioners themselves preside over

the hearing, that following the hearing the Commission enter an order revoking Energy West's REP Certificate No. 10068, that the Commission order such other actions as may be necessary for the timely switching of Energy West's customers to either a successor competitive retailer or the Provider of Last Resort, and that TXU Electric Delivery be granted such further relief to which it may show itself justly entitled.

**Respectfully submitted,
TXU Electric Delivery Company**



Howard V. Fisher
State Bar No. 07051500

Senior Counsel
500 N. Akard Street, Suite 10-106
Dallas, Texas 75201
(214) 486-3026
(214) 486-3221 (Facsimile)

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been hand delivered to the Staff of the Public Utility Commission and sent via overnight delivery to Energy West Resources, LTD. on this the 9th day of May, 2005.

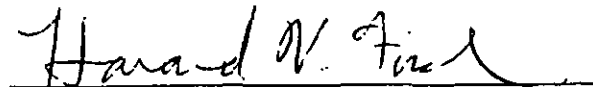


EXHIBIT A

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SECRETARY'S BUREAU



TXU

TXU Electric Delivery
301 S. Harwood
Dallas, TX 75201

April 7, 2005

Roger McAulay
Franklin Power Company
3500 Maple Ave. Ste 1340
Dallas, TX 75219

RE: Notification of non-payment of invoices

Dear Mr. McAulay:

Pursuant to the notice requirements of Section 4.4.6 of TXU Electric Delivery Company's Tariff for Retail Delivery Services ("Tariff"), TXU Electric Delivery hereby notifies Franklin Power Company that its failure to pay invoices rendered within the 35 calendar days allowed by such Tariff has resulted in delinquent invoices. Section 4.4.6 of the Tariff provides in pertinent part as follows:

"Payments for Delivery Charges invoiced to Competitive Retailer shall be considered delinquent if not received by 5:00 p.m. (Central Prevailing Time) of the due date stated on the validated invoice. Delinquent payments will be subject to a one-time late fee of 5% of the delinquent balance existing on the day after the due date stated on the validated invoice. Competitive Retailer shall be considered in default only after a ten-calendar day grace period has passed without the Competitive Retailer fully paying the delinquent balance. Upon delinquency of Competitive Retailer, shall provide notice to Competitive Retailer stating that Competitive Retailer is delinquent and shall be in default if payment is not received after the ten calendar days. If the amount of the penalty is the sole remaining past-due amount after the ten calendar day grace period, the Competitive Retailer shall not be considered to be in default unless the penalty is not paid within an additional 30 calendar days."

Attached is a listing of all invoices that are delinquent as of April 6, 2005. This letter serves as notice of such delinquency and a notice to Franklin Power Company will be in default under Section 4.4.6 and 4.6.1 (1) of the Tariff, if payment of such delinquent balances is not received within ten calendar days from the date of this letter.

Please be advised that TXU Electric Delivery will continue to assist Franklin Power Company in its efforts to resolve issues that may be a barrier to payment. However, TXU Electric Delivery expects prompt payment of rendered invoices, and intends to exercise its right to use other remedies provided in Section 4.5 Security Deposits and Credit Worthiness. Also, TXU Electric Delivery will exercise Section 4.6 Default and Remedies on Default of TXU Electric Delivery's approved Tariff.

Regards,

Donna Smith
Revenue Management
Manager

CC: Ken Conway

ATTACHMENTS

EXHIBIT B

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PA PUC
SECRETARY'S BUREAU



April 19, 2005

Roger McAulay
Franklin Power Company
3500 Maple Ave. Ste 1340
Dallas, TX 75219
VIA COURIER

RE: Notification of Request for Deposit

Dear Mr. McAulay:

Pursuant to Section 4.5 of TXU Electric Delivery Company's Tariff for Retail Delivery Services ("Tariff"), TXU Electric Delivery hereby notifies Franklin Power Company, (Energy West), that due to failure of the Competitive Retailer to fully pay the previously identified invoice balances within ten calendar days, a deposit in the form of a letter of credit or other security in the amount of \$420,132.14 is due on or before April 29, 2005, in accordance with Section 4.5 Security Deposits and Credit Worthiness of the Tariff which provides in pertinent part as follows:

"If a Competitive Retailer has defaulted under Section 4.6 within the past 24 months, Company shall require the Competitive Retailer to provide a deposit as security for payments of amounts billed under the Tariff. Competitive Retailers who do not provide and maintain the security required by this section shall be considered in default, as provided in Section 4.6."

Franklin Power Company (Energy West) is in default under Sections 4.4.6 and 4.6.1 (1) of the Tariff, because payment of such delinquent balances was not received within ten calendar days from the date of the notification of non-payment of invoices letter, which was dated April 7, 2005.

Please be advised that TXU Electric Delivery will continue to assist Energy West in its efforts to resolve issues that may be a barrier to payment. However, TXU Electric Delivery expects prompt payment of rendered invoices, and intends to exercise its right to use other remedies provided in Section 4.6 Default and Remedies on Default of TXU Electric Delivery's approved Tariff.

Regards,

A handwritten signature in cursive script that reads "Larry Williford".

Larry Williford
Director, Customer and Market Services

CC: Brenda Jackson
Mike Murphy
Tommy Weathersbee
Marki J. Gandy
Paul Plunket
Howard Fisher

EXHIBIT C

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PA PUC
SECRETARY'S BUREAU

TXU Electric Delivery, BRUNDA JACKSON
14550 Torrey Chase Blvd., Vice President
Houston, Texas 77014 281.291.1111

May 3, 2005

CERTIFIED MAIL

Mr. Roger McAulay, CEO
Franklin Power Company
14550 Torrey Chase Blvd., Suite 220
Houston, Texas 77014

Re: ***Indebtedness to TXU Electric Delivery Company LP***

Dear Mr. McAulay:

As you know from our April 19, 2005 correspondence and your subsequent conversations with representatives of TXU Electric Delivery Company LP ("***TXU Electric Delivery***"), Energy West Resources, LTD d/b/a Franklin Power (Franklin Power) is in default of its payment obligations to TXU Electric Delivery pursuant to Sections 4.4.6 and 4.6.1(1) of TXU Electric Delivery's Tariff for Retail Delivery Services (the "***Tariff***"). As of today, TXU Electric Delivery has not received the deposit requested in its April 19, 2005 correspondence, and Franklin Power remains in default under the Tariff. In light of Franklin Power's circumstances, TXU Electric Delivery has considered the proposal you discussed with Mike C. Murphy of TXU Electric Delivery on April 28, 2005.

The purpose of this correspondence is to set forth terms and conditions acceptable to TXU Electric Delivery for Franklin Power's payment of accrued indebtedness for transmission and distribution charges in the amount of \$170,973.62, for Franklin Power's provision of a satisfactory deposit of future transmission and distribution charges; and to establish procedures to insure that Franklin Power remains current on its obligations to TXU Electric Delivery.

In exchange for TXU Electric's agreement to withhold the exercise of its rights and remedies under the Tariff and applicable law, TXU Electric Delivery proposes the following terms:

- On or before May 6, 2005, Franklin Power shall pay the sum of \$170,973.62, which amount represents the full delinquent and defaulted unpaid balance for transmission and distribution services rendered by TXU Electric Delivery as of May 6, 2005;
- Franklin Power shall remain current on all future transmission and distribution services provided by TXU Electric Delivery and the primary source of the funds used to pay such charges shall be the funds made subject to the Lockbox Agreement

Mr. Roger McAulay, CEO
May 3, 2005
Page 2

- referenced below. TXU Electric Delivery shall be paid ahead of all creditors or other obligations of Franklin Power, with the exception of Franklin Power's customer deposits and Franklin Power's tax payment obligations, as set forth in the Lockbox Agreement;
- Franklin Power shall pay a cash deposit, in the total amount of \$420,132.14, with such amounts to be paid over the next three months, with the first installment being due on or before Friday, May 6, 2005 and the remaining installment payments falling due on the first business day of each month;
- Franklin Power shall maintain the Transition Charge deposit requirements with TXU Electric Delivery Bond Transition Company, LLC as adjusted and in accordance with the Tariff; and
- On or before May 6, 2005, Franklin Power shall provide a detailed statement of any disputes with TXU Electric Delivery's billing practices, and specifically identifying a list of any ESIDs that are disputed. Upon Franklin Power's provision of correspondence and documentation supporting its disputes, TXU Electric Delivery will, in good faith and with all reasonable diligence, investigate the details of such dispute and provide a written response to those areas of dispute.

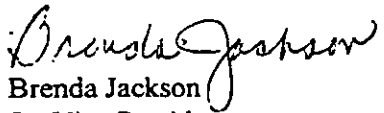
Additionally, we have received and reviewed Franklin Power's "Disbursement Agreement" with Fulcrum Power Marketing, L.L.C. (the "*Lockbox Agreement*"). At this time, TXU Electric Delivery does not have any specific objection to its treatment under the Lockbox Agreement; however, TXU Electric Delivery requests a weekly or bi-weekly accounting of funds deposited into and withdrawn from the lockbox account. Additionally, TXU Electric Delivery requests a copy of that certain Security Agreement dated December 6, 2004, as amended March 24, 2005 between Fulcrum Power and Franklin Power. These requests are necessary conditions of TXU Electric Delivery's proposal set forth herein.

In exchange for the terms set forth above, TXU Electric Delivery will forbear from the exercise of its rights and remedies under Section 4.6 of the Tariff; however, if Franklin Power is unable or unwilling to agree to these terms or fails to satisfy any term set forth herein, TXU Electric Delivery will exercise any and all lawful remedies at its disposal, including, but not limited to, those remedies set forth in Section 4.6 of the Tariff.

Mr. Roger McAulay, CEO
May 3, 2005
Page 3

If the foregoing terms are acceptable, please sign in the space provided and return to my attention no later than 5:00 p.m. Central Standard Time on Wednesday, May 4, 2005. We appreciate your response to these concerns and look forward to working with Franklin Power in the future.

Sincerely,



Brenda Jackson
Sr. Vice President
Customer and Community Relations

Agreed:

Franklin Power Company

By: _____

EXHIBIT D

RECEIVED
2013 MAR -1 AM 11:59
FA PUD
SECRETARY'S BUREAU

DOCKET NO. _____

COMPLAINT OF TXU ELECTRIC
DELIVERY COMPANY TO REVOKE
RETAIL ELECTRIC PROVIDER
CERTIFICATE NO. 10068 OF ENERGY
WEST RESOURCES, LTD

§
§
§
§
§

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

AFFIDAVIT OF MICHAEL C. MURPHY

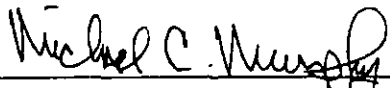
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Michael C. Murphy, who, having been placed under oath by me, did depose as follows:

1. My name is Michael C. Murphy. I am over the age of 21, a resident of Texas, and of sound mind and competent to testify to the matters stated herein. I am Manager, Competitive Retailer Relations, of TXU Electric Delivery Company.

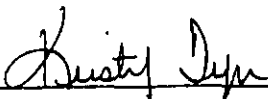
2. I have reviewed the Complaint of TXU Electric Delivery Company to Revoke Retail Electric Provider Certificate No. 10068 of Energy West Resources, LTD, and the statements and information contained therein are true and accurate to the best of my knowledge and belief, and I hereby adopt them as my own.

The foregoing statements are true and correct. This concludes my affidavit.



Michael C. Murphy

SUBSCRIBED AND SWORN TO BEFORE ME by the said Michael C. Murphy this 9th day of May, 2005.



Notary Public, State of Texas

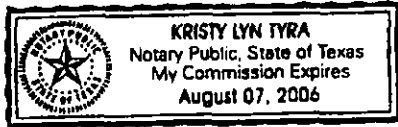


EXHIBIT D

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Control Number: 31166



Item Number: 1

Addendum StartPage: 0

DOCKET NO. 31166

COMPLAINT OF CENTERPOINT §
ENERGY HOUSTON ELECTRIC, LLC §
REGARDING RETAIL ELECTRIC §
PROVIDER ENERGY WEST §
RESOURCES, LTD §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

COMPLAINT OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
REGARDING RETAIL ELECTRIC PROVIDER
ENERGY WEST RESOURCES, LTD

Contact: John R. Hudson, III

(713) 207-5285

Fax: (713) 207-9819

Email: john.hudson@centerpointenergy.com

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MAY 27 PM 3:57
PUBLIC UTILITY COMMISSION
FILING CLERK

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May 27, 2005

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COMPLAINT OF CENTERPOINT	§	BEFORE THE
ENERGY HOUSTON ELECTRIC, LLC	§	
REGARDING RETAIL ELECTRIC	§	PUBLIC UTILITY COMMISSION
PROVIDER ENERGY WEST	§	
RESOURCES, LTD	§	OF TEXAS

COMPLAINT
OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
REGARDING RETAIL ELECTRIC PROVIDER
ENERGY WEST RESOURCES, LTD

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

CenterPoint Energy Houston Electric, LLC ("CenterPoint Energy Houston" or "Company") files this Complaint regarding Retail Electric Provider Energy West Resources, LTD ("Energy West"). This Complaint seeks to invoke the Commission's authority to enforce PUCT Substantive Rule 25.107(f)(1) and to compel Energy West to draw on its "unused cash resources" to address Energy West's credit obligations to CenterPoint Energy Houston. Further, this Complaint seeks to invoke the Commission's authority to amend, revoke or suspend Energy West's REP Certificate in such a manner as to facilitate and ensure that Energy West fulfills its financial obligations to CenterPoint Energy Houston. CenterPoint Energy Houston would respectfully show the Public Utility Commission of Texas ("PUCT" or "Commission") the following:

I. CONTACT INFORMATION

The address and telephone number of CenterPoint Energy Houston's authorized legal representatives are as follows:

Scott Rozzell
Executive Vice President and General Counsel
Harris S. Leven
Senior Counsel
CenterPoint Energy Service Company, LLC

P.O. Box 61867
Houston, Texas 77208-1867
Telephone: 713-207-7789
Facsimile: 713-207-0141
E-mail: harris.leven@centerpointenergy.com

Nancy R. Hudson
State Bar No. 16832500
Graves, Dougherty, Hearon & Moody,
A Professional Corporation
P. O. Box 98
Austin, Texas 78767-5600
(512) 480-5600
(512) 472-8389 (Fax)
E-mail: nhudson@gdhm.com

The address and telephone number of CenterPoint Energy Houston's authorized business representative is as follows:

John R. Hudson, III
Administrator Inter-Company Policy Issues
CenterPoint Energy Service Company, LLC
P.O. Box 4567
Houston, Texas 77210-4567
Telephone: (713) 205-5285
Fax: (713) 207-5285

CenterPoint Energy Houston requests that all information and documents in this proceeding be served on each of the above representatives at their respective addresses or fax numbers.

II. JURISDICTION

CenterPoint Energy Houston is the transmission and distribution utility serving the Houston metropolitan area and surrounding areas and is an electric utility and a public utility as defined in the Public Utility Regulatory Act, Tex. Util. Code Title 2 (Vernon Supp. 2005) §§11.04, 31.002(6).

Pursuant to the authority provided in PURA §39.352, and PUCT Substantive Rule 25.107, the Commission granted Energy West's application for Retail Electric Provider ("REP") status, by Order dated April 7, 2003, in Docket No. 27435, to do business in the entire State of Texas under REP Certificate No. 10068. In Docket No. 29055, on January 20, 2004, Energy

West's REP certificate was amended to reflect a change in owner and Texas address, and to add the d/b/a of Franklin Power Company. In Docket No. 29537, Energy West's REP certificate was amended to add the d/b/a of Firefly Powered by Franklin.

Pursuant to PURA §§14.001, 14.002, 39.356, 39.357 and Commission Substantive Rule 25.107(f) and (j), the Commission has jurisdiction to hear this complaint.

III. BACKGROUND

Energy West began providing retail electric service in CenterPoint Energy Houston's service area in December 2003. Energy West continues to provide such service in CenterPoint Energy Houston's service area as of the date of this filing.¹

As required by PURA §39.203, CenterPoint Energy Houston has provided transmission and/or distribution service to Energy West at the rates, terms and conditions approved by the Commission pursuant to PURA §39.201, and in CenterPoint Energy Houston's Tariff for Retail Delivery Service ("Tariff"). Since April 18, 2005, Energy West has failed to make payments of charges invoiced by CenterPoint Energy Houston for delivery services provided pursuant to the Tariff. CenterPoint Energy Houston contacted Energy West by e-mail on April 20, 2005 to notify Energy West that it was delinquent in the payment of invoiced charges in the amount of \$46,084.11,² and to request payment. A copy of the e-mail is attached hereto as "Exhibit A". Energy West advised CenterPoint Energy Houston by telephone on April 26, 2005, that payment for the past due invoices would be wired to CenterPoint Energy Houston on April 29, 2005. Such payment was never received.

¹ CenterPoint Energy Houston understands that Energy West is in the process of transferring its customers under its Energy West d/b/a to other providers pursuant to agreements with ERCOT, the Commission and TXU Electric Delivery, but not all of the customers have been transferred as of the date of this filing. Energy West also serves customers under the Firefly Powered by Franklin d/b/a. Amounts billed by CenterPoint Energy Houston to Energy West relative to the Firefly Powered by Franklin d/b/a customers are not delinquent at this time. However, these customers remain in the ERCOT system as customers of the Energy West REP certificate, and Energy West is invoiced and remits payment for the delivery charges associated with these customers. Until such time as these customers are served under a different REP certificate, and invoicing and remittance occurs separately from Energy West, CenterPoint Energy Houston is in jeopardy with regard to the charges invoiced for these customers.

² \$46,084.11 is the amount delinquent as of April 18 and in default as of May 25, 2005. Additional amounts of approximately \$36,000 remain unpaid and are delinquent, but have not yet reached default status.

On May 9, 2005, TXU Electric Delivery filed a complaint against Energy West, and requested that the Commission revoke Energy West's Retail Electric Provider certificate, in Docket No. 31082. Subsequent to the filing of the TXU complaint, Energy West made arrangements with ERCOT and the Commission to transfer its customers (other than the Firefly Powered by Franklin customers) to other REPs. Energy West filed a letter in Docket No. 31082, requesting permission to voluntarily surrender its REP Certificate.

On May 10, 2005, CenterPoint Energy Houston sent a certified letter to Energy West, again requesting payment, and informing Energy West that if payment was not received within ten (10) days, Energy West would be in default under the terms of the Tariff. A copy of the letter is attached hereto as "Exhibit B". By May 25, 2005, no payment had been received, and CenterPoint Energy Houston sent a certified letter to Energy West, informing Energy West that it was in default, and requesting a deposit as security for payment of amounts continuing to be billed to Energy West under the Firefly Powered by Franklin d/b/a, pursuant to Section 4.5.1.1, Deposit Requirements, of the Tariff. A copy of the letter is attached hereto as "Exhibit C".

IV. REQUEST FOR RELIEF

Energy West has failed to timely remit payment for invoiced charges to CenterPoint Energy Houston pursuant to the terms of the Tariff, and therefore has defaulted under Section 4.6.1(1) of the Tariff. Energy West's default constitutes a significant violation of the Tariff, and a violation of Substantive Rule 25.107(j). Pursuant to PURA §39.352(b)(1) and (c), and PUCT Substantive Rule 25.107(f)(1), Energy West is required to meet financial resource standards concerning its "underlying credit quality." It must maintain "unused cash resources," an investment grade credit rating, or assets in excess of liabilities of at least \$50,000,000. PUCT Substantive Rule 25.107(f)(1)(iii). The Commission's rules require that these "unused cash resources shall be used to first address all commission penalties and then credit obligations to the TDU, if any, in the event of the REP's default." *Id.* Thus, PUCT Substantive Rule 25.107(f)(1)(iii) is supposed to provide financial protection for CenterPoint Energy Houston in the event of a default such as that of Energy West. CenterPoint Energy Houston requests the Commission to enforce this rule and use these cash resources to address Energy West's debts to CenterPoint Energy Houston. Because the financial condition of Energy West appears to be in

jeopardy, it is necessary that the Commission take immediate action to secure these cash resources, in order that they may be applied to the amounts owed to CenterPoint Energy Houston by Energy West. Without immediate action, the resources may be dissipated, used to pay other creditors, or bankruptcy may cut off the Commission's ability to secure these funds.

The Tariff provides a number of other remedies that may be sought in the event of a REP default:

**4.6.2.1 DEFAULT RELATED TO FAILURE TO REMIT CHARGES
 OR MAINTAIN REQUIRED SECURITY**

Upon Competitive Retailer's default related to failure to remit charges or maintain required security, Company may pursue any or all of the following remedies:

- (1) Apply to delinquent balances Competitive Retailer's cash deposit, if any, and any accrued interest, or seek recourse against any letter of credit or surety bond for the amount of delinquent charges due to Company, including any penalties or interest;
- (2) Avail itself of any legal remedies that may be appropriate to recover unpaid amounts and associated penalties or interest;
- (3) Implement other mutually suitable and agreeable arrangements with Competitive Retailer; provided that such arrangements are available to all competitive Retailers on a non-discriminatory basis;
- (4) Notify the Commission that Competitive Retailer is in default and request suspension or revocation of Competitive Retailer's certificate; and
- (5) Require Competitive Retailer to do one of the following:
 - (A) Transfer the billing and collection responsibility for all charges to the Provider of Last Resort. Amounts collected by the POLR shall first be applied to amounts due Company, including any late fees and penalties with remaining amount released to the Competitive Retailer;
 - (B) Immediately arrange for all future remittances from Retail Customers to be paid into a lock-box controlled by Company. Amounts collected in lock-box shall first be applied to amounts due Company, including any late fees and penalties with remaining amounts released to Competitive Retailer. Competitive Retailer shall bear all costs of such mechanism; or
 - (C) Immediately arrange for Competitive Retailer's customers to be served by another qualified Competitive Retailer or the POLR.

Additional remedies are provided under Section 4.6.2.2 of the Tariff. However, these remedies are neither practical nor likely to result in recovery by CenterPoint Energy Houston of amounts owed to it by Energy West. For example: Commission rules do not permit CenterPoint Energy

Houston to obtain a deposit from a REP prior to default,³ and as a result, there is no recourse available under Section 4.2.2.1(1); suspension or revocation of Energy West's Certificate, as permitted under 4.6.2.1 (4) or under Section 4.6.2.2 will not necessarily result in payment to CenterPoint Energy Houston and could make it more difficult to collect amounts due; Energy West is already in the process of, or has transferred its customers, other than those of Firefly, to other REPs, and therefore there are no amounts being paid that could be billed by the POLR, or trapped in a lock box for the benefit of CenterPoint Energy Houston, as provided in Section 4.6.2.1(5)(A) and (B), and practically, there is no procedure for billing by the POLR or diverting funds to a lockbox. As a result, the Commission should take other action to ensure that Energy West complies with its financial obligations to CenterPoint Energy Houston.

The Commission's general powers under PURA §§14.001 and 14.002, "to regulate and supervise the business" of CenterPoint Energy Houston, "to do anything specifically designated or implied by [PURA] that is necessary and convenient to the exercise of that power and jurisdiction," and "to adopt and enforce rules reasonably required in the exercise of its power and jurisdiction," also authorize the Commission to take whatever steps are necessary to ensure that CenterPoint Energy Houston is not damaged by the eroding financial condition and default of Energy West. Commission rules that prevent CenterPoint Energy Houston from obtaining adequate security for its charges, while simultaneously being required to provide service, are appropriate only to the extent that other protections are provided. The Commission's authority therefore extends to requiring that the "unused cash resources" of Energy West be used for the benefit of CenterPoint Energy Houston, and to taking whatever other steps are necessary and available to the Commission to secure payment of amounts owed to CenterPoint Energy Houston by Energy West.

³ 4.5.1.1 **DEPOSIT REQUIREMENTS**

Except as provided for in Schedule TC of this Tariff and P.U.C. SUBST. R. 25.108, Financial Standards for Retail Electric Providers Regarding the Billing and Collection of Transition Charges, Company shall not require deposits for a Competitive Retailer that has not defaulted under Section 4.6, DEFAULT AND REMEDIES ON DEFAULT, within the past 24 months. If a Competitive Retailer has defaulted under Section 4.6 within the past 24 months, Company shall require the Competitive Retailer to provide a deposit as security for payments of amounts billed under this Tariff. Competitive Retailers who do not provide and maintain the security required by this section shall be considered in default, as provided in Section 4.6.

The Commission is authorized to exercise authority over Energy West's REP certificate, through revocation, suspension or amendment. PURA §39.356 authorizes the Commission to "suspend, revoke, or amend a retail electric provider's certificate for significant violations of this title or the rules adopted under this title ...," PURA §39.357 gives the Commission the additional authority to "impose an administrative penalty, as provided by Section 15.023" for such violations, and Commission Substantive Rule 25.107(j) provides:

Pursuant to PURA §39.356, certificates granted pursuant to this section are subject to suspension and revocation for significant violations of PURA, commission rules, or reliability standards adopted by an independent organization. The commission may also amend the certificate or impose an administrative penalty for a significant violation. The commission or any affected person may bring a complaint seeking to suspend or revoke a REP's certificate. Significant violations include, but are not limited to, the following:

* * *

- (1) Providing false or misleading information to the commission;
- (6) Failure to maintain the minimum level of financial resources set out in subsection (f) of this section;
- (7) Bankruptcy, insolvency, or the inability to meet financial obligations on a reasonable and timely basis;
- (8) Failure to timely remit payment for invoiced charges to a transmission and distribution utility pursuant to the terms of the statewide standardized tariff adopted by the commission;

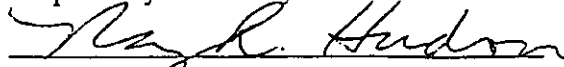
In addition, Energy West has requested that it be allowed to voluntarily surrender its certificate. However, it is only after the obligations of Energy West to all parties are satisfied, including payment of amounts owed to CenterPoint Energy Houston, that surrender of Energy West's certificate should be allowed.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, CenterPoint Energy Houston prays that the Commission (1) immediately take whatever action is necessary and available to compel Energy West to secure its "unused cash resources" to prevent dissipation or attachment by other creditors and to ensure that the cash resources will remain available for satisfaction of the requirements of PUCT Substantive Rule 25.107; (2) schedule a hearing in this matter as soon as possible, over which the Commission itself presides; (3) enter an order enforcing PUCT Substantive Rule 25.107, ordering payment of Energy West's "unused cash resources" to CenterPoint Energy Houston in an amount equal to Energy West's delinquent charges; (4) exercise its authority over

Energy West's REP certificate and order such other actions as may be necessary to protect and direct the use of the "unused cash resources" of Energy West and to otherwise protect the interest of CenterPoint Energy Houston in recovery of delinquent amounts owed to CenterPoint Energy Houston by Energy West; and (5) grant any and all further relief to which CenterPoint Energy Houston may show itself to be entitled.

Respectfully submitted,



Nancy R. Hudson
State Bar No. 16832500
Graves, Dougherty, Hearon & Moody,
A Professional Corporation
P. O. Box 98
Austin, Texas 78767-5600
(512) 480-5600
(512) 472-8389 (Fax)

Scott Rozzell
Executive Vice President and General Counsel
Harris S. Leven
Senior Counsel
CenterPoint Energy Houston Service Company, LLC
P.O. Box 61867
Houston, Texas 77208-1867
Telephone: 713-207-7789
Facsimile: 713-207-0141

ATTORNEYS FOR CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC

PA PUC
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2013 MAR -1 AM 11:59

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the Staff of the Public Utility Commission and Energy West Resources, LTD., by facsimile, hand delivery, overnight delivery, U.S. first class mail, or electronic mail on this 27th day of May, 2005.



EXHIBIT A

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2013 MAR -1 AM 11:58

PA PUC
SECRETARY'S BUREAU

Eleanor R Sinclair
05/26/2005 11:00 AM

To: John R Hudson/ADM/Corp@HouInd
cc: earline.j.green@CenterPointEnergy.com
Subject: Re: Energy West

John,

Per Earline's request, below is the email that was sent to Cathi Echols of Energy West. on April 20.

Eleanor R. Sinclair
Credit Account Analyst
Center Point Energy
ph: (713) 207 - 5806
fax: (713) 207 - 9923

— Forwarded by Eleanor R Sinclair/HOU/Corp on 05/26/2005 10:58 AM —

Eleanor R Sinclair
04/20/2005 03:04 PM

To: "Cathi Echols" <cechols@franklinpower.com>
cc: alva.j.jones@CenterPointEnergy.com
Subject: Re: Energy West

Hi Cathi,

As per our conversation this morning, the invoices for April 18 - 19 remain unpaid and have been assessed late charges. Please advise when to expect payment for these delinquent invoices.

The attached spreadsheet contains invoices from April 18 - April 29. The Tab CIS is your residential and small commercial accounts and the Tab BES is your large industrial and commercial accounts.

Thanks for your immediate attention to this matter.

Eleanor R. Sinclair
Credit Account Analyst
Center Point Energy
ph: (713) 207 - 5806
fax: (713) 207 - 9923



ENERGY WEST OPEN INVOICES.

EXHIBIT B

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2013 MAR -1 AM 11:58
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**CenterPointSM
Energy**

Houston
May 10, 2005

CenterPoint Energy Houston

P.O. Box 1700
Houston, TX 77251-1700

Mr. Roger McAulay
Energy West c/o Franklin Power Company
3500 Maple Ave. Suite 1340
Dallas, TX 75219

VIA CERTIFIED MAIL

RE: Delinquent Invoices

Dear Mr. McAulay:

As a valued Centerpoint Energy customer, we are concerned that your account is delinquent. Attached is a listing of all invoices that are delinquent as of April 18, 2005 totaling \$46,084.11. Pursuant to the notice requirements of the Tariff for Retail Delivery Service (Tariff), this letter serves as notice to Energy West of such delinquency. Additionally, this serves as notice that Energy West will be in default under Section 4.4.6 and 4.6.1 (1) of the Tariff if payment is not received within ten (10) calendar days from the date of this letter.

4.4.6 DELINQUENT PAYMENTS

Payments for Delivery Charges invoiced to Competitive Retailer shall be considered delinquent if not received by 5:00 p.m. (Central Prevailing Time) of the due date stated on the validated invoice. Delinquent payments will be subject to a one-time late fee of 5% of the delinquent balance existing on the day after the due date stated on the validated invoice. Competitive Retailer shall be considered in default only after a ten calendar day grace period has passed without the Competitive Retailer fully paying the delinquent balance. Upon delinquency of Competitive Retailer, Company shall provide notice to Competitive Retailer stating that Competitive Retailer is delinquent and shall be in default if payment is not received within ten calendar days. If the amount of the penalty is the sole remaining past-due amount after the ten calendar day grace period, the Competitive Retailer shall not be considered to be in default unless the penalty is not paid within an additional 30 calendar days.

4.6.1 COMPETITIVE RETAILER DEFAULT

A Competitive Retailer shall be considered to be in default if the Competitive Retailer:
(1) Fails to remit payment to the Company as set forth in Section 4.4.6, DELINQUENT PAYMENTS;

Centerpoint Energy, LLC is committed to assisting Energy West, our valued customer, in resolving this matter. However, Centerpoint Energy, LLC will exercise Section 4.6 Default and Remedies on Default as stated in the Tariff if the delinquent payment is not received by May 20, 2005. Please feel free to contact me regarding your questions or concerns at (713) 207-5112

Regards,

Alva Jones
Alva Jones
Credit Account Manager

CC: Susan Neel
Earline Green

ATTACHMENTS

EXHIBIT C

RECEIVED

2013 MAR -1 AM 11:58

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May 25, 2005

Roger McAulay
Energy West Resources LTD
Energy West Resources LTD dba Franklin Power
Energy West Resources LTD dba FireFly Powered by Franklin
14550 Torrey Chase Blvd. Suite 220
Houston, TX 77014

VIA CERTIFIED MAIL

RE: Delinquent Invoices/Deposit Request

Dear Mr. McAulay:

On May 10, 2005, CenterPoint Energy notified you of Energy West's delinquent balance in the amount of \$46,084.11, and served notice that if payment was not received within ten (10) calendar days, Energy West would be in default under the terms of Sections 4.4.6, Delinquent Payments, and 4.6.1(1), Competitive Retailer Default, of CenterPoint Energy's Tariff for Retail Delivery Service ("Tariff").

As of this date, Energy West is in default under Sections 4.4.6 and 4.6.1(1) of the Tariff, because payment of such delinquent balances was not received within ten (10) calendar days from the date of our notice of delinquency. The aforementioned \$46,084.11 delinquency does not include amounts due after April 18, 2005.

4.4.6 DELINQUENT PAYMENTS

Payments for Delivery Charges invoiced to Competitive Retailer shall be considered delinquent if not received by 5:00 p.m. (Central Prevailing Time) of the due date stated on the validated invoice. Delinquent payments will be subject to a one-time late fee of 5% of the delinquent balance existing on the day after the due date stated on the validated invoice. Competitive Retailer shall be considered in default only after a ten calendar day grace period has passed without the Competitive Retailer fully paying the delinquent balance. Upon delinquency of Competitive Retailer, Company shall provide notice to Competitive Retailer stating that Competitive Retailer is delinquent and shall be in default if payment is not received within ten calendar days. If the amount of the penalty is the sole remaining past-due amount after the ten calendar day grace period, the Competitive Retailer shall not be considered to be in default unless the penalty is not paid within an additional 30 calendar days.

4.6.1 COMPETITIVE RETAILER DEFAULT

A Competitive Retailer shall be considered to be in default if the Competitive Retailer:
(1) Fails to remit payment to the Company as set forth in Section 4.4.6, DELINQUENT PAYMENTS;

Pursuant to Section 4.5.1.1, Deposit Requirements, of the Tariff, CenterPoint is hereby requiring FireFly Powered by Franklin to provide a deposit as security for payments of amounts that will continue to be billed to Energy West under the "Firefly Powered by Franklin" d/b/a. The deposit shall be in the amount of \$ 12,870.00, representing one-sixth of CenterPoint Energy's estimated annual billings to the Firefly d/b/a and is due June 6, 2005.

CenterPoint Energy expects prompt payment of all amounts billed to Energy West dba FireFly Powered by Franklin and reserves the right to pursue additional remedies provided in Section 4.6.2, Remedies on Default, of the Tariff.

Regards,



Susan Neel
Director, Business Process Management Division
CenterPoint Houston Electric, LLC

CC: Mr. John Noble
301 Montecello
Odessa, TX 79763

Energy West Resources, LTD
3500 Maple Ave. Suite 1340
Dallas, TX 75219

Earline Green

EXHIBIT D

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DOCKET NO. _____

COMPLAINT OF CENTERPOINT
ENERGY HOUSTON ELECTRIC, LLC
REGARDING RETAIL ELECTRIC
PROVIDER ENERGY WEST
RESOURCES, LTD

§
§
§
§
§

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

AFFIDAVIT OF SUSAN J. NEEL

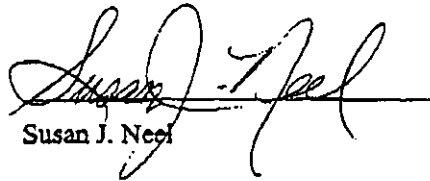
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Susan J. Neel, who, having been placed under oath by me, did depose as follows:

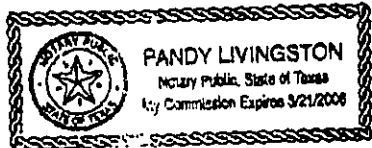
1. My name is Susan J. Neel. I am over the age of 21, a resident of Texas, and of sound mind and competent to testify to the matters stated herein. I am Director of Business Process Management for CenterPoint Energy Houston Electric, LLC.

2. I have reviewed the Complaint of CenterPoint Energy Houston Electric, LLC regarding Energy West Resources, LTD, and the statements and information contained therein are true and accurate to the best of my knowledge and belief, and I hereby adopt them as my own.

The foregoing statements are true and correct. This concludes my affidavit.


Susan J. Neel

SUBSCRIBED AND SWORN TO BEFORE ME by the said May 27th this 27th day of May, 2005.



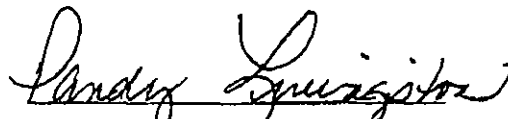

Notary Public, State of Texas

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P&PUC
SECRETARY'S BUREAU

EXHIBIT F

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PA PUC
SECRETARY'S BUREAU

GLACIAL ENERGY OF PENNSYLVANIA, INC.

Business Entity Information

Status:	Active	File Date:	3/6/2009
Type:	Domestic Corporation	Entity Number:	E0116942009-4
Qualifying State:	NV	List of Officers Due:	3/31/2013
Managed By:		Expiration Date:	
NV Business ID:	NV20091377767	Business License Exp:	3/31/2013

Registered Agent Information

Name:	CORPORATE SERVICE CENTER, INC.	Address 1:	5190 NEIL ROAD SUITE 430
Address 2:		City:	RENO
State:	NV	Zip Code:	89502
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active

Financial Information

No Par Share Count:	75,000.00	Capital Amount:	\$ 0
No stock records found for this company			

Officers

Include Inactive Officers

Secretary - MICHAEL B GIERY			
Address 1:	5190 NEIL RD STE 430	Address 2:	
City:	RENO	State:	NV
Zip Code:	89502	Country:	
Status:	Active	Email:	

President - GARY MOLE			
Address 1:	5190 NEIL RD STE 430	Address 2:	
City:	RENO	State:	NV
Zip Code:	89502	Country:	
Status:	Active	Email:	
Treasurer - GARY MOLE			
Address 1:	5190 NEIL RD STE 430	Address 2:	
City:	RENO	State:	NV
Zip Code:	89502	Country:	
Status:	Active	Email:	
Director - GARY MOLE			
Address 1:	5190 NEIL RD STE 430	Address 2:	
City:	RENO	State:	NV
Zip Code:	89502	Country:	
Status:	Active	Email:	

Actions\Amendments

Action Type:	Articles of Incorporation		
Document Number:	20090217705-13	# of Pages:	6
File Date:	3/6/2009	Effective Date:	
Initial Stock Value: No Par Value Shares: 75,000 -----			
----- Total Authorized Capital: \$ 0.00			
Action Type:	Initial List		
Document Number:	20090326393-47	# of Pages:	1
File Date:	3/31/2009	Effective Date:	
09/10			
Action Type:	Annual List		
Document Number:	20100258037-18	# of Pages:	1
File Date:	3/31/2010	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20110220902-29	# of Pages:	1

File Date:	3/25/2011	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20120234987-48	# of Pages:	1
File Date:	3/30/2012	Effective Date:	
12-13			

SECRETARY OF STATE



CORPORATE CHARTER

I, ROSS MILLER, the duly elected and qualified Nevada Secretary of State, do hereby certify that GLACIAL ENERGY OF PENNSYLVANIA, INC., did on March 6, 2009, file in this office the original Articles of Incorporation; that said Articles of Incorporation are now on file and of record in the office of the Secretary of State of the State of Nevada, and further, that said Articles contain all the provisions required by the law of said State of Nevada.



Certified By: Stacey Roter
Certificate Number: C20090306-0913

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on March 6, 2009.

A handwritten signature in black ink, appearing to read "Ross Miller".

ROSS MILLER
Secretary of State

SECRETARY OF STATE



**CERTIFICATE OF EXISTENCE
WITH STATUS IN GOOD STANDING**

I, ROSS MILLER, the duly elected and qualified Nevada Secretary of State, do hereby certify that I am, by the laws of said State, the custodian of the records relating to filings by corporations, non-profit corporations, corporation sales, limited-liability companies, limited partnerships, limited-liability partnerships and business trusts pursuant to Title 7 of the Nevada Revised Statutes which are either presently in a status of good standing or were in good standing for a time period subsequent of 1976 and am the proper officer to execute this certificate.

I further certify that the records of the Nevada Secretary of State, at the date of this certificate, evidence, **GLACIAL ENERGY OF PENNSYLVANIA, INC.**, as a corporation duly organized under the laws of Nevada and existing under and by virtue of the laws of the State of Nevada since March 6, 2009, and is in good standing in this state.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on March 9, 2009.



ROSS MILLER
Secretary of State

Electronic Certificate
Certificate Number: C20090309-1405
You may verify this electronic certificate
online at <http://www.nvsos.gov/>



ROSS MILLER
 Secretary of State
 208 North Carson Street
 Carson City, Nevada 89701-4299
 (775) 684 5708
 Website: secretaryofstate.biz

Filed in the office of	Document Number
<i>[Signature]</i>	20090217705-13
Ross Miller	Filing Date and Time
Secretary of State	03/06/2009 8:42 AM
State of Nevada	Entry Number
	EO116942009-4

Articles of Incorporation
 (PURSUANT TO NRS 78)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

1. Name of Corporation:	GLACIAL ENERGY OF PENNSYLVANIA, INC.
2. Resident Agent <i>Name and Street Address:</i> <i>(Must be a Nevada address, street address, P.O. or post office)</i>	CORPORATE SERVICE CENTER, INC. Name 5190 NEIL ROAD, SUITE 430 RENO Nevada 89502 (MANDATORY) Physical Street Address City State Zip Code (OPTIONAL) Mailing Address City State Zip Code
3. Shares: <i>Number of shares authorized (par value optional is legal)</i>	Number of shares with par value: _____ Per value per share: \$ _____ Number of shares without par value: 175,000
4. Name & Address of the Board of Directors/Trustees: <i>Each Director/Trustee must be a natural person at least 18 years of age who is not an officer or director of the corporation.</i>	1. DIANNA R. TEMPLE Name 5190 NEIL ROAD, SUITE 430 RENO NV 89502 Street Address City State Zip Code 2. _____ Name Street Address City State Zip Code 3. _____ Name Street Address City State Zip Code
5. Purpose: <i>Business - see item 6 below</i>	The purpose of this Corporation shall be: Engaging in any lawful activity, within or without the State of Nevada
6. Name, Address and Signature of Incorporator: <i>(Each incorporator must be a natural person who is not an officer or director of the corporation.)</i>	DIANNA R. TEMPLE Name 5190 NEIL ROAD, SUITE 430 RENO NV 89502 Address City State Zip Code <i>[Signature]</i> Signature
7. Certificate of Acceptance of Appointment of Resident Agent:	I hereby accept appointment as Resident Agent for the above named corporation. <i>[Signature]</i> Authorized Signature of R. A. or On Behalf of R. A. Company 03/05/2009 Date

This form must be accompanied by appropriate fees.

ARTICLES OF INCORPORATION
OF
GLACIAL ENERGY OF PENNSYLVANIA, INC.
a Nevada Corporation

I, the undersigned, being the original incorporator herein named, for the purpose of forming a Corporation under the General Corporation Laws of the State of Nevada to do business both within and without the State of Nevada, do make and file these Articles of Incorporation, hereby declaring and certifying that the facts herein stated are true:

I. NAME. The name of the corporation is:

GLACIAL ENERGY OF PENNSYLVANIA, INC.

II. REGISTERED AGENT. The street address of the corporation's registered agent and the principal or statutory address of this corporation in the State of Nevada shall be:

CORPORATE SERVICE CENTER, INC.
5190 Neil Road, Ste 430
Reno, NV 89502-3536

This corporation may maintain an office, or offices, in such other place or places within or without the State of Nevada as may be from time to time designated by the Board of Directors, or by the bylaws of said corporation, and that this corporation may conduct all corporation business of every kind and nature, including the holding of all meetings of directors and stockholders, outside the State of Nevada as well as within the State of Nevada.

III. SHARES OF STOCK

Section 3.01 Number and Class. The Corporation shall authorize the issuance of a single class of Capital Stock in the amount of seventy five thousand (75,000) shares of Common Stock, at no par value.

Notwithstanding the foregoing, these Articles hereby vest the Board of Directors of the Corporation with such authority as may be necessary to prescribe such classes, series and numbers of each class or series of Stock. In addition the Board is hereby vested with such authority as may be necessary to prescribe the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series of Stock created. All classes of Stock may be issued from time to time without action by the Stockholders.

Section 3.02. No Preemptive Rights. Unless otherwise determined by the Board of Directors, holders of the Stock of the Corporation shall not have any preference, preemptive right, or right of subscription to acquire any shares of the Corporation

authorized, issued or sold, or to be authorized, issued or sold, and convertible into shares of the Corporation, nor to any right of subscription thereto.

Section 3.03. Non-Assessability of Shares. The Shares of the Corporation, after the amount of the subscription price has been paid, in money, property or services, as the Directors shall determine, shall not be subject to assessment to pay the debts of the Corporation, nor for any other purpose, and no Stock issued as fully paid shall ever be assessable or assessed, and the Articles of Incorporation shall not be amended in this particular.

IV. DIRECTORS

Section 4.01. Governing Board. The members of the Governing Board of the Corporation shall be styled as Directors.

Section 4.02. Initial Board of Directors. The initial Board of Directors shall consist of not less than one (1) and not more than seven (7) members. The name and address of an initial member of the Board of Directors is as follows:

NAME	ADDRESS
Dianna R. Temple	5190 Nell Road, Ste 430 Reno, NV 89502-8536

This individual shall serve as Director until the first annual meeting of the Stockholders or until his successor(s) shall have been elected and qualified.

Section 4.03. Change in Number of Directors. The number of Directors may be increased or decreased by a duly adopted amendment to the Bylaws of the Corporation.

V. BUSINESS PURPOSE. The corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be organized under the Law and not limited by the Statutes of Nevada, or any other state in which it conducts its business.

VI. INCORPORATOR. The name and address of the Incorporator is Corporate Service Center, Inc., P.O. Box 41270, Reno, Nevada 89504.

VII. PERIOD OF DURATION. The Corporation is to have a perpetual existence.

VIII. PECUNIARY INTEREST. Any corporate officer, director, or shareholder of this corporation shall not, in the absence of fraud, be prohibited from dealing with this corporation either as vendor, purchaser or otherwise. A pecuniary interest in any transaction by any such director, shareholder or officer shall not disqualify him in any way from acting in his corporate capacity. No director nor officer, nor any firm, association, or corporation of which he shall be a member, or in which he may be pecuniarily interested, in any manner, shall be disqualified from dealing with the corporation as a result of the association. No director nor officer, nor any firm, association, or corporation with which he is connected as aforesaid shall be liable to account to this corporation or its shareholders for any profit realized by him from or

through any such transaction or contract, it being the express purpose and intent of the Article to permit this corporation to buy from, sell to, or otherwise deal with the partnerships, firms, or corporations of directors and officers of the corporation, or any one or more of them who may have pecuniary interest, and the contracts of this corporation, in the absence of fraud, shall not be void or voidable or affecting in any manner by reason of such position. Furthermore, directors of this corporation may be counted for a quorum of the Board of Directors of this corporation at a meeting even though they may be pecuniarily interested in matters considered at a meeting; any action taken at such a meeting with reference to such matters by a majority of the disinterested directors shall not be void or voidable by this corporation in the absence of fraud.

IX. INDEMNITY. Every person who was or is a party to, or is threatened to be made a party to, or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he, or a person of whom he is the legal representative, is or was a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as a Director or Officer of another Corporation, or as its representative in a partnership, joint venture, trust or other enterprise, shall be indemnified and held harmless to the fullest extent legally permissible under the laws of the State of Nevada from time to time against all expenses, liability and loss (including attorneys' fees, judgments, fines and amounts paid or to be paid in settlement) reasonably incurred or suffered by him in connection therewith. Such right of indemnification shall be a contract right which may be enforced in any manner desired by such person. The expenses of Officers and Directors incurred in defending a civil or criminal action, suit or proceeding must be paid by the Corporation as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the Director or Officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that he is not entitled to be indemnified by the Corporation. Such right of indemnification shall not be exclusive of any other right which such Directors, Officers or representatives may have or hereafter acquire, and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any bylaw, agreement, vote of Stockholders, provision of law, or otherwise, as well as their rights under this Article.

Without limiting the application of the foregoing, the Stockholders or Board of Directors may adopt bylaws from time to time with respect to indemnification, to provide at all times the fullest indemnification permitted by the laws of the State of Nevada, and may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as Director or Officer of another Corporation, or as its representative in a partnership, joint venture, trust or other enterprises against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Corporation would have the power to indemnify such person.

The indemnification provided in this Article shall continue as to a person who has ceased to be a Director, Officer, Employee or Agent, and shall inure to the benefit of the heirs, executors and administrators of such person.

X. AMENDMENTS. Subject at all times to the express provisions of Section 3.03 which cannot be amended, this Corporation reserves the right to amend, alter, change, or repeal any provision contained in these Articles of Incorporation or its Bylaws, in the manner now or hereafter prescribed by statute or by these Articles of Incorporation or said Bylaws, and all rights conferred upon the Stockholders are granted subject to this reservation.

XI. POWERS OF DIRECTORS. In furtherance and not in limitation of the powers conferred by statute the Board of Directors is expressly authorized:

(1) Subject to the Bylaws, if any, adopted by the Stockholders, to make, alter or repeal the Bylaws of the Corporation;

(2) To authorize and cause to be executed mortgages and liens, with or without limit as to amount, upon the real and personal property of the Corporation;

(3) To authorize the guaranty by the Corporation of securities, evidences of indebtedness and obligations of other persons, Corporations and business entities;

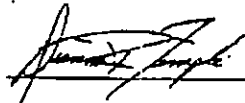
(4) To set apart out of any of the funds of the Corporation available for distributions a reserve or reserves for any proper purpose and to abolish any such reserve;

(5) By resolution, to designate one or more committees, each committee to consist of at least one Director of the Corporation, which, to the extent provided in the resolution or in the Bylaws of the Corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the Bylaws of the Corporation or as may be determined from time to time by resolution adopted by the Board of Directors; and

(6) To authorize the Corporation by its Officers or agents to exercise all such powers and to do all such acts and things as may be exercised or done by the Corporation, except and to the extent that any such statute shall require action by the Stockholders of the Corporation with regard to the exercising of any such power or the doing of any such act or thing.

(7) In addition to the powers and authorities hereinbefore or by statute expressly conferred upon them, the Board of Directors may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, except as otherwise provided herein and by law.

IN WITNESS WHEREOF, I have here unto set my hand on this 5th day of March, 2009, hereby declaring and certifying that the facts stated hereinabove are true.



Dianna R. Temple
(For Corporate Service Center, Inc.)

I, CORPORATE SERVICE CENTER, INC. hereby accept as registered agent for the previously named Corporation on this 5th day of March, 2009.


Trevor C. Rowley - Office Administrator
(On behalf of Corporate Service Center, Inc.)

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Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

v.

Glacial Energy of Pennsylvania, Inc.
Docket No.: C-2012-2297092

Responses of the Bureau of Investigation and Enforcement
To Glacial Interrogatories and Request for Documents – Set I

I&E Respondent: Scott Granger

Glacial Energy-I&E-4

Identify all information in your position that supports the assertion that Gary Mole was convicted of a crime involving fraud or a similar activity as of April 22, 2009.

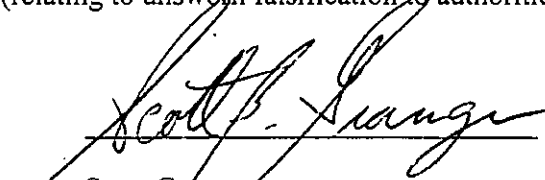
Response:

The I&E complaint makes no specific reference to such an allegation.

VERIFICATION

I, Scott Granger, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10/24/12



Scott Granger

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EXHIBIT H

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SECRETARY'S BUREAU

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

v.

Glacial Energy of Pennsylvania, Inc.
Docket No.: C-2012-2297092

Responses of the Bureau of Investigation and Enforcement
To Glacial Interrogatories and Request for Documents – Set I

I&E Respondent: Scott Granger

Glacial Energy-I&E-14

Identify any Public Utility Commission regulation, rule, policy, or other document that outlines the information that should be provided in a professional resume submitted in connection with a license application.

Response:

I &E is aware of no regulation, rule, policy, or other document that outlines the information that should be included in a professional resume submitted with a license application. However, a professional resume submitted in connection with a license application is expected to accurately reflect the applicant's prior relevant experience.

VERIFICATION

I, Scott Granger, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10/24/12


Scott Granger

EXHIBIT I

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Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

v.

Glacial Energy of Pennsylvania, Inc.
Docket No.: C-2012-2297092

Objection of the Bureau of Investigation and Enforcement
To Glacial Interrogatories and Request for Documents – Set I

I&E Respondent: Heidi Wushinske

Glacial Energy-I&E- Document Request 8.

Produce all documents you deem credible that dispute the conclusion that Touchdown was a passive investor in Franklin; that it did not provide the initial capitalization of Franklin; and/or that it did not manage its day-to-day business activities, as per Interrogatory 8.

Response:

Objection. This discovery request as phrased is argumentative as it requires the adoption of an assumption that Touchdown was a passive investor in Franklin, did not provide Franklin's original capitalization, and did not manage its day-to-day business activities.

Objection. This discovery request seeks information not relevant to the subject matter of the Complaint and is not reasonably calculated to lead to the discovery of admissible evidence for this proceeding. Whether Touchdown was a passive investor in Franklin, provided Franklin's original capitalization, or managed its day-to-day business activities is not relevant to the sole count in the complaint, which involves Glacial's failure to disclose required information on its license application form.

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

v.

Glacial Energy of Pennsylvania, Inc.
Docket No.: C-2012-2297092

Objection of the Bureau of Investigation and Enforcement
To Glacial Interrogatories and Request for Documents-- Set I

I&E Respondent: Heidi Wushinske

Glacial Energy-I&E- Document Request 9.

Produce all documents you deem credible that dispute the conclusion that Gary Mole never held an officer or director position in Franklin nor did he manage the day-to-day business activities of Franklin, as per Interrogatory 9.

Response:

Objection. This discovery request as phrased is argumentative as it requires the adoption of an assumption that Gary Mole never held an officer or director position in Franklin or managed the day-to-day business activities of Franklin.

Objection. This discovery request seeks information not relevant to the subject matter of the Complaint and is not reasonably calculated to lead to the discovery of admissible evidence for this proceeding. Gary Mole's position in Franklin is not relevant to the sole count in the complaint, which involves Glacial's failure to disclose required information on its license application form.

EXHIBIT J

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SECRETARY'S BUREAU

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

v.

Glacial Energy of Pennsylvania, Inc.

Docket No.: C-2012-2297092

Responses of the Bureau of Investigation and Enforcement
To Glacial Interrogatories and Request for Documents – Set I

I&E Respondent: Scott Granger

Glacial Energy-I&E-16

Identify each expert you intend to call as a witness at the trial of this matter, and for each expert state:

- (a) the subject matter about which the expert is expected to testify; and
- (b) the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (You may use as your answer to this interrogatory the report of the expert, or have the interrogatory answered by your expert.)

Response:

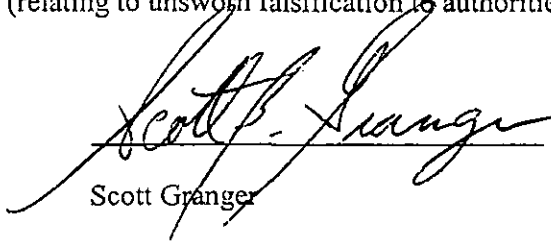
I&E intends to call Scott Granger as its expert witness.

- (a) Mr. Granger is expected to testify about PUC regulations and the requirements of the license application form.
- (b) Mr. Granger will present facts and supporting documents to prove the allegations contained in the BI&E Complaint.

VERIFICATION

I, Scott Granger, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10/24/12



Scott Granger

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EXHIBIT K

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SECRETARY'S BUREAU

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

v.

Glacial Energy of Pennsylvania, Inc.
Docket No.: C-2012-2297092

Responses of the Bureau of Investigation and Enforcement
To Glacial Interrogatories and Request for Documents – Set I

I&E Respondent: Scott Granger

Glacial Energy-I&E-12.

Identify any state utility commission with whom B&I has communicated either during any pre-complaint investigation or subsequently concerning Glacial of Pa. or its related companies, e.g., Glacial Energy of Texas, Glacial Energy of Washington DC, Inc., Glacial Energy of Maryland, Inc., Glacial Energy of California, Inc., Glacial Energy of New Jersey, Inc., Glacial Energy of Illinois, Inc., etc.

Response:

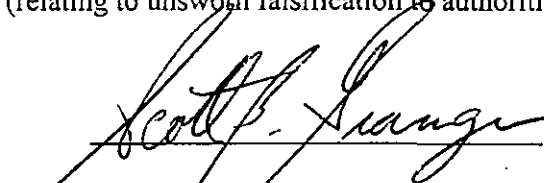
PUC Texas.

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PA PUC
SECRETARY'S BUREAU

VERIFICATION

I, Scott Granger, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10/24/12



Scott Granger

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SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

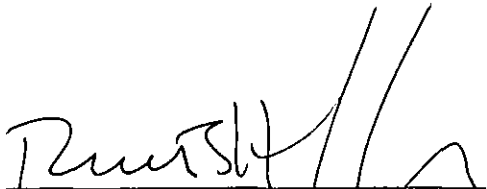
Pennsylvania Public Utility Commission,)	
Bureau of Investigation and Enforcement)	
Petitioner,)	
v.)	Docket No. C-2012-2297092
)	(Judge Salapa)
Glacial Energy of Pennsylvania, Inc.)	
Respondent.)	

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2013, I caused a true and correct copy of the Motion for Summary Judgment and Brief to be served upon the following persons by first class mail, postage prepaid, in accordance with the requirements of 52 Pa. Code § 1.54:

Heidi L. Wushinske
Prosecutor
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Wayne T. Scott
First Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265


Robert B. Hoffman, PA I.D. No. 23846
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, Eighth Floor
Harrisburg, PA 17101
Tel: (717) 237-7182
rhoffman@eckertseamans.com

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,)
Bureau of Investigation and Enforcement)
 Petitioner,)
 v.)
)
Glacial Energy of Pennsylvania, Inc.)
 Respondent.)

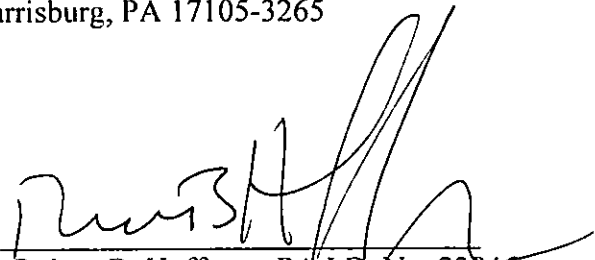
Docket No. C-2012-2297092
(Judge Salapa)

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2013, I caused a true and correct copy of Statement of Facts re Motion for Summary Judgment to be served upon the following persons by first class mail, postage prepaid, in accordance with the requirements of 52 Pa. Code § 1.54:

Heidi L. Wushinske
Prosecutor
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Wayne T. Scott
First Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265



Robert B. Hoffman, PA I.D. No. 23846
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, Eighth Floor
Harrisburg, PA 17101
Tel: (717) 237-7182
rhoffman@eckertseamans.com

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