

STEVENS & LEE
LAWYERS & CONSULTANTS

17 North Second Street
16th Floor
Harrisburg, PA 17101
(717) 234-1090 Fax (717) 234-1099
www.stevenslee.com

Direct Dial: (717) 255-7365
Email: mag@stevenslee.com
Direct Fax: (610) 988-0852

July 29, 2014

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Stephen Kiback, Jr. v. IDT Energy, Inc.
Docket No. C-2014-2409676

Dear Secretary Chiavetta:

Enclosed for filing on behalf of IDT Energy, Inc. is its Motion for Summary Judgment in the above-captioned matter. A copy of this Motion has been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Michael A. Gruin

Enclosure

cc: Certificate of Service
Administrative Law Judge Joel Cheskis

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEPHEN KIBACK JR.
Complainant

v.

IDT ENERGY, INC.
Respondent

:
:
:
:
:
:
:
:
:
:

Docket No. C-2014-2409676

NOTICE TO PLEAD

To: Stephen Kiback

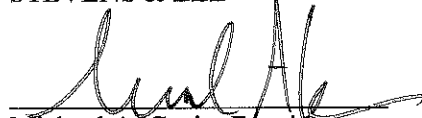
You are hereby notified to file a written response to the attached Motion for Summary Judgment within twenty (20) days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Motion, within twenty (20) days of service, the facts set forth by IDT Energy, Inc. may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as an Answer to a Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned counsel for IDT Energy, Inc. Failure to respond to this Motion for Summary Judgment could result in the dismissal of your case.

July 29, 2014

STEVENS & LEE



Michael A. Gruin, Esquire
Attorney I.D. No. 78625
Stevens & Lee
17 N. 2nd St., 16th Fl.
Harrisburg, PA 17101
Telephone: 717-255-7365
Facsimile: 610-988-0852
mag@stevenslee.com

COUNSEL FOR
IDT ENERGY, INC.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--------------------|---|---------------------------|
| STEPHEN KIBACK JR. | : | |
| Complainant | : | |
| | : | |
| v. | : | Docket No. C-2014-2409676 |
| | : | |
| IDT ENERGY, INC. | : | |
| | : | |
| Respondent | : | |

**MOTION FOR SUMMARY JUDGMENT OF
IDT ENERGY, INC.**

Now Comes IDT Energy, Inc. (“IDT”) pursuant to 52 Pa. Code Section 5.102, and files this Motion for Summary Judgment in the above-captioned case, seeking dismissal with prejudice of the Formal Complaint (“Complaint”) filed by Stephen Kiback, Jr. (“Complainant”). A hearing in this case is unnecessary, because even if all of the averments of Mr. Kiback’s complaint are proven, those facts do not set forth a claim for which relief can be granted. The complaint does not allege that IDT violated the terms of its disclosure statement, nor does it allege that IDT violated the Public Utility Code or Commission regulations governing electric generation suppliers. In further support of its Motion, IDT avers as follows:

BACKGROUND

1. On or about March 12, 2014, IDT was served with the Formal Complaint filed by Stephen Kiback. A copy of the Complaint is attached hereto as Exhibit A.
2. The Complaint alleged that the rate that IDT charged Mr. Kiback for generation and transmission rose from \$.0919 per kWh to \$0.279 per kWh.

3. The Complaint also alleges that when Mr. Kiback agreed to switch to IDT, he was told that he would save 10% over PP&L's rate.

4. The Complaint acknowledges that the Complainant did save money on his electricity supply for his first month of service from IDT, but the Complainant's electric generation supply rate then rose.

5. The Complaint also includes allegations about the length of time that it took to switch the Complainant back to PPL for electric generation service after he requested to terminate his IDT service.

6. For relief, Mr. Kiback has asked the Commission to order IDT to pay him back the money that he was overcharged in previous months and reduce his current bill.

7. The Complaint also included copies of four of Mr. Kiback's PPL electric utility bills.

8. On April 25, 2014, IDT filed an Answer to the Complaint. A copy of IDT's Answer is attached hereto as Exhibit B.

9. In its Answer, IDT acknowledged that the Complainant's charges from IDT increased due to the well-publicized large increases in wholesale electricity costs during January and February 2014.

10. IDT's Answer also stated that IDT had offered to retroactively apply a rate adjustment to Mr. Kiback's usage for the periods impacted by the wholesale price spikes, and had contacted the Complainant to offer him a goodwill credit adjustment to his bill, as the Company has done with other similarly situated customers to help ameliorate the impact of wholesale energy price increases caused by the extreme cold weather in early 2014.

11. IDT has reviewed Mr. Kiback's account history in order to respond to his Complaint. Attached hereto as Exhibit C is the Affidavit of Wayne Stoughton, IDT's Vice President of Customer Service and Regulatory Compliance, which summarizes Mr. Kiback's account history.

12. Mr. Stoughton's Affidavit includes a copy of IDT Energy's Disclosure Statement for its month-to-month variable price product, which was mailed to Mr. Kiback upon his enrollment with IDT in August of 2011, nearly two and one half years prior to the filing of the instant Complaint.

13. Mr. Stoughton's Affidavit also includes a listing of the historical prices charged by IDT Energy to Mr. Kiback for electric generation supply since his enrollment with IDT in August of 2011.

14. Mr. Stoughton's Affidavit also explains that IDT has already provided Mr. Kiback with a goodwill credit adjustment and refund in response to his concerns about the price increase that he experienced as a result of the Polar Vortex in early 2014.

15. Based on the pleadings and facts of record, it is clear that the Complaint should be dismissed on Summary Judgment because

- the prices charged to Mr. Kiback by IDT were in accordance with IDT's disclosure statement
- IDT does not control the amount of time that it takes to switch a customer to default service once a request to do so is made, and
- IDT has already provided Mr. Kiback with the relief he has requested.

SUMMARY JUDGMENT STANDARD

16. Commission regulations permit any party to file a motion for summary judgment at any time “[a]fter the pleadings are closed, but within a time so that the hearing is not delayed...” 52 Pa. Code § 5.102(a).

17. Motions for summary judgment may be filed based on the pleadings, depositions, answers to interrogatories, admissions and supporting affidavits. Judgment will be rendered if the documents show that “there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.” 52 Pa. Code §5.102(d).¹

18. As stated by the Pennsylvania Supreme Court, in *P.J.S. v. PA. State Ethics Commission*, 723 A.2d 174, 176 (Pa., 1999):

Summary Judgment may be granted only in those cases where the record clearly shows that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. *Marks v. Tasman*, 527 Pa. 132, 589 A.2d 205 (1991). On a Motion for Summary Judgment, the record must be viewed in the light most favorable to the opposing party, and all doubts as to the existence of a genuine issue of material fact must be resolved in favor of the nonmoving party. *Kapres v. Heller*, 536 Pa. 551, 640 A.2d 888 (1994).

19. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to a judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. *First Mortgage Co. of Pa. v. McCall*, 459 A.2d 406 (Pa. Super. 1983); *Mertz v. Lakatos*, 381 A.2d 497 (Pa. Cmwlt. 1976). All doubts as to the existence of a genuine issue of material fact must be resolved

¹ This is the same standard applied by the courts of this Commonwealth. See *Donnelly Directory v. Bell Telephone. Co. of Pa.*, Docket No. C-00871245, Commission Opinion and Order entered February 19, 1988, citing *Schacter v. Albert*, 239 A.2d 841 (Pa.Super. 1986).

against the moving party. *Thomson Coal Co. v. Pike Coal Co.*, 412 A.2d 466 (Pa. 1979). Summary judgment will be granted only where the right is clear and free from doubt. The non-moving party in a motion for summary judgment must allege facts showing that an issue for trial exists. *First Mortgage Co. of Pa. v. McCall*, 459 A.2d 406 (Pa. Super. 1983); *Commonwealth v. Diamond Shamrock Chemical Co.*, 391 A.2d 1333 (Pa. Cmwlth. 1978); *Stover v. The United Telephone Co. of Pa.*, Docket No. C-00923833 (Order entered July 21, 1992). The Commission has interpreted Section 5.102 of its regulations in conformity with Rule 1035 (now Rule 1035.1) of the Pennsylvania Rules of Civil Procedure. *South River Power Partners, L.P. v. West Penn Power Company*, Docket No. C-00935287, Order (entered November 6, 1996). In civil practice, a non-moving party may not rely solely upon denials in its pleadings, but must submit some materials to establish that a genuine issue of material fact exists. *Nicastro v. Cuyler*, 467 A.2d 1218 (Pa. Cmwlth. 1983); *Pennsylvania Gas & Water Co. v. Nenna & Frain, Inc.*, 467 A.2d 330 (Pa. Super. 1983); *Geriot v. Council of Borough of Darby*, 457 A.2d 202 (Pa. Cmwlth. 1983). The provision at 52 Pa.Code § 5.102 serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. 66 Pa.C.S. § 703(a); *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa. Cmwlth. 1989).

ARGUMENT

20. As discussed further below, even when accepting as true all well-pleaded material facts raised by Mr. Kiback, as well as every reasonable inference from those facts, and viewing the Complaint in the light most favorable to Mr. Kiback, it is clear and free from doubt that there is no genuine issue of material fact and that IDT is entitled to judgment as a matter of law.

21. The central allegation of Mr. Kiback's complaint is that the price that IDT charged him for electric generation supply varied over time and exceeded the rate of PPL, the default service provider. See Complaint, at paragraph 4.

22. Mr. Kiback also alleges that he was promised by IDT that his price would always be lower than PPL's, and that this promise was broken when IDT's rate exceeded PPL's. See Complaint, at paragraph 4.

23. A review of the IDT disclosure statement that was provided to Mr. Kiback upon his enrollment makes it clear that IDT was providing Mr. Kiback with a variable rate product for electric generation supply. See Affidavit of Wayne Stoughton, Exhibit A hereto. The disclosure statement clearly does not state that the price is "guaranteed to remain below PPL's price". To the contrary, the disclosure statement specifies the conditions of variability ("the price for electric generation sold is established on an approximately monthly basis upon electric generation market pricing..."), clearly states that there is no limit on price variability ("There is no ceiling price") and clearly states that the customer's price may be higher or lower than the EDC's in any given month.

24. Even when accepting as true all well-pleaded material facts and every inference from those facts, and viewing the Complaint in the light most favorable to Mr. Kiback, Mr. Kiback's allegations regarding the prices he was charged by IDT cannot justify a finding in Mr. Kiback's favor.

25. When viewed in the light most favorable to Mr. Kiback, the undisputed facts of this case are that 1) Mr. Kiback was offered a variable rate product by IDT Energy, 2) IDT Energy's disclosure statement clearly stated that the price could vary from month to month, with no ceiling price, and that the price could be higher or lower than the EDC's rate in any given month, 3) Mr. Kiback was a customer of IDT Energy's

for at least 30 months prior to filing his complaint, and therefore he was well aware that his rate could change monthly, 4) the unprecedented Polar Vortex phenomenon in early 2014 caused wholesale and retail electricity prices to spike dramatically, 5) Mr. Kiback's monthly rate for electricity generation supply rose as a result of these price spikes, and 6) IDT Energy provided Mr. Kiback with a goodwill adjustment to his IDT charges in the amount of \$152 to ameliorate the effect of the price spikes.

26. The Commission has stated that "consumers do bear some responsibility to make choices that are appropriate for their individual circumstances." William Towne v. Great American Power, LLC, Docket No. C-2012-2307991, Opinion and Order (entered October 18, 2013) at 22. Consumers must be aware of the terms of service they agree to when entering into a contract for energy services, just as they would do for any other contract they would agree to. See *MacLuckie v. Palmco Energy Pennsylvania, LLC*, Docket No. C-2014-2402558 (Initial Decision issued June 16, 2014).

27. In this case, Mr. Kiback's complaint acknowledges that he was aware that his price changed over time. Mr. Kiback was enrolled with IDT from August 2011 through March 2014. During this time he received monthly bills reflecting his IDT rate and charges, so he was clearly aware, or should have been aware, that he had a variable rate product with IDT.

28. Furthermore, IDT's disclosure statement plainly stated that Mr. Kiback's rate could vary from month to month with no ceiling price, and that his rate could be higher or lower than the Electric Distribution Company's rate in any given month.

29. To the extent that Mr. Kiback complains that his initial rate was low, and then increased over time, it is not unreasonable, nor is it false advertising or unethical business practices, for a supplier to offer a low introductory rate to entice new customers

while charging customers a different rate that had increased following the expiration of the introductory rate. See *MacLuckie v. Palmco Energy Pennsylvania, LLC*, Docket No. C-2014-2402558 (Initial Decision issued June 16, 2014).

30. A hearing in this case is unnecessary, because even if all of the averments of Mr. Kiback's complaint are proven, those facts do not set forth a claim for which relief can be granted. The complaint does not allege that IDT violated the terms of its disclosure statement, nor does it allege that IDT violated the Public Utility Code or Commission regulations governing electric generation suppliers.

31. Furthermore, with respect to the relief sought by Mr. Kiback in the form of a refund, it is well-settled that the Commission does not have the authority to order a refund of Electric Generation Supplier ("EGS") charges. The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). IDT, as an EGS, is not a public utility subject to Commission regulation of utilities, except in limited circumstances. *Delmarva Power & Light Co. v. Pa. Pub. Util. Comm'n*, 870 A.2d 901 (Pa. 2005) (*Delmarva*). See also, *Yaglidereliler Corporation v. Blue Pilot Energy, LLC*, Docket No. C-2014-2413732 (Initial Decision issued June 18, 2014). Since the Commission lacks the authority to regulate rates charged for electric generation service, it also lacks the authority to order a refund as requested by the Complaint.

32. In addition, even if a refund was warranted and within the Commission's power to grant, such a claim would be moot because IDT has already provided Mr. Kiback with an adjustment to his bill in the amount of \$152. See Affidavit of Wayne Stoughton, Exhibit C hereto. This amount resulted from an adjustment of the rate

charged on his bill for the January 20, 2014 –February 19, 2014 billing period from \$.27 per kWh to \$.09 per kWh, as reflected on Mr. Kiback’s account history attached to the Affidavit of Wayne Stoughton.

33. The mootness doctrine requires that an actual controversy exist at all stages of review, not merely when the complaint is filed. *In re Gross*, 476 Pa. 203, 382 A.2d 116 (1978), citing G. Gunther, *Constitutional Law* 1578 (9th ed. 1975). To the extent that Mr. Kiback is seeking a refund or an adjustment to his last IDT bill, such relief has already been provided to him, so no controversy exists to justify permitting his complaint to go forward on that allegation.


34. Finally, to the extent that Mr. Kiback alleges that IDT somehow acted improperly with respect to the length of time that it takes to switch electric generation suppliers, such allegation likewise fails to state a claim for which relief can be granted. The timeline for switching customer’s suppliers is controlled by their electric distribution company and governed by the Commission’s regulations at 52 Pa. Code § 57.171, et seq. and the Commission’s *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 57 Regulations Regarding Standards For Changing a Customer’s Electricity Generation Supplier*, Docket No. L-2014-2409383 (Order entered April 4, 2014).

CONCLUSION

For the reasons set forth above, IDT Energy respectfully requests that its Motion for Summary Judgment be granted, and that the Complaint of Mr. Kiback be dismissed, with prejudice.

Respectfully submitted,

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
mag@stevenslee.com

DATE: July 29, 2014

COUNSEL FOR
IDT ENERGY, INC.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: March 12, 2014

STEPHEN KIBACK, JR.
Complainant

v.

IDT ENERGY, INC.
Respondent

Complaint Docket
No: C-2014-2409676

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

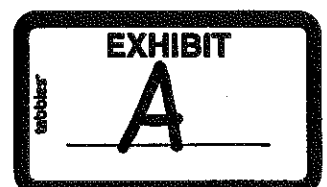
TO: IDT ENERGY, INC.

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original only), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. **The date served is the mailing date appearing at the top of this Notice.** Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy or settle this complaint, or to file an answer or other responsive pleading within twenty (20) days of the date served, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a

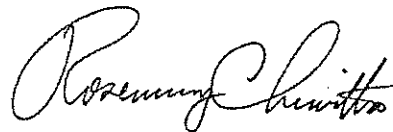


payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy or settle this complaint, you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

COPY

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information C-2014-2409676

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number:

Name Stephen Kiback Jr.

Street/P.O. Box 407 Clinton St Apt #

City Jersey Shore State PA Zip 17740

County Clinton

Telephone Number(s) Where We Can Contact You During the Day:

(570) 753-8466 (home) (570) 447-9944 (mobile)

E-mail Address (optional): None

Utility Account Number (from your bill) 71740-58002

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name Same

Street/P.O. Box 407 Clinton Street

City AVIS State PA Zip 17721

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

IDT Energy

RECEIVED 2014 MAR - 4 AM 10:36 PA.P.U.C. SECRETARY'S BUREAU

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain). *IDT Energy has tripled the amount they charge for generation and transmission. Previous bill they charged \$0.0919 Per KWH This month they charged² \$0.279 Per KWH. I am on*

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

When I agreed to have IDT Energy Generate and Transmit my Electricity, they said they would save me 10% over PPL. The first month they did save me money, but then the price kept going up. At this time PPL is charging \$0.0875 PKWH in comparison to IDT charging \$0.279 PKWH. I would like the PUC to make them ^{pay} me back the money they over charged me in previous months plus reduce my bill for this month. As you can see it is way out of range. It is not saving me any money at all. Also IDT said it would take 2 or 3 months to transfer to another source which I don't think is fair at all.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

However, if you are interested in receiving legal representation, you may contact the Widener Harrisburg Civil Law Clinic located at 3605 Vartan Way, Harrisburg, PA 17110, by phone at 717-541-0320 or via email at lawclinichb@mail.widener.edu.

For additional information see Widener Harrisburg's Civil Law Clinic's website <http://law.widener.edu/Academics/ClinicalProgramsandProfessionalTraining/Clinics/HarrisburgCivilLawClinic.aspx>. Based on your income, legal representation may be available to you at no cost or a reduced fee.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you **do not sign** the Formal Complaint, the PUC **will not accept it**.

Verification:

I Stephen Kiback Jr., hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Stephen Kiback Jr. (Signature of Complainant) 03-03-2014 (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. Filing

You may electronically file your Formal Complaint with the PUC. To do so, you need to establish an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

If you do not electronically file your Formal Complaint, **mail** the completed form (along with any attachments) to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

| | |
|---|--|
| Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265 | Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120 |
|---|--|

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.



PPL Electric Utilities

Questions? Please contact us by Mar 13. 1-800-DIAL-PPL (1-800-342-5775) M-F: 8am to 5pm

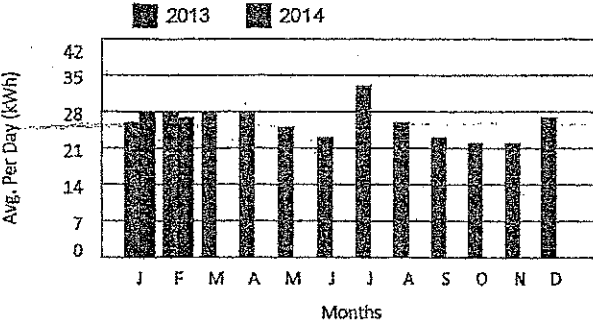
Visit us online at pplelectric.com

| Bill/Acct. No. | Due Date | Amount Due |
|----------------|--------------|------------|
| 71740-58002 | Mar 13, 2014 | \$266.35 |

Your Electric Usage Profile

Service to: ~~Stephen Kiback Jr~~ *Kiback 407*
 STEPHEN KIBACK JR
 407 CLINTON ST
 AVIS, PA 17721 *Password - Rella1*
 Meter: 24081133
 Your next meter reading is on or about Mar 19, 2014.

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



| Monthly Comparison | Days Billed | kWh | Average kWh/Day | Average Temp. |
|--------------------|-------------|-----|-----------------|---------------|
| Feb 2014 | 30 | 810 | 27 | 20F |
| Feb 2013 | 32 | 908 | 28 | 26F |

| Billing Period | Type | Reading |
|----------------|------------|---------|
| Feb 19 | Actual | 85839 |
| Jan 20 | Actual | 85029 |
| 30 Days | kWh Billed | 810 |

| Yearly Comparison | Total Use | Avg. Monthly |
|---------------------|-----------|--------------|
| Mar 2013 - Feb 2014 | 9482 | 790 |
| Mar 2012 - Feb 2013 | 9192 | 766 |

Billing Summary

(Billing details on back)

| | |
|--------------------------------------|-----------------|
| Balance as of Feb 20, 2014 | \$0.00 |
| Charges: | |
| Total PPL Electric Utilities Charges | \$40.36 |
| Total IDT Energy Charges | \$225.99 |
| Total Charges | \$266.35 |
| Amount Due By Mar 13, 2014 | \$266.35 |
| Account Balance | \$266.35 |

PPL Electric Utilities' price to compare for your rate is \$0.08754 per kWh. This changes the 1st of Mar, Jun, Sept, and Dec. Visit papowerswitch.com or www.oca.state.pa.us for supplier offers.

Your Message Center

- With paperless billing, you can receive and pay your PPL Electric Utilities bills online. The process is free, quick, convenient and secure. To learn more or sign up, visit pplelectric.com.
- Information about appliance energy use and tips on saving energy are available through the Energy Library on our Web site, pplelectric.com/e-power
- Before digging around your home or property, you should always call the state's One Call notification system to locate any underground utility lines. You can do this by simply dialing 811, which will connect you to the One Call system. Be safe and call 811 before you dig.

Payment Methods

Online at: pplelectric.com

By phone: 1-800-342-5775 or call BillMatrix (service fee applies) at 1-800-672-2413 to pay using Visa, MasterCard, Discover or debit card.

By Mail: 2 North 9th Street CPC-GENN1 Allentown, PA 18101-1175

Correspondence should be sent to: Customer Services 827 Hausman Road Allentown, PA 18104-9392

Other important information on the back of this bill →



PPL Electric Utilities

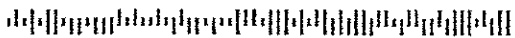
Return this part in the envelope provided with a check payable to PPL Electric Utilities.

| Bill Acct. No. | Due Date | Amount Due |
|----------------|--------------|------------|
| 71740-58002 | Mar 13, 2014 | \$266.35 |

Amount Enclosed:

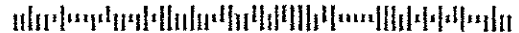
| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

AV 01 024006 80037B 89 B**5DGT



STEPHEN KIBACK JR
407 CLINTON ST
JERSEY SHORE, PA 17740-6715

PPL ELECTRIC UTILITIES
2 NORTH 9TH STREET CPC-GENN1
ALLENTOWN, PA 18101-1175





PPL Electric Utilities

Questions? Please contact us by Feb 11. 1-800-DIAL-PPL (1-800-342-5775) M-F: 8am to 5pm

Visit us online at pplelectric.com

| Bill Acct. No. | Due Date | Amount due |
|----------------|--------------|------------|
| 71740-58002 | Feb 11, 2014 | \$127.47 |

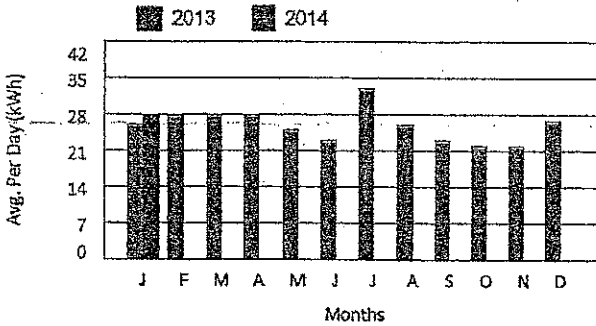
Your Electric Usage Profile

Service to: STEPHEN KIBACK JR 407 CLINTON ST AVIS, PA 17721

Meter: 24081133

Your next meter reading is on or about Feb 19, 2014.

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



Billing Summary

(Billing details on back)

Balance as of Jan 21, 2014 \$0.00

Charges:

| | |
|--------------------------------------|---------|
| Total IDT Energy Charges | \$84.09 |
| Total PPL Electric Utilities Charges | \$43.38 |

Total Charges \$127.47

Amount Due By Feb 11, 2014 \$127.47

Account Balance \$127.47

PPL Electric Utilities' price to compare for your rate is \$0.08754 per kWh. This changes the 1st of Mar, Jun, Sept, and Dec. Visit papowerswitch.com or www.oca.state.pa.us for supplier offers.

Your Message Center

- With paperless billing, you can receive and pay your PPL Electric Utilities bills online. The process is free, quick, convenient and secure. To learn more or sign up, visit pplelectric.com.
- Information about appliance energy use and tips on saving energy are available through the Energy Library on our Web site, pplelectric.com/e-power
- Before digging around your home or property, you should always call the state's One Call notification system to locate any underground utility lines. You can do this by simply dialing 811, which will connect you to the One Call system. Be safe and call 811 before you dig.

Payment Methods

Online at: pplelectric.com

By phone: 1-800-342-5775 or call BillMatrix (service fee applies) at 1-800-672-2413 to pay using Visa, MasterCard, Discover or debit card.

By Mail: 2 North 9th Street CPC-GENN1 Allentown, PA 18101-1175

Correspondence should be sent to: Customer Services 827 Hausman Road Allentown, PA 18104-9392

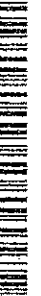
| Monthly Comparison | Days Billed | kWh | Average kWh/Day | Average Temp |
|--------------------|-------------|-----|-----------------|--------------|
| Jan-2014 | 33 | 915 | 28 | 27F |
| Jan-2013 | 31 | 792 | 26 | 32F |

| Billing Period | Type | Reading |
|----------------|------------|---------|
| Jan 20 | Actual | 85029 |
| Dec 18 | Actual | 84114 |
| 33 Days | kWh Billed | 915 |

| Yearly Comparison | Total Use | Avg. Monthly |
|---------------------|-----------|--------------|
| Feb 2013 - Jan 2014 | 9580 | 798 |
| Feb 2012 - Jan 2013 | 8990 | 749 |

Other important information on the back of this bill →

008728 1/1





PPL Electric Utilities

Questions? Please contact us by Jan 9. 1-800-DIAL-PPL (1-800-342-5775) M-F: 8am to 5pm

Visit us online at pplelectric.com

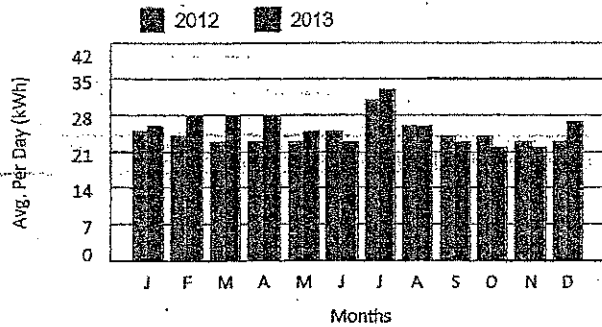
| Bill Acct. No. | Due Date | Amount Due |
|----------------|-------------|------------|
| 71740-58002 | Jan 9, 2014 | \$116.35 |

Your Electric Usage Profile

Service to: STEPHEN KIBACK JR 407 CLINTON ST AVIS, PA 17721

Meter: 24081133 Your next meter reading is on or about Jan 20, 2014.

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



| Monthly Comparison | Days Billed | kWh | Average kWh/Day | Average Temp. |
|--------------------|-------------|-----|-----------------|---------------|
| Dec 2013 | 30 | 813 | 27 | 31F |
| Dec 2012 | 32 | 730 | 23 | 38F |

| Billing Period | Type | Reading |
|----------------|------------|---------|
| Dec 18 | Actual | 84114 |
| Nov 18 | Actual | 83301 |
| 30 Days | kWh Billed | 813 |

| Yearly Comparison | Total Use | Avg. Monthly |
|---------------------|-----------|--------------|
| Jan 2013 - Dec 2013 | 9457 | 788 |
| Jan 2012 - Dec 2012 | 8982 | 749 |

Billing Summary

(Billing details on back)

| | |
|--------------------------------------|-----------------|
| Balance as of Dec 19, 2013 | \$0.00 |
| Charges: | |
| Total PPL Electric Utilities Charges | \$39.44 |
| Total IDT Energy Charges | \$76.91 |
| Total Charges | \$116.35 |
| Amount Due By Jan 9, 2014 | \$116.35 |
| Account Balance | \$116.35 |

PPL Electric Utilities' price to compare for your rate is \$0.08754 per kWh. This changes the 1st of Mar, Jun, Sept, and Dec. Visit papowerswitch.com or www.oca.state.pa.us for supplier offers.

Your Message Center

- With paperless billing, you can receive and pay your PPL Electric Utilities bills online. The process is free, quick, convenient and secure. To learn more or sign up, visit pplelectric.com.
- Information about appliance energy use and tips on saving energy are available through the Energy Library on our Web site, pplelectric.com/e-power
- Before digging around your home or property, you should always call the state's One Call notification system to locate any underground utility lines. You can do this by simply dialing 811, which will connect you to the One Call system. Be safe and call 811 before you dig.

Payment Methods

Online at: pplelectric.com

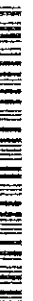
By phone: 1-800-342-5775 or call BillMatrix (service fee applies) at 1-800-672-2413 to pay using Visa, MasterCard, Discover or debit card.

By Mail: 2 North 9th Street CPC-GENN1 Allentown, PA 18101-1175

Correspondence should be sent to: Customer Services 827 Hausman Road Allentown, PA 18104-9392

Other important information on the back of this bill →

009777 1/1





PPL Electric Utilities

Questions? Please contact us by May 10. 1-800-DIAL-PPL (1-800-342-5775) M-F: 8am to 5pm

Visit us online at pplelectric.com

| Bill Acct. No. | Due Date | Amount Due |
|----------------|--------------|------------|
| 71740-58002 | May 10, 2013 | \$100.95 |

Your Electric Usage Profile

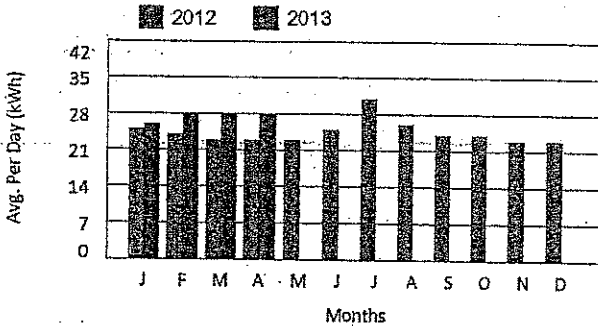
Service to: STEPHEN KIBACK JR 407 CLINTON ST AVIS, PA 17721

Meter: 24081133

Your next meter reading is on or about May 20, 2013.

Handwritten: Paid 4-30-13 check # 123

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



Billing Summary

(Billing details on back)

| | |
|--------------------------------------|-----------------|
| Balance as of Apr 19, 2013 | \$0.00 |
| Charges: | |
| Total PPL Electric Utilities Charges | \$40.29 |
| Total IDT Energy Charges | \$60.66 |
| Total Charges | \$100.95 |
| Amount Due By May 10, 2013 | \$100.95 |
| Account Balance | \$100.95 |

PPL Electric Utilities' price to compare for your rate is \$0.07237 per kWh. This changes the 1st of Mar, Jun, Sept, and Dec. Visit papowerswitch.com or www.oca.state.pa.us for supplier offers.

Your Message Center

- With paperless billing, you can receive and pay your PPL Electric Utilities bills online. The process is free, quick, convenient and secure. To learn more or sign up, visit pplelectric.com.
- Information about appliance energy use and tips on saving energy are available through the Energy Library on our Web site, pplelectric.com.
- Before digging around your home or property, you should always call the state's One Call notification system to locate any underground utility lines. You can do this by simply dialing 811, which will connect you to the One Call system. Be safe and call 811 before you dig.

| Monthly Comparison | Days Billed | kWh | Average kWh/Day | Average Temp. |
|--------------------|-------------|-----|-----------------|---------------|
| Apr 2013 | 30 | 831 | 28 | 44F |
| Apr 2012 | 30 | 702 | 23 | 51F |

| Billing Period | Type | Reading |
|----------------|------------|---------|
| Apr 18 | Actual | 77983 |
| Mar 19 | Actual | 77152 |
| 30 Days | kWh Billed | 831 |

| Yearly Comparison | Total Use | Avg. Monthly |
|---------------------|-----------|--------------|
| May 2012 - Apr 2013 | 9379 | 782 |
| May 2011 - Apr 2012 | 8341 | 695 |

Payment Methods

Online at: pplelectric.com

By phone: 1-800-342-5775 or call BillMatrix (service fee applies) at 1-800-672-2413 to pay using Visa, MasterCard, Discover or debit card.

By Mail: 2 North 9th Street CPC-GENN1 Allentown, PA 18101-1175

Correspondence should be sent to: Customer Services 827 Hausman Road Allentown, PA 18104-9392

Other important information on the back of this bill →

022236 1/1



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--------------------|---|---------------------------|
| STEPHEN KIBACK JR. | : | |
| Complainant | : | |
| | : | |
| v. | : | Docket No. C-2014-2409676 |
| | : | |
| IDT ENERGY, INC. | : | |
| | : | |
| Respondent | : | |

**ANSWER OF RESPONDENT,
IDT ENERGY, INC.**

Pursuant to 52 Pa Code §5.61, IDT Energy, Inc. (“Respondent” or “Company”), by and through its attorneys Stevens & Lee, P.C., hereby responds to the Formal Complaint (“Complaint”) filed by Stephen Kiback, Jr. (“Complainant”). In support thereof, the Company avers as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted in Part and Denied. The Company admits that the Complainant’s

charges from IDT Energy increased due to the large increases in wholesale electricity costs during January and February 2014. The Company has contacted the Complainant to offer him a goodwill credit adjustment to his bill, as the Company has done with other similarly situated customers, to help ameliorate the impact of wholesale energy price increases caused by the extreme cold weather in early 2014, but as of the date of the filing of this Answer, the Complainant has not indicated that the Company’s offer is satisfactory to resolve his complaint.



5. The Company has offered to retroactively apply a rate adjustment to Mr. Kiback's usage for the periods impacted by the wholesale price spikes. The Company has not been able to confirm Mr. Kiback's satisfaction with this refund offer as of yet, but is committed to satisfying his concerns. The Company has offered rebates and refunds to thousands of customers, which will total over \$2 million, to ameliorate the effects of the energy cost increases caused by the extreme weather. The Company respectfully requests that this matter be assigned to the Commission's mediation program to provide the parties with further opportunity to discuss the Complainant's concerns and reach a satisfactory resolution.

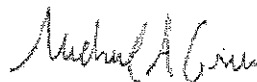
6. Paragraph 6 is a statement to which no response is required.
7. Admitted.
8. Paragraph 8 is a statement to which no response is required.
9. Paragraph 9 is a verification to which no response is required.

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, Respondent IDT Energy, Inc. respectfully requests that this matter be assigned to the Commission's mediation program.

Respectfully submitted,

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
mag@stevenslee.com

DATE: April 25, 2014

COUNSEL FOR IDT ENERGY, INC.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEPHEN KIBACK JR.
Complainant

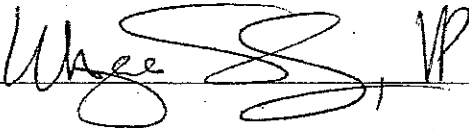
v.

IDT ENERGY, INC.
Respondent

Docket No. C-2014-2409676

VERIFICATION

I, Wayne Stoughton, holding the title of Vice President, Customer Service and Regulatory Compliance with IDT Energy, Inc., verify that the answers and the factual allegations contained in the foregoing Answer to Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.



April 24, 2014

Date

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEPHEN KIBACK JR.
Complainant

v.

IDT ENERGY, INC.
Respondent

:
:
:
:
:
:
:
:
:
:

Docket No. C-2014-2409676

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

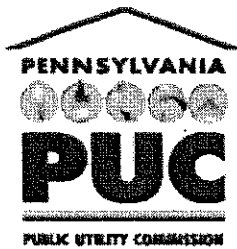
VIA First Class U.S. Mail

Stephen Kiback, Jr.
407 Clinton St.
Jersey Shore, PA 17740



Michael A. Gruin

DATED: April 25, 2014



PENNSYLVANIA
PUBLIC UTILITY COMMISSION

CONSUMERINFO UTILITY&INDUSTRY FILING&RESOURCES ABOUTPUC CONTACTUS

[Login to eFiling](#) | [Contact Us](#) | [Search](#)

- [My Filings](#)
- [New Filing](#)
- [Modify Account](#)
- [POR Search](#)
- [eService Directory](#)
- [Subscriptions](#)
- [Technical Assistance](#)
- [eFiling FAQs](#)
- [Log Off](#)

eFiling Successfully Transmitted



Your filing has been electronically received. Upon review of the filing for conformance with the Commission's filing requirements, a notice will be issued acknowledging such compliance and assigning a Docket Number. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

If your filing exceeds 250 pages, you are required to submit one paper copy of the filing within 3 business days of submitting the electronic filing. This paper copy can be mailed to: Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120. Please print a copy of this page and attach it to the paper copy of your filing as the first page.

| eFiling Confirmation | |
|------------------------------|----------------------|
| Docket Number: | C-2014-2409676 |
| Description: | |
| Transmission Date: | 4/25/2014 3:33:28 PM |
| Filed On: | 4/25/2014 3:33:28 PM |
| eFiling Confirmation Number: | 1545500 |

Uploaded File List

| File Name | Document Class | Document Type |
|---|----------------|----------------------------|
| Answer - Stephen Kiback v. IDT Energy.pdf | Communication | Answer to Formal Complaint |

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--------------------|---|---------------------------|
| STEPHEN KIBACK JR. | : | |
| Complainant | : | |
| | : | |
| v. | : | Docket No. C-2014-2409676 |
| | : | |
| IDT ENERGY, INC. | : | |
| | : | |
| Respondent | : | |

AFFIDAVIT OF WAYNE STOUGHTON

| | | |
|---------------------|---|-----|
| STATE OF NEW YORK |) | ss: |
| COUNTY OF CHATAUQUA |) | |

Wayne Stoughton, Affiant, being first duly sworn according to law, deposes and says that he is the Vice President of Customer Service and Regulatory Compliance for IDT Energy, Inc. and that he has personal knowledge of the facts contained herein.

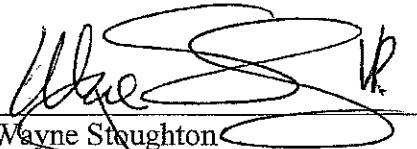
1. In my role as Vice President of Customer Service and Regulatory Compliance for IDT Energy, Inc., I am responsible for overseeing IDT Energy's sales compliance activities, including sales scripting, quality control procedures, disclosure statements, third party verifications, and comprehensive reporting methods. I also oversee the IDT Energy Customer Service call center, which handles all internal and external customer-related calls. The call center is located in Jamestown, New York employing approximately 25 Customer Service Representatives along with an additional 5 supervisory employees.
2. I have reviewed IDT Energy's records related to the account of Stephen Kiback, Jr., PPL utility account number 71740-58002, and I investigated the allegations made by Mr. Kiback in his formal complaint filed with the Pennsylvania Public Utility Commission at Docket No. C-2014-2409676.



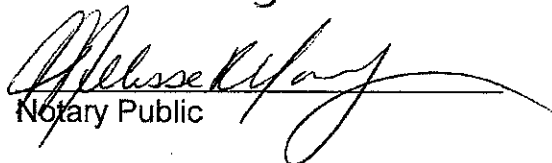
3. IDT Energy's records reflect that Mr. Kiback enrolled with IDT Energy on July 5, 2011. The enrollment was established via telephone, and a valid third-party verification was obtained to confirm the enrollment.
4. Subsequent to his enrollment, Mr. Kiback was mailed a copy of IDT Energy's Disclosure Statement for its month-to-month variable price product. A copy of that Disclosure Statement is attached hereto as Appendix 1.
5. The Disclosure Statement clearly indicates that IDT Energy offers a variable price for all electric generation sold under this Agreement, and that the price for electric generation sold is established on an approximately monthly basis based upon electric generation market pricing as furnished by PJM clearinghouse, transportation or transmission, and other market and business price related factors.
6. The Disclosure Statement also clearly states that the price may be higher or lower than the EDC's price in any particular month, and that there is no ceiling price.
7. Mr. Kiback's account was transferred to IDT Energy effective 8/22/2011.
8. The retail prices that IDT Energy charges its customers for electric generation supply are based in part on IDT Energy's wholesale costs of acquiring electricity.
9. Appendix 2 to this Affidavit lists the historical prices charged by IDT Energy to Mr. Kiback for electric generation supply.
10. It is been well-documented that during early 2014 there were dramatic, unprecedented, and sustained spikes in wholesale electricity prices in the energy markets administered by PJM Interconnection, LLC ("PJM"), which resulted in higher than normal retail prices for many Pennsylvania retail electricity customers who were on variable rate plans.

11. During this period, commonly referred to as the Polar Vortex, IDT Energy's wholesale costs of acquiring electricity escalated dramatically, which resulted in increases to IDT Energy's variable retail prices for several months in early 2014.
12. At Mr. Kiback's request, his IDT Energy service was cancelled, and he returned to PP&L default service effective 3/19/2014. Mr. Kiback was not charged any cancellation fee by IDT Energy.
13. Mr. Kiback received a 12 month rebate in the amount of \$56.11 mailed on 4/1/2014.
14. In response to the complaint Mr. Kiback was issued a goodwill credit adjustment in the amount of \$152.00 on 5/13/2014.

The statements contained herein are true, correct and complete to the best of my knowledge, information and belief.


Wayne Staughton

Subscribed and sworn to before me
this 28th day of July 2014, [year].


Notary Public

[Stamp of Notary]

MELISSA R. YOUNG
No. 01YO6092336
Notary Public, State of New York
Qualified in Cattaraugus County
My Commission Expires May 19, 2015

TERMS OF SERVICE

This is an agreement for electric generation services, between IDT Energy, Inc and

«FIRST_NAME» «LAST_NAME»

«ADDRESSLINE1» «CITY», «STATE» «ZIP»

IDT Energy, Inc. is licensed by the Pennsylvania Public Utility Commission to offer and supply electric generation services in Pennsylvania. Our PUC license number is A-2009-2134623.

Your generation prices and charges will be set by IDT Energy. The Public Utility Commission regulates distribution prices and services. The Federal Energy Regulatory Commission regulates transmission prices and services.

You will continue to receive your bill from your Electric Distribution Company (EDC) for all supply and delivery charges, your EDC will continue to provide all emergency repairs and services.

Right of Rescission - You may cancel this agreement at any time before midnight of the third business day after receiving this disclosure.

Definitions Generation Charge - Charge for production of electricity. **Transmission Charge** - Charge for moving high voltage electricity from a generation facility to the distribution lines of an electric distribution company.

Basic Service Prices - IDT Energy offers a variable price for all electric generation sold under this Agreement. The price for electric generation sold is established on an approximately monthly basis based upon electric generation market pricing as furnished by PJM clearing house, transportation or transmission, and other market and business price related factors. This price may be higher or lower than the EDC's price in any particular month. There is no ceiling price. Electric generation supply charges include estimated total state taxes. IDT Energy will comply with all required laws regarding sales tax and will include or exclude the appropriate sales taxes in each jurisdiction served, if any, as required by the Pennsylvania Department of Revenue for all Electric generation supply charges. Customers can call IDT Energy, Inc. Customer Service at 877-887-6866 for current variable pricing rates.

The starting price per electric generation for customers starting on or about «Start_date» is «Rate».

Rebates and Special Promotions- From time to time IDT Energy may offer a Rebate Program. If a Customer participates in IDT Energy's Rebate Program, the Customer must remain in the program for the entire agreed upon term in order to qualify for the rebate. If a Customer cancels at any time prior to the agreed upon term, the Customer shall forfeit all rights and claims to any and all rebate offers. **All rebate amounts advertised and presented to customers are estimates based upon customer's prior electric and/or natural gas usages. Actual rebate amounts will be based on customer's actual usage over the term of this agreement, which may vary from any estimate. From time to time IDT Energy may offer eligible new customers an Introductory Price, which will be in effect for the introductory price term, at which point it shall revert to the variable price. IDT will send any rebate or promotion payment to the customer address given to IDT at the time of sign up. It is the responsibility of the customer to notify IDT of any changes to the customers billing address either in writing to: 550 Broad Street, Newark NJ 07102 or by calling IDT customer service at 877-887-6866. IDT will send all rebates and promotional payments and notices via first class mail and is not responsible for invalid addresses or undelivered items.

Length of Agreement. You will buy your electric generation services for your use from IDT Energy, Inc. beginning on a date set by your EDC and continuing on a month to month basis until either party provides at least fifteen (15) calendar days' notice of its intent to cancel and until EDC completes the termination in accordance with its rules.

Penalties, Fees and Exceptions - There are no fees or early cancellation penalties for canceling IDT Energy, Inc.'s variable rate plan.

Cancellation Provisions - A residential customer may cancel this Agreement at any time during the three (3) business following receipt of this Agreement by calling IDT Energy at 877-887-6866 or until either party provides at least fifteen (15) calendar days' notice of its intent to cancel and until the EDC completes the cancellation in accordance with its rules..

Renewal Provision - This Agreement shall continue until either party provides at least fifteen (15) calendar days' notice of its intent to cancel and until EDC completes the cancellation in accordance with its rules.

Agreement Expiration/Change in Terms - If you have a fixed term agreement with us and it is approaching the expiration date or if we propose to change our terms of service, we will send you two advance written notices either in our bills or in separate mailings between 45 and 90 days before either the expiration date or the effective date of the changes. We will explain your options in these two advance notices.

Dispute Procedures. Contact us with any questions concerning our terms of service at 877-887-6866. If you are not satisfied after discussing your terms with us you may call or write the Public Utility Commission (PUC).

Public Utility Commission, PO Box 3265, Harrisburg, PA 17105-3265, 800-692-7380

Contact Information: Supplier: IDT Energy, 550 Broad Street, Newark, New Jersey 07102, 877-887-6866, www.idtenergy.com

***Distribution Company Provider of Last Resort:** Pennsylvania Power and Light, PPL Electric Utilities, 827 Hausman Road, Allentown, PA 18104-9392, 800-342-5775

***Distribution Company Provider of Last Resort:** Philadelphia Electric Company, PECO, 2301 Market Street, Philadelphia, PA 19103, 800-494-4000

***Distribution Company Provider of Last Resort:** Metropolitan Edison Company, Met-Ed, PO Box 3687, Akron, Ohio, 44309, 800-545-7741

***Distribution Company Provider of Last Resort:** Pennsylvania Electric Company, Penelec, PO Box 3687, Akron, Ohio, 44309, 800-545-7741

***Distribution Company Provider of Last Resort:** Duquesne Light, 411 Seventh Avenue, 6-1, Pittsburgh, PA 15219, 412-393-7100



Stephen Kilback

7174058002

PPL

| Service Address | City | Start Meter Read | End Meter Read | Usage | IDT Energy Variable Rate | Supply Charges | Sales Tax | Total Supply Charges |
|-----------------|------|------------------|----------------|-------|--------------------------|----------------|-----------|----------------------|
| 407 Clinton St | Avis | 08/18/11 | 09/19/11 | 650 | 0.0798 | \$51.87 | \$0.00 | \$51.87 |
| | | 09/19/11 | 10/19/11 | 630 | 0.0806 | \$50.78 | \$0.00 | \$50.78 |
| | | 10/19/11 | 11/17/11 | 542 | 0.0832 | \$45.09 | \$0.00 | \$45.09 |
| | | 11/17/11 | 12/19/11 | 776 | 0.0796 | \$61.77 | \$0.00 | \$61.77 |
| | | 12/19/11 | 01/19/12 | 784 | 0.0770 | \$60.37 | \$0.00 | \$60.37 |
| | | 01/19/12 | 02/17/12 | 706 | 0.0770 | \$54.36 | \$0.00 | \$54.36 |
| | | 02/17/12 | 03/20/12 | 737 | 0.0770 | \$56.75 | \$0.00 | \$56.75 |
| | | 03/20/12 | 04/19/12 | 702 | 0.0733 | \$51.46 | \$0.00 | \$51.46 |
| | | 04/19/12 | 05/18/12 | 653 | 0.0687 | \$44.86 | \$0.00 | \$44.86 |
| | | 05/18/12 | 06/19/12 | 809 | 0.0746 | \$60.35 | \$0.00 | \$60.35 |
| | | 06/19/12 | 07/19/12 | 933 | 0.0793 | \$73.99 | \$0.00 | \$73.99 |
| | | 07/19/12 | 08/17/12 | 751 | 0.0884 | \$66.39 | \$0.00 | \$66.39 |
| | | 08/17/12 | 09/18/12 | 780 | 0.0852 | \$66.46 | \$0.00 | \$66.46 |
| | | 09/18/12 | 10/18/12 | 730 | 0.0852 | \$62.20 | \$0.00 | \$62.20 |
| | | 10/18/12 | 11/16/12 | 667 | 0.0854 | \$56.96 | \$0.00 | \$56.96 |
| | | 11/16/12 | 12/18/12 | 730 | 0.0865 | \$63.15 | \$0.00 | \$63.15 |
| | | 12/18/12 | 01/18/13 | 792 | 0.0853 | \$67.56 | \$0.00 | \$67.56 |
| | | 01/18/13 | 02/19/13 | 908 | 0.0771 | \$70.01 | \$0.00 | \$70.01 |
| | | 02/19/13 | 03/19/13 | 795 | 0.0732 | \$58.19 | \$0.00 | \$58.19 |
| | | 03/19/13 | 04/18/13 | 831 | 0.0730 | \$60.66 | \$0.00 | \$60.66 |
| | | 04/18/13 | 05/20/13 | 815 | 0.0807 | \$65.77 | \$0.00 | \$65.77 |
| | | 05/20/13 | 06/19/13 | 684 | 0.0878 | \$60.06 | \$0.00 | \$60.06 |
| | | 06/19/13 | 07/19/13 | 986 | 0.0951 | \$93.77 | \$0.00 | \$93.77 |
| | | 07/19/13 | 08/19/13 | 798 | 0.1088 | \$86.82 | \$0.00 | \$86.82 |
| | | 08/19/13 | 09/18/13 | 702 | 0.1036 | \$72.73 | \$0.00 | \$72.73 |
| | | 09/18/13 | 10/18/13 | 655 | 0.0984 | \$64.45 | \$0.00 | \$64.45 |
| | | 10/18/13 | 11/18/13 | 678 | 0.1001 | \$67.87 | \$0.00 | \$67.87 |
| | | 11/18/13 | 12/18/13 | 813 | 0.0946 | \$76.91 | \$0.00 | \$76.91 |
| | | 12/18/13 | 01/20/14 | 915 | 0.0919 | \$84.09 | \$0.00 | \$84.09 |
| | | 01/20/14 | 02/19/14 | 810 | 0.2790 | \$225.99 | \$0.00 | \$225.99 |
| | | | | 22762 | | \$2,081.69 | \$0.00 | \$2,081.69 |

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

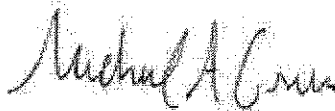
| | | |
|--------------------|---|---------------------------|
| STEPHEN KIBACK JR. | : | |
| Complainant | : | |
| | : | |
| v. | : | Docket No. C-2014-2409676 |
| | : | |
| IDT ENERGY, INC. | : | |
| | : | |
| Respondent | : | |

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion for Summary Judgment upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Stephen Kiback, Jr.
407 Clinton St.
Jersey Shore, PA 17740



Michael A. Gruin

DATED: July 29, 2014