



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE
Q&A# 2003 0161

August 8, 2003

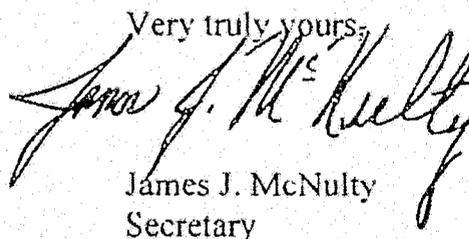
Kathryn G. Sophy, Esquire
Rhoads & Sinon, LLP
One South Market Square, 12th Floor
P.O. Box 1146
Harrisburg, PA 17108

Re: PUC Docket Nos. A-110073 and P-00011925; *Petition of Green Mountain Energy Company For Partial Waiver of the Provisions of 52 Pa.Code §54.40 (Relating to Bonds or Other Security) and Green Mountain Energy Company's Petition For Abeyance.*

Dear Ms. Sophy:

Upon due consideration of Green Mountain Energy Company's Petition For Abeyance filed on July 22, 2003, in the above-referenced proceeding, there being no objection filed against said Petition, it is hereby directed said Petition is granted in part. The Commission does not agree with Green Mountain's proposal in paragraph 14 of its Petition that it maintain its current bonding level of \$1.8 million until such time as the final regulations require a different level. Therefore, Green Mountain is directed to maintain its bonding levels consistent with regulatory requirements at 52 Pa.Code §54.40 pending the outcome of the rulemaking proceeding at L-00020158 and P-00021938.

Very truly yours,



James J. McNulty
Secretary

Enclosure.

cc: Certificate of Service List of Green Mountain Energy's Petition dated July 22, 2003
Elizabeth H. Barnes, Assistant Counsel

DOCUMENT
FOLDER

DOCKETED
OCT 17 2003



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
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August 20, 2003

In Re: A-110073, P-00011925

KAREN O'NEIL VP
GREEN MOUNTAIN ENERGY RESOURCES LLC
55 GREEN MOUNTAIN DRIVE
PO BOX 2206
SOUTH BURLINGTON PA 05407-2206

~~PLEASE DO NOT~~

Green Mountain Energy Company

Hearing Cancellation Notice

This is to inform you that the Initial and Further Hearings on the above-captioned case now scheduled to be held on Tuesday-Wednesday, August 26 at 10:00 a.m. and August 27 and 28, 2003 at 9:00 a.m. have been canceled.

Presiding: Administrative Law Judge Robert P. Meehan
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

Please mark your records accordingly.

DOCUMENT



COMMONWEALTH OF PENNSYLVANIA
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IN REPLY PLEASE
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August 20, 2003

In Re: A-110073, P-00011925

VERONICA M FALLON ESQUIRE
55 GREEN MOUNTAIN DRIVE
PO BOX 2206
SOUTH BURLINGTON VT 05407-2206

~~PLEASE CONTACT~~

Green Mountain Energy Company

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August 20, 2003

In Re: A-110073, P-00011925

DAVID RAPHAEL DIR
GREEN MTN ENERGY RESOURCES LLC
55 GREEN MTN DRIVE
PO BOX 2206
SOUTH BURLINGTON VT 05407-2206

DOCUMENT
FOLDER

PLEASE LOCKET

Green Mountain Energy Company

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REFER TO OUR FILE

August 20, 2003

In Re. A-110073, P-00011925

(See letter dated 07/24/2003)

DOCUMENT
FOLDER

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300 Liberty Avenue
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Fax: (412) 565-5692

DOCKETED
AUG 26 2003

Please mark your records accordingly.

pc: Judge Meehan
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

RHOADS & SINON LLP

ORIGINAL

ATTORNEYS AT LAW

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August 25, 2003

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¹ ALSO ADMITTED TO THE DISTRICT OF COLUMBIA BAR
² ALSO ADMITTED TO THE FLORIDA BAR
³ ALSO ADMITTED TO THE MARYLAND BAR
⁴ ALSO ADMITTED TO THE NEW JERSEY BAR
⁵ ALSO ADMITTED TO THE NEW YORK BAR

Re: Petition of Green Mountain Energy Company for Partial
Waiver of the Provisions of 52 Pa. Code § 54.40 (Relating
to Bonds or Other Security)

Docket Nos. A-110073 & P-00011925

RECEIVED

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor, M-West
Harrisburg, PA 17120

DOCUMENT

AUG 25 2003
DA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Secretary McNulty:

Enclosed for filing on behalf of Green Mountain Energy Company are the original and three copies of its Petition for Reconsideration, Amendment, or Clarification. A copy of this document has been served on all parties, as evidenced by the attached Certificate of Service.

Please call me if you have any questions about this filing.

Sincerely,

RHOADS & SINON LLP

By: *James H. Cawley*
James H. Cawley

cc: Service List
Chairman, Vice-Chairman, and Commissioners

21

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Green Mountain Energy Company :
for Partial Waiver of the Provisions of : Docket Nos. A-110073 &
52 Pa. Code § 54.40 : P-00011925
(Relating to Bonds or Other Security)

DOCKETED
AUG 28 2003

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Green Mountain Energy Company's
Petition for Reconsideration, Amendment, or Clarification

AUG 25 2003

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Green Mountain Energy Company ("Green Mountain"), pursuant to 52 Pa. Code § 5.572(c), petitions the Commission to reconsider or clarify its August 8, 2003,

Secretarial Letter granting in part Green Mountain's petition for abeyance.

DOCUMENT

1. On March 24, 2003, Green Mountain filed with the Commission a Petition For Partial Waiver of the Provisions of the Commission's Regulations at 52 Pa. Code § 54.40 (Relating To Bonds Or Other Security) asking the Commission to lower its bond level.

2. Duquesne Light Company ("Duquesne"), the Office of Consumer Advocate ("OCA"), the Energy Association of Pennsylvania ("EAP") and PECO Energy Company ("PECO") answered, protested, or opposed the petition.

3. Each of these parties urged the Commission to either deny Green Mountain's request to reduce its security requirement or to defer action until the Commission's proposed rulemaking regarding Section 54.40 of Title 52 of the Pennsylvania Code is final. *Advance Notice of Proposed Rulemaking for Revision of*

Chapter 54 of the Pennsylvania Code Pertaining To Electric Generation Supplier Licensing, Docket Nos. P-00021938 and L-00020158.

4. On June 23, 2003, the Commission by Order directed that Green Mountain's Petition for Partial Waiver be the subject of evidentiary hearings in order to permit a final Commission order no later than October 30, 2003.

5. Not wanting the hearings on its petition to be a surrogate proceeding for the rulemaking, Green Mountain on July 22, 2003, filed a Petition for Abeyance asking the Commission to hold the scheduled evidentiary proceeding in abeyance until completion of the rulemaking, and to allow Green Mountain to maintain its current bonding level until such time as the final regulations require a different level of security.

6. Before filing the Petition for Abeyance, Green Mountain contacted the other parties to this proceeding to inform them of the contents of the petition and to seek their support or "no objection." Green Mountain's counsel was authorized to represent in the petition that Duquesne and the EAP supported the petition for abeyance, and that the OCA and PECO had no objection to holding the matter in abeyance until the rulemaking became final.

7. On August 8, 2003, the Commission's Secretary issued a Secretarial Letter (a copy of which is attached hereto) which stated in its entirety:

Upon due consideration of Green Mountain Energy Company's Petition for Abeyance filed on July 22, 2003, in the above-referenced proceeding, there being no objection filed against said Petition, it is hereby directed said Petition is granted in part. The Commission does not agree with Green Mountain's proposal in paragraph 14 of its Petition that it maintain its current bonding level of \$1.8 million until such time as the final regulations require a different level. Therefore, Green Mountain is directed to maintain its bonding levels consistent with regulatory requirements at 52 Pa. Code §54.40 pending the outcome of the rulemaking proceeding at L-00020158 and P-00021938.

8. Although the Commission is certainly not required to grant a petition simply because all parties to the proceeding either support it or have no objection to it, Green Mountain believes that it is significant and persuasive that such parties either supported the petition or had no objection to it. The wording of the Secretarial Letter may simply have resulted from some confusion about what the effect would be of granting the Petition for Abeyance "in part." The actual effect is to deny Green Mountain's original Petition for Partial Waiver rather than hold it in abeyance. Green Mountain would be required to increase its current bonding level by several million dollars. As its Petition for Partial Waiver explained, Green Mountain firmly believes that a reduced bonding level would adequately cover the risk of non-payment of its Gross Receipts Tax liability, and therefore that its current bonding level is excessive under the circumstances (since Green Mountain's rates are at a premium to the "price to compare" for all but its PECO CDS customers, there is no risk that any of its customers will lose the benefit of guaranteed savings). Also, in four months time, Green Mountain's customer level will drop substantially because of the end of its CDS agreement with PECO.

9. Meanwhile, Green Mountain on March 15, 2003, prepaid in full its required 2003 Gross Receipts Tax. In mid-March 2004, Green Mountain will again prepay its Gross Receipts Tax. Green Mountain has, since the receipt of its EGS license, fully and timely paid all taxes due the Commonwealth.

10. In short, the Secretarial Letter as written would require Green Mountain's bonding level to go up when its customer level is going down. It is likely that the Commission did not anticipate such a "Catch-22" or mean to create a barrier to continued EGS operation when it promulgated 52 Pa. Code § 54.40. Avoiding this kind of result

should be a focus of the Commission's proposed rulemaking regarding Section 54.40 of Title 52 of the Pennsylvania Code.

11. There may also have been some concern when the Secretarial Letter was prepared that the Commission's rulemaking may require more time to complete than originally anticipated, and that a grant of Green Mountain's Petition for Abeyance would allow the company's current bonding level to remain in effect without further review and discussion during the rulemaking process.

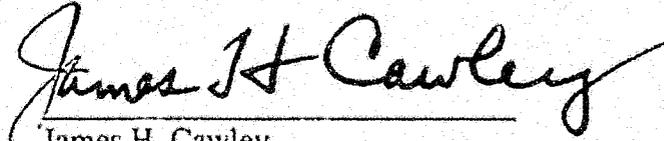
12. It absolutely was not Green Mountain's intention to place itself or the Commission in such a situation. Thus, Green Mountain in paragraph 16 of its Petition for Abeyance offered to provide the Commission with quarterly updates of its Pennsylvania gross receipts if the Commission found such reports useful to ensure timely Commission action should the company's customer level or gross receipts significantly vary from their current levels. It still stands ready to do so.

13. Green Mountain also respectfully suggests that it additionally inform the Commission when it makes its prepayment of Gross Receipts Taxes in mid-March 2004.

14. Then, coincident with its April 30, 2004 annual report to the Commission as required by 52 Pa. Code § 54.39(b), Green Mountain suggests that it meet with Commission staff to discuss the company's customer level (and an appropriate bonding level) in light of the end of its PECO CDS agreement, any significant customer additions resulting from PECO's MST bidding process (in which Green Mountain hopes to participate), and the status of the Commission's rulemaking. Until that meeting, Green Mountain respectfully requests that its current bonding level be maintained as a reasonable and warranted compromise between the amount the company thinks adequate and the much larger amount required by the Secretarial Letter.

WHEREFORE, Green Mountain Energy Company respectfully requests that the Commission reconsider, amend, or clarify its Secretarial Letter in accordance with the company's precautionary suggestions.

Respectfully submitted,



James H. Cawley
RHOADS & SINON LLP
One South Market Square
P. O. Box 3265
Harrisburg, PA 17108
717.233.5731
717.231.6600 (fax)
jcawley@rhoads-sinon.com

Attorney for
Green Mountain Energy Company

Dated: August 25, 2003

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AUG 25 2003

PA PUBLIC UTILITY COMMISSIC
SECRETARY'S BUREAU



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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AUG 11 2003

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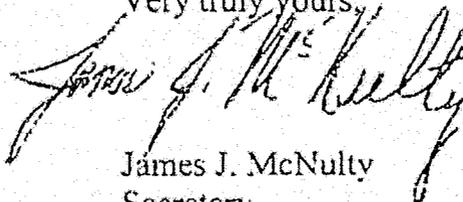
DOCKETED

AUG 28 2003

Dear Ms. Sophy:

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Very truly yours,


James J. McNulty
Secretary

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Elizabeth H. Barnes, Assistant Counsel