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99 SEP -7 AM 8:48

September 3, 1999

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
Harrisburg, PA 17120

RE: Commonwealth Energy Corporation d/b/a Advantage Energy; Application For
License As An Electric Generation Supplier; Docket No. A-110117

Dear Mr. McNulty:

The purpose of this letter is to update the information contained in Commonwealth Energy's application for a license as an Electric Generation Supplier. Applicants are required to update any information provided in Applications during the Commission's review of said Application. 52 Pa. Code §54.31, et seq. Specifically, Paragraph 16 of the Application form requires applicants to "identify all proceedings, by name, subject, and citation dealing with business operations in the last five years, whether before an administrative body or in a judicial forum, in which the applicant, an affiliate, a predecessor of either, or a person identified herein has been a defendant or a respondent."

Since the filing of the Application, a proceeding has been instituted in the State of California, before the California Public Utilities Commission, with regard to the applicant, Commonwealth Energy Corporation. The focus of that proceeding is certain "back billing" performed by the applicant to customers for service where the original bills did not contain all charges. The issuance of these corrective bills was necessitated by certain operational difficulties in the billing systems of Commonwealth Energy and host utilities. It has been, and continues to be, Commonwealth Energy's position that the back billing is permitted; however, the Consumer Affairs Division of the California Public Utilities Commission is of the opinion that said billing is not authorized. An investigation has been opened by the California Public Utilities Commission at Docket No. 99-06-036. Under the procedural schedule adopted by the Scoping Memo, dated August 12, 1999, issued by the California Public Utilities Commission, a decision is expected in late May of the year 2000. Attached to this letter, you will find a copy of the Order instituting the investigation, as well as a copy of the scoping memo.

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James J. McNulty, Esquire

Re: Docket No. A-110117

September 3, 1999

Page 2

When reviewing its Application for purposes of determining its obligations with regard to disclosing the fact of the investigation under the terms of the license Application in Pennsylvania, Commonwealth Energy sought an opinion of counsel as to any additional disclosure requirements due to the broad language of the term "business operations" as quoted above in Paragraph 16 of the Application. After discussions with counsel, Commonwealth Energy believes it may be necessary to inform the Commission of other facts, to ensure forthright compliance with the Commission's disclosure requirements.

Specifically, Frederick M. Bloom, Chief Executive Officer of Commonwealth Energy Corporation, was the subject of a Cease and Desist Order issued by the State of California with regard to the sale of general partnership shares which were later determined to be securities by the California Department of Corporations. At the time the Cease and Desist Order was issued, Mr. Bloom no longer worked for the firm involved and was unaware of its issuance. Subsequently, in a position as Vice President for the company of Creative Pet Products, Inc., Mr. Bloom and the Company were fined \$5500.00 by the State of Oregon for failing to disclose the fact of that Cease and Desist Order, despite that fact that Mr. Bloom was unaware of the Order. To the best of his knowledge, these proceedings are now resolved.

If there is any additional information that the Commission feels is necessary to aid it in the resolution of these matters, please do not hesitate to contact me. I will be happy to provide any information in our possession which the Commission might require. It is my understanding that Commonwealth Energy's EGS license was slated to be placed on the Public Meeting Agenda for September 16, 1999. While Commonwealth Energy understands that providing this information so close to that date may impose an additional burden on the Commission, Commonwealth Energy is willing to assist the Commission in any way possible to ensure that the Commission's consideration of this matter is not delayed.

Thank you for your attention to this matter.

Respectfully,



Todd S. Stewart

Counsel for

Commonwealth Energy Corporation

cc: Robert Bennett, BFUS
Henry Deichmiller, BFUS

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September 7, 1999

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
Harrisburg, PA 17120

DOCKETED
SEP 08 1999

RE: Commonwealth Energy Corporation d/b/a Advantage Energy; Application For License As An Electric Generation Supplier; Docket No. A-110117

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Re: Docket No. A-110117
September 7, 1999
Page 2

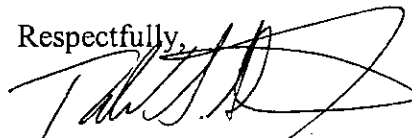
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Thank you for your attention to this matter.

Respectfully,



Todd S. Stewart
Counsel for
Commonwealth Energy Corporation

cc: Robert Bennett, BFUS
Henry Deichmiller, BFUS

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SECRETARY'S BUREAU

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into Commonwealth Energy Corporation's operations and practices in connection with providing service as an Electricity Service Provider under Registration No. 1092,

Respondent.

FILED
PUBLIC UTILITIES COMMISSION
JUNE 24, 1999
SAN FRANCISCO
I. 99-06-036

99 SEP -7 AM 11:20
P.A. P.U.C. BUREAU
SECRETARY'S OFFICE

ORDER INSTITUTING INVESTIGATION

The Commonwealth Energy Corporation (Commonwealth) California corporation which has registered with the Commission as an Electricity Service Provider (ESP) under Public Utilities Code (PU Code) section 394, and has been assigned registration number 1092. Commonwealth provides electricity service to over 40,000 retail customers and has service agreements with the state's three largest utility distribution companies (UDCs) which enable it to serve customers. Commonwealth was registered on August 18, 1997, and has elected to have its monthly billings made with, or as a separate portion of, the UDC bill. Under this arrangement, Commonwealth provides the UDC with billing detail and amounts for which customers are to be billed for generation service.

The investigative staff of the Consumer Services Division (CSD) has prepared an initial investigative report alleging that Commonwealth has violated applicable statutes and requirements, and that Commonwealth's practices and conduct have led to many very unhappy consumers. Following is a summary of CSD's allegations. It finds that Commonwealth has a growing number of customers (more than 159 as of June 1, 1999) dissatisfied enough to write or call the Commission registering complaints and seeking assistance from the

Commission to investigate and resolve their issues. In fact, about 40 customers have submitted funds for the Commission to hold in impound pending resolution of their complaints. Staff believes that instituting a formal enforcement docket is the most expedient way to address these many customer complaints about billings, and to also explore the failure of Commonwealth's promises and commitment of savings to materialize as displayed in solicitation materials. The large number of informal complaints from Commonwealth customers, which have been increasing over the past few months, could evolve into a large number of formal complaints. A common forum for addressing the many consumer complaints and staff's allegations would be efficient and could materially help the Commission achieve its goal of efficient administration of regulation. Staff specifically alleges that Commonwealth has violated PU Code sections 394.5(a) and 394.25(b)(1).

First, staff has learned that a large number of Commonwealth customers were "backbilled" for service provided by Commonwealth many months before. These are apparently not initial service "start-off" or logistical problems between the ESP and UDCs, instances of UDCs failing to issue bills in a timely manner, or of glitches in Commonwealth and UDCs' computer communications. Staff says that it is not focusing on these categories of problems. The customers who concern staff most have expressed aggravation and anger about Commonwealth's billing practices; the company has sent them what it calls "supplemental bills" as long as seven months after the initial billings, and in amounts ranging from just a few cents to over \$2,000. Staff alleges that the terms and conditions for service which Commonwealth provided to customers did not mention authorization for such extensive backbilling, and that Commonwealth is thereby not following the terms it provided when soliciting business from consumers, a violation of PU Code section 394.5(a). Staff reports that it believes from preliminary information received in its investigation from Commonwealth

that at least 19,000 customers, a very large percentage of Commonwealth's customers, were backbilled. As a separate, yet related matter, staff expresses concern that the backbilling may not have been calculated using the correct billing rate applicable between the ESP and customer in the periods in question; staff says it needs more discovery on this point, and ultimately maybe an audit of billings. The billing calculations were made by Commonwealth, with each UDC simply passing along the amounts to individual customers with the UDC's monthly bills.

Second, a large number of the customers interviewed by staff complain that Commonwealth is not delivering the promised savings as compared to the electricity bills they would have received had they been served by their UDC – staff says it has copies of letters, sent by Commonwealth to potential customers, guaranteeing savings of as much as 15-25%.

Staff also notes that almost all of the written complaints received by the Consumers Affairs Branch complain either that efforts to reach someone at Commonwealth about these issues were unsuccessful, or that Commonwealth did not follow through in responding. The complaint letters reveal very dissatisfied customers. Although there are now no requirements on the way ESPs must handle consumers' complaints, or complaint processing timelines, the Commission will hear staff's evidence of Commonwealth's treatment of consumers' complaints. This information could be relevant to help us assess, and place in context, the general regard which Commonwealth may hold its customers, and may be interrelated with Commonwealth's motivation to advance a guarantee of savings (which allegedly did not materialize) in its solicitation materials, and the apparent extensive pattern of backbilling. Finally, this information may help the Commission to decide whether some requirements on responding to consumers' complaints should be adopted for this company, and perhaps whether, in a separate proceeding, the issue of adopting some minimal consumer complaint response

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times for ESPs generally should be considered. The first step in providing consumer protection for California's millions of consumers is to require that companies providing essential commodities such as electricity, whether they are public utilities or electricity service providers, are responsive to consumers' inquiries and complaints.

IT IS ORDERED that:

1. An investigation is instituted into the operations and practices of the Commonwealth Energy Corporation, respondent, and whether, as a registered electricity service provider, it has violated:
 - a) Public Utilities Code § 394.5(a), which require that terms and conditions of service be clearly communicated to prospective customers, by failing to disclose to consumers, among other things, the terms and potential extent of any backbilling; and
 - b) Public Utilities Code § 394.25(b)(1) which forbids electricity service providers to make material misrepresentations in the course of soliciting customers and entering service agreements with them.
2. The respondent is placed on notice that, pursuant to Public Utilities Code § 394.25(a), each violation of a statute in the Public Utilities Code, or of a Commission decision, is subject to the imposition of a sanction of at least \$500 and up to \$20,000, and that each act of violation may be counted separately, with continuing violations being subject to sanction for each day of continuation, under section 2108.
3. The respondent is placed on notice that, under Public Utilities Code § 394.2(a) and (b), the Commission may enter appropriate orders to ensure that any customers impacted by violations are provided reparations, and that the Commission may, consistent with § 394 et seq., enter any orders necessary to prevent any recurrence of consumer abuse.

4. The Consumer Services Division's declaration, which is its initial report or prepared testimony on this matter, shall be served on the respondent when this order is served. The staff may continue its investigation in order to obtain more precise information on the number of customers who were backbilled, including the extent or periods of such backbilling, and the number who were provided guarantees about savings at the time they selected Commonwealth, which did not subsequently materialize. At the prehearing conference, staff shall advance the total number of any violations reported to that date, and shall provide the respondent with specifics.

Scoping Information: This paragraph suffices for the "preliminary scoping memo" required by Rule 6(c). This enforcement proceeding is adjudicatory, and, absent settlement between staff and the respondent, will be set for evidentiary hearing. A hearing may also be held on any settlement for the purpose of enabling parties to justify that it is in the public interest or to answer questions from the ALJ about settlement terms. A prehearing conference will be scheduled and held within 40 days and hearings will be held as soon as practicable thereafter. Objections to the OII may be filed but must be confined to jurisdictional issues which could nullify any eventual Commission order on the merits of the issues about violations of statutes, rules, regulations or orders.

A copy of this order and the staff's declaration shall be personally served on the Respondent's President, Fred Bloom, at:

Commonwealth Energy Corporation
15991 Red Hill Ave., Suite 201
Tustin, CA 92780

This order is effective today.

Dated June 24, 1999 at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners

Certified as a True Copy
of the Original

Leon D. ...

ASST. EXECUTIVE DIRECTOR, PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into Commonwealth Energy Corporation's operations and practices in connection with providing service as an Electricity Service Provider under Registration No. 1092,

Respondent.

Investigation 99-06-036
(Filed June 24, 1999)

**SCOPING MEMO AND RULING OF
ASSIGNED COMMISSIONER**

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P.A.U.C.
SECRETARY'S BUREAU

On August 10, 1999, a prehearing conference was held in this proceeding. As a result of that prehearing conference, and pursuant to Public Utilities Code Section 1701.1(b), a scoping memo shall be issued in this proceeding.

Therefore, **IT IS RULED** that:

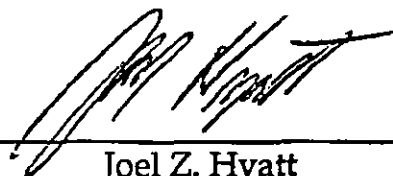
1. The assigned Commissioner is Joel Z. Hyatt.
2. The assigned Administrative Law Judge, Jeffrey P. O'Donnell, is the presiding officer.
3. Since the category of this proceeding previously has been determined to be adjudicatory, pursuant to Rule 7(b), ex parte communications are prohibited.
4. Hearings are needed.
5. The issue is whether Commonwealth Energy Corporation violated Pub. Util. Code Sections 394.5(a) and 394.25(b)(1).

6. The schedule is:

Consumer Services Division (CSD) testimony	October 25, 1999
Respondent testimony	November 24, 1999
CSD rebuttal testimony	December 6, 1999
Respondent surrebuttal testimony	December 20, 1999
Hearings	January 10-12, 2000
Opening briefs	February 14, 2000
Reply briefs	February 28, 2000
Submission date	February 28, 2000
Presiding Officer's decision mailed	April 28, 2000
Presiding Officer's decision effective	May 28, 2000

7. The above schedule is subject to change. However, in no event is this matter expected to conclude any later than 12 months from the date of filing.

Dated August 12, 1999, at San Francisco, California.



Joel Z. Hyatt
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated August 12, 1999, at San Francisco, California.



Fannie Sid
Fannie Sid

NOTICE

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.