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October 2, 2015

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
Harrisburg, PA 17120

Re: Unified Energy Alliance, LLC v. Rodger K. Walter, et al.; Docket No. C-2015-2492473; **NAVIGATE POWER, LLC'S PREHEARING CONFERENCE MEMORANDUM**

Dear Secretary Chiavetta:

Enclosed you will find the Prehearing Conference Memorandum of Navigate Power, LLC in the above-captioned proceeding. Copies of this document will be served in accordance with the Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact the undersigned at (717) 236-1300.

Very truly yours,



Thomas J. Sniscak
Christopher M. Arfaa

Counsel to Navigate Power, LLC

CMA/das
Enclosure

cc: Honorable Elizabeth H. Barnes
Per Certificate of Service

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

UNIFIED ENERGY ALLIANCE, LLC

v.

NAVIGATE POWER, LLC, *et al.*

Docket No. C-2015-2492473

**INITIAL PREHEARING CONFERENCE MEMORANDUM
OF
NAVIGATE POWER, LLC**

Pursuant to 52 Pa. Code § 5.222(d)(1) and the August 11, 2015 Prehearing Conference Order in the above-captioned matter, Respondent Navigate Power, LLC (“Navigate Power”), by its counsel, Hawke McKeon & Sniscak LLP, respectfully submits this Initial Prehearing Conference Memorandum.

a.) Service List and Distribution List

The following person should be entered on the service list for Navigate Power:

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Navigate Power respectfully requests that the following additional person be added to any e-mail distribution lists for this matter: Thomas J. Sniscak, tjsniscak@hmslegal.com.

b.) Statement of possible settlement

No settlement discussions have occurred to date. Navigate Power is of course willing to discuss an amicable resolution subject to approval of the Pennsylvania Public Utility Commission (the “Commission”).

c.) Proposed plan and schedule of discovery

In order to facilitate the efficient and timely resolution of this matter, Navigate Power proposes the following modification of the Commission’s discovery procedures:

1. Discovery requests, responses, objections, and motions to dismiss objections and compel responses are to be served by electronic mail as well as by first class mail. The date of service shall be the day the document is transmitted by electronic mail prior to 4:30 p.m. local prevailing time in Harrisburg, Pennsylvania; provided, however, that for purposes determining subsequent due dates under these modified procedures, all discovery requests, answers, objections, and discovery-related motions served on a Friday or on the day before a holiday recognized by the Commission will be deemed to have been served on the following business day.
3. Responses to written interrogatories, requests for production and requests for admissions shall be served within ten (10) calendar days after electronic service. Responses may be served electronically but hard copies must follow by first-class mail.
4. Objections to written interrogatories, requests for production and requests for admissions shall be served within five (5) calendar days of electronic service.
5. Motions to dismiss objections and compel responses shall be filed and served on the ALJ and other parties within five (5) calendar days of electronic service of the objections. Answers to such motions shall be filed and served within three (3) calendar days after service of the motion.
6. The parties shall confer and attempt to resolve motions to dismiss objections and compel responses. If the objections that are the subject of the motion are not resolved, counsel will alert the ALJ by email of the need for a ruling, and a telephonic hearing on the motion may be scheduled.

7. Interrogatories, requests for production and requests for admissions which are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
8. Pursuant to 52 Pa.Code § 5.341(b), neither interrogatories nor responses are to be served on the Commission or the ALJ, although a certificate of service may be filed with the Commission's Secretary.

d.) Other proposed orders with respect to discovery

The litigation of this matter will likely require the discovery, disclosure and admission of confidential proprietary information of the respective parties. The parties are in the process of negotiating the terms of an appropriate protective agreement and order.

e.) Proposed schedule for the submission of written testimony, an in-person hearing, and submission of briefs

In order to facilitate the efficient and timely resolution of this matter, Navigate Power proposes the following schedule for the submission of written testimony, holding of evidentiary hearings, and submission of briefs:

Complainant's written testimony served	11/4/2015
Respondents' written testimony served	12/16/2015
Close of discovery	1/13/2016
Complainants' oral rejoinder outline served	1/27/2016
Evidentiary hearings	2/8/2016 - 2/9/2016
Main briefs filed and served	3/8/2016
Reply briefs filed and served	3/22/2016

f.) Names, business addresses, and telephone numbers of witnesses expected to be called and subject matter of testimony

Navigate Power currently expects to call representative(s) of Navigate Power to testify with respect to the allegations set forth in the Complaint and in Navigate Power's Answer and New Matter. The Complainant bears the burden of proof and initial burden of going forward in this matter. Navigate Power's determination as to the witnesses to call in this matter necessarily depends in part on the evidence submitted by Complainant Unified Energy Alliance, LLC. ("UEA") in support of the Complaint and on information produced by the other parties in discovery. Navigate Power therefore respectfully reserves the right to identify and call additional witnesses in its case in chief and in rebuttal.

g.) List of the issues and sub-issues of this proceeding which the party intends to address and statement of position

Navigate Power currently expects to address the following issues:

1. Whether Complainant has a direct, immediate and substantial interest protected by the Commission regulations that the Complaint seeks to enforce.

Navigate Power position: UEA has not demonstrated such an interest. To the contrary, upon information and belief UEA's true interest in this proceeding is that of a market participant seeking to use the regulatory process to hobble a competitor.

2. Whether agents or representatives of Navigate Power have provided inaccurate or misleading information to customers or potential customers.

Navigate Power position: agents or representatives of Navigate Power have not provided inaccurate or misleading information to customers or potential customers.

3. Whether agents or representatives of UEA have provided inaccurate or misleading information to customers or potential customers.

Navigate Power position: upon information and belief, agents or representatives of UEA have provided inaccurate or misleading information to misled customers or potential customers.

4. Whether agents or representatives of UEA have engaged in “slamming.”

Navigate Power position: agents or representatives of Navigate Power have not engaged in “slamming.”

4. Whether alleged customer complaints of “slamming” and other conduct were produced by distortions or misrepresentations by UEA and/or scripted by UEA and its representatives.

Navigate Power position: upon information and belief, alleged customer complaints “slamming” and other conduct were promoted by distortions or misrepresentations by UEA and/or scripted by UEA and its representatives.

5. Whether agents or representatives of Navigate Power failed to provide proper agent identification and/or misrepresented their agency to a consumer.

Navigate Power position: agents or representatives of Navigate Power have not failed to provide proper agent identification and/or misrepresented their agency to a consumer.

The Complainant bears the burden of proof and initial burden of going forward in this matter. Navigate Power’s determinations as to issues and sub-issues it will address, and its positions thereon, necessarily depend in part on the evidence submitted by Complainant Unified Energy Alliance, LLC. (“UEA”) in support of the Complaint and on information produced by the other parties in discovery. Navigate Power therefore respectfully reserves the right to address issues and take positions in addition to or different from those listed above.

h.) Statement describing the evidence the party proposes to present at the hearing, relating the evidence to each of the issues and sub-issues:

Navigate Power currently expects to present the following evidence at the hearing in this matter:

1. Testimony of representatives of Navigate Power;
2. Testimony of Respondents other than Navigate Power;
3. Business records of Navigate Power;
4. Business records of Respondents other than Navigate Power;
5. Business records of UEA;
6. Answers of UEA to interrogatories and requests for admission; and
7. Public records pertaining to UEA and its officers, directors and employees.

The Complainant bears the burden of proof and initial burden of going forward in this matter. Navigate Power's determination as to the evidence it proposes to present at the hearing necessarily depends in part on the evidence submitted by Complainant Unified Energy Alliance, LLC. ("UEA") in support of the Complaint and on information produced by the other parties in

discovery. Navigate Power therefore respectfully reserves the right to present evidence in addition to or different from the evidence described above.

Dated: October 2, 2015

Respectfully submitted,



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Counsel for Navigate Power, LLC

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 the manner indicated below, and in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Via Electronic and First Class U.S. Mail


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Dated: October 2, 2015