

CONTENT OF MOTION:

2 That Green Mountain be given the option of either filing a new bond consistent with 52 Pa. Code §54.40 or pursuing a hearing on its petition for a partial waiver of this regulation.

3 That Green Mountain notify the Secretary of the Commission within three days of the entry date of the Order whether it will file a new bond or whether it will pursue a hearing.

4. That in the event Green Mountain decides to pursue a hearing, the Office of Administrative Law Judge shall conduct an expedited hearing so as to allow the Commission to rule on this matter by Public Meeting of October 30, 2003.

5. That the Law Bureau prepare the appropriate Order consistent with this Motion.



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

September 23, 2003

ENTER IN BOOK 1241

A-110073
P-00011925

JAMES H CAWLEY ESQUIRE
RHODES & SINON LLP
ONE SOUTH MARKET SQUARE
PO BOX 1146
HARRISBURG PA 17108-1146

DOCUMENT
FOLDER

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

SECRET

SEP 29 2003

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on September 18, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty

James J. McNulty
Secretary

Enclosure
Certified Mail
LJM

See attached listing for additional
parties of record

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held September 18, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Glen R. Thomas
Kim Pizzingrilli

RECEIVED
SEP 29 2003

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

Docket Numbers:
A-110073
P-00011925

ORDER

DOCUMENT
FOLDER

BY THE COMMISSION:

Presently before this Commission for consideration is Green Mountain Energy Company's (Green Mountain) Petition for Reconsideration, Amendment, or Clarification of this Commission's Secretarial Letter dated August 8, 2003, which had granted in part Green Mountain's Petition for Abeyance. Underlying this Petition for Reconsideration is a series of requests for waivers of the Commission's security requirements for electric generation suppliers. *See* 52 Pa.Code §54.40.

Procedural History

Green Mountain is a licensed electric generation supplier in the Commonwealth of Pennsylvania having been granted a permanent license on January 14, 1999. As part of the application process Green Mountain posted a letter of credit in the amount of \$250,000, as required by 66 Pa. C.S. §2809(c) and 52 Pa.

Code §54.40(a) and (c). On October 3, 2000, Green Mountain petitioned for a waiver of 52 Pa.Code §54.40 requesting that it be allowed to maintain the initial minimum license security requirement of \$250,000. Said petition was denied by Commission Order entered October 25, 2000, at P-00001845. A Petition for Reconsideration was also denied on December 20, 2000 at P-00001845. Since November 5, 2000, the Company has maintained a letter of credit in the amount of \$1,803,608, which has an expiration date of November 4, 2003.

On October 19, 2001, Green Mountain again filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40 (relating to bonds or other security), at Docket No. P-00011925, requesting an adjustment in its bonding level based on revenues for the year 2000. The Commission never ruled on that petition, and Green Mountain's revenues continued to increase. However, instead of seeking higher security, Green Mountain has been maintaining its security at the same amount, \$1,803,608.

On March 24, 2003, Green Mountain filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40(d) (relating to bonds or other security). Green Mountain requested that the Commission approve the partial waiver in order to adjust the level of Green Mountain's EGS license bond requirement to \$543,609 – a level commensurate with the unique nature of Green Mountain's scope and business operations. Duquesne Light Company, the Office of Consumer Advocate, the Energy Association of Pennsylvania and PECO Energy Company answered, protested or opposed the Petition. These parties either urged the Commission to 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.

On June 12, 2003 Chairman Terrance Fitzpatrick made a motion which carried and an Order was entered on June 23, 2003, directing the petition for reduction of bonding level be assigned to the Office of Administrative Law Judge for a hearing and recommended decision in sufficient time for final Commission action no later than October 30, 2003.

Concurrently, on January 4, 2003, the Commission initiated a rulemaking proceeding at L-00020158 and P-00021938 to determine whether amendments should be made to Chapter 54 of the Pennsylvania Code regarding the bonding and licensing requirements of electric generation suppliers.

On July 22, 2003, Green Mountain petitioned this Commission to stay its hearing pending a resolution to the rulemaking procedure. Green Mountain proposed in its petition to maintain its current bonding level, at \$1,803,608 beyond November 4, 2003, and until such time as the rulemaking is completed.

By Secretarial Letter dated August 8, 2003, the Commission granted in part Green Mountain's petition for abeyance of the hearing. The Commission held in abeyance the hearing regarding Green Mountain's Petition for Partial Waiver of its bonding requirements until such time as there was a resolution to the rulemaking proceeding at L-00020158 and P-00021938, but rejected Green Mountain's proposal that it be allowed to maintain its current bonding level of \$1.8 million until such time as the final regulations would require a different level or until such time as there would be a ruling on the Petition for Partial Waiver. The Secretarial Letter directed Green Mountain 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.

DISCUSSION

Consistent with Section 703(g) of the Public Utility Code, 66 Pa.C.S. §703(g), Section 5.572 of our regulations, 52 Pa.Code §5.572, and judicial and administrative precedent, the standards for a petition for relief following a final decision were set forth in *Duick v. PGW*, 56 Pa.P.U.C. 553 (December 17, 1982)(*Duick*). The *Duick* case held that a petition for reconsideration under Section 703(g) may properly raise any matter designed to convince the Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Furthermore, such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations which appear to have been overlooked or not addressed by us. *Duick* at 559. After review of this petition, we find that while Green Mountain has supplemented the arguments presented in its original Petition for Abeyance, it has not presented any new or novel arguments that convince us to reconsider our original decision of August 8, 2003.

Section 54.40(d) states as follows:

"After the first year that the license is in effect, the security level for each licensee will be reviewed annually and modified primarily based on the licensee's reported annual gross receipts information. The security level will be 10% of the licensee's reported gross receipts. See section 2809 (c)(1)(i) of the code. Maintenance of a license will be contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained. A licensee may seek approval from the Commission of an alternative level of bonding commensurate with the nature and scope of its operations."(Emphasis added).

This Commission intended that 10% of a licensee's reported gross receipts was the primary, but not the only factor that would be taken into account to establish a security level for a licensee's bond after the first year. Thus, 10% of a supplier's reported annual gross receipts is only the starting point. Other factors that must also be considered include the scope and nature of the supplier's business and uncertainties related to the supplier's business operations.

Several entities filed protests opposing Green Mountain's Petition for Partial Waiver of March 24, 2003, ("Waiver Petition") and submit that the Commission should deny the Waiver Petition or at least postpone a decision on the Waiver Petition until the Commission has issued a ruling on the rulemaking at Docket No. L-00020158. Duquesne Light Company filed its protest on April 8, 2003; the Office of Consumer Advocate filed its protest on April 15, 2003; the Energy Association of Pennsylvania filed its protest on April 17, 2003; and PECO Energy Company filed its protest on April 18, 2003. Green Mountain filed a reply to these protests on May 8, 2003 and requests that the Commission reject the oppositions.

Nevertheless, Green Mountain claims that the OCA, Duquesne Light, the Energy Association of Pennsylvania and PECO are all in agreement and do not object with Green Mountain's petition for abeyance. Green Mountain claims that the Commission may have been confused about what the effect would be of granting the petition for abeyance in part. Green Mountain claims that the actual effect is to deny Green Mountain's Petition for Partial Waiver rather than hold it in abeyance. Green Mountain claims that it would be required to increase its current bonding level by several million dollars and that would be excessive. Additionally, Green Mountain claims that in four months, its customer level will drop substantially because of the end of its CDS agreement with PECO.

The Commission is not persuaded by Green Mountain's arguments. First, the Commission was not confused about the effect of granting the petition for abeyance in part. The Commission believes Green Mountain would like to enjoy the benefit of prolonging a decision regarding its petition to reduce its bonding requirements from the level required in our regulations. The Commission recognizes that although Green Mountain's revenues have been increasing since 2001, the company has been enjoying the same bonding level since November 2000, or for 2.5 years, and if its petition were to be granted, it would potentially enjoy this relief for at least 3 years. Further, Green Mountain has neither submitted any information regarding the cost of obtaining the security in the amount that would be required under Section 54.40(d) nor any information about Green Mountain's finances that would support a finding that the reported cost of the required security represents an onerous burden such that an alternative level of bonding would be appropriate.

Section 54.40 of the Pennsylvania Code relating to bonds or other security must be applied fairly to all companies. The issue of whether there is an adequate basis to make a determination as to whether Green Mountain's bonding level should be reduced below that which is required by Section 54.40 is an issue that has been referred to the Office of Administrative Law Judge for hearing and decision. Having made this referral, the Commission is unwilling to make this determination without the benefit of that hearing. Green Mountain must comply with the regulations until such time as a final order is made determining whether a reduction in bonding requirements is warranted due to the nature and scope of business anticipated to be conducted in this Commonwealth.

Green Mountain will be given a choice. Green Mountain may either pursue its Petition for a Partial Waiver of 52 Pa. Code §54.40 at an expedited hearing before an Administrative Law Judge or, in the alternative, file a new security instrument in compliance with 52 Pa. Code §54.40, and the Commission will hold in abeyance the hearing until after the rulemaking at L-00020158 is finalized. If Green Mountain no longer wishes to pursue its waiver petition or if it prefers to have its hearing held in abeyance until after the rulemaking is finalized, it must notify the Secretary of the Commission within three days of the entry date of this Order and must submit to the Commission by October 30, 2003, a security in the amount of ten percent (10%) of its gross receipts as reported in its 2002 Annual Report. This new security must be effective no later than the November 4, 2003 expiration date of its existing security. Failure to provide such security may result in the revocation of Green Mountain's EGS license. THEREFORE,

IT IS ORDERED:

1. That the Petition of Green Mountain Energy Company for Reconsideration, Amendment or Clarification is denied.
2. That the Secretarial Letter dated August 8, 2003, which granted in part an abeyance of the hearing concerning Green Mountain's Petition for Partial Waiver of bonding requirements under 52 Pa.Code §54.40 shall remain in effect.
3. That in order to maintain its electric generation supplier license, Green Mountain Energy Company must either submit to the Commission by October 30, 2003 a replacement bond or other approved security in an amount equal to ten percent of Green Mountain Energy Company's reported annual gross receipts information for the year 2002 to be effective immediately or, in the alternative, Green Mountain may elect to maintain its current bonding level while

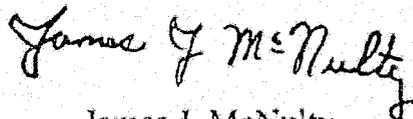
pursuing its Petition for Partial Waiver of Bonding requirements pursuant to 52 Pa. Code §54.40, in an expedited hearing before an Administrative Law Judge.

4. That Green Mountain notify the Secretary of the Commission within three (3) days of the date of entry of this Order whether it will file a new bond or whether it will pursue an expedited hearing.

5. That in the event that Green Mountain decides to pursue a hearing, the Office of Administrative Law Judge shall conduct an expedited hearing in order to afford the Commission time to rule upon this matter by Public Meeting of October 30, 2003.

6. That a copy of this order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania and all electric distribution companies.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 18, 2003

ORDER ENTERED: SEP 23 2003

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105

Petition of Green Mountain Energy Company (Green Mountain) for Reconsideration of the Commission's August 8, 2003 Secretarial Letter granting in part and denying in part Green Mountain's Petition for abeyance

Public Meeting September 18, 2003
SEP-2003-L-0109*

Docket No. ~~P-00032053~~

P-00011925

A-110043

DOCUMENT
OLDER

MOTION OF
CHAIRMAN TERRANCE J. FITZPATRICK

Before the Commission for consideration today is the Petition for Reconsideration, Amendment, or Clarification ("Petition") filed by Green Mountain Energy Company ("Green Mountain") on August 25, 2003. In its Petition, Green Mountain requests that the Commission reconsider or clarify its Secretarial Letter of August 8, 2003.¹ Specifically, Green Mountain requests that the Commission permit it to maintain its current bonding level of \$1.8 million until such time as the Commission adopts new regulations on such bonds or until the Commission rules upon Green Mountain's request for a partial waiver of the existing regulations.

The Energy Association of Pennsylvania submitted a letter in opposition to Green Mountain's Petition for Reconsideration, arguing that the Commission should continue to apply its current Regulations until these Regulations are changed.

The Law Bureau recommends that the Commission deny Green Mountain's Petition and require Green Mountain to submit a bond in the amount of ten percent of its 2002 gross receipts. Without sufficient information to support a variance from our current Regulations, I must agree with this recommendation, however, I also believe that the Commission should--once again--extend to Green Mountain the opportunity for a hearing and a Commission decision on its Petition for Waiver prior to the renewal date of its existing security on

¹ Green Mountain filed a Petition for Waiver of the Regulations on March 24, 2003, requesting a reduction in the level of its EGS financial security pursuant to Commission Regulations at 52 Pa. Code §54.40(d) (relating to bonds or other security). By Order entered June 11, 2003, Green Mountain's Petition of March 24, 2003, was assigned to the Office of Administrative Law Judge ("OALJ") for expedited hearings which would allow this Commission to decide this matter no later than October 30, 2003.

November 4, 2003. If Green Mountain does not wish to pursue its waiver petition, it should notify the Secretary of the Commission within three days of the entry date of the Order and then would be required to comply with the general rule that security shall be provided in the amount of ten percent of gross receipts. THEREFORE, I MOVE:

1. That the recommendation of the Law Bureau be modified consistent with this Motion.
2. That Green Mountain be given the option of either filing a new bond consistent with 52 Pa. Code §54.40 or pursuing a hearing on its petition for a partial waiver of this regulation.
3. That Green Mountain notify the Secretary of the Commission within three days of the entry date of the Order whether it will file a new bond or whether it will pursue a hearing.
4. That in the event Green Mountain decides to pursue a hearing; the Office of Administrative Law Judge shall conduct an expedited hearing so as to allow the Commission to rule on this matter by Public Meeting of October 30, 2003.
5. That the Law Bureau prepare the appropriate Order consistent with this Motion.

DATED: September 18, 2003

Terrance J. Fitzpatrick
TERRANCE J. FITZPATRICK
CHAIRMAN



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
September 23, 2003

File

EX-100 (10/01)

A-110073
P-00011925

TO ALL PARTIES

DOCUMENT

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

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on September 18, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
James J. McNulty
Secretary

Enclosure
Certified Mail
LJM

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held September 18, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Glen R. Thomas
Kim Pizzingriili

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

Docket Numbers:
A-110073
P-00011925

ORDER

BY THE COMMISSION:

Presently before this Commission for consideration is Green Mountain Energy Company's (Green Mountain) Petition for Reconsideration, Amendment, or Clarification of this Commission's Secretarial Letter dated August 8, 2003, which had granted in part Green Mountain's Petition for Abeyance. Underlying this Petition for Reconsideration is a series of requests for waivers of the Commission's security requirements for electric generation suppliers. *See* 52 Pa.Code §54.40.

Procedural History

Green Mountain is a licensed electric generation supplier in the Commonwealth of Pennsylvania having been granted a permanent license on January 14, 1999. As part of the application process Green Mountain posted a letter of credit in the amount of \$250,000, as required by 66 Pa. C.S. §2809(c) and 52 Pa.

Code §54.40(a) and (c). On October 3, 2000, Green Mountain petitioned for a waiver of 52 Pa.Code §54.40 requesting that it be allowed to maintain the initial minimum license security requirement of \$250,000. Said petition was denied by Commission Order entered October 25, 2000, at P-00001845. A Petition for Reconsideration was also denied on December 20, 2000 at P-00001845. Since November 5, 2000, the Company has maintained a letter of credit in the amount of \$1,803,608, which has an expiration date of November 4, 2003.

On October 19, 2001, Green Mountain again filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40 (relating to bonds or other security), at Docket No. P-00011925, requesting an adjustment in its bonding level based on revenues for the year 2000. The Commission never ruled on that petition, and Green Mountain's revenues continued to increase. However, instead of seeking higher security, Green Mountain has been maintaining its security at the same amount, \$1,803,608.

On March 24, 2003, Green Mountain filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40(d) (relating to bonds or other security). Green Mountain requested that the Commission approve the partial waiver in order to adjust the level of Green Mountain's EGS license bond requirement to \$543,609 - a level commensurate with the unique nature of Green Mountain's scope and business operations. Duquesne Light Company, the Office of Consumer Advocate, the Energy Association of Pennsylvania and PECO Energy Company answered, protested or opposed the Petition. These parties either urged the Commission to 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.

On June 12, 2003 Chairman Terrance Fitzpatrick made a motion which carried and an Order was entered on June 23, 2003, directing the petition for reduction of bonding level be assigned to the Office of Administrative Law Judge for a hearing and recommended decision in sufficient time for final Commission action no later than October 30, 2003.

Concurrently, on January 4, 2003, the Commission initiated a rulemaking proceeding at L-00020158 and P-00021938 to determine whether amendments should be made to Chapter 54 of the Pennsylvania Code regarding the bonding and licensing requirements of electric generation suppliers.

On July 22, 2003, Green Mountain petitioned this Commission to stay its hearing pending a resolution to the rulemaking procedure. Green Mountain proposed in its petition to maintain its current bonding level, at \$1,803,608 beyond November 4, 2003, and until such time as the rulemaking is completed.

By Secretarial Letter dated August 8, 2003, the Commission granted in part Green Mountain's petition for abeyance of the hearing. The Commission held in abeyance the hearing regarding Green Mountain's Petition for Partial Waiver of its bonding requirements until such time as there was a resolution to the rulemaking proceeding at L-00020158 and P-00021938, but rejected Green Mountain's proposal that it be allowed to maintain its current bonding level of \$1.8 million until such time as the final regulations would require a different level or until such time as there would be a ruling on the Petition for Partial Waiver. The Secretarial Letter directed Green Mountain 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.

DISCUSSION

Consistent with Section 703(g) of the Public Utility Code, 66 Pa.C.S. §703(g), Section 5.572 of our regulations, 52 Pa.Code §5.572, and judicial and administrative precedent, the standards for a petition for relief following a final decision were set forth in *Duick v. PGW*, 56 Pa.P.U.C. 553 (December 17, 1982)(*Duick*). The *Duick* case held that a petition for reconsideration under Section 703(g) may properly raise any matter designed to convince the Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Furthermore, such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations which appear to have been overlooked or not addressed by us. *Duick* at 559. After review of this petition, we find that while Green Mountain has supplemented the arguments presented in its original Petition for Abeyance, it has not presented any new or novel arguments that convince us to reconsider our original decision of August 8, 2003.

Section 54.40(d) states as follows:

"After the first year that the license is in effect, the security level for each licensee will be reviewed annually and modified primarily based on the licensee's reported annual gross receipts information. The security level will be 10% of the licensee's reported gross receipts. See section 2809 (c)(1)(i) of the code. Maintenance of a license will be contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained. A licensee may seek approval from the Commission of an alternative level of bonding commensurate with the nature and scope of its operations."(Emphasis added).

This Commission intended that 10% of a licensee's reported gross receipts was the primary, but not the only factor that would be taken into account to establish a security level for a licensee's bond after the first year. Thus, 10% of a supplier's reported annual gross receipts is only the starting point. Other factors that must also be considered include the scope and nature of the supplier's business and uncertainties related to the supplier's business operations.

Several entities filed protests opposing Green Mountain's Petition for Partial Waiver of March 24, 2003, ("Waiver Petition") and submit that the Commission should deny the Waiver Petition or at least postpone a decision on the Waiver Petition until the Commission has issued a ruling on the rulemaking at Docket No. L-00020158. Duquesne Light Company filed its protest on April 8, 2003; the Office of Consumer Advocate filed its protest on April 15, 2003; the Energy Association of Pennsylvania filed its protest on April 17, 2003; and PECO Energy Company filed its protest on April 18, 2003. Green Mountain filed a reply to these protests on May 8, 2003 and requests that the Commission reject the oppositions.

Nevertheless, Green Mountain claims that the OCA, Duquesne Light, the Energy Association of Pennsylvania and PECO are all in agreement and do not object with Green Mountain's petition for abeyance. Green Mountain claims that the Commission may have been confused about what the effect would be of granting the petition for abeyance in part. Green Mountain claims that the actual effect is to deny Green Mountain's Petition for Partial Waiver rather than hold it in abeyance. Green Mountain claims that it would be required to increase its current bonding level by several million dollars and that would be excessive. Additionally, Green Mountain claims that in four months, its customer level will drop substantially because of the end of its CDS agreement with PECO.

The Commission is not persuaded by Green Mountain's arguments. First, the Commission was not confused about the effect of granting the petition for abeyance in part. The Commission believes Green Mountain would like to enjoy the benefit of prolonging a decision regarding its petition to reduce its bonding requirements from the level required in our regulations. The Commission recognizes that although Green Mountain's revenues have been increasing since 2001, the company has been enjoying the same bonding level since November 2000, or for 2.5 years, and if its petition were to be granted, it would potentially enjoy this relief for at least 3 years. Further, Green Mountain has neither submitted any information regarding the cost of obtaining the security in the amount that would be required under Section 54.40(d) nor any information about Green Mountain's finances that would support a finding that the reported cost of the required security represents an onerous burden such that an alternative level of bonding would be appropriate.

Section 54.40 of the Pennsylvania Code relating to bonds or other security must be applied fairly to all companies. The issue of whether there is an adequate basis to make a determination as to whether Green Mountain's bonding level should be reduced below that which is required by Section 54.40 is an issue that has been referred to the Office of Administrative Law Judge for hearing and decision. Having made this referral, the Commission is unwilling to make this determination without the benefit of that hearing. Green Mountain must comply with the regulations until such time as a final order is made determining whether a reduction in bonding requirements is warranted due to the nature and scope of business anticipated to be conducted in this Commonwealth.

Green Mountain will be given a choice. Green Mountain may either pursue its Petition for a Partial Waiver of 52 Pa. Code §54.40 at an expedited hearing before an Administrative Law Judge or, in the alternative, file a new security instrument in compliance with 52 Pa. Code §54.40, and the Commission will hold in abeyance the hearing until after the rulemaking at L-00020158 is finalized. If Green Mountain no longer wishes to pursue its waiver petition or if it prefers to have its hearing held in abeyance until after the rulemaking is finalized, it must notify the Secretary of the Commission within three days of the entry date of this Order and must submit to the Commission by October 30, 2003, a security in the amount of ten percent (10%) of its gross receipts as reported in its 2002 Annual Report. This new security must be effective no later than the November 4, 2003 expiration date of its existing security. Failure to provide such security may result in the revocation of Green Mountain's EGS license. THEREFORE,

IT IS ORDERED:

1. That the Petition of Green Mountain Energy Company for Reconsideration, Amendment or Clarification is denied.
2. That the Secretarial Letter dated August 8, 2003, which granted in part an abeyance of the hearing concerning Green Mountain's Petition for Partial Waiver of bonding requirements under 52 Pa.Code §54.40 shall remain in effect.
3. That in order to maintain its electric generation supplier license, Green Mountain Energy Company must either submit to the Commission by October 30, 2003 a replacement bond or other approved security in an amount equal to ten percent of Green Mountain Energy Company's reported annual gross receipts information for the year 2002 to be effective immediately or, in the alternative, Green Mountain may elect to maintain its current bonding level while

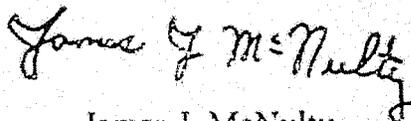
pursuing its Petition for Partial Waiver of Bonding requirements pursuant to 52 Pa. Code §54.40, in an expedited hearing before an Administrative Law Judge.

4. That Green Mountain notify the Secretary of the Commission within three (3) days of the date of entry of this Order whether it will file a new bond or whether it will pursue an expedited hearing.

5. That in the event that Green Mountain decides to pursue a hearing, the Office of Administrative Law Judge shall conduct an expedited hearing in order to afford the Commission time to rule upon this matter by Public Meeting of October 30, 2003.

6. That a copy of this order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania and all electric distribution companies.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 18, 2003

ORDER ENTERED: SEP 23 2003



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
September 23, 2003

File

REFER TO CASE FILE

A-110073
P-00011925

TO ALL PARTIES

DOCUMENT

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

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on September 18, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
James J. McNulty
Secretary

Enclosure
Certified Mail
LJM

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held September 18, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Glen R. Thomas
Kim Pizzingrilli

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

Docket Numbers:
A-110073
P-00011925

ORDER

BY THE COMMISSION:

Presently before this Commission for consideration is Green Mountain Energy Company's (Green Mountain) Petition for Reconsideration, Amendment, or Clarification of this Commission's Secretarial Letter dated August 8, 2003, which had granted in part Green Mountain's Petition for Abeyance. Underlying this Petition for Reconsideration is a series of requests for waivers of the Commission's security requirements for electric generation suppliers. *See* 52 Pa.Code §54.40.

Procedural History

Green Mountain is a licensed electric generation supplier in the Commonwealth of Pennsylvania having been granted a permanent license on January 14, 1999. As part of the application process Green Mountain posted a letter of credit in the amount of \$250,000, as required by 66 Pa. C.S. §2809(c) and 52 Pa.

Code §54.40(a) and (c). On October 3, 2000, Green Mountain petitioned for a waiver of 52 Pa.Code §54.40 requesting that it be allowed to maintain the initial minimum license security requirement of \$250,000. Said petition was denied by Commission Order entered October 25, 2000, at P-00001845. A Petition for Reconsideration was also denied on December 20, 2000 at P-00001845. Since November 5, 2000, the Company has maintained a letter of credit in the amount of \$1,803,608, which has an expiration date of November 4, 2003.

On October 19, 2001, Green Mountain again filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40 (relating to bonds or other security), at Docket No. P-00011925, requesting an adjustment in its bonding level based on revenues for the year 2000. The Commission never ruled on that petition, and Green Mountain's revenues continued to increase. However, instead of seeking higher security, Green Mountain has been maintaining its security at the same amount, \$1,803,608.

On March 24, 2003, Green Mountain filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40(d) (relating to bonds or other security). Green Mountain requested that the Commission approve the partial waiver in order to adjust the level of Green Mountain's EGS license bond requirement to \$543,609 – a level commensurate with the unique nature of Green Mountain's scope and business operations. Duquesne Light Company, the Office of Consumer Advocate, the Energy Association of Pennsylvania and PECO Energy Company answered, protested or opposed the Petition. These parties either urged the Commission to 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.

On June 12, 2003 Chairman Terrance Fitzpatrick made a motion which carried and an Order was entered on June 23, 2003, directing the petition for reduction of bonding level be assigned to the Office of Administrative Law Judge for a hearing and recommended decision in sufficient time for final Commission action no later than October 30, 2003.

Concurrently, on January 4, 2003, the Commission initiated a rulemaking proceeding at L-00020158 and P-00021938 to determine whether amendments should be made to Chapter 54 of the Pennsylvania Code regarding the bonding and licensing requirements of electric generation suppliers.

On July 22, 2003, Green Mountain petitioned this Commission to stay its hearing pending a resolution to the rulemaking procedure. Green Mountain proposed in its petition to maintain its current bonding level, at \$1,803,608 beyond November 4, 2003, and until such time as the rulemaking is completed.

By Secretarial Letter dated August 8, 2003, the Commission granted in part Green Mountain's petition for abeyance of the hearing. The Commission held in abeyance the hearing regarding Green Mountain's Petition for Partial Waiver of its bonding requirements until such time as there was a resolution to the rulemaking proceeding at L-00020158 and P-00021938, but rejected Green Mountain's proposal that it be allowed to maintain its current bonding level of \$1.8 million until such time as the final regulations would require a different level or until such time as there would be a ruling on the Petition for Partial Waiver. The Secretarial Letter directed Green Mountain 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.

DISCUSSION

Consistent with Section 703(g) of the Public Utility Code, 66 Pa C.S. §703(g), Section 5.572 of our regulations, 52 Pa Code §5.572, and judicial and administrative precedent, the standards for a petition for relief following a final decision were set forth in *Duick v. PGW*, 56 Pa.P.U.C. 553 (December 17, 1982)(*Duick*). The *Duick* case held that a petition for reconsideration under Section 703(g) may properly raise any matter designed to convince the Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Furthermore, such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations which appear to have been overlooked or not addressed by us. *Duick* at 559. After review of this petition, we find that while Green Mountain has supplemented the arguments presented in its original Petition for Abeyance, it has not presented any new or novel arguments that convince us to reconsider our original decision of August 8, 2003.

Section 54.40(d) states as follows:

"After the first year that the license is in effect, the security level for each licensee will be reviewed annually and modified primarily based on the licensee's reported annual gross receipts information. The security level will be 10% of the licensee's reported gross receipts. See section 2809 (c)(1)(i) of the code. Maintenance of a license will be contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained. A licensee may seek approval from the Commission of an alternative level of bonding commensurate with the nature and scope of its operations."(Emphasis added).

This Commission intended that 10% of a licensee's reported gross receipts was the primary, but not the only factor that would be taken into account to establish a security level for a licensee's bond after the first year. Thus, 10% of a supplier's reported annual gross receipts is only the starting point. Other factors that must also be considered include the scope and nature of the supplier's business and uncertainties related to the supplier's business operations.

Several entities filed protests opposing Green Mountain's Petition for Partial Waiver of March 24, 2003, ("Waiver Petition") and submit that the Commission should deny the Waiver Petition or at least postpone a decision on the Waiver Petition until the Commission has issued a ruling on the rulemaking at Docket No. L-00020158. Duquesne Light Company filed its protest on April 8, 2003; the Office of Consumer Advocate filed its protest on April 15, 2003; the Energy Association of Pennsylvania filed its protest on April 17, 2003; and PECO Energy Company filed its protest on April 18, 2003. Green Mountain filed a reply to these protests on May 8, 2003 and requests that the Commission reject the oppositions.

Nevertheless, Green Mountain claims that the OCA, Duquesne Light, the Energy Association of Pennsylvania and PECO are all in agreement and do not object with Green Mountain's petition for abeyance. Green Mountain claims that the Commission may have been confused about what the effect would be of granting the petition for abeyance in part. Green Mountain claims that the actual effect is to deny Green Mountain's Petition for Partial Waiver rather than hold it in abeyance. Green Mountain claims that it would be required to increase its current bonding level by several million dollars and that would be excessive. Additionally, Green Mountain claims that in four months, its customer level will drop substantially because of the end of its CDS agreement with PECO.

The Commission is not persuaded by Green Mountain's arguments. First, the Commission was not confused about the effect of granting the petition for abeyance in part. The Commission believes Green Mountain would like to enjoy the benefit of prolonging a decision regarding its petition to reduce its bonding requirements from the level required in our regulations. The Commission recognizes that although Green Mountain's revenues have been increasing since 2001, the company has been enjoying the same bonding level since November 2000, or for 2.5 years, and if its petition were to be granted, it would potentially enjoy this relief for at least 3 years. Further, Green Mountain has neither submitted any information regarding the cost of obtaining the security in the amount that would be required under Section 54.40(d) nor any information about Green Mountain's finances that would support a finding that the reported cost of the required security represents an onerous burden such that an alternative level of bonding would be appropriate.

Section 54.40 of the Pennsylvania Code relating to bonds or other security must be applied fairly to all companies. The issue of whether there is an adequate basis to make a determination as to whether Green Mountain's bonding level should be reduced below that which is required by Section 54.40 is an issue that has been referred to the Office of Administrative Law Judge for hearing and decision. Having made this referral, the Commission is unwilling to make this determination without the benefit of that hearing. Green Mountain must comply with the regulations until such time as a final order is made determining whether a reduction in bonding requirements is warranted due to the nature and scope of business anticipated to be conducted in this Commonwealth.

Green Mountain will be given a choice. Green Mountain may either pursue its Petition for a Partial Waiver of 52 Pa. Code §54.40 at an expedited hearing before an Administrative Law Judge or, in the alternative, file a new security instrument in compliance with 52 Pa. Code §54.40, and the Commission will hold in abeyance the hearing until after the rulemaking at L-00020158 is finalized. If Green Mountain no longer wishes to pursue its waiver petition or if it prefers to have its hearing held in abeyance until after the rulemaking is finalized, it must notify the Secretary of the Commission within three days of the entry date of this Order and must submit to the Commission by October 30, 2003, a security in the amount of ten percent (10%) of its gross receipts as reported in its 2002 Annual Report. This new security must be effective no later than the November 4, 2003 expiration date of its existing security. Failure to provide such security may result in the revocation of Green Mountain's EGS license. THEREFORE,

IT IS ORDERED:

1. That the Petition of Green Mountain Energy Company for Reconsideration, Amendment or Clarification is denied.
2. That the Secretarial Letter dated August 8, 2003, which granted in part an abeyance of the hearing concerning Green Mountain's Petition for Partial Waiver of bonding requirements under 52 Pa.Code §54.40 shall remain in effect.
3. That in order to maintain its electric generation supplier license, Green Mountain Energy Company must either submit to the Commission by October 30, 2003 a replacement bond or other approved security in an amount equal to ten percent of Green Mountain Energy Company's reported annual gross receipts information for the year 2002 to be effective immediately or, in the alternative, Green Mountain may elect to maintain its current bonding level while

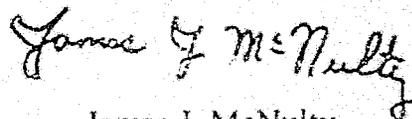
pursuing its Petition for Partial Waiver of Bonding requirements pursuant to 52 Pa. Code §54.40, in an expedited hearing before an Administrative Law Judge.

4. That Green Mountain notify the Secretary of the Commission within three (3) days of the date of entry of this Order whether it will file a new bond or whether it will pursue an expedited hearing.

5. That in the event that Green Mountain decides to pursue a hearing, the Office of Administrative Law Judge shall conduct an expedited hearing in order to afford the Commission time to rule upon this matter by Public Meeting of October 30, 2003.

6. That a copy of this order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania and all electric distribution companies.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 18, 2003

ORDER ENTERED: SEP 23 2003



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
September 23, 2003

File

EXETER 10 000 100

A-110073
P-00011925

DOCUMENT

TO ALL PARTIES

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

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on September 18, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
James J. McNulty
Secretary

Enclosure
Certified Mail
LJM

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held September 18, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Glen R. Thomas
Kim Pizzingrilli

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

Docket Numbers:
A-110073
P-00011925

ORDER

BY THE COMMISSION:

Presently before this Commission for consideration is Green Mountain Energy Company's (Green Mountain) Petition for Reconsideration, Amendment, or Clarification of this Commission's Secretarial Letter dated August 8, 2003, which had granted in part Green Mountain's Petition for Abeyance. Underlying this Petition for Reconsideration is a series of requests for waivers of the Commission's security requirements for electric generation suppliers. *See* 52 Pa.Code §54.40.

Procedural History

Green Mountain is a licensed electric generation supplier in the Commonwealth of Pennsylvania having been granted a permanent license on January 14, 1999. As part of the application process Green Mountain posted a letter of credit in the amount of \$250,000, as required by 66 Pa. C.S. §2809(c) and 52 Pa.

Code §54.40(a) and (c). On October 3, 2000, Green Mountain petitioned for a waiver of 52 Pa. Code §54.40 requesting that it be allowed to maintain the initial minimum license security requirement of \$250,000. Said petition was denied by Commission Order entered October 25, 2000, at P-00001845. A Petition for Reconsideration was also denied on December 20, 2000 at P-00001845. Since November 5, 2000, the Company has maintained a letter of credit in the amount of \$1,803,608, which has an expiration date of November 4, 2003.

On October 19, 2001, Green Mountain again filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40 (relating to bonds or other security), at Docket No. P-00011925, requesting an adjustment in its bonding level based on revenues for the year 2000. The Commission never ruled on that petition, and Green Mountain's revenues continued to increase. However, instead of seeking higher security, Green Mountain has been maintaining its security at the same amount, \$1,803,608.

On March 24, 2003, Green Mountain filed a Petition for Partial Waiver of the Provisions of 52 Pa. Code § 54.40(d) (relating to bonds or other security). Green Mountain requested that the Commission approve the partial waiver in order to adjust the level of Green Mountain's EGS license bond requirement to \$543,609 – a level commensurate with the unique nature of Green Mountain's scope and business operations. Duquesne Light Company, the Office of Consumer Advocate, the Energy Association of Pennsylvania and PECO Energy Company answered, protested or opposed the Petition. These parties either urged the Commission to 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.

On June 12, 2003 Chairman Terrance Fitzpatrick made a motion which carried and an Order was entered on June 23, 2003, directing the petition for reduction of bonding level be assigned to the Office of Administrative Law Judge for a hearing and recommended decision in sufficient time for final Commission action no later than October 30, 2003.

Concurrently, on January 4, 2003, the Commission initiated a rulemaking proceeding at L-00020158 and P-00021938 to determine whether amendments should be made to Chapter 54 of the Pennsylvania Code regarding the bonding and licensing requirements of electric generation suppliers.

On July 22, 2003, Green Mountain petitioned this Commission to stay its hearing pending a resolution to the rulemaking procedure. Green Mountain proposed in its petition to maintain its current bonding level, at \$1,803,608 beyond November 4, 2003, and until such time as the rulemaking is completed.

By Secretarial Letter dated August 8, 2003, the Commission granted in part Green Mountain's petition for abeyance of the hearing. The Commission held in abeyance the hearing regarding Green Mountain's Petition for Partial Waiver of its bonding requirements until such time as there was a resolution to the rulemaking proceeding at L-00020158 and P-00021938, but rejected Green Mountain's proposal that it be allowed to maintain its current bonding level of \$1.8 million until such time as the final regulations would require a different level or until such time as there would be a ruling on the Petition for Partial Waiver. The Secretarial Letter directed Green Mountain 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.

DISCUSSION

Consistent with Section 703(g) of the Public Utility Code, 66 Pa.C.S. §703(g), Section 5.572 of our regulations, 52 Pa. Code §5.572, and judicial and administrative precedent, the standards for a petition for relief following a final decision were set forth in *Duick v. PGW*, 56 Pa.P.U.C. 553 (December 17, 1982)(*Duick*). The *Duick* case held that a petition for reconsideration under Section 703(g) may properly raise any matter designed to convince the Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Furthermore, such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations which appear to have been overlooked or not addressed by us. *Duick* at 559. After review of this petition, we find that while Green Mountain has supplemented the arguments presented in its original Petition for Abeyance, it has not presented any new or novel arguments that convince us to reconsider our original decision of August 8, 2003.

Section 54.40(d) states as follows:

"After the first year that the license is in effect, the security level for each licensee will be reviewed annually and modified primarily based on the licensee's reported annual gross receipts information. The security level will be 10% of the licensee's reported gross receipts. See section 2809 (c)(1)(i) of the code. Maintenance of a license will be contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained. A licensee may seek approval from the Commission of an alternative level of bonding commensurate with the nature and scope of its operations."(Emphasis added)

This Commission intended that 10% of a licensee's reported gross receipts was the primary, but not the only factor that would be taken into account to establish a security level for a licensee's bond after the first year. Thus, 10% of a supplier's reported annual gross receipts is only the starting point. Other factors that must also be considered include the scope and nature of the supplier's business and uncertainties related to the supplier's business operations.

Several entities filed protests opposing Green Mountain's Petition for Partial Waiver of March 24, 2003, ("Waiver Petition") and submit that the Commission should deny the Waiver Petition or at least postpone a decision on the Waiver Petition until the Commission has issued a ruling on the rulemaking at Docket No. L-00020158. Duquesne Light Company filed its protest on April 8, 2003; the Office of Consumer Advocate filed its protest on April 15, 2003; the Energy Association of Pennsylvania filed its protest on April 17, 2003; and PECO Energy Company filed its protest on April 18, 2003. Green Mountain filed a reply to these protests on May 8, 2003 and requests that the Commission reject the oppositions.

Nevertheless, Green Mountain claims that the OCA, Duquesne Light, the Energy Association of Pennsylvania and PECO are all in agreement and do not object with Green Mountain's petition for abeyance. Green Mountain claims that the Commission may have been confused about what the effect would be of granting the petition for abeyance in part. Green Mountain claims that the actual effect is to deny Green Mountain's Petition for Partial Waiver rather than hold it in abeyance. Green Mountain claims that it would be required to increase its current bonding level by several million dollars and that would be excessive. Additionally, Green Mountain claims that in four months, its customer level will drop substantially because of the end of its CDS agreement with PECO.

The Commission is not persuaded by Green Mountain's arguments. First, the Commission was not confused about the effect of granting the petition for abeyance in part. The Commission believes Green Mountain would like to enjoy the benefit of prolonging a decision regarding its petition to reduce its bonding requirements from the level required in our regulations. The Commission recognizes that although Green Mountain's revenues have been increasing since 2001, the company has been enjoying the same bonding level since November 2000, or for 2.5 years, and if its petition were to be granted, it would potentially enjoy this relief for at least 3 years. Further, Green Mountain has neither submitted any information regarding the cost of obtaining the security in the amount that would be required under Section 54.40(d) nor any information about Green Mountain's finances that would support a finding that the reported cost of the required security represents an onerous burden such that an alternative level of bonding would be appropriate.

Section 54.40 of the Pennsylvania Code relating to bonds or other security must be applied fairly to all companies. The issue of whether there is an adequate basis to make a determination as to whether Green Mountain's bonding level should be reduced below that which is required by Section 54.40 is an issue that has been referred to the Office of Administrative Law Judge for hearing and decision. Having made this referral, the Commission is unwilling to make this determination without the benefit of that hearing. Green Mountain must comply with the regulations until such time as a final order is made determining whether a reduction in bonding requirements is warranted due to the nature and scope of business anticipated to be conducted in this Commonwealth.

Green Mountain will be given a choice. Green Mountain may either pursue its Petition for a Partial Waiver of 52 Pa. Code §54.40 at an expedited hearing before an Administrative Law Judge or, in the alternative, file a new security instrument in compliance with 52 Pa. Code §54.40, and the Commission will hold in abeyance the hearing until after the rulemaking at L-00020158 is finalized. If Green Mountain no longer wishes to pursue its waiver petition or if it prefers to have its hearing held in abeyance until after the rulemaking is finalized, it must notify the Secretary of the Commission within three days of the entry date of this Order and must submit to the Commission by October 30, 2003, a security in the amount of ten percent (10%) of its gross receipts as reported in its 2002 Annual Report. This new security must be effective no later than the November 4, 2003 expiration date of its existing security. Failure to provide such security may result in the revocation of Green Mountain's EGS license. THEREFORE,

IT IS ORDERED:

1. That the Petition of Green Mountain Energy Company for Reconsideration, Amendment or Clarification is denied.
2. That the Secretarial Letter dated August 8, 2003, which granted in part an abeyance of the hearing concerning Green Mountain's Petition for Partial Waiver of bonding requirements under 52 Pa.Code §54.40 shall remain in effect.
3. That in order to maintain its electric generation supplier license, Green Mountain Energy Company must either submit to the Commission by October 30, 2003 a replacement bond or other approved security in an amount equal to ten percent of Green Mountain Energy Company's reported annual gross receipts information for the year 2002 to be effective immediately or, in the alternative, Green Mountain may elect to maintain its current bonding level while

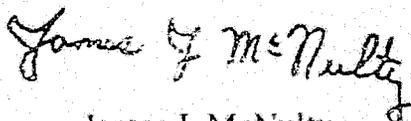
pursuing its Petition for Partial Waiver of Bonding requirements pursuant to 52 Pa. Code §54.40, in an expedited hearing before an Administrative Law Judge.

4. That Green Mountain notify the Secretary of the Commission within three (3) days of the date of entry of this Order whether it will file a new bond or whether it will pursue an expedited hearing.

5. That in the event that Green Mountain decides to pursue a hearing, the Office of Administrative Law Judge shall conduct an expedited hearing in order to afford the Commission time to rule upon this matter by Public Meeting of October 30, 2003.

6. That a copy of this order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania and all electric distribution companies.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 18, 2003

ORDER ENTERED: SEP 23 2003

ORIGINAL

RHOADS & SINON LLP

ATTORNEYS AT LAW
TWELFTH FLOOR
ONE SOUTH MARKET SQUARE
P. O. BOX 1146
HARRISBURG, PA 17108-1146
TELEPHONE (717) 233-5731
FAX: (717) 231-6600
EMAIL: jcawley@rhoods-sinon.com
WEBSITE: www.rhoods-sinon.com

OF COUNSEL
HENRY W. RHOADS
RETIREE
JOHN C. DOWLING
PAUL H. RHOADS
1907-1984
FRANK A. SINON
1910-2003
JOHN M. MUSSELMAN
1919-1980
CLYDE R. HENDERSHOT
1922-1980

DIRECT DIAL NO.
(717) 231-6608

FILE NO.
5894/10

ROBERT H. LONG, JR.¹
SHEKILL T. MOYER
JAN P. PAGEN
RICHARD B. WOOD
LAWRENCE B. ABRAMS III²
J. BRUCE WALTER
JOHN P. MANBECK
FRANK J. LEBER
PAUL A. LUNDEEN
JACK F. HURLEY, JR.
DAVID B. DOWLING
DAVID F. O'LEARY
DAVID C. IWADDELL
CHARLES J. FERRY
STANLEY A. SMITH
JENS H. DAMGAARD³
GRAVE D. NICHOLAS⁴
THOMAS A. FRENCH⁵
DEAN H. OUSINBERRE
DONNA M. J. CLARK
CHARLES E. GUTSHALL
PAUL F. WESSELE
SHAWN D. LOCHINGER
JAMES H. CAWLEY

DEAN F. PIERMATTEI
KENNETH L. JOEL⁶
DEBRA M. KRIETE
TODD J. SMITH
DAVID M. BARASCH
THOMAS J. NEHILLA
ROBERT J. TRIBECK
TIMOTHY J. NIEMAN
LORI J. McELROY⁶
KELVIN M. GOLD
CARL D. UNDBLAD
JAMES E. ELLISON
RICHARD E. ARTELL
PAUL J. BRUDER, JR.⁶
JOANNE BOOK CHRISTINE
MICHAEL W. WINFILLU⁶
STEPHANIE E. DIVITTORRE
KATHLEEN D. BRUDER⁶
CHRISTYLEE L. PEOP
JOHN M. COLES
HEATHER Z. KELLY
JAMES J. JARECKI
JENNIFER ZIMMERMAN

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
⁶ NATIONAL BOARD OF TRIAL ADVOCACY CERTIFIED

September 19, 2003

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

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

DOCKETED
SEP 25 2003

SECRETARY'S BUREAU

03 SEP 23 AM 9:24

Dear Mr. McNulty:

At public meeting of September 18, 2003, the Commission unanimously adopted a motion by Chairman Fitzpatrick to give Green Mountain Energy Company the option of either filing a new bond consistent with 52 Pa. Code § 54.40 or pursuing a hearing on its petition for a partial waiver of that regulation. The company was to notify the Commission's Secretary of its decision within three days of the entry date of the Order. The Law Bureau was directed to prepare the appropriate Order.

Green Mountain elects to pursue its petition for a partial waiver of the regulation. This election is given today because I will be on vacation next week when the Order may be entered.

A copy of this letter has been served on all parties, as evidenced by the enclosed Certificate of Service.

Very truly yours,

RHOADS & SINON LLP

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

DOCUMENT

cc: Certificate of Service



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

IN REPLY PLEASE
REFER TO OUR FILE

September 23, 2003

In Re: A-110073, P-00011925

DOCUMENT
FOLDER

(See attached list)

DOCKETED
SEP 25 2003

Green Mountain Energy Company

Hearing Notice

This is to inform you that hearings on the above-captioned case will be held as follows:

Type: Initial and Further Hearings

Date, Times: Tuesday, October 7, 2003 at 10:00 a.m. - Initial
Wednesday, October 8, 2003 at 9:00 a.m. - Further

Location: 11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania

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

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: 717-787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Meehan
Susan Licon
Beth Plantz
• Docket Section
Calendar File

MEMORANDUM

COMMONWEALTH OF PENNSYLVANIA
PA Public Utility Commission

DATE: October 2, 2003

SUBJECT: Green Mountain Energy Company
Docket No. A-110073

TO: Wanda Zeiders, Docket Management
PA Public Utility Commission

FROM: ALJ Robert P. Meehan *RPM*
Office of Administrative Law Judge, Pittsburgh

DOCUMENT

Please have the enclosed e-mail docketed with respect to the above-captioned case.

Thank you.

RPM:seo

Enclosure

Meehan, Robert

From: Meehan, Robert
Sent: Thursday, October 02, 2003 12:49 PM
To: 'Dan Regan'
Subject: RE: Green Mountain Petition for Bonding Waiver, PUC Docket No. A-110073

Greetings,

As I am sure you are aware, discovery is governed by 52 Pa. Code Sections 5.321, et seq.

No modifications to those provisions were requested during the prehearing conference or made in the prehearing order.

ALJ Meehan

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

From: Dan Regan [mailto:dregan@ENERGYPA.ORG]
Sent: Thursday, October 02, 2003 11:46 AM
To: rmeehan@state.pa.us
Subject: Green Mountain Petition for Bonding Waiver, PUC Docket No. A-110073

Good morning Your Honor -

One of my members asked me what provisions (if any) are available for discovery in the referenced matter, particularly given the Tuesday hearing date. I consider this to be a procedural question appropriately addressed to you, and I will look forward to your reply.

Best regards,

Dan Regan
Vice President & General Counsel
Energy Association of Pennsylvania
800 North Third St. #301
Harrisburg, PA 17102
717-901-0631
fax: 717-901-0611

DOCKETED
OCT 09 2003

DOCUMENT

OALJ Hearing Report

Please check Those Blocks Which Apply

| | | | | |
|-----------------|-------------------------------|-------------------------|-------------------------------------|--------------------------|
| Docket No: | A-110073, P-00011925 | | YES | NO |
| Case Name: | Green Mountain Energy Company | Prehearing Held: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Hearing Held: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | Testimony Taken: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Transcript Due: | <input type="checkbox"/> | <input type="checkbox"/> |
| Location: | Pittsburgh | Hearing Concluded: | <input type="checkbox"/> | <input type="checkbox"/> |
| Date: | October 7 and 8, 2003 | Further Hearing Needed: | <input type="checkbox"/> | <input type="checkbox"/> |
| ALJ: | Robert P. Meehan | Estimated Add'l Days: | | |
| Reporting Firm: | Commonwealth Reporting | RECORD CLOSED: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | DATE: | | |
| | | Briefs to be Filed: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | DATE: | | |
| | | Bench Decision: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | REMARKS: | | |

OCT 12 4 51 PM '03

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

OCT 27 2003

RECEIVED

*Cancelled
Continued to
11/16/03*

PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

| Name and Telephone Number | Address | | | Who are you representing? |
|---------------------------|------------------------|-----------------|-------------|---------------------------|
| DOCUMENT FOLDER | City | State | Zip | |
| | Telephone: | E-mail Address: | Fax Number: | |
| DOCKETED | City | State | Zip | |
| | Telephone: NOV 12 2003 | E-mail Address: | Fax Number: | |
| | City | State | Zip | |
| | E-mail Address: | Fax Number: | | |

RECEIVED
03 OCT 27 PM 2:52
SECRETARY'S BUREAU

Check this box if additional parties or attendees appear on back of form.

Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

| Name and Telephone Number | Address | | | Who are you representing? |
|---------------------------|-----------------|-------|-----|---------------------------|
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |
| | City | State | Zip | |
| | | | | |
| Telephone: | E-mail Address: | | | Fax Number: |

OALJ Hearing Report

Please check those blocks which apply

| | | | | |
|-----------------|-------------------------------|-------------------------|--------------------------|--------------------------|
| Docket No.: | A-110073 & P-00011925 | | YES | NO |
| Case Name: | Green Mountain Energy Company | Prehearing Held: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Hearing Held: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Testimony Taken: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Transcript Due: | <input type="checkbox"/> | <input type="checkbox"/> |
| Location: | HBG | Hearing Concluded: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Further Hearing Needed: | <input type="checkbox"/> | <input type="checkbox"/> |
| Date: | October 16, 2003 | Estimated Add'l Days: | | |
| ALJ: | Robert P. Meehan | RECORD CLOSED: | <input type="checkbox"/> | <input type="checkbox"/> |
| Reporting Firm: | Commonwealth Reporting | Briefs to be Filed: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Bench Decision: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | REMARKS: | | |

DOCUMENT FOLDER

RECEIVED
 SECRETARY'S BUREAU
 DATE: OCT 27 4 27:52 PM '03
 P.A.P.U.C.

RECEIVED
 OCT 27 2003
 PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

PA PUC

PLEASE PRINT CLEARLY. Incomplete information may result in delay of processing.

| Name and Telephone Number | Address | Who are you representing? |
|--|--|-----------------------------|
| Daniel P. DeLoach Kirkpatrick (Lock) Co | 2450 N. 5th Street Harrisburg PA 17101 | Duquesne Light Co |
| Telephone: (717) 231-4500 | E-mail Address: (717) 231-4501 | Fax Number: (717) 231-4501 |
| Telephone | E-mail Address: | Fax Number: |
| Tanya J. McCloskey Lori A. Herman | 5th Floor, Forum Place 555 Walnut St. Hbg. PA 17101-1923 | Office of Consumer Advocate |
| Telephone: 717-783-5048 | E-mail Address: tmcloskey@paoca.org | Fax Number: 717-783-7152 |

Check this box if additional parties or attendees appear on back of form.

Sandra Melissa Ben
 Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

| Name and Telephone Number | Address | | | Who are you representing? |
|--|--|--|--|------------------------------------|
| James H. Cawley Rhoads & Simon LLP | One S. Market Square Hbg City PA 17101 | | | Green Mountain Energy Co. |
| Telephone: (717) 231-6608 | E-mail Address: | | | Fax Number: 717-231-6608 |
| Dan Regan Energy Association of Pennsylvania | 800 N. Third St. #301 Hbg City PA 17102 | | | Energy Association of Pennsylvania |
| Telephone: 717-901-0631 | E-mail Address: dregan@energypc.org | | | Fax Number: 717-901-0611 |
| Telephone: | E-mail Address: | | | Fax Number: |
| Telephone: | E-mail Address: | | | Fax Number: |
| Telephone: | E-mail Address: | | | Fax Number: |
| Telephone: | E-mail Address: | | | Fax Number: |
| Telephone: | E-mail Address: | | | Fax Number: |
| Telephone: | E-mail Address: | | | Fax Number: |
| Telephone: | E-mail Address: | | | Fax Number: |

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.