

NEW YORK STATE
PUBLIC SERVICE COMMISSION

CASE 05-M-0073 - Petition of M-GBC, LLC, For (1) a Certificate of Public Convenience and Necessity to Own, Operate and Maintain Existing Steam Plant, Electric Substation and Sprinkler Water Services Pursuant to the Public Service Law, (2) a Declaratory Ruling that it will be Subject Only to Lightened Regulation, (3) approval of Tariff for Steam Service, and (4) an Expedited Hearing.

CASE 05-S-0074 New Tariff Schedule, PSC No. 1, for Steam Service in Calverton Industrial Park, Filed by M-GBC, LLC.

PROCEDURAL RULING REGARDING PRELIMINARY IDENTIFICATION OF ISSUES

(Issued February 11, 2005)

MICHELLE L. PHILLIPS, Administrative Law Judge

JEFFERY E. STOCKHOLM, Administrative Law Judge

By Petition dated January 14, 2005, M-GBC, LLC (M-GBC) seeks, *inter alia*, certificates of public convenience and necessity (CPCNs) for an existing steam plant, electric substation, and, if necessary, for its non-potable, sprinkler water services. M-GBC also requests a declaratory ruling that it will be subject to lightened regulation, and approval of a proposed steam service tariff that would apply absent mutual agreement on the terms of such service. Calverton Owners Association (the Association), a group of property owners who are the sole recipients of M-GBC's steam service, oppose M-GBC's petition.

The purpose of this ruling is to provide guidance to the parties regarding some of the issues that will be addressed at the prehearing conference noticed in this proceeding for Tuesday, March 1, 2005. We also request a preliminary filing from the parties addressing those issues as set forth below.

To assist in identifying the issues, the parties should be prepared at the prehearing conference to address the following:

1) Should the Commission establish a temporary rate for steam service subject to refund/reparations?

2) What rates and bills for steam service would be charged Mivila Foods pursuant to the comparable Consolidated Edison Company of New York (Con Edison) steam tariffs in effect (1) from October 2003-March 2004, and (2) from October 2004 to present? For purposes of the calculations, please employ the usage levels indicated in the February, March and April 2003 bills sent by M-GBC to Mivila Foods, Inc. Please identify and explain any additional assumptions that are used to perform said calculations.

3) Identify any "other person or entity" (i.e., not a public utility) providing steam service in the area surrounding Calverton Industrial Park and set forth in detail its rates and charges from October 2003-March 2004 and from October 2004 to present.

4) Do the parties oppose M-GBC's current charges for electric or water service? If yes, please explain.

5) Do the parties oppose M-GBC's request for a CPCN for its electric substation? Is M-GBC required to file tariffs for its electric service?

6) Please explain fully whether you agree or disagree with the assertion that a CPCN is required for M-GBC's provision of non-potable sprinkler water service. Is M-GBC required to file tariffs for its non-potable sprinkler water service?

7) What is the maximum number of customers that could be provided service from M-GBC (provide the numbers separately for steam, electric and water) if Calverton Industrial Park is fully occupied?

8) M-GBC, please confirm that the CPCNs requested in this proceeding are nonexclusive. If not, please explain.

The parties are encouraged to e-mail preliminary responses to these questions and a preliminary list of any additional issues they may wish to include in this proceeding (along with a brief explanation why such issues should be

included) to the Judges and the other parties by noon on February 25, 2005. At the prehearing conference, the parties will have the opportunity to augment and/or clarify their preliminary responses and list of issues.

Parties are also encouraged to discuss among themselves scheduling and process proposals prior to the prehearing conference, and should be prepared to address such matters at the conference.

(SIGNED)

MICHELLE L. PHILLIPS

(SIGNED)

JEFFERY E. STOCKHOLM