

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

(Issued September 22, 2005)

MICHELLE L. PHILLIPS, Administrative Law Judge

JEFFREY E. STOCKHOLM, Administrative Law Judge

On September 21, 2005, counsel for M-GBC, LLC (M-GBC), arranged a conference call that included counsel for the Calverton Owners Association (Association) and the New York State Department of Public Service Staff (Staff). On the conference call, M-GBC and the Association announced their intention to execute settlement documents on Monday, September 26, 2005 that they assert may moot this proceeding. Based thereon, M-GBC requested a postponement of the briefing and evidentiary hearing dates. Staff expressed opposition to anything more than a minimal postponement, given that similar requests have been made and granted on previous occasions. Staff requested that the parties immediately provide copies of the proposed settlement documents.

Given the immediacy of the Thursday September 22, 2005 brief submission date, and for purposes of the conference call, we postponed the briefing due date indefinitely. We indicated, however, that we would issue a procedural ruling regarding the evidentiary hearing date, after receipt, by fax and/or electronic

mail, of the proposed settlement documents and a contract for gas supply from KeySpan.

Having received and briefly reviewed the documents, it appears that, if executed, they could moot some or all of the issues in this proceeding. Accordingly, we hereby postpone the scheduled evidentiary hearing date from Monday September 26, 2005 to Friday, September 30, 2005. The hearing will commence at 9:00 a.m. in the Commission's Albany offices, Empire State Plaza, Agency Building 3, Third Floor, Hearing Room. The purpose of the evidentiary hearing is to receive into evidence the parties' prefiled testimony and the executed copies of any relevant settlement documents, and to allow cross-examination and/or questions, thereon. Accordingly, the appropriate parties should be prepared to provide a witness or witnesses to sponsor under oath any settlement documents offered at the evidentiary hearing.

No later than noon, Tuesday, September 27, 2005, M-GBC shall inform the Administrative Law Judges and Staff by electronic mail whether the settlement documents were executed as anticipated. If the documents are executed as anticipated, M-GBC shall file five copies of the executed documents with the Commission Secretary, with copies to each Administrative Law Judge and to Staff, by 5 p.m. Wednesday September 28, 2005. If the documents are not executed as anticipated, the aforementioned briefs should be filed by 5 p.m. Wednesday, September 28, 2005, and could also be subject to questioning at the hearing.

M-GBC's request to participate in the evidentiary hearing by telephone will be decided next week, prior to the evidentiary hearing.

(SIGNED)

MICHELLE L. PHILLIPS

(SIGNED)

JEFFREY E. STOCKHOLM