



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

KATHLEEN G. KANE
ATTORNEY GENERAL

RECEIVED

AUG 18 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

August 18, 2014

Bureau of Consumer Protection—Harrisburg Office
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120
Telephone: 717.787.9707
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SENT VIA USPS FIRST CLASS MAIL

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. HIKO Energy, LLC – Docket No. C-2014-2431410

Dear Secretary Chiavetta:

Enclosed please find the Office of Attorney General Bureau of Consumer Protection's
Notice of Intervention in the above-referenced proceeding. Copies have been served as indicated
on the enclosed Certificate of Service.

Very truly yours,

John M. Abel
Senior Deputy Attorney General
PA Attorney I.D. #47313

Enclosures

cc: Honorable Elizabeth Barnes, ALJ
Honorable Joel Cheskis, ALJ
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, BUREAU OF
INVESTIGATION AND ENFORCEMENT,
Complainant

v.

HIKO ENERGY, LLC

Respondent

Docket No. C-2014-2431410

NOTICE OF INTERVENTION

Pursuant to 52 Pa. Code §§ 5.71-76, the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection (Commonwealth or Attorney General) hereby gives Notice of Intervention in the above-captioned proceeding. In support thereof, the Commonwealth submits the following:

1. The Attorney General is the chief law officer of the Commonwealth of Pennsylvania, pursuant to Article IV § 4.1 of the Pennsylvania Constitution. See Pa. Const. art. IV, § 4.1.

2. The Attorney General is authorized to intervene in this action, and does so in accordance with the Commonwealth Attorneys Act, 71 P.S. § 732-204(c), which provides in pertinent part that the “Attorney General shall represent the Commonwealth and all Commonwealth agencies . . . in any action brought by or against the Commonwealth or its agencies, and may intervene in any other actions.” See 71 P.S. § 732-204(c).

3. Pursuant to the provisions of The Administrative Code of 1929, 71 P.S. § 307-1, *et seq.*, the Pennsylvania Office of Attorney General, Bureau of Consumer Protection, shall

“investigate fraud, misrepresentation and deception in the sale, servicing and financing of consumer goods and products.” See 71 P.S. § 307-2(2).

4. Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act, or practice declared to be unlawful by Section 3 of the Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.*, (Consumer Protection Law), and that proceedings would be in the public interest, the Attorney General may bring an action in the name of the Commonwealth against such person to restrain by temporary or permanent injunction the use of such method, act, or practice. See 73 P.S. § 201-4.

5. The Attorney General, under the Consumer Protection Law takes action on behalf of the public at large “to protect the citizenry.” Valley Forge Towers South Condominium v. Ron-Ike Foam Insulators, Inc., 393 Pa. Super. 339, 346, 574 A.2d 641, 644 (1990) aff’d 529 Pa. 512, 605 A. 2d 798 (1990).

6. The Commonwealth, through its attorneys, has standing and authority to intervene as of right in all Commission proceedings subject to 52 Pa. Code § 5.72(a)(1)-(3). See 52 Pa. Code § 5.72(b).

7. By way of background, the Attorney General, along with the Office of Consumer Advocate (OCA) filed a Joint Complaint, docket number C-2014-2427652, against HIKO Energy, LLC (Respondent) on June 20, 2014.

8. Count I of the Joint Complaint alleges that Respondent promised guaranteed savings over the price to compare as inducement for consumers to switch electric supply service to Respondent. The Joint Complaint also states that these consumers then received bills from Respondent that were at least two or three times more than the price to compare. See Joint Complaint ¶¶ 21-23.

9. The Commonwealth alleged, upon information and belief, that Respondent's employees, agents, and/or representatives have engaged in and continue to engage in activities that are fraudulent, deceptive, and/or in violation of the Commission's regulations and orders and the Consumer Protection Law by promising savings that may not, and for many customers did not, materialize. See Joint Complaint ¶ 27.

10. The Commission's regulations require compliance with the Consumer Protection Law. See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

11. The Joint Complaint seeks to impose a civil penalty, the suspension or revocation of Respondent's electric generation supplier (EGS) license, and an order to provide appropriate restitution to effected consumers.

12. The Joint Complaint alleges that Respondent violated Section 201-2(4)(ix), (xi), and (xxi) of the Consumer Protection Law by:

- i. Advertising goods or services with the intent not to sell them as advertised;
- ii. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; and
- iii. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See 73 P.S. § 201-2(4)(ix), (xi), and (xxi).

13. On July 11, 2014 the Bureau of Investigation and Enforcement (BIE) filed the above-captioned complaint against Respondent alleging that Respondent billed rates per kilowatt hour (kWh) that far exceeded the guaranteed discount rate offered to customers.

14. In order to enroll a customer to obtain Respondent's services, Respondent stated in their Welcome Letter that the customer would experience a guaranteed rate for "the first six monthly billing cycles" which would be "1-7% less" than the local electric distribution company's (EDC) price to compare.

15. BIE's complaint alleges that Respondent violated 52 Pa. Code § 54.4(a) by overbilling customer accounts on 14,780 occasions, for which, BIE is seeking a civil penalty in the amount of \$14,780,000.00, the rescission of Respondent's EGS license, and an order directing Respondent to provide refunds to customers.

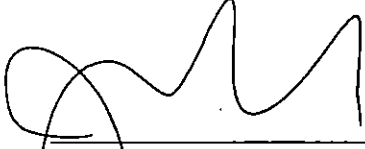
16. The Commonwealth has determined to intervene in this proceeding to protect the public interest, as required by Section 201-4 of the Consumer Protection Law and allowed by Commission regulations. See 73 P.S. § 201-4 and 52 Pa. Code §§ 5.72(a)(1), (3), and (b).

17. As a business conducting trade or commerce within the Commonwealth, by offering for sale and distributing any good or service of value that directly or indirectly affects the people of this Commonwealth, Respondent is obligated under the Commission's regulations to comply with the Consumer Protection Law and to bill its customers for electric supply in accordance with the prices marketed and guaranteed.

18. The Commonwealth will participate in BIE's complaint proceedings and address questions of law and fact as appropriate to assure Respondent's compliance with the Consumer Protection Law and the Commission's regulations in order to protect the public's interests.

Respectfully submitted,

DATE: 8-18-14



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HIKO ENERGY, LLC

Respondent

Docket No. C-2014-2431410

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Attorney General Bureau of Consumer Protection's Notice of Intervention, in the manner and upon the persons listed below:

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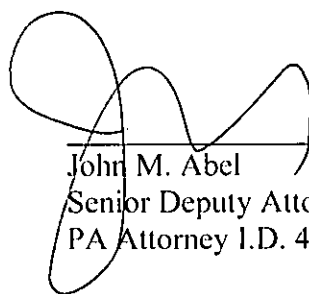
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