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November 12, 2014

VIA E-FILING AND FIRST CLASS MAIL

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

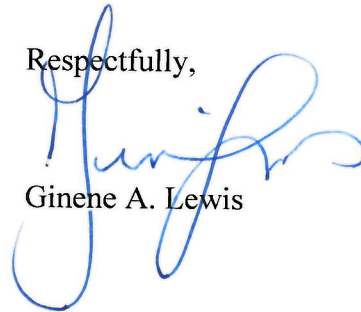
**Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. HIKO Energy, LLC, Docket No. C-2014-2431410**

Dear Secretary Chiavetta:

Enclosed please find HIKO Energy, LLC's ("HIKO") application for subpoena duces tecum addressed to the Pennsylvania Public Utility Commission's Bureau of Consumer Services. Copies have been served on the parties of record and in accordance with 52 Pa. Code § 5.421(c).

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

Respectfully,



Ginene A. Lewis

GAL

Enclosures

cc: Per Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

Docket No. C-2014-2431410

v.

HIKO ENERGY, LLC,
Respondent.

NOTICE TO PLEAD

TO:

Wayne T. Scott
Michael L. Swindler
Stephanie M. Wimer
Pa. Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105

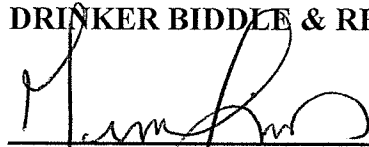
You may file a written objection to the attached Application for Subpoena Duces Tecum within ten (10) days from service hereof pursuant to 52 Pa. Code § 5.421(f). Objections must be furnished and served upon the undersigned counsel, and copies of those objections should be sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Honorable Elizabeth H. Barnes
Honorable Joel Cheskis
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Dated: November 12, 2014

DRINKER BIDDLE & REATH, LLP



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Counsel for HIKO Energy, LLC

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,

Complainant

Docket No. C-2014-2431410

v.

HIKO ENERGY, LLC,
Respondent.

**RESPONDENT HIKO ENERGY, LLC'S APPLICATION FOR SUBPOENA DUCES
TECUM ADDRESSED TO PENNSYLVANIA PUBLIC UTILITY COMMISSION'S
BUREAU OF CONSUMER SERVICES**

HIKO Energy, LLC ("HIKO"), hereby requests that Administrative Law Judges Elizabeth H. Barnes and Joel Cheskis issue the subpoena duces tecum, attached hereto as Exhibit A, pursuant to the provisions of 52 Pa. Code § 5.421, and in support thereof represent as follows:

1. On July 11, 2014, the Pennsylvania Public Utility Commission ("Commission"), Bureau of Investigation and Enforcement ("Complainant" or "I&E") filed a formal complaint ("Complaint") against HIKO, seeking civil penalties of \$14,780,000 and the revocation of HIKO's license as an electric generation supplier ("EGS") in Pennsylvania. The Complaint is premised upon a single category of regulatory violation — the claim that, during the polar vortex in the winter of 2013-2014, HIKO breached its agreements with a number of its customers by failing to deliver rates below the given local utility's price, also known as the "price to compare."

2. On August 15, 2014, HIKO propounded its First Set of Interrogatories and Requests for Production of Documents ("Discovery"). Among other things, HIKO sought information on the conduct of other EGS companies, specifically, the Complainant's knowledge

of the rates that other EGS companies imposed on their customers during the polar vortex.

HIKO also sought all documentation relating to any analysis, summary, compilation, or review of any complaints made during the period of December 2013 through April 2014 against any EGS operating within Pennsylvania.

3. This information provides a potential defense to liability in this action and/or mitigation of civil penalties and license revocation. HIKO believes that other EGS companies with variable rate service agreements also were affected by the polar vortex and likely charged rates similar to or higher than HIKO's rates. Such information could help HIKO show that its rates were in the range of (or lower than) other market prices, and also show that the Commission has not sought comparable penalties and sanctions against those other EGS companies.

4. On September 4, 2014, I&E served answers to HIKO's Discovery ("Answers") and later provided supplemental answers on September 19, 2014 ("Supplemental Answers"). In those responses, I&E unilaterally limited its answers by asserting the position that it will only provide HIKO with information and documents within its own knowledge or within its own possession, and will not provide information or documents that are in the possession of the Commission but not under I&E's immediate control. As such, Complainant refused to provide information or documents within the possession or control of the Commission's Bureau of Consumer Services ("BCS"), including information and documents that are likely in the possession of (or accessible to) the sole witness for Complainant — Daniel J. Mumford, a supervisory employee in BCS's Informal Compliance and Competition Unit.

5. I&E's constricted position defies its discovery obligations pursuant to the Commission's rules and deprives HIKO of crucial information needed for its defense. In

addition to the instant petition for the issuance of the attached subpoena duces tecum, HIKO filed a motion to compel this information. HIKO believes that, separate and apart from the attached subpoena duces tecum, the Commission's rules and regulations impose an independent duty on I&E to produce the requested information.

6. I&E has identified as its sole witness, Mr. Mumford, who "will present testimony regarding HIKO's disregard of the Company's obligation to honor a supply rate discount as guaranteed to enrolled customers." I&E's Answers to HIKO's Discovery at 41-42, excerpt attached hereto as Exhibit B. On information and belief, Mr. Mumford will support Complainant's civil penalty and license revocation demands. Information and documents related to the conduct of other EGS companies in Pennsylvania, including rates charged by other EGS companies and the number and gravity of customer complaints against those EGS companies during the polar vortex, would be essential to comparing HIKO's conduct against that of other similar regulated entities.

7. HIKO believes that BCS has investigated or reviewed other EGS companies' variable rates during the polar vortex and would have this information for the period of the polar vortex. That information would be vital to evaluate HIKO's rates in the context of what other companies were charging. HIKO does not seek the names or specific prices charged by particular EGS companies but only aggregate information (*e.g.*, how many EGS companies charged rates within or above the range of HIKO's rates, how many and what types of consumer complaints were made against the other EGS companies during the polar vortex, etc.)

8. Additionally, HIKO believes that Mr. Mumford was likely involved in the preparation and/or review of documents identified by I&E in its Answers to HIKO's Discovery, namely, internal weekly reports issued to the Commissioners by BCS containing "information

pertaining to informal complaint activity received by the Commission from EGS customers in a given week.” I&E’s Supplemental Answers to HIKO’s Discovery at 25, 27, excerpt attached hereto as Exhibit C. It is highly likely that Mr. Mumford has access to or possession of these documents, which are highly relevant to HIKO’s defense.

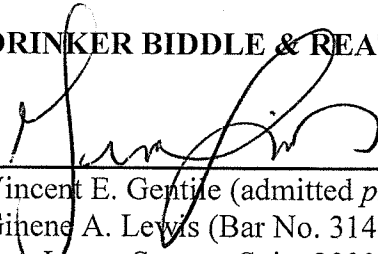
9. Without information on the conduct of other EGS companies, HIKO is unable to compare its rates and the number and gravity of customer complaints to that of other EGS companies in Pennsylvania. As previously stated, this information is critical to HIKO’s potential defense that other EGS companies were affected by the polar vortex and likely charged rates similar to or higher than HIKO’s rates. Furthermore, a comparative analysis of how the Commission has evaluated complaints against other EGS companies in Pennsylvania and sought punitive relief against those other EGS companies provides a basis for HIKO to argue for mitigation of civil penalties and sanction. Accordingly, this information is essential to providing HIKO with a full and fair opportunity to show that its conduct does not merit the dire penalties sought by I&E.

10. HIKO respectfully represents that the documents requested by this subpoena duces tecum are within the scope of permitted discovery as defined in Subchapter D of the Commission’s regulations, 52 Pa. Code §§ 5.321 -5.324. HIKO believes and avers that the documents requested are necessary for the preparation of its defense, and the denial of this information would be prejudicial to its due process rights.

WHEREFORE, HIKO respectfully requests Administrative Law Judges Barnes and Cheskis to issue the attached subpoena duces tecum directed to the Commission’s Bureau of Consumer Services.

Respectfully Submitted,

DRINKER BIDDLE & REATH, LLP



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Counsel for HIKO Energy, LLC

Dated: November 12, 2014

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, BUREAU OF
INVESTIGATION AND
ENFORCEMENT,

Complainant

Docket No. C-2014-2431410

v.

HIKO ENERGY, LLC,

Respondent.

CERTIFICATE OF SERVICE

I, Ginene A. Lewis, hereby certify that on this day I caused a true and correct copy of the foregoing document to be served upon the parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant).

VIA ELECTRONIC AND FIRST CLASS MAIL

Hon. Elizabeth H. Barnes
Hon. Joel Cheskis
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Dated: November 12, 2014

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EXHIBIT A

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

HIKO ENERGY, LLC,
Respondent.

Docket No. C-2014-2431410

SUBPOENA DUCES TECUM

TO: Alexis Bechtel, Director
Pa. Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Harrisburg, PA 17105

Pursuant to the authority of the Pennsylvania Public Utility Commission (“Commission”) under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

YOU ARE ORDERED by the Commission to produce the following:

1. Any and all documentation relating to the rates charged by electric generation suppliers (“EGS”) companies in Pennsylvania from December 2013 to April 2014.
2. Any and all documentation relating to any analysis, summary, compilation, or review of any complaints made during the period of December 2013 through April 2014 against any EGS operating within Pennsylvania, including by not limited to the internal weekly reports provided by or to the Commission’s Bureau of Consumer Services (“BCS”).

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date _____

Administrative Law Judge Elizabeth H. Barnes
Administrative Law Judge Joel Cheskis

EXHIBIT B

Responses of the Bureau of Investigation and Enforcement to
Interrogatories and Requests for Production of Documents of HIKO Energy, LLC – Set I
C-2014-2431410

31. Identify any expert or consultant acting on behalf of, retained by, or employed by You concerning this case, whether full-time or part-time and however compensated; and state (a) the subject matter about which any such expert or consultant will be testifying or consulting; and (b) the substance of any such expert's or consultant's opinion.

ANSWER: Daniel Mumford, Manager – Informal Compliance and Competition Unit – Bureau of Consumer Services. Mr. Mumford will present testimony regarding HIKO's disregard of the Company's obligation to honor a supply rate discount as guaranteed to enrolled customers pursuant to the Company's Welcome Letter and Disclosure Statement.

Responses of the Bureau of Investigation and Enforcement to
Interrogatories and Requests for Production of Documents of HIKO Energy, LLC – Set I
C-2014-2431410

32. Identify all witnesses I&E intends to call at trial and state the subject matter of their testimony.

ANSWER: See I&E Answer to HIKO Set I, No. 31.

EXHIBIT C

Supplemental Answers of the Bureau of Investigation and Enforcement to
Interrogatories and Requests for Production of Documents of HIKO Energy, LLC – Set I
C-2014-2431410

5. All documents relating to any analysis, summary, compilation, or review of any complaints made during the period December 2013 through April 2014 against any EGS operating within Pennsylvania.

SUPPLEMENTAL ANSWER: It is I&E's understanding that in early 2014, a confidential internal weekly report was issued to the Commissioners and certain Commission staff members (but not to I&E) by the Bureau of Consumer Services. The report purportedly provided information pertaining to informal complaint activity that the Commission received from EGS customers in a given week. I&E, as an independent prosecutory arm of the Commission, does not have custody or control of the referenced report. The Commission's procedure for seeking access to such documents can be found at 52 Pa. Code § 5.421.

Supplemental Answers of the Bureau of Investigation and Enforcement to
Interrogatories and Requests for Production of Documents of HIKO Energy, LLC – Set I
C-2014-2431410

7. All documents relating to any analysis, summary, compilation, or review that shows how the nature, gravity or frequency of complaints against HIKO compares to the nature, gravity or frequency of complaints against any other EGS operating in Pennsylvania.

SUPPLEMENTAL ANSWER: See I&E's Supplemental Answer to HIKO's Request for Production Set I, No. 5, above.