

Control Number: 40090



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Addendum StartPage: 0

SOAH DOCKET NO. 473-12-5530  
PUC DOCKET NO. 40090

NOTICE OF VIOLATION OF PURA §  
39.352, FORMER P.U.C. SUBST. R.  
25.107(g)(9)(A), 25.107(g)(9)(B) and  
25.107(j)(1), and CURRENT P.U.C.  
SUBST. R. 25.107(g)(1)(D) RELATED TO  
CERTIFICATION OF RETAIL  
ELECTRIC PROVIDERS, AND  
CURRENT P.U.C. SUBST. R. 25.474,  
25.475, 25.479, 25.480 AND 25.483,  
RELATED TO CUSTOMER  
PROTECTION RULES FOR RETAIL  
ELECTRIC SERVICE BY GLACIAL  
ENERGY OF TEXAS, INC.

PUBLIC UTILITY COMMISSION  
OF TEXAS

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FILING CLERK

**COMMISSION STAFF'S FIRST SET OF REQUESTS FOR INFORMATION  
TO GLACIAL ENERGY OF TEXAS, INC. QUESTION NOS 1-1 – 1-22**

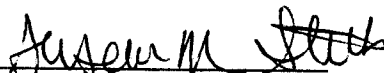
The Staff of the Public Utility Commission of Texas (Staff) requests that Glacial Energy of Texas, Inc. ("Glacial") provide the following information and answer the following question(s) under oath. The question(s) shall be answered in sufficient detail to fully present all of the relevant facts, within the time limit provided by the Presiding Officer or within 20 days, if the Presiding Officer has not provided a time limit. Please copy the question immediately above the answer to each question. These question(s) are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer. State the name of the witness in this cause who will sponsor the answer to the question and can vouch for the truth of the answer.

Provide an original and ten copies of your answers to the questions to the Filing Clerk, Public Utility Commission of Texas, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326.

DATE: August 3, 2012

Respectfully Submitted,


Robert M. Long  
Division Director  
Oversight and Enforcement Division  
State Bar No. 12525500

  
\_\_\_\_\_  
Susan M. Stith  
Attorney-Oversight and Enforcement Division  
State Bar No. 24014269  
(512) 936-7307  
(512) 936-7208 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**DOCKET NO. 40090**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 3<sup>rd</sup> day of August, 2012 in accordance with P.U.C. Procedural Rule 22.74.

  
\_\_\_\_\_  
Susan M. Stith

**PUC DOCKET NO. 40900**  
**SOAH DOCKET NO. 473-12-6200**

**COMMISSION STAFF'S FIRST SET OF REQUESTS  
FOR INFORMATION TO GLACIAL ENERGY OF TEXAS, INC.**

**DEFINITIONS**

- A. "Glacial Energy," "the Company," "Glacial" or "you" refers to Glacial Energy of Texas, Inc., and any person acting or purporting to act on their behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons.
- B. "Energy West Resources, Ltd. d/b/a Franklin Power Company and Fire Fly Powered by Franklin," "Energy West," "EW," and "Franklin" refers to Energy West Resources, Ltd. d/b/a Franklin Power Company and Fire Fly Powered by Franklin, and any person acting or purporting to act on their behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons.

**INSTRUCTIONS**

1. Pursuant to P.U.C. Proc. R. 22.144(c)(2), Staff requests that answers to the requests for information be made under oath.
2. Please copy the question immediately above the answer to each question. State the name of the witness in this cause who will sponsor the answer to the question and can vouch for the truth of the answer.
3. These questions are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer.
4. Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.
5. The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.
6. If any document is withheld under any claim of privilege, please furnish a list identifying each document for which a privilege is claimed, together with the following information: date, sender, recipients or copies, subject matter of the document, and the basis upon which such privilege is claimed.
7. Pursuant to P.U.C. Proc. R. 22.144(g)(4), if the response to any request is voluminous, please provide a detailed index of the voluminous material.

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**COMMISSION STAFF'S FIRST SET OF REQUESTS  
FOR INFORMATION TO GLACIAL ENERGY OF TEXAS, INC.**

- 1.1 When did Glacial begin assessing Texas state sales tax on the residential use of electricity?
- 1.2 Does Glacial currently assess Texas state sales tax on the residential use of electricity? If not, when did Glacial cease assessing Texas state sales tax on the residential use of electricity?
- 1.3 Has Glacial provided refunds of all Texas state sales taxes assessed and collected on the residential use electricity by its Texas customers? Provide the work papers and other data regarding all customer-specific refunds of Texas state sales taxes to its residential customers, along with proof of such refunds.
- 1.4 For each of the calendar years beginning in 2003 through 2006, provide the following with respect to Gary Mole and Energy West Resources, Ltd. d/b/a Franklin Power Company and Fire Fly Powered by Franklin (hereafter referred to as "Franklin"):
  - a) Federal income tax returns of Gary Mole and Franklin;
  - b) W-2s regarding Gary Mole's employment with Franklin;
  - c) 1099s regarding Gary Mole's employment with Franklin;
  - d) 1099s from Franklin to Essential Utilities Corporation;
  - e) All minutes and board resolutions of Franklin from November 2003 through the revocation of Franklin's Retail Electric Provider (REP) certificate;
  - f) Comprehensive list of all members of the Board of Directors, including names, addresses, telephone numbers and dates of service, from November 2003 through December 2005;
  - g) Comprehensive list of all officers and employees, including names, titles, addresses, telephone numbers and dates of service, between November 2003 through December 2005; and

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FOR INFORMATION TO GLACIAL ENERGY OF TEXAS, INC.**

- h) All e-mails and other written correspondence between Gary Mole and Franklin personnel from November 2003 through the revocation of Franklin's Retail Electric Provider (REP) certificate.
- 1.5 With respect to the purchase of ownership interest in Franklin through Touchdown Properties by Gary Mole, provide the following:
  - a) Purchase price;
  - b) Purchase date;
  - c) Purchase agreement;
  - d) Stock certificate; and
  - e) Gary Mole's percentage ownership in Franklin.
- 1.6 Provide a description of Gary Mole's current ownership interest in Glacial Energy of Texas, Inc. Also, include details regarding his ownership history and current ownership interest, including ownership percentage as well as any and all direct or indirect ownership interest Mr. Mole currently holds or has previously held in Glacial and its affiliates.
- 1.7 Provide a comprehensive list of all Glacial's and its parent company's Boards of Directors, including names, addresses, and telephone numbers and dates of service, from the date of inception to the present.
- 1.8 Provide a comprehensive list of Glacial's officers and employees, including names, titles, addresses, telephone numbers and dates of service, from the date of inception to the present.
- 1.9 What are the name(s), title(s) and addresses of all persons that currently have, or have ever had, control over Glacial, either directly or indirectly, and/or own or have owned at any time more than 10% of Glacial?

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- 1.10 Is there any person(s) named in the responses to the preceding requests for information that was a principal of a REP or employed by a REP that experienced a mass transition of the REP's customers to POLR? If so, what are their name(s), title(s) and addresses?
- 1.11 Describe in detail any and all efforts made to secure additional financing for Franklin to avert a mass transition of its customers to the provider of last resort (POLR) in 2005. Explain all particulars of such efforts, including an explanation of why such efforts failed. Also, provide all relevant documents, including e-mails, associated with Franklin's efforts to secure such additional financing.
- 1.12 Describe, in detail, the services that Gary Mole provided, through Essential Utilities Corporation, to Franklin, along with the compensation related to such services. Also provide a copy of the contract and any related documents for such services.
- 1.13 Following the mass transition of its customers to the POLR in 2005, did Franklin:
- a) Process the final meter reads for customer;
  - b) Settle (*i.e.*, pay) financial obligations to customers;
  - c) File with the Commission a sworn affidavit demonstrating compliance with Commission rules regarding financial obligations to refund customers following the transition to POLR? If so, provide documentation in support thereof; and if not, explain why; and,
  - d) Comply with the Commission rules §§ 25.107(f)(2), 25.107(i)(8), 25.478(j)(2) and 25.43(n)(7) as they existed at that time? If so, provide documentation in support thereof, and if not, explain why.
- 1.14 Provide a copy of Franklin's Electricity Facts Label (EFL) and Terms of Service (TOS) documents that were in effect as of May 12, 2011.
- 1.15 Provide a current list of Glacial's creditors, including the amount of indebtedness for each creditor. Also, provide a copy of all indentures, notes, bonds, mortgages and any other documents relating to Glacial's credit and/or loan obligations.

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**COMMISSION STAFF'S FIRST SET OF REQUESTS  
FOR INFORMATION TO GLACIAL ENERGY OF TEXAS, INC.**

- 1.16 Has Glacial ever issued credits/refunds to its customers in response to complaints about the actual kWh rate(s) billed to its customers and/or complaints regarding overbilling? If so, provide a detailed description of the justification, number and frequency of issuing such credits/refunds. Also provide the original bill, revised bill and underlying work papers and all supporting documentation for the five largest credits/refunds ever issued to five different Glacial customers.
- 1.17 If the kWh rate was recalculated for any customer, did Glacial recalculate the bills and issue credits/refunds for those customers who were billed the same rate but who did not complain about the kWh rate? Explain your answer.
- 1.18 Provide a copy of the bills for a customer with a "variable rate" product that also received a credit/refund in response to a complaint about the actual, billed kWh rate for each month between May 2010 and May of 2011. Also provide a copy of all work papers and all supporting documentation underlying the calculation of each of the kilowatt hour (kWh) rates that was applied to kWh consumption on each these bills.
- 1.19 Provide a copy of all work papers and all supporting documentation underlying the calculation of the Kilowatt Hour (kWh) rate that was applied to kWh consumption on variable-rate customer bills in June 2012.
- 1.20 For each of the product types provided by Glacial, provide a detailed explanation of the application of the "retail adder" including the value of the adder, by month that was used to determine the actual price/rate per kWh that appeared on customer bills.
- 1.21 For Glacial's "variable rate" products, provide the kWh rate, by month, and by product that appeared on customer bills.
- 1.22 Provide a copy of all price-related change notices provided to customers pursuant to P.U.C. SUBST. R. 25.475(d)(2) in calendar years 2010, 2011 and 2012.
- 1.23 Provide the following information for Glacial and its affiliates: complaint history, disciplinary record, and compliance record from any federal agency including the U.S.



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Securities and Exchange Commission, any self-regulatory organization relating to the sales of securities, financial instruments, or other financial transactions; state public utility commissions, state attorney general offices, or other regulatory agencies in states where the applicant is doing business or has conducted business in the past including state securities boards or commissions, the Texas Secretary of State, Texas Comptroller's Office, and Office of the Texas Attorney General. Include the type of complaint, status of complaint, resolution of complaint, and the number of customers in each state where complaints occurred.

- 1.24 Provide information regarding the status of Glacial and all affiliates' authorizations to provide gas and/or electric service in states other than Texas. Include the date of the initial application for certification; docket number, date of approval or rejection, date of suspension or revocation and the current status of all previously filed applications.
- 1.25 Provide a description of all entities affiliated with Energy West Resources, Ltd. d/b/a Franklin Power Company and Fire Fly Powered by Franklin. For each entity, provide the date of the filing of the initial application for certification; docket number, date of approval or rejection, date of suspension or revocation and the current status of all previously filed applications.