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July 21, 2014

BY FEDERAL EXPRESS

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

RECEIVED
JUL 21 2014
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Commonwealth of Pennsylvania, by Attorney General KATHLEEN G. KANE, Through the Bureau of Consumer Protection, and TANYA J. McCLOSKEY, Acting Commissioner Advocate v. HIKO ENERGY, LLC, Docket No. C-2014-2427652

Dear Secretary Chiavetta:

I am delivering for filing today HIKO Energy, LLC's Objections to First Set of Interrogatories and Requests for Production of Documents of Commonwealth of Pennsylvania, et al. in the above captioned proceeding.

Copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

If you have any questions, please do not hesitate to contact me.

Respectfully,


Ginene A. Lewis

Enclosures

cc: Vincent E. Gentile, Esquire (by e-mail)
Motty Shulman, Esquire (by e-mail)
William D. Marsillo, Esquire (by e-mail)
Andrew J. Dressel, Esquire (by e-mail)
Candis Tunilo, Esquire (by e-mail)
John Abel, Esquire (by e-mail)
Sharon E. Webb, Esquire (by e-mail)

COMMONWEALTH OF PENNSYLVANIA

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

COMMONWEALTH OF PENNSYLVANIA, by
Attorney General KATHLEEN G. KANE,
Through the Bureau of Consumer Protection

And

TANYA J. McCLOSKEY, Acting Consumer
Advocate

Complainants
v.

HIKO ENERGY, LLC

Respondent

Docket No. C-2014- 2427652

RECEIVED
JUL 21 2014
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**DEFENDANT HIKO ENERGY, LLC'S OBJECTIONS TO FIRST SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF
JOINT COMPLAINANTS COMMONWEALTH OF PENNSYLVANIA AND THE
OFFICE OF CONSUMER ADVOCATE**

Pursuant to 52 Pa. Code §§ 5.342 and 5.349, Defendant HIKO Energy, LLC ("HIKO"),
by and through its undersigned counsel, hereby objects to Complainants' first set of
interrogatories ("Interrogatories") and requests for production of documents ("Requests"), dated
July 2, 2014, as follows:

Below are HIKO's general and specific objections to Complainants' First Set of Interrogatories and Document Requests. To preserve its rights, HIKO sets forth all objections below, including objections that were discussed in a meet-and-confer on July 14 between the parties; other objections were not discussed during the meet-and-confer. Notwithstanding any objections herein (whether or not discussed), HIKO intends to respond to each Interrogatory and Document Request in good faith and to the extent it can, consistent with its objections.

GENERAL OBJECTIONS TO INTERROGATORIES AND DOCUMENT REQUESTS

1. HIKO responds generally that discovery is ongoing, and its investigation of the facts relevant to this litigation is ongoing. HIKO's responses herein and subsequent document production are given without prejudice to its right to amend or supplement in accordance with all applicable rules, statutes, case law, or orders of the Commission.

2. HIKO generally objects to Complainants' Interrogatories and Requests, including to the Definitions and Instructions therein, to the extent that they are inconsistent with or purport to impose obligations and require procedures beyond those required by any applicable law, rule, or order of the Court. In responding to each Interrogatory and Requests, HIKO will respond as required under 52 Pa. Code § 5.342.

3. HIKO objects to the Interrogatories and Requests, including to the Definitions and Instructions therein, to the extent that they are overbroad, unduly burdensome, and unlikely to lead to the discovery of relevant or admissible evidence. HIKO objects to the Interrogatories and Requests to the extent that they are overbroad by, among other things, not being limited as to time or to HIKO's conduct affecting the Commonwealth of Pennsylvania.

4. HIKO objects to the Interrogatories and Requests to the extent that they seek information already obtained, or obtainable, from sources that are more convenient, less burdensome, or less expensive. HIKO further objects to the Interrogatories and Requests to the

extent that they seek information already in the possession, custody, or control of Complainants. HIKO will attempt to submit copies of all materials it had previously supplied to the PUC.

5. HIKO objects to the Interrogatories and Requests as overly broad and unduly burdensome to the extent that they require HIKO to do more than make a good faith effort and use reasonable diligence to locate responsive documents or information within its possession, custody and control based on an inquiry of those sources that reasonably may be expected to contain relevant information.

6. HIKO generally objects to the Interrogatories and Requests to the extent (a) they are not reasonably calculated to lead to the discovery of admissible evidence; (b) they are unreasonably cumulative or duplicative; (c) they seek information that is obtainable from some other source that is more convenient, less burdensome, or less expensive, including without limitation information, documents, or things that are within the custody or control of third parties; or (d) the burden or expense of the proposed discovery outweighs any likely benefit.

7. HIKO objects to the Interrogatories and Requests to the extent that they call for disclosure of material or information not within its possession, custody, or control.

8. HIKO objects to the Interrogatories and Requests to the extent that they seek information, documents, and/or things that are protected from discovery because they were developed in anticipation of litigation, constitute work product, contain or reflect attorney-client communication, or are otherwise privileged. To the extent that any Interrogatory or Request may be construed as calling for information that is subject to any claim of privilege, HIKO hereby asserts that privilege and objects on that basis. Any inadvertent production of documents or information that is properly the subject of a privilege shall not be deemed a waiver, in whole or in part, of any such privilege.

9. HIKO objects to the Interrogatories and Requests to the extent that they call for the disclosure of HIKO's confidential or proprietary information, trade secrets, research, development, commercial information, competitively sensitive information, or information that HIKO is restricted by law or contract from disclosing, such as information subject to a

confidentiality agreement with a third party. HIKO also objects to the Interrogatories and Requests to the extent that they seek documents that contain confidential or proprietary information, trade secrets, research, development, commercial information, or any other competitively sensitive information belonging to a third party but entrusted to HIKO on conditions of confidentiality and non-disclosure, or joint confidential information of HIKO and a third party. To the extent HIKO provides its confidential information and/or other confidential information, as agreed, it will do so only subject to the terms of a Confidentiality Agreement or Protective Order entered by the Court in this action.

10. HIKO objects to the Interrogatories and Requests to the extent that they purport to vary the meaning of any term from its usual and customary meaning, ordinary usage, or the meaning as defined by any applicable rule, regulation, or law.

11. HIKO objects to the Interrogatories and Requests insofar as they assume disputed facts or legal conclusions. HIKO hereby denies any such disputed facts or legal conclusions. Any information provided by HIKO is without prejudice to this objection.

12. HIKO objects to the definition of “You”, “Your”, “Hiko Energy, LLC”, and “Hiko Energy” to the extent that those definitions include HIKO’s attorneys, and therefore purports to request documents covered by attorney-client privilege, attorney work product doctrine, or any other applicable privilege. HIKO also objects to the definitions of “You”, “Your”, “Hiko Energy, LLC”, and “Hiko Energy” as vague, overbroad, and unduly burdensome to the extent that they purport to seek production of documents that are not in HIKO’s possession, custody, or control, including to the extent that these terms include former employees, officers, directors, agents, representatives, or others acting or purporting to act on behalf of HIKO.

13. HIKO objects to the definition of “communication” as vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, especially insofar as it imposes obligations beyond what is required by any applicable rule, statute, or case law.

14. HIKO objects to the definitions of “document” or “documents” to the extent that they include information or data that is not reasonably accessible; would be unduly burdensome to search, review, or produce; or that exists in a form beyond that required to be searched by any applicable rules. HIKO further objects to these definitions to the extent that it would be unduly burdensome to identify, retrieve and/or produce the various forms of electronic data or information encompassed within these definitions.

15. HIKO objects to the definition of “identify,” as applied to documents, as vague, ambiguous, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible or relevant evidence. HIKO also objects to the definition of “identify,” as applied to documents or persons to the extent that the definitions purport to impose obligations beyond those required by the applicable rules.

16. HIKO objects to the Instructions to the extent that they purport to impose obligations beyond those required by the applicable rules, statutes, or case law.

17. HIKO objects to Instruction Number 5 to the extent that it requests the date upon which these responses and objections were “created”, as vague and ambiguous. HIKO’s responses and objections should be read as having been made as of the date of the document.

18. HIKO objects to Instruction Number 2 to the extent that it purports to assign meaning to any missing information or omission herein. The omission of any name, fact, or other item of information from HIKO’s answers shall not be deemed to be an admission of any kind, nor shall it be deemed a representation that any name, fact, or item is not known to HIKO or anyone acting on its behalf. HIKO reserves the right to decline to answer objectionable interrogatories without any inference whatsoever being drawn from that decision.

19. HIKO objects to Instruction Number 9 to the extent that it requires HIKO to furnish more information than would be necessary to adequately assess the claim of privilege or work-product protection under the applicable rules and case law. To the extent any documents are withheld on privilege grounds, HIKO will provide a privilege log that comports with its obligations under the applicable rules and case law.

20. HIKO's responses and objections to these Interrogatories and Requests shall not be construed as waiving or prejudicing its right to raise objections at a later date to further demands concerning these Interrogatories or Requests, the admissibility or relevance of the Interrogatories or Requests, HIKO's responses thereto, or any documents or data provided pursuant to the Interrogatories and Requests.

21. HIKO objects to the Requests to the extent they call for the creation of documents or data compilations that do not exist or are not ordinarily kept in HIKO's normal course of business.

22. HIKO incorporates by reference these General Objections into the specific objections and responses set forth below. While HIKO may repeat a General Objection for emphasis or some other reason, the failure to specifically refer to any General Objection does not constitute a waiver of any sort. Moreover, HIKO reserves the right to alter or amend its objections and responses set forth herein as additional facts are ascertained and analyzed.

23. HIKO objects to the Requests to the extent that they purport to seek the production of documents or information concerning customers or operations located outside of the Commonwealth of Pennsylvania. As previously agreed, with respect to each Request, and unless expressly agreed to otherwise, HIKO will produce documents or information relating only to customers in Pennsylvania or its operations within Pennsylvania and not in any other jurisdiction.

24. HIKO reserves the right to produce documents on a rolling basis, to the extent that they can be located through a reasonable search.

25. HIKO remains willing to meet and confer with respect to any of its objections to assist Complainants in clarifying or narrowing the scope of the requested discovery, and reserves the right to move for a protective order if agreement cannot be reached. Any production of documents is not a waiver as to the relevance, admissibility or materiality of any documents that are made available to Complainants.

OBJECTIONS TO FIRST SET OF INTERROGATORIES

Subject to and incorporating each of the foregoing objections into each of the responses, HIKO objects to the Interrogatories as set forth below. HIKO's statements in response to the Interrogatories shall not be construed to be a waiver of any of the general or specific objections interposed herein. HIKO's responses will be based upon HIKO's current information and belief as a result of reasonable searches and inquiries. HIKO reserves the right to amend and supplement its responses to the fullest extent permissible under the applicable rules and case law as additional facts are learned:

INTERROGATORY NO. 1:

Please provide a list all business names used by Respondent and the type of entity (i.e., corporation, partnership, sole proprietorship) through which Respondent has done business, from January 1, 2010, to present.

OBJECTIONS TO INTERROGATORY NO. 1:

HIKO objects to Interrogatory No. 1 because it seeks information not relevant to the claims and defenses in this action, including because it is not limited to the business names under which HIKO may have done business within the Commonwealth of Pennsylvania. As HIKO stated in its General Objections, HIKO will respond to Interrogatory No. 1 with respect to the business name it has used with respect to its operations in Pennsylvania.

INTERROGATORY NO. 2:

Please list the name(s), address(es), and telephone number(s) of any and all persons or entities having ownership or monetary interest in Respondent.

OBJECTIONS TO INTERROGATORY NO. 2:

HIKO objects to the terms "ownership" and "monetary interest" as vague and ambiguous. HIKO further objects to Interrogatory No. 2 because it seeks information not relevant to the

claims and defenses in this action. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide its current ownership structure.

INTERROGATORY NO. 3:

Please list the name(s), address(es), and telephone number(s) of any and all officers, directors and managers of Respondent at any time since January 1, 2013, including the dates of employment and position(s) held.

OBJECTIONS TO INTERROGATORY NO. 3:

HIKO objects to the terms “managers” as vague and ambiguous. HIKO further objects to Interrogatory No. 3 because it is overbroad and seeks information not relevant to the claims and defenses in this action. HIKO further objects to Interrogatory No. 3 to the extent it seeks information that is not within its possession, custody, or control, such as current addresses for any former officers. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide the names of corporate officers since January 1, 2013, including dates of employment, position held, and business addresses during their tenure with HIKO.

INTERROGATORY NO. 4:

Please list the name(s), position(s) held, date(s) of separation, and length of employment for all of Respondent’s employees in the Sales and Marketing and Customer Service Departments from January 1, 2013, to present.

OBJECTIONS TO INTERROGATORY NO. 4:

HIKO objects to Interrogatory No. 4 because it is vague and ambiguous with respect to the term “employees”. HIKO further objects to Interrogatory No. 4 as overbroad, including because it is not limited to any state or other geographic location. Consistent with its General Objections, HIKO will provide responses and information concerning its operations in the Commonwealth of Pennsylvania. HIKO further objects to Interrogatory No. 3 to the extent it seeks information that is not within its possession, custody, or control, such as current addresses

for any former employees. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will include the name(s), position(s) held, and dates of employment for HIKO temporary and full-time customer service and sales and marketing employees.

INTERROGATORY NO. 5:

Please identify the employees or other individuals (including names, titles, dates of separation, length of employment, business mailing addresses, and physical business locations) with the responsibility to ensure compliance with Respondent's internal policies, Pennsylvania law, and Commission orders and regulations, for entities or people engaged in the sale or promotion of Respondent's products or services in Pennsylvania.

OBJECTIONS TO INTERROGATORY NO. 5:

HIKO objects to Interrogatory No. 5 as vague and ambiguous, including as to the terms "responsibility" and "promotion". Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide the name, title, dates of employment and business address of the individuals who oversaw interactions with third-party marketers and HIKO's internal processes with respect to compliance issues relative to marketing activities in Pennsylvania.

INTERROGATORY NO. 6:

Please identify the employees or other individuals (including names, titles, dates of separation, length of employment, business mailing addresses, and physical business locations) with the responsibility to supervise the handling of customer complaints.

OBJECTIONS TO INTERROGATORY NO. 6:

HIKO objects to Interrogatory No. 6 as vague and ambiguous with respect to the phrases "responsibility" and "supervise the handling of customer complaints". HIKO further objects to Interrogatory No. 6 as seeking information not relevant to the claims or defenses in this matter, including because it is not limited in time or to HIKO's activities in the Commonwealth of Pennsylvania (or any complaints in connection therewith). Notwithstanding, but subject to, the

foregoing objections and the General Objections, HIKO will provide the name, title, dates of employment and business address of the individuals who currently supervise HIKO's customer service employees and HIKO's responses to customer complaints.

INTERROGATORY NO. 9:

Please describe how Respondent establishes a "discount" or "introductory price" for new customers and how the "discount" or "introductory price" differs from the price in the months after the introductory period.

OBJECTIONS TO INTERROGATORY NO. 9:

HIKO objects to Interrogatory No. 9 as vague and ambiguous, including with respect to the terms "establishes" and "price". HIKO further objects to Interrogatory No. 9 as seeking information not relevant to the claims or defenses in this matter, including because it is not limited to HIKO's activities in the Commonwealth of Pennsylvania. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will state its practice for introductory pricing with respect to Pennsylvania customers and how that introductory pricing differed from months following the introductory period.

INTERROGATORY NO. 10:

Please describe how Respondent informs customers of the nature of variable rate contracts and the methodology of setting variable rates.

OBJECTIONS TO INTERROGATORY NO. 10:

HIKO objects to Interrogatory No. 10 as vague and ambiguous with respect to the phrases "nature of variable rate contracts" and "methodology of setting variable rates." HIKO further objects to Interrogatory No. 10 because it is not limited on its face to customers in the Commonwealth of Pennsylvania. As set forth in the General Objections, HIKO's response will concern Pennsylvania customers. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will respond to this Interrogatory.

INTERROGATORY NO. 12:

If not included in your response to the question in paragraph 14 above, for each such sales practice, identify and explain how the entity or person conducting the sale is compensated.

OBJECTIONS TO INTERROGATORY NO. 12:

HIKO objects to Interrogatory No. 12 as vague and ambiguous with respect to its reference to “paragraph 14”, which appears to be a typographical error, and with respect to use of the term “identify” in this context. HIKO further objects to Interrogatory No. 12 because it is not limited on its face to customers in the Commonwealth of Pennsylvania. As set forth in the General Objections, HIKO’s response will concern Pennsylvania customers. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will respond to Interrogatory No. 12 as if it referred to Interrogatory No. 11, and will produce as part of its document production, contracts it has had with third-party marketers.

INTERROGATORY NO. 13:

Please list the criteria used to determine the geographic area to target for telemarketing, door-to-door and/or kiosk sales and identify all individuals (including title and business address) involved in deciding where such activities would be conducted.

OBJECTIONS TO INTERROGATORY NO. 13:

HIKO objects to Interrogatory No. 13 because it seeks information that is not within its possession, custody, or control as HIKO engaged third-party marketers to enroll customers through door-to-door and telemarketing services.

INTERROGATORY NO. 14:

Please identify the date, trainer, number of attendees, and location where training occurred for any entity or person engaged in the sale or promotion of Respondent's products or services in Pennsylvania from January 1, 2013, to present.

OBJECTIONS TO INTERROGATORY NO. 14:

HIKO objects to Interrogatory No. 14 as vague and ambiguous, including as to the term "promotion". HIKO further objects to Interrogatory No. 14 because it seeks information that is not within its possession, custody, or control as HIKO engaged third-party marketers to enroll customers through door-to-door and telemarketing services. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce training materials it provided third-party marketers as part of its document production.

INTERROGATORY NO. 15:

Please describe Respondent's requirements and process for obtaining a "wet signature" from residential customers on Respondent's contract documents in Pennsylvania.

OBJECTIONS TO INTERROGATORY NO. 15:

HIKO objects to Interrogatory No. 15 as vague and ambiguous, including as to the terms "requirement", "process", and "wet signature." Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce training materials that it provided third-party marketers as part of its document production and will describe its understanding of the steps third-party marketers followed in connection with door-to-door sales.

INTERROGATORY NO. 17:

Please identify customer complaint trends and actions taken as a result of evaluation of customer complaints from January 1, 2013, to present.

OBJECTIONS TO INTERROGATORY NO. 17:

HIKO objects to Interrogatory No. 17 as vague and ambiguous, including as to the terms “trends” and “actions taken”. HIKO further objects to Interrogatory No. 17 as seeking information not relevant to the claims or defenses in this action, including because it is not limited to the Commonwealth of Pennsylvania. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will describe the nature of the complaints it has received during the time period in which it tracked that information.

INTERROGATORY NO. 18:

Please provide the number of customer complaints or disputes received by Respondent from Pennsylvania residential customers, per month, from January 1, 2013, to present by the following categories:

- a) Door-to-door or telemarketing sales agent conduct;
- b) Price, pricing methodology and/or amount of price increase;
- c) Early termination fee amount or requirement;
- d) Allegation of slamming (that the customer’s supplier was changed without authorization);
- e) Customer service call center: call not answered; wait times; failure to reach live representative; dissatisfaction with result;
- f) Misrepresentation of identity;
- g) Impersonation of utility employee;
- h) Telling customers they are required to choose a supplier; and
- i) Other.

OBJECTIONS TO INTERROGATORY NO. 18:

HIKO objects to Interrogatory No. 18 as overbroad and unduly burdensome, including because HIKO did not in the ordinary course track direct complaints from customers by number; HIKO entered notes on customer accounts and collecting and organizing those notes from Pennsylvania customer accounts would be unduly burdensome. Notwithstanding, but subject to,

the foregoing objections and the General Objections, HIKO will provide data as to the complaints that it received from the Pennsylvania Bureau of Consumer Services.

INTERROGATORY NO. 19:

Please provide the number of residential customers to whom Respondent provided a refund, rebate, or other relief related to a variable rate complaint or dispute for each month from January 1, 2014, to present.

OBJECTIONS TO INTERROGATORY NO. 19:

HIKO objects to Interrogatory No. 19 as vague and ambiguous, including as to the phrases “other relief” and “related to a variable rate complaint or dispute”. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide data responsive to this Interrogatory.

INTERROGATORY NO. 21:

Please provide the total amount of refunds, rebates, or other relief provided for each month from January 1, 2014, to present.

OBJECTIONS TO INTERROGATORY NO. 21:

HIKO objects to Interrogatory No. 21 as duplicative of Interrogatory No. 19 by its terms. HIKO further objects to Interrogatory No. 21 because it seeks information not relevant to any claim or defense in this action, including because it is not limited to customers in the Commonwealth of Pennsylvania. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide the dollar amount of refunds or other relief given to Pennsylvania customers for months from January 2014 through July 2014.

INTERROGATORY NO. 22:

Please state all generation prices charged to Respondent's customers in December 2013, January 2014, February 2014, and March 2014.

OBJECTIONS TO INTERROGATORY NO. 22:

HIKO objects to Interrogatory No. 22 because it seeks information not relevant to any claim or defense in this action, including because it is not limited to customers in the Commonwealth of Pennsylvania. HIKO further objects to Interrogatory No. 22 as vague and ambiguous, including with respect to the term "generation prices." Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide the rates it charged customers in the Commonwealth of Pennsylvania during the months of December 2013, January 2014, February 2014, and March 2014.

INTERROGATORY NO. 23:

If not included in your response to the question in paragraph 22 above, identify the billing cycles applicable to all prices stated.

OBJECTIONS TO INTERROGATORY NO. 23:

See Objections to Interrogatory No. 22.

OBJECTIONS TO REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to 52 Pa. Code § 5.349, HIKO hereby objects and responds to Complainants' First Set of Requests for Production of Documents, served on July 2, 2014 (the "Requests").

SPECIFIC OBJECTIONS TO DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 1:

Please produce a diagram of the Respondent's organizational structure including parent(s) and all subsidiary or affiliated companies (*i.e.*, corporate chart).

OBJECTIONS TO REQUEST FOR PRODUCTION NO. 1

HIKO objects to Request for Production No. 1 as vague and ambiguous, including as to the term "affiliated companies." HIKO further objects to Request No. 1 to the extent it purports to require HIKO to create a document that does not already exist. HIKO objects to creating any documents for purposes of responding to these Requests. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will provide an existing organizational chart, if any, located after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 2:

If not included in a prior response, please produce a diagram identifying the function, address and telephone numbers of each entity in the organizational structure.

OBJECTIONS TO REQUEST FOR PRODUCTION NO. 2:

See Objections to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 3.

Please produce the names, addresses and telephone numbers of all third-party contractors, sub-contractors, representatives, or agents used to provide account services, telemarketing, or direct solicitation including, but not limited to, door-to-door sales, and any other marketing for Respondent from January 1, 2013, to present, and;

- a) Produce copies of contracts or agreements between Respondent and the entities and persons identified;

- b) If not included in your response to Request for Production 3(a), produce any and all documents indicating the nature of the account services, telemarketing, direct solicitation including, but not limited to, door-to-door sales, and any other marketing provided by the entities and persons identified;
- c) If not included in your response to Request for Production 3(a), produce any and all documents indicating any and all incentives or compensation agreements between the Respondent and the entities and persons identified;
- d) If not included in your response to Request for Production 3(a), produce any and all documents indicating the dates Respondent used the entities and persons identified; and
- e) Produce copies of current registration with the Commonwealth of Pennsylvania pursuant to Pennsylvania's Telemarketer Registration Act, 73 P.S. § 2241, *et seq.*, for any telemarketers identified in response to the Request for Production 3 above; or, if said telemarketers claim an exemption or exception to such registration, provide proof of the same.

OBJECTION TO REQUEST FOR PRODUCTION NO. 3:

HIKO objects to Request for Production No. 3 as vague and ambiguous, including as to the terms “agents”, “account services”, and “nature”. HIKO further objects to Request No. 3 to the extent it purports to require HIKO to create a document or documents that do not already exist, and incorporates its objections to Request No. 1. HIKO further objects to Request No. 3 as overbroad and unduly burdensome to the extent it requests “any and all” documents with respect to any Request. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce agreements it has entered into with third-party marketers for marketing services in Pennsylvania.

REQUEST FOR PRODUCTION NO. 5:

Please provide the contract(s) or arrangement(s) with any contractor or agent authorized to verify customer authorizations to switch electric suppliers (i.e. third party verifications) for Pennsylvania consumers from January 2013, to the present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 5:

HIKO objects to Request No. 5 as vague and ambiguous, including as to the terms “arrangement(s)” and “agent”. Notwithstanding, but subject to, the foregoing objections and the

General Objections, HIKO will produce agreements it has entered into with third-party verifiers for Pennsylvania customers.

REQUEST FOR PRODUCTION NO. 7:

If Respondent is organized and/or incorporated in a jurisdiction other than the Commonwealth of Pennsylvania, please provide any and all documents identifying the jurisdiction and copies of current registration within the named jurisdiction, including but not limited to, the articles of incorporation filed in the foreign jurisdiction, and provide any and all documents indicating that Respondent has applied for and has been issued a Certificate of Authority as a foreign business corporation to engage in commerce within the Commonwealth of Pennsylvania pursuant to the Foreign Business Corporation Law, 15 Pa. C.S.A. § 4124.

OBJECTION TO REQUEST FOR PRODUCTION NO. 7:

HIKO objects to Request No. 7 because it is overbroad and unduly burdensome in requesting “any and all documents”. HIKO further objects to Request No. 7 to the extent it seeks the production of documents that fall within the scope of the attorney-client privilege, work product doctrine, or any other applicable privilege. HIKO further objects to Request No. 7 because it seeks the production of documents not relevant to any claim or defense in this action and not likely to lead to the discovery or admissible evidence, including because it seeks production of documents concerning HIKO’s operations in other jurisdictions. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce relevant certifications for the Commonwealth of Pennsylvania.

REQUEST FOR PRODUCTION NO. 10:

Please produce copies of any and all documents and forms currently used and/or which were used for the period from January 1, 2013, to present date including, but not limited to, contracts or agreements, contract renewal notices, welcome packets or materials, and terms and conditions currently in effect for Respondent's residential consumers on variable pricing and additionally, all documents provided to consumers by Respondent's employees, third-party contractors, sub-contractors, representatives or agents who enter into contracts for Respondent's goods and services at a Pennsylvania consumer's home.

OBJECTION TO REQUEST FOR PRODUCTION NO. 10:

HIKO objects to Request No. 10 as vague and ambiguous, including as to the terms "forms", "agents", "representatives", "contractors", "sub-contractors", and "enter into contracts". HIKO further objects to Request No. 10 as overbroad and unduly burdensome in seeking "any and all documents and forms" over an extended period of time. HIKO further objects to Request No. 10 to the extent it seeks documents that are not within its possession, custody, or control. HIKO further objects to Request No. 10 to the extent it seeks any privileged materials. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce exemplar contracts, terms and conditions, welcome material, and other written materials HIKO sent to customers in the Commonwealth of Pennsylvania since January 1, 2013.

REQUEST FOR PRODUCTION NO. 12:

Please produce all call logs, transcripts, or auto-recordings kept or maintained by Respondent and Respondent's employees, third-party contractors, sub-contractors, representatives or agents for purposes of telemarketing, direct solicitation, marketing, contract acceptance, third-party verification for acceptance, third party authorization for switching, and termination for Pennsylvania consumers, for the period from October 1, 2013 to October 11, 2013.

OBJECTION TO REQUEST FOR PRODUCTION NO. 12:

HIKO objects to Request No. 12 as vague and ambiguous, including with respect to the terms "contractors", "sub-contractors", "representatives", and "agents". HIKO further objects to Request No. 12 because it seeks production of documents that are not within the possession,

custody, or control of HIKO. HIKO further objects to Request No. 12 to the extent it seeks production of privileged documents and information. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce materials from the noted time period that it has in its custody.

REQUEST FOR PRODUCTION NO. 13:

Please produce copies of any and all scripts, training and instructive materials, employee handbooks, and other manuals that are provided to Respondent's employees, third-party contractors, sub-contractors, representatives or agents, from January 1, 2013, to present, including but not limited to, those utilized in account services, telemarketing, direct solicitation including, but limited to, door-to-door sales, and any other marketing to Pennsylvania consumers.

OBJECTION TO REQUEST FOR PRODUCTION NO. 13:

HIKO objects to Request No. 13 as vague and ambiguous, including with respect to the terms "contractors", "sub-contractors", "representatives", "agents", and "account services". HIKO further objects to Request No. 13 to the extent it seeks documents that are not within its possession, custody, or control. HIKO further objects to Request No. 13 to the extent it seeks production of privileged materials. HIKO further objects to Request No. 13 as overbroad to the extent it seeks "scripts, training and instructive materials, employee handbooks, and other manuals" unrelated to marketing of its services in the Commonwealth of Pennsylvania. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce training materials provided to third-party marketers for marketing services performed in Pennsylvania.

REQUEST FOR PRODUCTION NO. 14:

If not included in your response to Request for Production 13 above, provide the script(s) in effect to obtain verbal customer authority to switch their electric supplier for Pennsylvania sales transactions from January 1, 2013, to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 14:

See Objection to Request for Production No. 13.

REQUEST FOR PRODUCTION NO. 15:

If not included in your response to Request for Production 13 above, provide copies of Respondent's training materials and scripts regarding obtaining "wet signatures" from residential customers used from January 2013, to the present date.

OBJECTION TO REQUEST FOR PRODUCTION NO. 15:

See Objection to Request for Production No. 13.

REQUEST FOR PRODUCTION NO. 16:

Please produce any script created concerning variable rates or higher-than-normal bills that was used from January 1, 2013, to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 16:

HIKO objects to Request No. 16 as vague and ambiguous, including as to the terms "Script", "concerning variable rates", and "higher-than-normal bills". HIKO further objects to Request No. 16 to the extent it seeks the production of any privileged materials. HIKO further objects to Request No. 16 as overbroad and unduly burdensome to the extent that it requests a broad and undefined search of HIKO's internal communications, such as emails, sent and received in the ordinary course. HIKO further objects to Request No. 16 because it is not by its terms limited to HIKO's activities in Pennsylvania. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce relevant, responsive, non-privileged documents, if any, found after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 17:

Please produce the form of all written communication(s) provided to customers regarding variable rates from January 1, 2013, to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 17:

HIKO objects to Request No. 17 as vague and ambiguous, including with respect to the phrase “form of all written communication(s)”. HIKO further objects to Request No. 17 as overbroad and unduly burdensome to the extent it seeks all communications with any customers concerning variable rates over an extended period of time. HIKO further objects to this Request as duplicative of other Requests herein, including Request No. 16. HIKO further objects to Request No. 17 because it is not by its terms limited to Pennsylvania customers. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce exemplar contracts, terms and conditions, welcome letters, and other documents provided to Pennsylvania customers.

REQUEST FOR PRODUCTION NO. 18:

Please provide a copy of Respondent’s internal compliance policy and the corporate structure of any Respondent compliance program that is designed to assure compliance with its training materials, Pennsylvania law, and Commission orders and regulations.

OBJECTION TO REQUEST FOR PRODUCTION NO. 18:

HIKO objects to Request No. 18 as vague and ambiguous, including with respect to the phrases “internal compliance policy” and “corporate structure of any Respondent compliance program”. HIKO further objects to this Request as duplicative of Request No. 20 and Interrogatory No. 5. HIKO further objects to this Request to the extent it asks HIKO to create a document rather than produce a document already in existence. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce relevant, responsive, non-privileged documents, if any, found after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 19:

Within the permissible scope of discovery, please provide all documents, including but not limited to discussions, internal memos, decisions, instructions, or company policies, related to where to conduct telemarketing, door-to-door, or kiosk activities.

OBJECTION TO REQUEST FOR PRODUCTION NO. 19:

HIKO objects to Request No. 19 as seeking documents that are not in its possession, custody, or control. HIKO further objects to Request No. 19 to the extent it seeks documents within the scope of the attorney-client privilege, work product doctrine, and any other applicable privilege. HIKO further objects to Request No. 19 as overbroad and unduly burdensome to the extent it requires HIKO to perform a broad and undefined search of its internal records, including all electronic documents. HIKO further objects to Request No. 19 because it is not by its terms limited to Pennsylvania customers. Regardless, HIKO is not presently aware of any documents that fall within the scope of Request No. 19.

REQUEST FOR PRODUCTION NO. 20:

Please produce copies of Respondent's refund and compliance policies, and if any changes have been made to such policies since January 1, 2013, please produce any and all documents detailing any and all such changes.

OBJECTION TO REQUEST FOR PRODUCTION NO. 20:

HIKO objects to Request No. 20 as overbroad in seeking "any and all documents detailing" HIKO's "refund and compliance policies." HIKO further objects to Request No. 20 as vague and ambiguous, including with respect to the phrase "refund and compliance policies." HIKO further objects to Request No. 20 to the extent it seeks production of any documents that fall within the scope of the attorney-client privilege, work product doctrine, or any other applicable privilege. HIKO further objects to this Request as duplicative of other Requests. HIKO further objects to Request No. 20 because it is not by its terms limited to Pennsylvania

customers. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce relevant, responsive, non-privileged documents, if any, found after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 21:

Please produce any and all documents detailing Respondent's customer service statistics, such as call answer time, dropped call rates, busy signal, and wait times for the period from December 1, 2013, to June 1, 2014.

OBJECTION TO REQUEST FOR PRODUCTION NO. 21:

HIKO objects to Request No. 21 to the extent it seeks production of documents within the scope of the attorney-client privilege, work product doctrine, or any other applicable privilege. HIKO further objects to Request No. 21 as vague and ambiguous, including with respect to the phrase "customer service statistics." HIKO further objects to Request No. 21 because it is not by its terms limited to Pennsylvania customers. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce relevant, responsive, non-privileged documents found after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 22:

Please produce any and all documents setting forth information, including, but not limited to, the name of the investigating agency or named plaintiff for any informal or formal investigation or legal action, if any, against Respondent from January 1, 2013, to present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

HIKO objects to Request No. 22 as vague and ambiguous, including with respect to terms "investigating agency", "informal", "formal", "investigation", and "legal action". HIKO further objects to this Request because it seeks documents within the scope of the attorney-client privilege and work product doctrine. HIKO further objects to Request No. 22 because it seeks documents that are not relevant to any claim or defense in this action. Notwithstanding, but

subject to, the foregoing objections and the General Objections, HIKO will produce publicly available pleadings concerning issues similar to the issues raised in the Complaint in this action.

REQUEST FOR PRODUCTION NO. 23:

Within the permissible scope of discovery, please provide documents related to any internal audits or investigations conducted by or on behalf of Respondent since January 2013, including internal reports, draft reports and memos, and any other documents in which such reports or memos were mentioned or discussed with Respondent supervisors or managers.

OBJECTION TO REQUEST FOR PRODUCTION NO. 23:

HIKO objects to Request No. 23 as vague and ambiguous, including with respect to the terms “audits”, “investigations”, “supervisors”, and “managers”. HIKO further objects to Request No. 23 as seeking documents within the scope of the attorney-client privilege and work product doctrine. HIKO further objects to Request No. 23 because it seeks documents and information not relevant to any claim or defense in this action as it is not on its face limited to customers within the Commonwealth of Pennsylvania. HIKO further objects to Request No. 23 as overbroad and unduly burdensome to the extent it purports to require HIKO to engage in a broad and undefined search of its records, including all electronic materials. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce non-privileged exemplar documents, if any, concerning the issues raised in the Complaint.

REQUEST FOR PRODUCTION NO. 24:

If not included in your response to Request for Production 23 above, provide internal documents that identify the results of any internal audits or investigations undertaken since January 2013.

OBJECTION TO REQUEST FOR PRODUCTION NO. 24:

See Objection to Request for Production No. 23.

REQUEST FOR PRODUCTION NO. 25:

Please produce any and all documents setting forth methods used to reflect electric power market information into the establishment of the price for Respondent's residential consumers for December 2013, January 2014, February 2014 and March 2014. Please include the following information:

- a) Any and all formula(s) used to calculate the price;
- b) The load profile(s) used for Respondent's residential consumers. If different load profiles are used for different months or seasons, different EDC service areas, or residential consumers of different size, provide all such load profiles used for the months of December 2013, January 2014 and February 2014;
- c) The specific type of market price information (e.g., reported four-week forward contract prices for on-peak and off-peak at the PJM West hub) used to develop the residential generation price and the source(s) of that information;
- d) Any and all electronic spreadsheets used to develop the residential generation price applicable to Respondent's residential consumers;
- e) All on-peak and off-peak energy prices relied upon to develop the prices charged to Respondent's residential consumers for billing cycles that include at least seven (7) days in January 2014 and for all billing cycles in February 2014. This information should be disaggregated by billing cycle used for Respondent's residential consumers; and
- f) Respondent's total residential kWh sales for December 2013, January 2014, February 2014, and March 2014.

OBJECTION TO REQUEST FOR PRODUCTION NO. 25:

HIKO objects to Request No. 25 as vague and ambiguous, including with respect to terms and phrases such as "methods", "electric power market information" and "establishment of the price." HIKO further objects to this Request as seeking highly confidential and proprietary information before the parties have had an opportunity to execute an appropriate confidentiality agreement that will govern discovery in this action. HIKO further objects to this Request as seeking documents and information not relevant to the claims or defenses in this action because the Request is not on its face limited to customers in the Commonwealth of Pennsylvania. HIKO further objects to this Request as overbroad and unduly burdensome in seeking "any and all documents setting forth methods used to reflect electric power market information into the establishment of the price for Respondent's residential consumers". HIKO objects to engaging

in a broad and undefined search of all corporate records, including electronically stored information. Notwithstanding, but subject to, the foregoing objections and the General Objections, HIKO will produce relevant, responsive, non-privileged documents, if any, found after a reasonably diligent search, and provided the parties are able to negotiate a mutually agreeable confidentiality agreement.

REQUEST FOR PRODUCTION NO. 26:

Please produce any and all documents indicating whether you develop different generation prices for each of the billing cycles within the month or whether the same price is applicable to multiple billing cycles. If the same price is applicable to multiple billing cycles, please indicate the frequency with which the generation price is changed.

OBJECTION TO REQUEST FOR PRODUCTION NO. 26:

HIKO objects to Request No. 26 as vague and ambiguous with respect to the terms “generation prices”, “billing cycles”, and “same price”. HIKO further objects to Request No. 26 as *overbroad and unduly burdensome in seeking “any and all documents” concerning “generation prices” in “billing cycles.”* HIKO further objects to this Request as duplicative of other Requests herein seeking its Terms & Conditions and other materials, which state that HIKO charges a variable rate. HIKO further objects to this Request as seeking documents not relevant to any claim or defense in this action as it is not by its terms limited to customers in the Commonwealth of Pennsylvania. HIKO further incorporates its Response to Request No. 25.

REQUEST FOR PRODUCTION NO. 27:

Please produce any and all documents indicating all cost components used to develop the generation price (e.g., AEPS credits, ancillary services) and Respondent’s average cost of acquiring those components for December 2013, January 2014, February 2014, and March 2014.

OBJECTION TO REQUEST FOR PRODUCTION NO. 27:

HIKO objects to this Request as vague and ambiguous, including with respect to terms “cost components”, “generation price”, and “average cost.” HIKO further objects to this Request

as overbroad and unduly burdensome in that it seeks “any and all documents indicating” “cost components” for a “generation price.” HIKO further incorporates its Response to Request No. 25.

REQUEST FOR PRODUCTION NO. 28:

Please provide a sample calculation of one of the prices charged to Respondent’s residential consumers that reflects a time period that includes the last three (3) weeks in January 2014.

OBJECTION TO REQUEST FOR PRODUCTION NO. 28:

See Objection to Request for Production No. 25. HIKO further objects to this Request to the extent it seeks to have HIKO create a document rather than produce a document already in existence.

REQUEST FOR PRODUCTION NO. 29:

Please provide a sample calculation at monthly usage of 750 kWh of a price charged to Respondent’s residential consumers that reflect a time period that includes at least 21 days in February 2014.

OBJECTION TO REQUEST FOR PRODUCTION NO. 29:

See Objection to Request for Production Nos. 25, 28.

REQUEST FOR PRODUCTION No. 30:

Please produce any and all documents setting forth all such notifications of Respondent’s running charges with PJM for December 2013, January 2014, February 2014, and March 2014.

OBJECTION TO REQUEST FOR PRODUCTION NO. 30:

HIKO objects to this Request as vague and ambiguous, including with respect to the phrase “such notifications”, which does not identify the “notifications” to which it is referring.

Subject to and without waiver of the foregoing objections and the General Objections, HIKO will produce relevant, responsive, non-privileged documents, if any, found after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 31:

Please provide Respondent's Pennsylvania prices and revenues, by month, from January 1, 2013 to present, broken down by EDC service territory and customer class.

OBJECTION TO REQUEST FOR PRODUCTION NO. 31:

HIKO objects to Request No. 31 as vague and ambiguous, including with respect to the terms "prices" and "customer class." HIKO further objects to this Request as seeking highly confidential and proprietary information concerning its prices and revenues. HIKO further objects to this Request to the extent it seeks to have HIKO create a document rather than produce a document or documents already in existence. HIKO further objects to this Request as duplicative of Interrogatory No. 7. Notwithstanding, but subject to, the foregoing objections, the General Objections, and the objections set forth in Response to Request No. 25, HIKO will produce relevant, responsive, non-privileged documents, if any, located after a reasonably diligent search.

REQUEST FOR PRODUCTION NO. 32:

Please provide all information submitted to the Commission and/or the Commission's Office of Competitive Market Oversight (OCMO) pursuant to the Commission's Order entered March 4, 2014, at Docket No. M-2014-2406134 and the Secretarial Letter dated February 21, 2014, referenced in Footnote 5 of the aforementioned Order.

OBJECTION TO REQUEST FOR PRODUCTION NO. 32:

HIKO objects to this Request as seeking documents or information already within the possession, custody or control of Complainants. Notwithstanding the foregoing objection and the General Objections, HIKO intends to re-submit to Complainants the materials it already submitted.

REQUEST FOR PRODUCTION NO. 33:

If not included in your response to Request for Production 34 above, please provide a copy of all form terms and conditions, disclosure statements and welcome letters provided to

Pennsylvania residential customers from January 2013 to the present and identify the service offering(s) to which each document applies and the time period(s) the service offering(s) were marketed in Pennsylvania.

OBJECTION TO REQUEST FOR PRODUCTION NO. 33:

HIKO objects to Request No. 33 as duplicative of other Requests herein. *See* Objection to Request for Production Nos. 10 and 17. HIKO also objects to Request No. 33 as vague and ambiguous with respect to its reference to "Request for Production 34", which appears to be a typographical error.

Dated: July 21, 2014

Respectfully submitted,



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COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Commonwealth of Pennsylvania, by
Attorney General KATHLEEN G. KANE,
Through the Bureau of Consumer
Protection,

And

TANYA J. McCLOSKEY, Acting
Consumer Advocate,
Complainants

v.

HIKO ENERGY, LLC.
Respondent

Docket No. C-2014-2427652

RECEIVED

JUL 21 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of HIKO's Objections to Interrogatories and Request for Production of Documents of the Complainants' has been served by electronic mail upon the participants listed below:

VIA ELECTRONIC MAIL

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Origin ID: REDA



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Philadelphia, PA 19103

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Delivery Address Bar Code



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BILL SENDER

Rosemary Chiavetta Secretary
Pennsylvania Public Utility Commiss
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HARRISBURG, PA 17120

Ref # 212135.514340-LEWISGA
Invoice #
PO #
Dept #

RELEASE#: 3785346

TUE - 22 JUL AA
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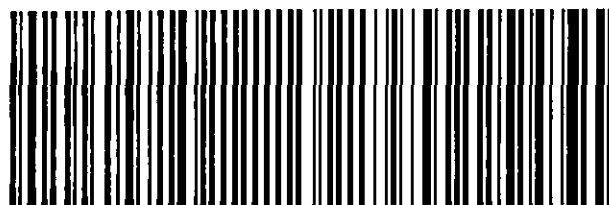
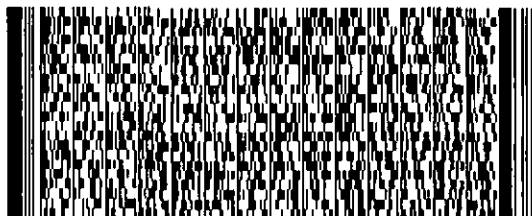
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FOLD on this line and place in shipping pouch with bar code and delivery address visible

1. Fold the first printed page in half and use as the shipping label.
2. Place the label in a waybill pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.
3. Keep the second page as a receipt for your records. The receipt contains the terms and conditions of shipping and information useful for tracking your package.