

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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September 23, 2014

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

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

Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Candis A. Tunilo".

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. #89891

Enclosures

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

*188333

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND ENFORCEMENT,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2014-2431410
	:	
HIKO ENERGY, LLC,	:	
Respondent	:	

PREHEARING MEMORANDUM OF THE OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the August 25, 2014 Prehearing Conference Order, the Office of Consumer Advocate (OCA) provides the following information in this matter:

I. INTRODUCTION

On July 11, 2014, the Bureau of Investigation and Enforcement (I&E) filed a Formal Complaint against HIKO Energy, LLC. In the Complaint, I&E alleges that HIKO violated the Public Utility Commission's (Commission) regulations at 52 Pa. Code § 54.4(a) for failing to charge prices to customers that matched the prices marketed and agreed upon. By way of relief, I&E seeks that the Commission order a civil penalty in the amount of \$14,780,000, refunds to customers of the difference between the promised price and the price HIKO charged and revocation of HIKO's license.

On July 31, 2014, HIKO filed Preliminary Objections to the Complaint arguing that I&E's Complaint should be dismissed, stayed or consolidated with the pending Joint Complaint of the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection (Commonwealth) and the OCA at Docket No. C-2014-2427652. HIKO also argued

that I&E's request for restitution or refunds should be dismissed for lack of Commission authority to order such relief. On August 11, 2014, I&E filed its Answer to HIKO's Preliminary Objections, wherein I&E argued that HIKO's Preliminary Objections lacked merit. By Order dated September 2, 2014, Administrative Law Judges Elizabeth Barnes and Joel H. Cheskis (ALJs) dismissed HIKO's Preliminary Objections.

Also on July 31, 2014, HIKO filed its Answer and New Matter to I&E's Formal Complaint. On August 18, 2014, I&E filed its Reply to New Matter. On August, 8, 2014, the OCA filed a Notice of Intervention in this matter. On August 18, 2014, the Commonwealth filed a Notice of Intervention in this matter.

The OCA submits this Prehearing Memorandum pursuant to the ALJs' Prehearing Conference Order dated August 25, 2014. The Prehearing Conference is scheduled in this matter for September 29, 2014, at 2:30 p.m.

II. ISSUES

The issues in this matter center around HIKO's dealings with its customers and HIKO's failure to comply with the Commission's regulations, specifically 52 Pa. Code § 54.4(a), which states that "EGS prices billed must reflect the marketed prices and the agreed upon prices in the disclosure statement." See 52 Pa. Code § 54.4(a). I&E alleges that HIKO failed to honor introductory rates guaranteeing savings over the Price to Compare that customers were promised.

In their Prehearing Conference Order dated August 25, 2014, the ALJs directed that the parties be prepared to discuss whether this matter should be consolidated with the Joint Complaint of the Commonwealth and the OCA at Docket No. C-2014-2427652 for purposes of evidentiary hearings. See Prehearing Conf. Order at ¶ 7. The OCA takes no position on the

consolidation of this matter with the Joint Complaint at Docket No. C-2014-2427652. The OCA will work with the ALJs and parties to implement the ALJs' ruling regarding consolidation.

III. SERVICE ON THE OCA

The OCA will be represented in this case by Candis A. Tunilo and Kristine E. Robinson, Assistant Consumer Advocates. Copies of all documents should be served on the OCA as follows:

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IV. DISCOVERY MODIFICATIONS

The OCA does not propose any discovery modifications in this matter.

V. SETTLEMENT

Settlement discussions are scheduled in this matter. The OCA is willing to engage in settlement discussions with the parties.

VI. PROPOSED SCHEDULE

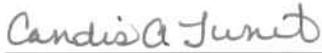
The OCA is willing to work with the ALJs and the parties to reach a mutually agreeable litigation schedule in this matter.

VII. WITNESSES

At this time the OCA has not determined whether to present a witness in this matter. The OCA reserves the right to cross examine other witnesses in this matter and possibly introduce

exhibits into the record through such examination. Should the OCA determine that it will call a witness or witnesses, the OCA will notify the ALJs and parties as soon as possible after such determination is made.

Respectfully Submitted,



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Assistant Consumer Advocates

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Tanya J. McCloskey
Acting Consumer Advocate

DATE: September 23, 2014
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CERTIFICATE OF SERVICE

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COMMISSION, BUREAU OF :
INVESTIGATION AND ENFORCEMENT, :
Complainant :
v. : Docket No. C-2014-2431410
HIKO ENERGY LLC, :
Respondent :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, in the manner and upon the persons listed below:

Dated this 23rd day of September 2014.

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