

## **Barnes, Elizabeth**

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**From:** Barnes, Elizabeth  
**Sent:** Friday, May 22, 2015 2:28 PM  
**To:** 'Wright, Christopher'; Greg Kupniewski; Povilaitis, John F.  
**Cc:** MacGregor, David; Brown, Kriss; Munsch, John L (jmunsch@firstenergycorp.com); 'Kent Murphy'; Reitenbach, Dawn  
**Subject:** J3 v West Penn & UGI Development C-2011-2219920

Counsel:

I have considered the e-mailed request dated May 21, 2015, by Mr. Kupniewski for a continuance of the May 27-28 hearing as well as the e-mailed responses of UGI Development Company and West Penn Power, and the request is denied for lack of "good cause" shown and the following reasons in accordance with 52 Pa. Code Section 1.15(b).

1. With the permission of Judge Thomas, J3's counsel, Mr. Thomas Russial filed an Application for Withdrawal of Appearance on May 13, 2015, in the instant case. Thus, J3 has failed to maintain representation by counsel throughout the course of the litigation through no fault of respondents.
2. Although Mr. Kupniewski has applied to the Bankruptcy Court for permission to be debtor's (J3) counsel, it is uncertain even if the petition had been granted whether Mr. Kupniewski would have the authority to represent J3 in the instant proceeding.
3. The application to be appointed as counsel for J3 was denied by Judge Thomas on May 21, 2015, and it is unclear at this time, even if it were to be amended, whether the petition would be granted.
4. Because the petition was denied, Mr. Kupniewski has neither entered an appearance nor is he authorized to represent J3 in the instant proceeding.
5. J3 has had numerous requests for continuance, the last of which was granted in February over the objections of Respondents.
5. *I gave J3 ample time to obtain representation prior to the scheduled hearing. The timing of the request for continuance is five days before the hearing, which is unfair to opposing counsel and their witnesses who have prepared for the hearing and have likely incurred costs in preparation.*
6. There appears no reason to delay the case in order to facilitate settlement discussions or discovery, as this case is near the end of the litigation schedule and written testimony had already been exchanged prior to J3 converting from Chapter 11 to Chapter 7, then back to Chapter 11 bankruptcy.

Accordingly, the case will proceed to hearing beginning at 10 a.m. on May 27, 2015, in Harrisburg. I expect counsel to appear in person. However, UGI Development Company's witness, Mr. Louis James, may appear for cross examination by telephone and his testimony may be offered for admission into the record if accompanied by a signed verification. Further, West Penn's witness, James D. Reitzes, may appear for cross

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PA PUC  
SECRETARY'S BUREAU

examination by telephone and his testimony may be moved for admission if accompanied by a verification, in view of the fact that at this time J3 has not obtained counsel.

A copy of this e-mail correspondence will be placed in the Commission's file at C-2011-2219920.

Regards,

Elizabeth H. Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17015  
phone: (717)772-5408  
e-mail: ebarnes@pa.gov.

-----Original Message-----

From: Wright, Christopher [mailto:CWright@PostSchell.com]

Sent: Friday, May 22, 2015 9:58 AM

To: Barnes, Elizabeth; Greg Kupniewski; Povilaitis, John F.

Cc: MacGregor, David; Brown, Kriss; Munsch, John L (jmunsch@firstenergycorp.com); 'Kent Murphy'

Subject: RE: J3 v West Penn & UGI Development C-2011-2219920 - Bankruptcy Hearing Today

Your Honor,

UGI Development opposes any further continuances for the hearings scheduled in this matter. J3's prior counsel, Mr. Russial, has withdrawn as counsel for J3 with the approval of the Bankruptcy Court. The Bankruptcy Court also denied appointing Mr. Kupniewski as counsel for J3. As a result, J3 does not have legal counsel as required by Section 1.21 of the Commission's regulations. See 52 Pa. Code § 1.21 (requires that corporate entities, such as J3, must be represented by legal counsel in adversarial proceedings). Accordingly, Mr. Kupniewski is not authorized to request a continuance of the PUC proceeding on behalf of J3. For this reason alone, the request should be denied.

Even if Mr. Kupniewski is authorized to represent J3 in the PUC proceeding, which he is not for the reasons explained above, Mr. Kupniewski's request for a continuance should be denied for several reasons. Mr. Kupniewski's request has failed to demonstrate good cause that would warrant a continuance of this proceeding. The fact that J3 is under new management and/or has new counsel does not change the fact that J3 was and continues to be the party that filed the complaint. Stated otherwise, there is not a new party but, rather, the new management and/or new counsel have merely stepped into the proverbial shoes of J3. J3's new management and/or new counsel must respect the formal litigation process before the PUC and accept the case as it is.

In addition, there is nothing to suggest that Mr. Kupniewski or J3 have made any reasonable efforts to comply with Your Honor's direction from the April 10th conference call, including, but not limited to, signing the protective order, obtaining and reviewing the record, and retaining outside PUC counsel. Indeed, Mr. Kupniewski's May 1st motion to the Bankruptcy Court for appointment of counsel fails to even mention appointment of counsel for the PUC proceeding. There is no indication in Mr. Kupniewski's summary of the argument that the exigent circumstances and the impending PUC hearing dates were even mentioned at the May 21st hearing before the Bankruptcy Court.

This case has been ongoing for a significant period of time, and J3 has been on notice that the case has been set for hearings on May 27th and 28th. The hearings previously have been continued at J3 request on several occasions, including to specifically find PUC counsel, which it apparently has failed to do. UGI Development has incurred significant costs and resources preparing for the upcoming hearing and should not be penalized for J3's shortcomings and failure to comply with Your Honor's April 10th direction.

For these reasons, UGI Development opposes Mr. Kupniewski's request for a continuance of the hearings scheduled for May 27th and 28th. UGI Development will appear before Your Honor on May 27, 2015 for hearing. We respectfully request that our witness, Mr. Louis James, be allowed to appear for cross examination by telephone and that his testimony be submitted accompanied by a verification, in view of the fact that at this time J3 has not obtained counsel.

Respectfully submitted,  
-Chris Wright

Christopher T. Wright  
Principal  
Post & Schell, P.C.  
17 North Second Street  
12th Floor  
Harrisburg, PA 17101

717-612-6013 (Phone)  
717-576-9704 (Cell)  
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CWright@PostSchell.com  
www.postschell.com  
Download My Contact Information

-----Original Message-----

From: Barnes, Elizabeth [mailto:EBARNES@pa.gov]

Sent: Thursday, May 21, 2015 6:48 PM

To: Greg Kupniewski; Povilaitis, John F.

Cc: Wright, Christopher; MacGregor, David; Brown, Kriss; Munsch, John L (jmunsch@firstenergycorp.com); 'Kent Murphy'

Subject: RE: J3 v West Penn & UGI Development C-2011-2219920 - Bankruptcy Hearing Today

Counsel, please respond by 10 a.m. tomorrow (Friday) before I rule on this request. I'm leaving work at 2:30 p.m. tomorrow.

Mr. Kupniewski, if you are not yet counsel for J3 and have not entered an appearance in this case, perhaps the request should come from owner and President of J3.

Thank you.

Elizabeth Barnes

Administrative Law Judge  
Pennsylvania Public Utility Commission  
Phone: (717)772-5408

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From: Greg Kupniewski [GKupniewski@starfieldsmith.com]  
Sent: Thursday, May 21, 2015 2:44 PM  
To: Barnes, Elizabeth; Povilaitis, John F.  
Cc: Wright, Christopher (cwright@postschell.com); 'David MacGregor'; Brown, Kriss; Munsch, John L (jmunsch@firstenergycorp.com); 'Kent Murphy'  
Subject: J3 v West Penn & UGI Development C-2011-2219920 - Bankruptcy Hearing Today

Dear Judge Barnes and Counsel:

Judge Thomas held a hearing on the Debtor's motion to employ Starfield & Smith in the Middle District Bankruptcy Court today. Unfortunately, Judge Thomas denied the motion. Judge Thomas has directed me to amend the motion to clarify certain points regarding S&S's continued participation in the pending State Court appeal and its creditor representation in the bankruptcy case. I will be in a position to file the amended motion on Tuesday, but it will not be approved in advance of the scheduled hearings in the present matter. I will request expedited consideration of the amended motion to have the matter heard as soon as the Court's schedule allows.

I respectfully request that Your Honor continue the hearings scheduled for next week for 90 days. The continuance will allow S&S to resolve the bankruptcy motion, enter its appearance in the present matter, obtain the necessary files and prepare for the hearing.

I thank you in advance for your consideration in this matter.

Respectfully Submitted,

--

Greg T. Kupniewski, Esquire

Starfield & Smith, PC  
PHONE 215.390.1023<tel:215.390.1023> | FAX 215.542.0723<tel:215.542.0723> EMAIL  
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www.starfieldsmith.com<http://www.starfieldsmith.com/>

vCard<http://starfieldsmith.com/wp-content/uploads/2013/05/gkupniewski.vcf> |  
linkedin<http://www.linkedin.com/pub/greg-kupniewski/13/a09/542>

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## **Barnes, Elizabeth**

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**From:** Povilaitis, John F. <john.povilaitis@bipc.com>  
**Sent:** Friday, May 22, 2015 9:58 AM  
**To:** Barnes, Elizabeth  
**Cc:** Munsch, John L (jmunsch@firstenergycorp.com); Reeping, Robert B; gkupniewski@starfieldsmith.com; 'Kent Murphy'; Wright, Christopher (cwright@postschell.com); 'David MacGregor'  
**Subject:** Kupniewski Request for Continuance

Dear Judge Barnes,

Thank you for the opportunity to respond to Mr. Kupniewski's request on behalf of J3 for a continuance of the hearing scheduled for May 27, 2015. West Penn Power Company (West Penn) opposes granting the requested continuance.

First, Mr. Kupniewski has not obtained authorization from the Bankruptcy Court to represent J3 before the PaPUC, therefore he is not authorized to appear and represent J3 as counsel for purposes of requesting a continuance. Mr. Kupniewski has represented that his Application to be appointed counsel for J3 was denied yesterday, although he has been given an opportunity to amend the request and re-submit it. Second, good cause has not been presented for continuing the hearing. J3 has known since April 10, 2015 that you expected any request for a continuance to be timely made, and by counsel authorized to represent J3. Neither prerequisite has been met. J3's request for appointment of counsel to succeed Mr. Thomas Russial as counsel was not made until May 1, 2015, three weeks after your direction on a continuance. To our knowledge, J3 did not oppose the withdrawal of Mr. Russial as counsel in the PaPUC proceeding, leaving them currently without counsel. J3 did not take steps before the Bankruptcy Court to ensure that some counsel would be authorized to appear on its behalf in the event Mr. Kupniewski was not approved as counsel. We have no indication that the issue of authorizing counsel for J3 in the PaPUC case was raised, discussed or even considered in yesterday's hearing before the Bankruptcy Court. It is prejudicial to West Penn to continue to delay hearings in this proceeding when it has timely met all of Your Honor's deadlines for submission of testimony and further delay could compromise the later availability of its witness. Therefore West Penn opposes the grant of a continuance and requests that it be denied.

West Penn will appear before you on May 27, 2015 for hearing. We request that our witness, James D. Reitzes be allowed to appear for cross examination by telephone and that his testimony be submitted accompanied by a verification, in view of the fact that at this time J3 has not obtained counsel. Thank you for your consideration of this request.

**John Povilaitis**  
Shareholder

409 North Second Street  
Suite # 500  
Harrisburg, PA 17101-1357  
717 237 4825 (o)  
717 512 2744 (c)  
[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)

[vCard](#) | [Bio](#) | [BIPC.com](#) | [Twitter](#) | [LinkedIn](#)

**Buchanan Ingersoll & Rooney PC**

KNOW GREATER PARTNERSHIP

## **Barnes, Elizabeth**

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**From:** Povilaitis, John F. <john.povilaitis@bipc.com>  
**Sent:** Monday, May 18, 2015 10:08 AM  
**To:** Barnes, Elizabeth  
**Cc:** gkupniewski@starfieldsmith.com; Wright, Christopher (cwright@postschell.com); 'David MacGregor'; Brown, Kriss; Munsch, John L (jmunsch@firstenergycorp.com); 'Kent Murphy'  
**Subject:** Request for Phone Conference J3 v West Penn & UGI Development C-2011-2219920  
**Attachments:** 5-1-15 J3 Filing Re Debtor Counsel.PDF

Dear Judge Barnes:

In your email message of May 13, 2015 to counsel, you indicated that parties could advise you if they would like a phone conference prior to the hearings scheduled in this case on May 27 and 28. West Penn requests such a conference call and has been authorized to indicate that UGI Development supports such as a call as well. As you are probably aware, Mr. Russial has filed and served a Notice of Withdrawal as counsel for J3 in the complaint docket. Mr. Russial's withdrawal from representing J3 in the bankruptcy proceeding has also been approved. J3 is under a continuing obligation to keep Your Honor and the parties apprised of developments in the J3 bankruptcy proceeding. However, we are not aware that you have been advised that an Application was filed with the bankruptcy court on May 1, 2015, requesting that Starfield & Smith PC be authorized to represent J3 Energy Group, Inc., *nunc pro tunc*, to March 26, 2015. It is also our understanding that a hearing on this Application is scheduled in bankruptcy court for May 21, 2015.

Your Honor has scheduled evidentiary hearings for May 27 and 28. Therefore both West Penn and UGI must be prepared to present witnesses, cross examine opposing witnesses and in general complete the record in this proceeding on those dates. Given the uncertainties surrounding J3's appearance through counsel on May 27, and the appearance of witnesses for J3 on that date, West Penn and UGI request a conference call as soon as possible to clarify J3's intentions with respect to the upcoming hearings. As Your Honor may be aware, the PBI/Public Utility Law Section two day conference starts on May 20 this week, so if a call is possible tomorrow, that may best accommodate most schedules. Otherwise, we request that a call be scheduled at your earliest convenience. Thank you for your consideration of this request.

**John Povilaitis**  
Shareholder

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**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11
J3 ENERGY GROUP, INC.,	:	Case No. 14-00532 (JJT)
Debtor.	:	

**APPLICATION OF THE DEBTOR  
FOR *NUNC PRO TUNC* AUTHORITY TO EMPLOY COUNSEL**

J3 Energy Group, Inc. (“Debtor”) files this application for *nunc pro tunc* authority to employ counsel (“Employment Application”) and, in support thereof, respectfully states as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue is proper in this district under 28 U.S.C. § 1409. The statutory predicates for relief are 11 U.S.C. § 327 and F.R.B.P. 2014.
2. This is a core proceeding under 28 U.S.C. § 157 (A), and (O).

**APPLICATION TO EMPLOY COUNSEL**

3. On February 7, 2014 (“Petition Date”), the Debtor filed a voluntary Chapter 11 bankruptcy petition.
4. On February 11, 2015, the Court held a confirmation hearing (“Confirmation Hearing”) regarding the Debtor’s Third Amended and Restated Plan of Reorganization.
5. The Court denied confirmation of the Debtor’s Third Amended and Restated Plan of Reorganization at the Confirmation Hearing.

{01208310;v1 }

6. Upon denial of confirmation, the Debtor made an immediate oral motion to convert the Chapter 11 case to one under Chapter 7. The Court granted the Debtor's Chapter 7 conversion motion.

7. The Court subsequently entered an Order converting the case back to Chapter 11 on March 26, 2015.

8. During the initial Chapter 11 portion of the case, the Court granted the Debtor permission to employ The Law Office of Kevin K. Kercher as counsel.

9. During the Chapter 7 portion of the case, the Court granted the Chapter 7 Trustee permission to employ William G. Schwab & Associates as counsel to the Chapter 7 Trustee.

10. During the second Chapter 11 portion of the case, The Law Office of Kevin K. Kercher initially represented the Debtor. Although Mr. Kercher has not formally withdrawn his appearance, Mr. Kercher has expressed an unwillingness to continue as Debtor's counsel.

11. From and after the Petition Date, Starfield & Smith, P.C. ("S&S") has represented Applied Energy Partners, LLC and Christopher Gutteridge (collectively, "AEP") in this case. AEP remains the largest creditor in this case.

12. During the Chapter 7 portion of this case, AEP acquired all of the issued and outstanding shares in the Debtor corporation. The Court subsequently granted AEP's motion to convert this case back to a case under Chapter 11.

13. Since conversion to Chapter 11, the Debtor has continued to operate as a debtor-in-possession under new ownership.

14. AEP has a personal judgment against the Debtor's former owner and those parties maintain an adversarial relationship.

15. Immediately upon conversion to Chapter 11, the Debtor needed trusted counsel that was knowledgeable in the Debtor's operations and history to help guide the transition in ownership. The Debtor believes S&S is the best counsel to represent the Debtor going forward based on its knowledge of the Debtor and its ability to assist new ownership immediately upon conversion to Chapter 11.

16. The professional services S&S is expected to render include the following:

- (a) provide the Debtor with legal services with respect to its power and duties as Debtor-in-Possession in continuing the management of its assets;
- (b) to prepare on behalf of Debtor necessary Applications, Answers, Orders, Reports, and other legal papers;
- (c) to represent the Debtor in any matters involving contests with secured or unsecured creditors;
- (d) to assist the Debtor in providing legal services required to negotiate and prepare a plan of reorganization; and
- (e) to perform such other legal services for the Debtor as are necessary and appropriate herein.

17. It is necessary for the Debtor to employ attorneys to provide the foregoing legal services.

18. Going forward, S&S will only represent the Debtor in this case.<sup>1</sup> To the extent AEP needs its own counsel, AEP will retain new counsel. Except for the foregoing, to the best of the Debtor's knowledge S&S has no connection with any creditors or other parties in interest in this case.

19. Given the time sensitive nature of the Debtor's contracts, the Debtor needed S&S to provide services immediately upon confirmation to assist in the transfer of ownership and the operation of the Debtor's business. In fact, S&S assisted new ownership in obtaining certain Debtor files, information and other assets within an hour of the conclusion of the conversion hearing. The Debtor needed S&S's services before it was practicable for S&S to submit its employment application. As such, the Debtor seeks authority to employ S&S *nunc pro tunc* to March 26, 2015.

20. The work to be performed in this case will be handled primarily by Greg T. Kupniewski, Esq. at his regular hourly rate of \$305. Jeffrey S. Feldman, Esq. will also provide limited services to the Debtor at his regular hourly rate of \$350.

WHEREFORE, for the foregoing reasons, the Debtor respectfully requests that this Court enter an Order: (a) granting the Debtor authority to employ S&S *nunc pro tunc* to March 26, 2015, and (b) granting such other relief as this Court

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<sup>1</sup> S&S remains AEP's counsel of record in a State Court appeal brought by the Debtor and Mr. Stephen Russial. The Debtor is undecided about how it will proceed with the appeal at this time. The substantive legal work, however, is complete in the State Court appeal and the parties are awaiting the decision of the appellate Panel.

deems equitable.

Dated: May 1, 2015

STARFIELD & SMITH, P.C.

By: /s/ Greg T. Kupniewski

Greg T. Kupniewski, Esquire  
1300 Virginia Drive, Suite 325  
Fort Washington, PA 19034  
Tel: 215-542-7070  
Fax: 215-542-0723  
E-mail:  
gkupniewski@starfieldsmith.com  
*Proposed Counsel for the Debtor*

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 11
J3 ENERGY GROUP, INC.,	:	Case No. 14-00532 (JJT)
Debtor.	:	

**AFFIDAVIT OF DISINTERESTEDNESS**

I, Greg T. Kupniewski, Esq., certify as follows:

1. I am an attorney and I have been duly admitted to practice in this Court.
2. S&S has agreed to represent the Debtor in this case upon the terms and conditions stated in the Debtor's application to employ S&S. S&S has not received any fees from the Debtor for any services rendered or to be rendered in this case.
3. From and after the Petition Date, my firm Starfield & Smith, P.C. ("S&S") has represented Applied Energy Partners, LLC and Christopher Gutteridge (collectively, "AEP") in this case. AEP remains the largest creditor in this case.
4. During the Chapter 7 portion of this case, AEP acquired all of the issued and outstanding shares in the Debtor corporation. The Court subsequently granted AEP's motion to convert this case back to a case under Chapter 11.
5. Since conversion to Chapter 11, the Debtor has continued to operate as a debtor-in-possession under new ownership.
6. AEP has a personal judgment against the Debtor's former owner and those parties maintain an adversarial relationship.
7. Immediately upon conversion to Chapter 11, the Debtor needed trusted counsel that was knowledgeable in the Debtor's operations and history to help guide the transition in

{01208393;v1 }

ownership. The Debtor believes S&S is the best counsel to represent the Debtor going forward based on its knowledge of the Debtor and its ability to assist new ownership immediately upon conversion to Chapter 11.

8. Going forward, S&S will only represent the Debtor in this case.<sup>1</sup> To the extent AEP needs its own counsel, AEP will retain new counsel.

9. Except for the foregoing, to the best of my knowledge S&S has no connection with any creditors or other parties in interest in this case, including without limitation the United States Trustee, the Debtor's Chapter 7 Trustee or any employee of the United States Trustee's Office in this District.

I certify under penalty of perjury that the foregoing is true and correct..

Executed on May 1, 2015

/s/ Greg T. Kupniewski  
Greg T. Kupniewski, Esq.

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<sup>1</sup> S&S remains AEP's counsel of record in a State Court appeal brought by the Debtor and Mr. Stephen Russial. The Debtor is undecided about how it will proceed with the appeal at this time. The substantive legal work, however, is complete in the State Court appeal and the parties are awaiting the decision of the appellate Panel.

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

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In re:	:	Chapter 11
J3 ENERGY GROUP, INC.,	:	Case No. 14-00532 (JJT)
Debtor.	:	

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**ORDER GRANTING APPLICATION  
TO EMPLOY COUNSEL *NUNC PRO TUNC***

Upon consideration of the Debtor's Application to Employ Counsel *Nunc Pro Tunc* ("Application"), any responses thereto and the argument of the parties as applicable, it is hereby ORDERED:

1. The relief requested in the Application is GRANTED.
2. The Debtor is permitted to employ Starfield & Smith, P.C. as counsel in this Case *nunc pro tunc* to March 26, 2015.

SO ORDERED,

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Hon. John J. Thomas,  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

In re:	:	Chapter 11
J3 ENERGY GROUP, INC.,	:	Case No. 14-00532 (JJT)
Debtor.	:	

**NOTICE APPLICATION OF DEBTOR  
TO EMPLOY COUNSEL *NUNC PRO TUNC***

J3 Energy Group, Inc. ("Debtor") has filed papers with the Court seeking permission to employ counsel, *nunc pro tunc*.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief requested or if you want the Court to consider your views on the Application of Debtor to Employ Counsel *Nunc Pro Tunc*, then on or before May \_\_\_, 2015 at 5:00 p.m., you or your attorney must:

File with the Court a written response, explaining your position, at:

Bankruptcy Clerk of Court  
Max Rosenn U.S. Courthouse  
197 South Main Street  
Wilkes-Barre, PA 18701  
570-829-0249 (Fax)

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail or fax a copy to:

Greg T. Kupniewski, Esq.  
Starfield & Smith, P.C.  
1300 Virginia Drive, Suite 325  
Fort Washington, PA 19034  
215-542-0723 (Fax)

Attend the hearing scheduled to be held on **May 21, 2015 at 9:30 a.m.** in Courtroom 2, United States Bankruptcy Court, Max Rosenn U.S. Courthouse, 197 South Main Street, Wilkes-Barre, PA

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

May 1, 2015

/s/ Greg T. Kupniewski, Esq.  
Proposed Counsel to the Debtor

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

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In re:	:	Chapter 11
J3 ENERGY GROUP, INC.,	:	Case No. 14-00532 (JJT)
Debtor.	:	

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on May 1, 2015, I caused copies of the Application of the Debtor for *Nunc Pro Tunc* Authority to Employ Counsel to be served:

(1) via email to: Debtor's counsel, Kevin K. Kercher, Esquire at [kevin@kercherlaw.com](mailto:kevin@kercherlaw.com), Gregory Schiller, U.S. Trustee at [gregory.b.schiller@ust.doj.gov](mailto:gregory.b.schiller@ust.doj.gov), Iles Cooper, Esq., counsel to Thomas Ramsay, Linda Heffner, Terry O'Boyle and Michael Barnes at [icooper@wflaw.net](mailto:icooper@wflaw.net), and Brian Manning, Esq., counsel to Stephen Russial at [BrianEManning@comcast.net](mailto:BrianEManning@comcast.net);

(2) via facsimile on Creditors, MBC Development at 570-385-5010, A1 Energy at 717-898-8080 and Dynamark Security at 570-874-0270; and

(3) upon all other parties in interest via the Court's ECF system.

Date: May 1, 2015

STARFIELD & SMITH, P.C.

By: /s/ Greg T. Kupniewski

Greg T. Kupniewski, Esquire  
1300 Virginia Drive, Suite 325  
Fort Washington, PA 19034  
Tel: 215-542-7070  
Fax: 215-542-0723  
E-mail: [gtkupniewski@starfieldsmith.com](mailto:gtkupniewski@starfieldsmith.com)

*Proposed Counsel to the Debtor*

## **Barnes, Elizabeth**

---

**From:** Barnes, Elizabeth  
**Sent:** Monday, May 04, 2015 2:38 PM  
**To:** 'Greg Kupniewski'; 'Povilaitis, John F.'; William G Schwab  
**Cc:** 'Christopher Wright'; Brown, Kriss; 'Kent Murphy'; 'David MacGregor'; tom.russial@comcast.net  
**Subject:** RE: J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Mr. Kupniewski:

Just a follow-up from our off-the-record phone conference on April 10. If J3 wants a further continuance of the May 27 and May 28 evidentiary hearings or if it wants me to convert the hearings to a prehearing conference, J3 should submit its request in writing since this is opposed by West Penn Power and UGI Development Company.

I might be willing to give one last continuance if J3 has in good faith sought and obtained local counsel and wishes to pursue its complaint against West Penn Power and UGI Development. I would appreciate a status update regarding whether Judge Thomas has authorized the hiring of outside counsel to pursue the complaint and whether counsel has been obtained by J3. Has anything progressed since April 10?

Thank you.

Elizabeth H. Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17015  
phone: (717)772-5408  
e-mail: ebarnes@pa.gov.

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**From:** Greg Kupniewski [mailto:GKupniewski@starfieldsmith.com]  
**Sent:** Tuesday, April 07, 2015 2:28 PM  
**To:** Barnes, Elizabeth; 'Povilaitis, John F.'; William G Schwab  
**Cc:** 'Christopher Wright'; Brown, Kriss; 'Kent Murphy'; 'David MacGregor'; tom.russial@comcast.net  
**Subject:** RE: J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Your Honor:

Attached is the Order converting the J3 case from Chapter 7 to Chapter 11. Please let me know if you would like copies of any of the underlying pleadings.

Respectfully submitted,

-Greg Kupniewski

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**From:** Barnes, Elizabeth [mailto:EBARNES@pa.gov]  
**Sent:** Tuesday, April 07, 2015 1:25 PM  
**To:** Greg Kupniewski; 'Povilaitis, John F.'; William G Schwab

**Cc:** 'Christopher Wright'; Brown, Kriss; 'Kent Murphy'; 'David MacGregor'; [tom.russial@comcast.net](mailto:tom.russial@comcast.net)  
**Subject:** RE: J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Counsel:

Will someone please provide me with a copy of Judge Thomas' last order reconverting the Chp. 7 case back to a Chp. 11 case? Attached is the Order he issued on March 17, 2014 at Docket No. 5:14-00532 JJT, modifying the automatic stay in the first Chp. 11 proceeding enabling Complainant to continue pursuing the instant formal complaint proceeding at the Commission to "decision thereon, and any appeals thereafter." Is there any reason why this Order would not still be in full force and effect? Please be prepared to discuss on Friday.

Thanks.

Elizabeth H. Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17015  
phone: (717)772-5408  
e-mail: [ebarnes@pa.gov](mailto:ebarnes@pa.gov).

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**From:** Barnes, Elizabeth  
**Sent:** Tuesday, April 07, 2015 11:32 AM  
**To:** 'Greg Kupniewski'; 'Povilaitis, John F.'; William G Schwab  
**Cc:** 'Christopher Wright'; Brown, Kriss; 'Kent Murphy'; 'David MacGregor'; [tom.russial@comcast.net](mailto:tom.russial@comcast.net)  
**Subject:** RE: J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Counsel:

An off-the-record telephonic conference will be held this Friday, April 10 at 10:30 a.m. regarding *J3 Energy Group v. West Penn and UGI Development*, Docket No. C-2011-2219920.

PIN: 124096  
Bridge Number: 17176124733  
Toll-free: 18557501027

Please dial in at that time.

Regards,

Elizabeth H. Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17015  
phone: (717)772-5408  
e-mail: [ebarnes@pa.gov](mailto:ebarnes@pa.gov).

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**From:** Greg Kupniewski [mailto:GKupniewski@starfieldsmith.com]  
**Sent:** Tuesday, April 07, 2015 10:17 AM  
**To:** 'Povilaitis, John F.'; Barnes, Elizabeth; William G Schwab  
**Cc:** 'Christopher Wright'; Brown, Kriss; 'Kent Murphy'; 'David MacGregor'; [tom.russial@comcast.net](mailto:tom.russial@comcast.net); Rainey, Charles  
**Subject:** RE: J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Your Honor:

Based on the stated availability below, I am available on April 10 before 2:00, the afternoon of the 13<sup>th</sup>, and the morning of the 15<sup>th</sup>. I am not available after 3:00 on the 14<sup>th</sup> as I have another commitment.

Thank you for arranging the call. I look forward to participating.

-Greg Kupniewski

--  
**Greg T. Kupniewski, Esquire**

### Starfield & Smith, PC

PHONE 215.390.1023 | FAX 215.542.0723

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[vCard](#) | [linkedin](#)

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**From:** Povilaitis, John F. [mailto:[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)]  
**Sent:** Monday, April 06, 2015 3:16 PM  
**To:** Barnes, Elizabeth; William G Schwab  
**Cc:** 'Christopher Wright'; Brown, Kriss; 'Kent Murphy'; 'David MacGregor'; [tom.russial@comcast.net](mailto:tom.russial@comcast.net); Rainey, Charles; Greg Kupniewski  
**Subject:** RE: J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Your Honor,

West Penn can participate in a conference call April 10, the afternoon of the 13<sup>th</sup>, after 3:00 on the 14<sup>th</sup> and the morning of the 15<sup>th</sup>. Thank you for considering everyone's schedule.

**John Povilaitis**  
Shareholder

409 North Second Street  
Suite # 500  
Harrisburg, PA 17101-1357

717 237 4825 (o)  
717 512 2744 (c)  
[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)

[vCard](#) | [Bio](#) | [BIPC.com](#) | [Twitter](#) | [LinkedIn](#)

**Buchanan Ingersoll & Rooney PC**

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KNOW GREATER PARTNERSHIP

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**From:** Barnes, Elizabeth [<mailto:EBARNES@pa.gov>]  
**Sent:** Friday, April 03, 2015 4:23 PM  
**To:** William G Schwab  
**Cc:** 'Christopher Wright'; Brown, Kriss; Povilaitis, John F.; 'Kent Murphy'; 'David MacGregor'; [tom.russial@comcast.net](mailto:tom.russial@comcast.net);  
Raine, Charles; [qkupniewski@starfieldsmith.com](mailto:qkupniewski@starfieldsmith.com)  
**Subject:** J3 Energy Group v. West Penn and UGI Development, Docket No. C-2011-2219920

Gentlemen:

I am in receipt of the letter from William Schwab dated April 2, 2015, which I will ask the Secretary to attach to C-2011-2219920. I'd like to schedule a phone conference (off the record) to discuss the suspended litigation schedule. Please be prepared to discuss the following: 1) whether the Commission has permission from the Bankruptcy Judge Thomas to proceed with the Complaint; 2) potential hearing dates; 3) Mr. Greg Kupniewski, Esquire entering a notice of appearance; 4) removal of Mr. Schwab's name from the service list; 5) Thomas Russial's role or notice of withdrawal of counsel; 6) any other matters the parties would like to discuss. It is my current opinion that a pending Chp. 11 bankruptcy petition cannot indefinitely stay the instant proceeding. However, I am willing to give new counsel, Mr. Kupniewski some time to agree to the terms of the protective order, review the case, and prepare for a hearing. I may schedule a formal prehearing conference after the phone conference. **Please advise as to your availability for a phone conference April 6-16.**

Thank you.

Have a nice weekend.

Elizabeth H. Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17015  
phone: (717)772-5408  
e-mail: [ebarnes@pa.gov](mailto:ebarnes@pa.gov).

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