

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2023-3041126
	:	
Planet Energy (Pennsylvania) Corporation d/b/a	:	
RiteRate Energy d/b/a Value Plus Energy	:	

SETTLEMENT AND BRIEFING ORDER

On June 1, 2023, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) filed a Formal Complaint against Planet Energy (Pennsylvania) Corporation d/b/a RiteRate Energy d/b/a Value Plus Energy (Planet Energy), docket number C-2023-3041126. The Formal Complaint was served on Planet Energy on June 6, 2023.

I&E’s Formal Complaint alleges Planet Energy, a jurisdictional electric generation supplier licensed by the Commission at Docket No. A-2011-2223534, unilaterally canceled customer fixed-rate contracts without proper notification and failed to abide by the terms and conditions of the customers’ fixed-rate contracts. I&E asserts the Commission’s Bureau of Consumer Services received numerous complaints from Planet Energy customers who reported entering into fixed-rate contracts with Planet Energy and subsequently were returned to default service prior to the expiration of the contract where the only notification of the change in the electric generation service was through notice by the local electric distribution company, not Planet Energy. Accordingly, I&E alleges Planet Energy violated Sections 54.10, 54.5, 54.43, and 54.41 of the Commission’s regulations, and proposes a total civil penalty of \$2,845,000. Additionally, I&E seeks revocation of Planet Energy’s license to provide electric generation services in Pennsylvania.

On June 19, 2023, Planet Energy filed an answer to I&E’s Formal Complaint.

On June 21, 2023, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for August 2, 2023, at 10:00 a.m. On June 22, 2023, I issued a prehearing order, setting forth various rules that would govern the evidentiary hearing.

On July 13, 2023, the Pennsylvania Office of Consumer Advocate (OCA) filed a notice of intervention and public statement. On July 24, 2023, the Pennsylvania Office of Small Business Advocate (OSBA) filed a notice of intervention and public statement.

On July 25, 2023, Planet Energy filed a motion for continuance, requesting a 30-day continuance of the August 2, 2023 hearing. On July 31, 2023, an order was issued granting the motion, and setting a prehearing conference for September 20, 2023.

The prehearing conference was held as scheduled on September 20, 2023. Counsel for Planet Energy, I&E, the OCA, and the OSBA participated. Also on September 20, 2023, I issued a scheduling order memorializing the procedural matters discussed and agreed to by the parties during the prehearing conference, including due dates for submission of pre-served written testimony and an evidentiary hearing date of January 23, 2024.

On October 11, 2023, I issued an order directing parties to submit briefs regarding whether the Canadian bankruptcy proceeding of Planet Energy's parent entity affects the process of this proceeding. On October 19, 2023, Planet Energy and I&E filed briefs in response to the October 11, 2023 order. On October 27, 2023, I issued an order directing parties to continue to adhere to the scheduling order issued on September 20, 2023.

Also on October 27, 2023, I issued an order approving the parties' request for a second Administrative Law Judge (ALJ) to serve as a Settlement Judge to this proceeding. On December 6, 2023, ALJ Steven K. Haas issued an order, terminating the Settlement Judge procedure established in the October 27, 2023 order.

Planet Energy, I&E, and the OCA filed pre-served written direct testimony on November 30, 2023. I&E and the OCA filed pre-served rebuttal testimony on January 4, 2024. A telephone evidentiary hearing was held on January 23, 2024. The pre-served testimony and any associated exhibits were admitted into the record at the evidentiary hearing. During the evidentiary hearing, parties also stated that settlement discussions were ongoing. Therefore, I directed parties to provide me a status report by February 13, 2024.

Parties have provided me ongoing status reports. On May 1, 2024, Jordan Small, the witness for Planet Energy, filed a request to withdraw his appearance and testimony from this proceeding. On May 1, 2024, I wrote to the parties by e-mail, stating that, since Mr. Small is not counsel for Planet Energy, it is unclear what is meant by his request to remove his appearance. Additionally, Mr. Small's testimony was admitted into the record at the evidentiary hearing, so there is no basis to remove his testimony from the record. Additionally, I wrote that, while I am fine with providing the parties the opportunity to finalize settlement, I cannot let settlement discussions go on indefinitely, especially as it was unclear from status updates why settlement had not been finalized. Section 5.483 of the Commission's regulations provides presiding officers with the authority to regulate the course of proceedings. 52 Pa.Code § 5.483(a). Therefore, in the same e-mail, I wrote that a due date for the settlement to be filed would be June 14, 2024, and if a party is not joining the settlement, June 28, 2024 would be the due date for comments/objections to the settlement. Additionally, if parties are unable to reach a settlement, then July 12, 2024 would be the due date for main briefs, and July 26, 2024 would be the due date for reply briefs. The purpose of this order is to formally memorialize the instructions provided in my May 1, 2024 e-mail.

THEREFORE,

IT IS ORDERED:

1. That, if parties finalize a settlement, a Joint Petition for Settlement shall be filed by June 14, 2024;

2. That the Joint Petition for Settlement shall be accompanied by Statements in Support from each party joining the Joint Petition for Settlement;
3. That the Statements in Support shall include cites to the evidentiary record in support of the Joint Petition for Settlement;
4. That the Statements in Support of the proposed settlement shall include a discussion of the civil penalty factors set forth in 52 Pa.Code § 69.1201. If the settlement agreement does not provide for the payment of a civil penalty, the parties shall explain why a penalty is not recommended or appropriate.
5. That the Joint Petition for Settlement may be accompanied by a Stipulation of Facts;
6. That if a party does not join the Joint Petition for Settlement, objections or comments to the proposed settlement are due by June 28, 2024;
7. That if a Joint Petition for Settlement is not filed by June 14, 2024, Main Briefs are due by July 12, 2024;
8. That if a Joint Petition for Settlement is not filed by June 14, 2024, Reply Briefs are due by July 26, 2024;
9. That the briefs must substantially comply with the Commission's regulations at 52 Pa.Code §§ 5.501, 5.502;
10. That the parties are advised not to include any extra-record evidence in any documents filed pursuant to the above ordering paragraphs;
11. That any documents filed pursuant to the above ordering paragraphs shall be filed with the Commission no later than 4:30 p.m. on the due date;

12. That the parties are to e-mail me a copy of their as-filed briefs in a WORD-formatted document in addition to ADOBE or other compatible PDF format;

13. That the record will be closed by order either a) after the Joint Petition to Settlement is filed and, if applicable, any comments or objections to the proposed settlement are filed, or b) after reply briefs are filed.

Date: May 9, 2024

/s/
John M. Coogan
Administrative Law Judge

C-2023-3041126 - BUREAU OF INVESTIGATION & ENFORCEMENT v. PLANET ENERGY (PENNSYLVANIA) CORPORATION D/B/A RITERATE ENERGY D/B/A VALUE PLUS ENERGY

MICHAEL L SWINDLER ESQUIRE
BUREAU OF INVESTIGATION
AND ENFORCEMENT
400 NORTH STREET
PO BOX 3265
HARRISBURG PA 17105-3265
717.783.6369
mwindler@pa.gov
Accepts eService

BRIAN BOYLE ESQUIRE
JAYNE RISK ESQUIRE*
DLA PIPER
1650 MARKET STREET SUITE 5000
PHILADELPHIA PA 19103
215.656.2450
215.656.3300
brian.boyle@us.dlapiper.com
jayne.risk@us.dlapiper.com
Accepts eService
**Served via email and first class mail*
Represents Planet Energy

DAVID EVRARD ESQUIRE
OFFICE OF CONSUMER ADVOCATE
555 WALNUT STREET 5TH FLOOR
HARRISBURG PA 17101
717.783.5048
devrard@paoca.org
Served via email and first class mail

SHARON E WEBB ESQUIRE
OFFICE OF SMALL BUSINESS ADVOCATE
FORUM PLACE
555 WALNUT STREET 1ST FLOOR
HARRISBURG PA 17101
717.783.2525
swebb@pa.gov
Served via first class mail