

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Green Mountain Energy Resources, : A-110073  
LLC for approval to offer, render, or furnish :  
electricity or electric generation services as a :  
broker/marketer engaged in the business of :  
supplying electricity and as an aggregator engaged :  
in the business of supplying electricity to the public :  
in the Commonwealth of Pennsylvania :  
:  
and :  
:  
Petition of Green Mountain Energy Resources, : P-00011925  
LLC for partial waiver of 52 Pa. Code 54.40 :

DOCUMENT  
FOLDER

PROTECTIVE ORDER

DOCKETED  
OCT 28 2003

At the October 16, 2003 hearing in this proceeding, the parties submitted a "Stipulated Protective Agreement", and requested that the agreement be made the subject of a Protective Order in this proceeding. In the absence of any objection, that request was granted.

In consideration of the terms of the Stipulated Protective Agreement and the on-the-record request of the parties, IT IS ORDERED THAT:

1. The information subject to this Stipulated Protective Agreement is all correspondence, documents, data, information, studies, methodologies and other materials, furnished in this proceeding, which are believed by Green Mountain, OCA, Duquesne, PECO, or EAP to be of a proprietary or confidential nature and which are so designated by being marked "Confidential". Such materials will be referred to below as "Proprietary Information." When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated for the record.

2. Proprietary Information shall be made available to counsel for the receiving party subject to the terms of this Stipulated Protective Agreement. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, counsel for the receiving party may afford access to Proprietary Information made available by Green Mountain, OCA, Duquesne, PECO, or EAP only to the receiving party's expert(s) *or to Duquesne and PECO's employees who, on a need-to-know basis, must have access to the Proprietary Information for the purposes of preparing for and participating in this proceeding*, subject to the terms of this Stipulated Protective Agreement. *Such experts or Duquesne or PECO employees shall use the Proprietary Information solely for the purpose of this proceeding and, except as provided in this agreement or as required by applicable law, shall not disclose any Proprietary Information to any person or entity*. However, said expert(s) may not be a "Restricted Party."

For the purpose of this Stipulated Protective Agreement, "Restricted Party" shall mean: (a) an officer, director, stockholder, partner, owner or employee of any competitor of the producing party *(but excluding employees of Duquesne and PECO as provided in the foregoing paragraph)*; or (b) an officer, director, stockholder, partner, owner or employee or any affiliate of a competitor of the producing party; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Stipulated Protective Agreement, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establishes a significant motive for violation.

If an expert for the receiving party, another member of that expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Party, said expert must: (1) identify, for the producing party, each Restricted Party and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Party, and (3) if segregation of such personnel is impractical, the expert shall give to the

producing party written assurances that the lack of segregation will in no way jeopardize the interests of the producing party. The producing party retains the right to challenge the adequacy of the written assurances that the producing party will not be jeopardized. No other persons may have access to the Proprietary Information except as authorized by order of the Commission or of the presiding Administrative Law Judge.

3. Prior to making Proprietary Information available to an expert as provided in paragraph 2, the receiving party shall deliver a copy of this Stipulated Protective Agreement to such expert and shall receive a written acknowledgment from the expert in the form attached as Appendix A to this Stipulated Protective Agreement or similar acknowledgment consistent with the terms of this Stipulated Protective Agreement. The producing party shall be notified promptly of the identity of all persons provided access to Proprietary Information pursuant to this paragraph and paragraph 2 and shall be provided with a copy of each acknowledgment signed by each expert.

4. The producing party shall designate data or documents as constituting or containing Proprietary Information by marking the documents "Confidential." Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served upon the receiving party only in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked "CONFIDENTIAL."

5. The receiving party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act, as set forth at 65 P.S. § 66.1, until such time as the information is found to be non-proprietary.

6. Any public reference to Proprietary Information by the receiving party or its expert(s) shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

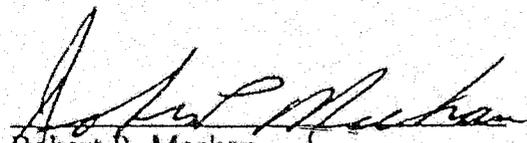
7. The part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, direct testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 6 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Stipulated Protective Agreement, either through the agreement of the parties to this Stipulated Protective Agreement or pursuant to an order of the Administrative Law Judge or the Commission.

8. The receiving party shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If the receiving party challenges the designation of a document or information as proprietary by the producing party, the producing party retains the burden of demonstrating that the designation is appropriate.

9. The producing party shall retain the right to question or challenge the admissibility of Proprietary Information; to refuse to produce or object to the production of Proprietary Information on any proper ground; and to seek additional measures of protection of Proprietary Information beyond those provided in this Stipulated Protective Agreement.

10. Within 30 days after a Commission decision is entered in the above-captioned proceedings, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the producing party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that receiving party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the

copies of documents and other materials containing Proprietary Information to the producing party, the receiving party shall certify in writing to the producing party that the Proprietary Information has been destroyed.

  
Robert P. Meehan  
Administrative Law Judge

Date: October 21, 2003

APPENDIX A

Application of Green Mountain Energy Resources, : A-110073  
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in the business of supplying electricity to the public :  
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Petition of Green Mountain Energy Resources, : P-00011925  
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TO WHOM IT MAY CONCERN:

The undersigned is an independent expert of the receiving party, \_\_\_\_\_  
\_\_\_\_\_ and is not, or has no knowledge or basis for believing  
that he/she is a "Restricted Party" as that term is defined in paragraph no. 2, pages 2-3 of the  
Stipulated Protective Agreement executed by counsel for the receiving party with regard to the  
above-referenced proceeding. The undersigned has read and understands the Stipulated  
Protective Agreement agreed to in the above-referenced proceeding, which Stipulated Protective  
Agreement deals with the treatment of Proprietary Information. The undersigned agrees to be  
bound by, and comply with, the terms and conditions of said Stipulated Protective Agreement.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
EMPLOYER