

Hawke
 McKeon &
 Sniscak LLP
ATTORNEYS AT LAW

Todd S. Stewart
Office: 717 236-1300 x 242
Direct: 717 703-0806
tsstewart@hmslegal.com

Christopher M. Arfaa
Office: 717 236-1300 x231
Direct: 717-703-0802
cmarfaa@hmslegal.com

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

January 27, 2015

VIA ELECTRONIC FILING

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

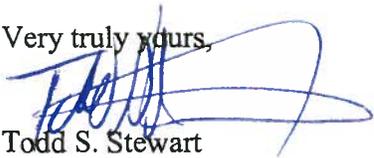
Re: Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, Through the Bureau of Consumer Protection and Tanya J. McCloskey, Acting Consumer Advocate v. Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric; Docket No. C-2014-2427656; **ENERGY SERVICE PROVIDERS, INC. d/b/a PENNSYLVANIA GAS & ELECTRIC'S RESPONSE IN OPPOSITION TO JOINT OBJECTIONS OF THE COMMONWEALTH OF PENNSYLVANIA AND THE OFFICE OF CONSUMER ADVOCATE TO DEPOSITIONS BY WRITTEN EXAMINATION SERVED ON JOINT COMPLAINANTS' CONSUMER WITNESSES**

Dear Secretary Chiavetta:

Enclosed for electronic filing, please find Energy Service Providers, Inc. d/b/a Pennsylvania Gas & Electric's Response in Opposition to Joint Objections of the Commonwealth of Pennsylvania and the Office of Consumer Advocate to Depositions By Written Examination Served on Joint Complainants' Consumer Witnesses in the above-captioned matter. Copies will be provided as indicated on the Certificate of Service.

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

Very truly yours,


Todd S. Stewart
Christopher M. Arfaa

TSS/jld
Enclosure

cc: Administrative Law Judge Elizabeth Barnes (by email and first class mail)
Administrative Law Judge Joel H. Cheskis (by email and first class mail)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that on this day I caused a true and correct copy of the foregoing document to be served on the persons listed below by the means indicated:

FIRST CLASS MAIL, POSTAGE PREPAID, AND ELECTRONIC MAIL

John M. Abel, Esq.
Senior Deputy Attorney General
Nichole R. Beck, Esq.
Deputy Attorney General
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120
jabel@attorneygeneral.gov
nbeck@attorneygeneral.gov

Sharon E. Webb, Esq.
Assistant Small Business Advocate
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, Pennsylvania 17101
swebb@pa.gov

Candis A. Tunilo, Esq.
Assistant Consumer Advocate
Brandon J. Pierce, Esq.
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
ctunilo@paoca.org
bpierce@paoca.org

Michael L. Swindler, Esq., Prosecutor
Stephanie M. Wimer, Esq., Prosecutor
Wayne T. Scott, Esq., Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, Pennsylvania 19105-3265
mswindler@pa.gov
stwimer@pa.gov
wascott@pa.gov

DATED: January 27, 2015



Todd S. Stewart, Esq. (Pa. ID No. 75556)
Christopher M. Arfaa, Esq. (Pa. ID No. 57047)
HAWKE MCKEON & SNISCAK LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778
Telephone: 717-236-1300
tsstewart@hmslegal.com
cmarfaa@hmslegal.com

**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.

ENERGY SERVICES PROVIDERS, INC.
d/b/a PENNSYLVANIA GAS & ELECTRIC,
Respondent.

Docket No. C-2014-2427656

**RESPONSE OF ENERGY SERVICES PROVIDERS, INC. d/b/a
PENNSYLVANIA GAS & ELECTRIC
IN OPPOSITION TO
JOINT OBJECTIONS OF THE COMMONWEALTH OF PENNSYLVANIA AND
THE OFFICE OF CONSUMER ADVOCATE TO DEPOSITIONS BY WRITTEN
EXAMINATION SERVED ON JOINT COMPLAINANTS' CONSUMER WITNESSES**

Respondent, Energy Service Providers, Inc., d/b/a Pennsylvania Gas & Electric ("PAG&E"), by and through its undersigned attorneys, hereby responds to the joint objections (the "Objections") filed by Complainants the Office of Attorney General ("OAG") and the Office of Consumer Advocate ("OCA") (together, "Joint Complainants") to the Notice of Deposition by Written Questions (the "Notices") served by PAG&E on the customer witnesses for whom the Joint Complainants have pre-served written testimony. As set forth below, the Objections lack merit and should be dismissed.

I. INTRODUCTION AND SUMMARY

The Joint Complainants seek, among other things, the revocation of PAG&E's license to sell electricity in Pennsylvania based, in part on the anticipated testimony of 235 customer witnesses. In the December 9, 2014, Order Granting Continuance, the Presiding Officers directed the parties "to coordinate the most efficient means for admitting the pre-served consumer testimony into the record, subject to cross-examination and timely objections, including entering into any Stipulations or waiving the need for cross examination."

To that end, on January 8, 2015, counsel for PAG&E sent an e-mail to counsel for Joint Complainants that stated, part, as follows (emphasis added):

The purpose of this email is to address several issues that have come up as we prepare for the first set of hearings in this matter.

First, we wanted to give you advance notice that we have tentatively decided to cross-examine all of the customer witnesses whom you have identified, and that we intend to notify the ALJs and parties of that decision on January 19, 2015, per the Third Procedural Order.

Second, **please be advised that we intend to conduct depositions by written questions of each customer witness pursuant to 52 Pa. Code § 5.345. We hope thus to reduce the hearing time required for cross-examination.**

* * *

We suggest that a call among counsel for the parties be held in the near future to discuss these procedures. Thank you for your consideration.

On January 12, 2015, counsel for PAG&E served Notices of Deposition by Written Questions (which included the questions) by mail on 233 of the 235 witnesses whose written testimony was pre-served by the Joint Complainants (two of the witnesses' addresses were insufficient for service). The purpose of this discovery is, in part, to reduce or eliminate the amount of time required for cross examination of the customer witnesses. The questions are

identical for each witness. The certification form allowed the deponents to certify their answers by verifying them subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) in order to save the expense and inconvenience of notarization, and the Notice stated a return date of 30 days after service. (A copy of the notice and questions template is attached as Exhibit A.)

Counsel for PAG&E instructed their staff to serve copies of each of the Notices on counsel of record on January 12, 2015. However, on January 16, 2015, during a telephone call with counsel for the Joint Complainants, counsel for PAG&E learned that the Notices had not been received by OAG and OCA counsel and determined that, due to an administrative oversight, the Notices had not been served on January 12, 2015, as instructed. As Joint Complainants admit, Counsel for PAG&E then immediately transmitted electronic copies of the Notices by file transfer protocol (*see* Objections at 6) and served hard copies by depositing them in the United States mail that same day (*see* Objections at 14).¹

On January 21, 2015, counsel for the OCA and the OSBA informed counsel for PAG&E for the first time that they were having trouble downloading the Notices from the link that had been e-mailed to them on January 16, 2015. Counsel for PAG&E immediately e-mailed a new link and an electronic copy of the template for the written deposition questions.²

The Joint Complainants hope to use the testimony of the 235 customer witnesses to convince the Commission to impose the ultimate administrative sanction on PAG&E: revocation of its license to sell electricity in Pennsylvania. The 235 customer witnesses are not parties to

¹ The date of service of a document is the day it is deposited in the mail. 52 Pa. Code § 1.56(a)(1). The Joint Complainants' assertion that they were not "served" with hard copies of the Notices until they apparently received them January 21, 2015, *see* Objections at 3, is therefore incorrect. As they admit in another part of the Objections, they were served by mail (and were e-mailed courtesy copies) on January 16, 2015. *See* Objections at 14.

² Counsel for PAG&E's information technology manager subsequently confirmed that the link sent on January 16, 2015 was operational and that the cause of difficulties in retrieving or downloading the documents was likely on the receiving end, perhaps due to Commonwealth firewalls or file size limits.

this proceeding; therefore, the only methods of discovery available to PAG&E are oral depositions and depositions by written questions. 52 Pa. Code § 5.321(f). Through their Objections, the Joint Complainants invite the Commission to strip PAG&E even of this limited means of discovery. Their Objections are meritless, and this invitation should be rejected.

First, the Joint Complainants assert that 66 Pa. C.S. § 333 requires prior ALJ approval for depositions on written questions as well as for oral depositions. However, the Commission's regulations interpreting and implementing this provision clearly require prior application and approval only for depositions by oral examination, and do not contemplate ALJ involvement in depositions on written questions unless and until objections or motions for protective order are filed by the deponent or a party. See 52 Pa. Code §§ 5.343, 5.344, 5.345.

Second, the Joint Complainants object to the Notices on the ground that PaG&E "violated" 52 Pa. Code § 5.345(a) because it did not serve copies of the Notices on counsel for the parties until four days after the Notices were served on the deponents. However, neither section 5.345(a) nor any other provision of the Commission's rules requires simultaneous service of notices of depositions on written questions on deponents and other parties.

Third, the Joint Complainants object to the questions as seeking information that is "beyond the permissible scope of discovery." However, this is not a proper ground for quashing the notices of depositions on written questions under the Commission's rules. Furthermore, as argued below, the information sought by the questions propounded by PaG&E is unquestionably relevant or reasonably calculated to lead to the discovery of admissible evidence.

Fourth, the Joint Complainants object to the Notices because they will cause "unreasonable annoyance, embarrassment or burden to the witnesses." As an initial matter, the Joint Complainants, however, do not have standing to raise this objection. They are not the

deponents, nor do their attorneys represent the deponents. Furthermore, the assertion that the deposition questions will cause unreasonable annoyance, embarrassment or burden “to the witnesses” is entirely hypothetical. Despite the fact that the Joint Complainants have apparently counseled or conferred with some deponents with respect to the Notices, there is no allegation that any of those deponents has asserted that the questions have caused unreasonable annoyance, embarrassment or burden.

Fifth, the Joint Complainants assert that the Notices are not “timely” under 52 Pa. Code § 5.345(a). This is simply incorrect. Section 5.345(a) simply provides other parties with 30 days in which to serve cross questions. There is no requirement that a notice be served a particular number of days before commencement of hearings. The Joint Complainants “are not entitled to elimination of the only means of discovery available to PaG&E on the basis of a non-existent requirement.

II. RESPONSES TO OBJECTIONS

A. Service of Notices of Deposition on Written Questions Does Not Require Prior Approval of the Presiding Officer.

The Joint Complainants assert that 66 Pa. C.S. § 333 requires prior ALJ approval for depositions on written questions as well as for oral depositions. However, the Commission’s regulations interpreting and implementing this provision clearly require prior application and approval only for depositions by oral examination, and do not contemplate ALJ involvement in depositions on written questions unless and until objections or motions for protective order are filed by the deponent or a party.

Section 5.343, which governs procedures in depositions “by oral examination,” specifically requires the party desiring to take a deposition “upon oral examination” to give 20

days' notice to the active parties "and to the presiding officer." 52 Pa. Code § 5.343(a) (emphasis added). Section 5.345, by contrast, requires service of the questions and notice of deposition by written questions solely "upon the deponent and ... each other party or his attorney of record." 52 Pa. Code § 5.345(a). Section 5.344, which governs ALJ approval of deposition applications, expressly applies only to depositions by oral examination. See 52 Pa. Code § 5.344(a) (a notice of deposition served upon the presiding officer "under § 5.343(a) (relating to procedures in deposition by oral examination)" constitutes an application for an order to take a deposition) (emphasis added).³ In the case of depositions by written questions, the rules provide for review by the presiding officer only upon a motion for protective order or for oral examination made "[a]fter the service of questions and prior to the taking of the testimony of the deponent." 52 Pa. Code § 5.345(e) (emphasis added). The regulations governing depositions represent the Commission's interpretation of the procedural provisions of the Public Utility Code. That interpretation is entitled to "great weight." *Popowsky v. Pennsylvania Pub. Util. Comm'n*, 13 A.3d 583, 586 n.5 (Pa. Cmwlth. 2011) ("The PUC's interpretation of its governing statute must be given great weight and deference and will not be reversed unless clearly erroneous.") (citing *Popowsky v. Pub. Util. Comm'n*, 550 Pa. 449, 462, 706 A.2d 1197, 1203 (1997)).⁴

³ See also 52 Pa. Code § 5.343(b) (stating that failure to comply with § 5.343 (relating to depositions by oral examination) is grounds for denial of a deposition, but omitting any corresponding reference to § 5.345 (relating to depositions by written questions)).

⁴ If the Presiding Officers determine that, notwithstanding the Commission's rules, 66 Pa. C.S. § 333 requires prior application and approval of depositions by written questions, PaG&E would respectfully request that the application and questions attached hereto as Exhibit A be deemed served upon the Presiding Officers *nunc pro tunc* and considered an application for such approval which is now ripe for determination.

B. PaG&E Served The Notices and Depositions by Written Questions on Joint Complainants and Other Parties.

The Joint Complainants “submit” that PaG&E “violated” 52 Pa. Code § 5.345(a) by serving serve copies of the Notices on counsel for the Joint Complainants and the other parties four days after the Notices were served on the deponents. (Objections at 7.) However, neither section 5.345(a) nor any other provision of the Commission’s rules requires simultaneous service of notices of depositions on written questions on deponents and other parties. The delay in service violated no rule.

When a party initiates a deposition by written questions, section 5.345 protects other parties’ interests by providing that the 30-day period in which they may propound cross questions (*see id.* § 5.345(a)) and objections to the form of the questions (*see id.* § 5.345(c)) begins to run only upon service on those parties. The only consequence of delaying service on the Joint Complainants by four days is that the deadline for the Joint Complainants’ cross questions and objections as to form was extended by a corresponding four days.

Furthermore, contrary to Joint Complainants’ suggestion, PaG&E did not intentionally withhold service of the Notices on the Joint Complainants. It is PaG&E’s counsel’s practice to serve all documents simultaneously on all counsel of record in all cases as a matter of professional courtesy.⁵ As explained above, service was delayed in this instance due to an administrative oversight, which was corrected immediately when brought to counsel’s attention. The undersigned apologizes for any confusion the delay caused and states that steps have been taken to prevent a similar oversight in the future. However, this does not mean that the four-day delay in service constituted a “violation” of the PUC’s rules, nor that it prejudiced the Joint

⁵ Roughly simultaneous service arguably is required when documents are filed with the Commission or submitted to a Presiding Officer. This requirement does not arise from the Commission’s rules of practice and procedure but by the need to avoid improper *ex parte* communications. No such need existed here because the Notices were not filed or submitted to the Presiding Officers.

Complainants in any way. It has not prevented the Joint Complainants from filing objections to the Notices, as provided by 52 Pa. Code § 5.345, nor, as argued below, has it deprived them of the full 30 days in which to serve any cross questions.

C. The Joint Complainants' Objections As To Scope Are Meritless.

The Joint Complainants object to the questions as seeking information that is “beyond the permissible scope of discovery.” However, this is not a proper ground for quashing the notices of depositions on written questions under the Commission’s rules. In the context of depositions, objections to questions relate to the admissibility of the deposition testimony and are resolved at hearing if and when the deposition testimony is introduced into evidence. Under the Commission’s rules, parties or deponents objecting to depositions on written questions may, after service of the questions, move for entry of a protective order. 52 Pa. Code § 5.345(e). The fact that deposition questions are beyond the scope of discovery is not, in and of itself, grounds for entry of a protective order. 52 Pa. Code § 5.362(a).

Moreover, the questions propounded by PaG&E are well within the broad scope of permissible discovery. The Joint Complainants have alleged that PaG&E’s marketing of energy was misleading and in fact misled customers, and the customer witness testimony will be offered to prove this allegation. Whether these customers were in fact misled by PaG&E is obviously relevant to the Joint Complainants’ claims. The witnesses’ education, employment history, and experience with variable rate products and services (including their experience with variable rate energy products offered by other EGSs) are clearly relevant to whether their claims of being misled are reasonable and credible, and PaG&E’s questions on those subjects are clearly within the scope of permissible discovery.

Joint Complainants' reliance on the IDT Discovery Order and the HIKO Discovery Order (Objections at 9-10 & n.5) is misplaced. There, the Presiding Officers held that discovery requests seeking information about complaints received by the Joint Complainants regarding other EGSs were outside the scope of discovery because the conduct of other companies was not at issue. Here, PaG&E does not seek information about other companies but rather information about the customer witnesses' experience with products similar to PaG&E's variable price energy plans. Such information is directly relevant to Joint Complainants' claims that customers in general -- *and the customer witnesses in particular* -- were misled by PaG&E's marketing practices. The customer witnesses' experience with other variable rate products and services is similarly relevant.

The customer witnesses' contacts with the Joint Complainants are unquestionably relevant to the allegations of the Joint Complaint. The customer witnesses' pre-served testimonies contain similar wording and allegations, and discovery of the extent of the customers' contacts with Joint Complainants is relevant to determining whether, and to what extent, the testimony reflects leading questions or inadvertent prompting by Joint Complainants' investigators.

Finally, each customer witnesses' criminal record, civil litigation experience, and conditions of discharge from military service may provide evidence bearing on their credibility, which in turn is relevant to the weight to be given to their testimony.

D. The Joint Complainants Cannot Raise Objections Of Unreasonable Annoyance, Etc., on Behalf of The Customer Witnesses.

The Joint Complainants assert that the depositions by written questions will cause unreasonable annoyance, embarrassment or burden "to the witnesses." (Objections at 12.) However, the Joint Complainants are not the deponents, nor do they represent the individual

customer witnesses.⁶ Therefore, they do not have standing to raise this objection on the witnesses' behalf. Since there is no assertion that the written depositions will cause unreasonable annoyance, embarrassment or burden *to the Joint Complainants*, this objection must be dismissed.

Furthermore, the Joint Complainants' assertion that the deposition questions will cause unreasonable annoyance, embarrassment or burden "to the witnesses" is entirely hypothetical. The Joint Complainants have apparently counseled or conferred with some deponents about the Notices and the written deposition procedure, yet they nowhere state that any of these witnesses complained about the questions on such grounds.

E. The Notices Are Timely.

The Joint Complainants assert that the Notices are not "timely" under 52 Pa. Code § 5.345(a). This is plainly incorrect. There is no requirement that a notice of deposition upon written questions be served a particular number of days before commencement of hearings. Section 5.345(a) simply provides other parties with 30 days after service in which to serve cross questions. The Joint Complainants "presume" that the deponents must be provided 30 additional days in which to answer cross questions, but no such requirement appears in the rules.⁷ The Joint Complainants are free to specify a shorter time and, if necessary, seek an order from the Presiding Officers requiring that the deponents provide their answers within that shorter time.⁸

⁶ See, e.g., Answer of the Commonwealth of Pennsylvania and the Office of Consumer Advocate to the Preliminary Objections of Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric at 23 (filed July 21, 2014) ("The Attorney General does not act as the private attorney for any given customer but instead is authorized to bring a proceeding on behalf of the public at large....").

⁷ This "presumed" additional 30-day period in which to answer cross questions makes no sense. The cross questions are formulated based upon the original questions, not the answers to those questions. Therefore, there is no reason not to "presume" that they would be answered promptly, if not at the same time as the original questions are answered then shortly thereafter.

⁸ Alternatively, and more efficiently, the Joint Complainants could reserve their cross questions until hearing and ask them on redirect if and when PaG&E uses the depositions to impeach a witness's testimony.

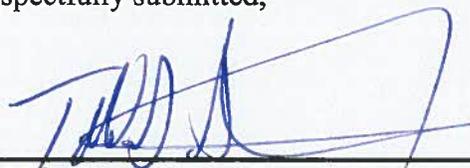
However, they are not entitled to elimination of the only means of discovery available to PaG&E on the basis of a non-existent 30-day period for responses to cross questions. Moreover, it is obvious that this alleged “timing” issue would attach only to the witnesses scheduled for the first week of hearings, which will be potentially 50 of the 235.

III. CONCLUSION

For all of the foregoing reasons, the Objections of the Joint Complainants should be dismissed.

DATED: January 27, 2015

Respectfully submitted,



Todd S. Stewart, Esq. (Pa. ID No. 75556)
Christopher M. Arfaa, Esq. (Pa. ID No. 57047)
HAWKE MCKEON & SNISCAK LLP
100 North Tenth Street
P.O Box 1778
Harrisburg, PA 17105-1778
Telephone: 717-236-1300
Facsimile: 717-236-4841
tsstewart@hmslegal.com
cmarfaa@hmslegal.com

Christopher A. Lewis, Esq. (Pa. ID No. 29375)
Charles A. Fitzpatrick IV, Esq. (Pa. ID No. 309113)
BLANK ROME LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19130
Telephone: (215) 569-5500
Lewis@BlankRome.com
Fitzpatrick-C@BlankRome.com

Attorneys for ENERGY SERVICES PROVIDERS, INC. d/b/a PENNSYLVANIA GAS & ELECTRIC

APPENDIX A

**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.

ENERGY SERVICES PROVIDERS, INC.
d/b/a PENNSYLVANIA GAS & ELECTRIC,

Respondent.

Docket No. C-2014-2427656

**NOTICE OF DEPOSITION BY
WRITTEN QUESTIONS**

TO:

«AddressBlock»

PLEASE TAKE NOTICE that Energy Services Providers Inc. d/b/a Pennsylvania Gas & Electric, by and through its counsel in this matter, Hawke McKeon & Sniscak, LLP, and Blank Rome, LLP, and pursuant to the Pennsylvania Utility Commission's ("Commission") regulation at 52 Pa. Code §§5.345, is taking the deposition by written questions of each Consumer Witnesses who is submitting testimony on behalf of the Complainants in this matter.

You must answer the enclosed deposition questions truthfully and completely, certify your answers by signing the enclosed certification, and return the completed deposition in the enclosed envelope to the undersigned counsel no later within **thirty (30) days** after the date of this Notice.

DATED: January 12, 2015

Respectfully submitted,

Christopher M. Arfaa

Todd S. Stewart, Esq. (Pa. ID No. 75556)
Christopher M. Arfaa, Esq. (Pa. ID No. 57047)
HAWKE MCKEON & SNISCAK LLP
100 North Tenth Street
P.O Box 1778
Harrisburg, PA 17105-1778
Telephone: 717-236-1300
Facsimile: 717-236-4841
tstewart@hmslegal.com
cmarfaa@hmslegal.com

Christopher A. Lewis, Esq. (Pa. ID No. 29375)
Charles A. Fitzpatrick IV, Esq. (Pa. ID No. 309113)
BLANK ROME LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19130
Telephone: (215) 569-5500
Lewis@BlankRome.com
Fitzpatrick-C@BlankRome.com

Attorneys for ENERGY SERVICES PROVIDERS, INC. d/b/a PENNSYLVANIA GAS & ELECTRIC

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true and correct copy of the foregoing document on the persons listed below by the means indicated:

First Class Mail, Postage Prepaid, and Electronic Mail

John M. Abel, Esq.
Senior Deputy Attorney General
Nichole R. Beck, Esq.
Deputy Attorney General
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120
jabel@attorneygeneral.gov
nbeck@attorneygeneral.gov

Sharon E. Webb, Esq.
Assistant Small Business Advocate
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, Pennsylvania 17101
swebb@pa.gov

Candis A. Tunilo, Esq.
Assistant Consumer Advocate
Brandon J. Pierce, Esq.
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
ctunilo@paoca.org
bpierce@paoca.org

Michael L. Swindler, Esq., Prosecutor
Stephanie M. Wimer, Esq., Prosecutor
Wayne T. Scott, Esq., Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, Pennsylvania 19105-3265
mswindler@pa.gov
stwimer@pa.gov
wascott@pa.gov

DATED: January 12, 2015

Christopher M. Arfaa

Todd S. Stewart, Esq. (Pa. ID No. 75556)
Christopher M. Arfaa, Esq. (Pa. ID No. 57047)
HAWKE MCKEON & SNISCAK LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778
Telephone: 717-236-1300
tsstewart@hmslegal.com
cmarfaa@hmslegal.com

**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.

ENERGY SERVICES PROVIDERS, INC.
d/b/a PENNSYLVANIA GAS & ELECTRIC,

Respondent.

Docket No. C-2014-2427656

DEPOSITION OF «FIRST_NAME» «LAST_NAME»

- Q1 Please state your full name.
- Q2 What is your education? (For example, last grade completed, high school graduate, associate's degree, bachelor degree, graduate degree, professional degree, etc.)
- Q3 What jobs have you held during the past ten years?
- Q4 Have you ever been a plaintiff or defendant in a lawsuit? If so, please identify each lawsuit by caption (party names), court, and docket number.

- Q5 Have you ever filed a formal or informal complaint with Pennsylvania Public Utility Commission? If so, please identify every such formal and informal complaint by company complained of, the docket number, and the date filed.
- Q6 Have you ever been arrested for, charged with or convicted of a crime, other than a summary offense? If so, please describe each such crime and the circumstances leading to the arrest, indictment, information, criminal complaint or conviction.
- Q7 Have you ever been adjudicated as an incompetent or has been involuntarily committed to a mental institution?
- Q8 Are you legally residing in the United States?
- Q9 Have you ever served in the United States Armed Forces? If so, was your discharge other than honorable?
- Q10 Have you ever applied for or received a variable rate mortgage to purchase a home? finance the purchase of real property.
- Q11 Have you ever applied for or received a variable rate home equity loan?
- Q12 Have you ever applied for or received a variable rate line of credit?
- Q13 Have you ever applied for or received a credit or charge card account with a variable rate? If so, identify the issuer of the card.

- Q14 Have you ever applied for or received a variable rate annuity?
- Q15 Please list every other variably-priced product and service you have purchased or subscribed to within the past five years.
- Q16 Please identify each and every electric generation supplier from which you have taken service during the past five years.
- Q17 When did you start receiving electric generation service from Pennsylvania Gas & Electric?
- Q18 Have you ever attempted to contact Pennsylvania Gas & Electric to complain about or question its charges? If so, please state the date on which you first attempted to contact the company and the dates of all subsequent attempts.
- Q19 Please list the dates of all communications between you and the Pennsylvania Office of Attorney General and/or the Pennsylvania Office of Consumer Advocate.
- Q20 Do you have any notes or other writings memorializing the communications between you and the Pennsylvania Office of Attorney General and/or the Pennsylvania Office of Consumer Advocate? If the answer is "yes," please describe the contents of all such notes or other documents (use an additional sheet if necessary). In the alternative, you may answer this question simply by enclosing copies of the bills with your other answers.

Q21 Please review your electric bills for each month from the first month for which you were billed for electric generation service by Pennsylvania Gas & Electric through the present. For each monthly bill, please list the billing period and the price per kWh charged for electric generation service for that period. In the alternative, you may answer this question simply by enclosing copies of the bills with your other answers.

CERTIFICATION

I, «First_Name» «Last_Name», 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). I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

DATE: _____