



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

IN REPLY PLEASE  
REFER TO OUR FILE

April 19, 2013

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania 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 an original copy of the Bureau of Investigation and  
Enforcement's Application for Subpoena of Roger McAulay in the above-referenced  
proceeding.

Copies are being served on all active parties of record. If you have any questions,  
please contact me at (717) 772-8839.

Sincerely,

Stephanie M. Wimer  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No 207522

Enclosure

cc: As per certificate of service  
Hon. David A. Salapa

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SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

v.

Glacial Energy of Pennsylvania, Inc.,  
Respondent

Docket No. C-2012-2297092

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §5.421(b), the Bureau of Investigation & Enforcement of the Pennsylvania Public Utility Commission (Commission) has filed an Application for Subpoena in the above-referenced matter. You are hereby notified that you may file a written response or objection within ten (10) days of service of the Application, pursuant to 52 Pa. Code §5.421(b)(3). An original copy of your response must be sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

A copy must also be served on the presiding officer and undersigned counsel.



Stephanie M. Wimer, Prosecutor  
PA Attorney ID No 207522

Heidi L. Wushinske, Prosecutor  
PA Attorney ID No 93792

Wayne T. Scott, First Deputy Chief Prosecutor  
PA Attorney ID No 29133

Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Dated: April 19, 2013

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

Docket No. C-2012-229709

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**APPLICATION FOR SUBPOENA**

AND NOW comes the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") and files this Application to Subpoena Roger McAulay to testify at the hearing scheduled in the above captioned case, pursuant to 52 Pa. Code § 5.421. In support thereof, I&E avers as follows:

1. I&E filed a Complaint against Glacial Energy of Pennsylvania, Inc. ("Glacial") on April 5, 2012, and an Amended Complaint on March 5, 2013.
2. Of pivotal importance in this case is the failure to disclose and discuss Gary Mole's involvement with Franklin Power Company ("Franklin") on Glacial's EGS Application.
3. In addition, Glacial has raised the issue of the nature of Gary Mole's position and relationship with Franklin and has therefore made this issue relevant. *See* Glacial Answer and New Matter ¶¶ 11, 13, 14, 16, 19, 20, 21, 33, 36, 37, 38, and 40; *see also* Glacial Motion for Summary Judgment and Brief at 6, 9.

4. Roger McAulay is a former Chief Executive Officer (“CEO”) of Franklin who worked closely with Gary Mole.

5. Mr. McAulay’s testimony is material to the resolution of this case because he has first person knowledge of Gary Mole’s position and relationship with Franklin, including Gary Mole’s appointment to Franklin’s Board of Directors, day-to-day activities with Franklin, the capitalization of Franklin, and Mr. Mole’s involvement with the demise of Franklin.

6. I&E has submitted the pre-filed written testimony of Roger McAulay, and therefore, the appearance of Mr. McAulay at the hearings scheduled in this matter is essential so that his testimony may be admitted formally into the record.

7. The testimony of Mr. McAulay is material to substantiate I&E’s position and to refute Glacial’s defenses.

8. A proposed subpoena of Mr. McAulay has been included with this Application.

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the this Honorable Administrative Law Judge issue a Subpoena requiring Roger McAulay to attend the hearings in this matter scheduled for May 7 and 8, 2013.

Respectfully submitted,



Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No 207522

Heidi L. Wushinske  
Prosecutor  
PA Attorney ID No 93792

Wayne T. Scott  
First Deputy Chief Prosecutor  
PA Attorney ID No 29133

Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-5000

Date: April 19, 2013

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing Application for Subpoena, either personally, by first class mail, electronic mail, express mail and/or fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code §§5.421(b)(4) and 1.54 *et seq.* (relating to service by a party).

**Service by First Class Mail:**

Robert B. Hoffman, Esquire  
Daniel Clearfield, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, Eighth Floor  
Harrisburg, PA 17101

Joel Glassman  
Business Filings, Inc.  
116 Pine Street, Suite 320  
Harrisburg, PA 17101

John McGahren, Esquire  
Stephanie Feingold, Esquire  
Patton Boggs LLP  
The Legal Center  
One Riverfront Plaza  
1037 Raymond Blvd., Suite 600  
Newark, NJ 07102



Stephanie M. Wimer  
Prosecutor

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