



Todd S. Stewart
(717) 236-1300 x242
tsstewart@hmslegal.com

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

September 2, 2014

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room
Harrisburg, PA 17120

RE: Commonwealth of Pennsylvania, by Attorney General KATHLEEN G. KANE, Through the Bureau of Consumer Protection, and TANYA J. McCLOSKEY, Acting Consumer Advocate, v. ENERGY SERVICES PROVIDERS, INC. d/b/a PENNSYLVANIA GAS & ELECTRIC; Docket No. C-2014-2427656; **PETITION REQUESTING INTERLOCUTORY COMMISSION REVIEW AND ANSWER TO A MATERIAL QUESTION**

Dear Secretary Chiavetta:

Please accept for filing on behalf of Energy Services Providers, Inc., this Petition for Interlocutory Review and Answer to a Material Question in response to the August 20, 2014 Order issued in this proceeding. Copies have been served in accordance with the attached Certificate of Service.

Thank you for your consideration in this matter. Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

Todd S. Stewart

*Counsel for Energy Services Providers, Inc.,
d/b/a/ Pennsylvania Gas & Electric*

TSS/bes

Attachments

cc: Administrative Law Judge Elizabeth H. Barnes
Administrative Law Judge Joel H. Cheskis

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

BY ELECTRONIC MAIL SERVICE
AND FIRST CLASS U.S. MAIL

Candis A. Tunilo, Assistant Consumer Advocate
Brandon J. Pierce, Assistant Consumer Advocate
Kristine E Robinson, Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923

John M. Abel, Senior Deputy Attorney General
Nichole R. Beck, Deputy Attorney General
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120

Sharon Webb, Esquire
Office of Small Business Advocate
Suite 1102, 300 North Second Street
Harrisburg PA 17101

Stephanie Wimer, Esquire
Pennsylvania Public Utility Commission
Office of the Law Bureau
PO Box 3265
Harrisburg, PA 17105-3265



Todd S. Stewart
Counsel for Energy Services Providers, Inc.
d/b/a Pennsylvania Gas & Electric

DATED: September 2, 2014

MATERIAL QUESTION FOR REVIEW

Does the Commission have statutory authority or subject matter jurisdiction to order electric generation suppliers to issue refunds to customers?

Suggested Answer: No.

**COMPELLING REASONS WHY INTERLOCUTORY REVIEW
SHOULD BE PERMITTED**

Interlocutory review of this question is necessary to prevent substantial prejudice to ESPI and to expedite the conduct of this proceeding. The Commission will grant interlocutory review of a material question if doing so will “prevent substantial prejudice” or “expedite the conduct of the proceeding.”³ Under this standard, interlocutory review clearly should be granted where, as here, the Commission has no subject matter jurisdiction or statutory authority over the matter in question.⁴ A finding that the Commission lacks either authority or jurisdiction to order an EGS to issue refunds will prevent substantial prejudice to ESPI and other parties, in that they will not be required to expend the time and resources necessary for discovery and litigation concerning refunds. Moreover, determination of this issue will clarify the extent of any potential liability faced by Respondent, and thus increase the probability of a settlement. It also should be obvious that the time necessary to present and defend a case on refunds could further delay this matter, the factual basis of which is fast approaching its first anniversary.

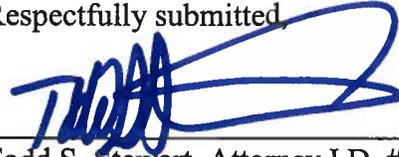
³ 52 Pa. Code § 5.302(a).

⁴ See *Petition of the Borough of Frackville for Interlocutory Review*, Docket No. P-2008-2016340 at p. 3 (Order entered Aug. 21, 2008) (granting review where primary issue of Commission jurisdiction raised); see also, *Peoples Independent Producers Group v. The Peoples Natural Gas Co.*, Docket No P-00052162 at p. 5 (Order entered Sept. 13, 2005) (same).

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Commission grant Interlocutory Review of the material question presented and find that this Commission is without subject matter jurisdiction or authority to order electric generation suppliers to issue refunds.

Respectfully submitted,



Todd S. Stewart, Attorney I.D. # 75556
Hawke McKeon & Sniscak LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778
E-mail: tsstewart@hmslegal.com
Telephone: (717) 236-1300
Facsimile: (717) 236-4841

*Counsel for Energy Services Providers, Inc.
d/b/a Pennsylvania Gas & Electric*

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