

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265

GREEN MOUNTAIN ENERGY
RESOURCES, LLC (GREEN MOUNTAIN)

PUBLIC MEETING
OCTOBER 30, 2003
OCT-2003-ALJ-0193*
DOCKET NO. A-110073
P-00011925

DISSENT STATEMENT OF VICE CHAIRMAN ROBERT K. BLOOM

Before the Commission for consideration is the Petition for Partial Waiver of the Provisions of 52 Pa. Code §54.40(d) (Petition) related to security bonds filed by Green Mountain Energy Resources, LLC (Green Mountain). Administrative Law Judge Robert P. Meehan recommends that the Commission approve a Joint Petition for Settlement of the Petition which grants Green Mountain the waiver. The Settlement allows Green Mountain to utilize a level of security in the amount of 10% of its projected gross revenues for 2004 or \$2.175 million. While the Settlement represents a much higher security than the amount originally requested by Green Mountain, I do not agree with granting the waiver and must respectfully dissent.

52 Pa Code §54.40 requires that the level of security for an Electric Generation Supplier (EGS) be based on 10% of its gross revenues from the preceding calendar year. During the years 2001 and 2002 Green Mountain's gross revenues in Pennsylvania have been over \$50 million. Accordingly, Green Mountain's bond should have been set at approximately \$5.0 million. Instead, Green Mountain has maintained a bond in the amount of \$1.8 million and originally requested to lower its bond requirement to \$543,609. Currently, the Commission is in the process of reexamining the appropriateness of its bonding requirements. Until that process is finalized, it is not appropriate to grant waivers to individual companies that claim unique circumstances. Green Mountain should be required to abide by the current bonding requirements just as the other EGS's operating in Pennsylvania are required to do.

10-30-03

DATE

Robert K. Bloom
ROBERT K. BLOOM, VICE CHAIRMAN

DATE: October 24, 2003

SUBJECT: A-110073
P-00011925

TO: Office of Administrative Law Judge
Susan Hoffner

FROM: James J. McNulty
Secretary
nvl

Application of Green Mountain Energy Resources, LLC for approval to offer, render, 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
A-110073
Petition of Green Mountain Energy Resources LLC for partial waiver of 52 Pa Code 54.40.
P-00011925

Copies of the Recommended Decision have been served upon all parties.

No exceptions have been received by the Commission. This matter is referred to your office for whatever action you deem necessary.

cc: Office of Special Assistants

P S Please note that exceptions or reply exceptions may come in timely with certificate of mailings. A second memo will not be released for these exceptions.

DOCUMENT
FOLDER

DOCKETED
OCT 29 2003



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

October 31, 2003

REFER TO ONE FILE

A-110073
P-00011925

JAMES H CAWLEY ESQUIRE
KATHRYN G SOPHY ESQUIRE
RHOADS & SINON
ONE MARKET SQUARE 12TH FLOOR
PO BOX 1146
HARRISBURG PA 17108-1146

DOCKETED

NOV 13 2003

Application of Green Mountain Energy Resources, LLC for approval to offer, render, furnish electricity or electric generation services as a broker/marketer engaged in the business of supplying electricity and as an aggregator in the business of supplying electricity to the public in the Commonwealth of Pennsylvania
A-110073

Petition of Green Mountain Energy Resources LLC
for partial waiver of 52 Pa. Code 54.40

DOCUMENT

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on October 30, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
LJM

See attached list for additional parties of record

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held October 30, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman, Dissenting Statement attached
Glen R. Thomas
Kim Pizzingrilli
Wendell F. Holland, Recusing

DOCKETED
NOV 13 2003

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

ORDER

BY THE COMMISSION:

We adopt as our action the Recommended Decision of Administrative Law Judge
Robert P. Meehan dated October 17, 2003;

THEREFORE,

IT IS RECOMMENDED:

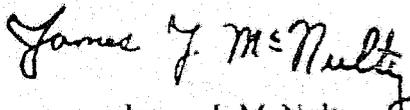
1. That the Joint Petition for Settlement of the petition, filed on March 24,
2003, by Green Mountain Energy Resources, LLC, for partial waiver of 52 Pa. Code §54.40, is
approved.

2. That consistent with the approval of the Joint Petition for Settlement, the
petition for partial waiver of 52 Pa. Code §54.40, filed on March 24, 2003, by Green Mountain
Energy Resources, LLC, is granted.

3. That consistent with the approval of the Joint Petition for Settlement, Green Mountain Energy Resources, LLC, shall, on or before November 4, 2003, provide the level of security specified in the Joint Petition for Settlement, and each year thereafter while the Settlement is in effect.

4. That Green Mountain Energy Resources, LLC, shall file the updates and verifications specified in the Joint Petition for Settlement, with the Secretary of the Commission, and provide a copy thereof to the Bureau of Fixed Utility Services.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: October 30, 2003

ORDER ENTERED: OCT 31 2003

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265

GREEN MOUNTAIN ENERGY
RESOURCES, LLC (GREEN MOUNTAIN)

PUBLIC MEETING
OCTOBER 30, 2003
OCT-2003-ALJ-0193*
DOCKET NO. A-110073
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52 Pa Code §54.40 requires that the level of security for an Electric Generation Supplier (EGS) be based on 10% of its gross revenues from the preceding calendar year. During the years 2001 and 2002 Green Mountain's gross revenues in Pennsylvania have been over \$50 million. Accordingly, Green Mountain's bond should have been set at approximately \$5.0 million. Instead, Green Mountain has maintained a bond in the amount of \$1.8 million and originally requested to lower its bond requirement to \$543,609. Currently, the Commission is in the process of reexamining the appropriateness of its bonding requirements. Until that process is finalized, it is not appropriate to grant waivers to individual companies that claim unique circumstances. Green Mountain should be required to abide by the current bonding requirements just as the other EGS's operating in Pennsylvania are required to do.

10-30-03

DATE

Robert K. Bloom
ROBERT K. BLOOM, VICE CHAIRMAN

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265

DOCUMENT
FOLDER

GREEN MOUNTAIN ENERGY
RESOURCES, LLC (GREEN MOUNTAIN)

PUBLIC MEETING
OCTOBER 30, 2003
OCT-2003-ALJ-0193*
DOCKET NO. A-110073
P-00011925

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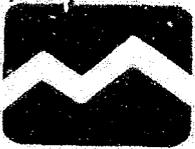
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10-30-03

DATE

Robert K. Bloom
ROBERT K. BLOOM, VICE CHAIRMAN



Green Mountain Energysm

Green Mountain Energy Company
 3815 Capital of Texas Highway South, Suite 100 • Austin, Texas 78794
 Phone 512 691 6100 • Fax 512 691 6151
greenmountain.com

RECEIVED

NOV 03 2003

PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

VIA FACSIMILE AND OVERNIGHT MAIL

November 3, 2003

James J. McNulty
 Secretary
 Pennsylvania Public Utility Commission
 Commonwealth Keystone Building
 400 North Street
 Harrisburg, PA 17120

DOCUMENT

A-110073

RE: Letter of Credit No. 331826
 Electric Generation Supplier License No. A-110073

Pursuant to the Recommended Decision issued on October 17, 2003 in the above-referenced matter, please find enclosed Green Mountain Energy Company's letter of credit in the amount of \$2.175 million. This security amount is also the level of security set forth in paragraph 14 of the Settlement agreement submitted by the parties at the hearing of said matter on October 16, 2003.

Please note Annex A attached to the aforementioned letter of credit. This must be signed by the appropriate Commission staff. Once signed, please forward a copy to me in the enclosed self-addressed stamped envelope.

Pursuant to Commission regulations at 52 Pa. Code §54.40 (relating to bonds or other security) the enclosed financial instrument should replace the letter of credit currently on file with the Pennsylvania Public Utility Commission and serve as proof to the Commission that a form of security has been obtained as required by regulation.

If you have any questions or need additional information, please do not hesitate to contact me directly at (512) 691-6129 or by email at glenda.roselle@greenmountain.com.

Sincerely,

Glenda Roselle

Glenda Roselle
 Manager, Regulatory Compliance

enclosure

cc: Jim Cawley
 James Shurskis

112

BANK ONE.

Bank One, NA
Global Trade Services
One Bank One Plaza
Mail Code IL 1-0236
Chicago, IL 60670
Tel (800) 634-1969 Fax: (312) 954-0203
SWIFT: FNBCUS44
Telex: ITT4330253 FNBCUJ

AMENDMENT

DATE: OCTOBER 31, 2003

DRAFTS DRAWN MUST BE MARKED
WITH OUR REF NO: 00331826
OPENER'S REFERENCE NO: 00331826

BENEFICIARY:

PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PA 17120
ATTN: SECRETARY OF THE COMMISSION

RECEIVED

NOV 03 2003

GENTLEMEN:

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

WE ARE INSTRUCTED BY:

GREEN MOUNTAIN ENERGY COMPANY
3815 CAPITAL OF TEXAS HWY SOUTH
AUSTIN, TX 78704

DOCKETED
FEB 09 2004

TO AMEND CREDIT 00331826 AS ISSUED IN YOUR FAVOR.

THIS AMENDMENT IS AN INTEGRAL PART OF THE ORIGINAL CREDIT. ALL OTHER TERMS AND
CONDITIONS OF THE LETTER OF CREDIT INCLUDING PREVIOUS AMENDMENTS REMAIN
UNCHANGED.

AMENDED TERMS AND CONDITIONS

1. LETTER OF CREDIT INCREASED BY USD371,392.00 TO AN AGGREGATE OF USD2,175,000.00
2. ANNEX A AMENDED TO NOW READ AS PER THE ATTACHED.

THIS AMENDMENT IS TO ACCOMPANY ALL DRAFT(S) AND DOCUMENTS.

WHEN PRESENTING YOUR DRAFT(S) AND DOCUMENTS OR WHEN COMMUNICATING WITH US,
PLEASE MAKE REFERENCE TO OUR NUMBER SHOWN ABOVE.

DOCUMENT

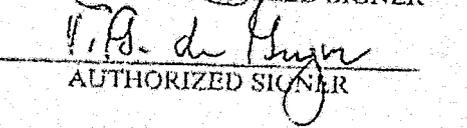
AMENDMENT -- LETTER OF CREDIT NO. 00331826

DATE: OCTOBER 31, 2003

ALL AMENDMENTS UNDER THIS LETTER OF CREDIT ARE SUBJECT TO BENEFICIARY'S AGREEMENT. AS PER ARTICLE 9D, UCP 500, THIS AMENDMENT SHALL NOT BE CONSIDERED OPERATIVE UNLESS THE BENEFICIARY COMMUNICATES THEIR AGREEMENT TO THE AMENDED TERMS. WE ALSO REQUIRE THAT THE BENEFICIARY COMMUNICATE THEIR ACCEPTANCE/REJECTION BY SIGNING AND RETURNING THE COPY OF THIS AMENDMENT TO THE ATTENTION OF LINDA J. GRANT, AT YOUR EARLIEST CONVENIENCE.

ACCEPTED: _____ REJECTED: _____ DATE: _____

THIS IS AMENDMENT NO. 1


PREPARER/AUTHORIZED SIGNER

AUTHORIZED SIGNER

ANNEX A
TO LETTER OF CREDIT NO. 00331826
(On Beneficiary's Letterhead)

DATE:

BANK ONE, NA
350 SOUTH RIVERSIDE PLAZA
7TH FLOOR, MAIL CODE IL1-0236
CHICAGO, IL 60606-0236
ATTN: STANDBY LETTER OF CREDIT UNIT

LADIES AND GENTLEMEN,

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMMONWEALTH (THE "BENEFICIARY") HEREBY CERTIFIES TO BANK ONE, NA WITH REFERENCE TO ITS IRREVOCABLE STANDBY LETTER OF CREDIT NO. 00331826 (THE "LETTER OF CREDIT") (CAPITALIZED TERMS USED AND NOT DEFINED HEREIN HAVING THE MEANING SET FORTH IN THE LETTER OF CREDIT) THAT:

THE BENEFICIARY IS MAKING DEMAND FOR PAYMENT UNDER THE LETTER OF CREDIT IN THE AMOUNT OF U.S.\$ _____ TO BE USED FOR THE PAYMENT OF CLAIMS BY (i) THE COMMONWEALTH AND/OR EDCs FOR THE REIMBURSEMENT OF GROSS RECEIPTS TAX, (ii) PRIVATE INDIVIDUALS, AND/OR (iii) PAYMENT OF EXPENSES INCURRED BY EDCs WHICH ARE IDENTIFIED IN THE EDC'S EGS COORDINATION TARIFF AND/OR OPEN ACCESS TRANSMISSION TARIFF AND ANY OTHER VERIFIED OUT-OF-POCKET EXPENSES INCURRED BY AN EDC SOLELY AS A RESULT OF ANY GREEN MOUNTAIN ENERGY COMPANY DEFAULT UNDER ANY EDC COORDINATION TARIFF, OPEN ACCESS TRANSMISSION TARIFF OR THE PENNSYLVANIA PUBLIC UTILITY CODE.

THE PENNSYLVANIA PUBLIC UTILITY
COMMISSION, COMMONWEALTH

BY: _____

[PRINTED NAME AND TITLE]