BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

And

Docket No. C-2014-2427656

TANYA J. McCLOSKEY, Acting Consumer Advocate,
Complainants

v.

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

NOTICE OF INTERVENTION

AND NOW COMES Petitioner THOMAS SOBIECH, on behalf of himself and all others similarly situated by and through his counsel, Jonathan Shub, Esquire, Scott George, Esquire and Seeger Weiss, LLP and Troy M. Frederick, Esquire and Marcus & Mack, P.C., and files the following *Notice of Intervention* and in support thereof respectfully avers as follows:

1. Petitioner Thomas Sobiech seeks to intervene in this action to protect his rights and all other customers that have contracted with U.S. Gas & Electric, Inc., i/t/d/b/a Pennsylvania Gas & Electric; Energy Services Providers, Inc., i/t/d/b/a Pennsylvania Gas & Electric; and Pennsylvania Gas & Electric (hereafter "The Company").

2. Petitioner Thomas Sobiech, in early October 2013, contracted with the Company to purchase electricity for his home. Petitioner Thomas Sobiech began receiving electricity supply service from The Company on October 31, 2013.

3. Petitioner Thomas Sobiech is a Plaintiff in a lawsuit seeking damages for himself and all others similarly situated in the United States District Court for the Eastern District of Pennsylvania, Docket Number 2:14-CV-04464-GAM, against The Company (the "Class Action") for conduct that is the subject of this proceeding. (A copy of Petitioner's *Amended Class Action Complaint* and Docket is attached hereto as Exhibit "A").

4. The Company is aware of and has to date vigorously defended Petitioner's Class Action and the Court in the Class Action has set a Case Management Conference for April 15, 2015, at 9:30 a.m.

5. Petitioner Sobiech became aware of Complainants' and The Company's Joint Petition for Approval of Settlement of the instant action on March 26, 2015.

6. Representing Petitioner Thomas Sobiech in this proceeding are:

Jonathan Shub, Esquire
SEEGER WEISS LLP
Identification No: 53965
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029

Troy M. Frederick, Esquire
MARCUS & MACK, P.C.
Identification No: 207461
57 South Sixth Street
Indiana, PA 15701
Phone: (724) 349-5602
Fax: (724) 349-8362

And

Scott George, Esquire
SEEGER WEISS LLP
Identification No: 81996
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029

Date: March 27, 2015

Respectfully Submitted By,

SEEGER WEISS LLP

Jonathan Shub, Esquire
Identification No: 53965
Scott George, Esquire
Identification No: 81996
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029

MARCUS & MACK, P.C.

Troy M. Frederick, Esquire
Identification No: 207461
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Indiana, PA 15701
Phone: (724) 349-5602
Fax: (724) 349-8362

Attorneys for Petitioner Sobiech

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The Company

PUBLIC STATEMENT OF
PETITIONER THOMAS SOBIECH AND REQUEST FOR HEARING

Petitioner Thomas Sobiech, in early October 2013, contracted with The Company to purchase electricity for his home. Petitioner Sobiech began receiving electricity supply service from The Company on October 31, 2013. Petitioner Sobiech is a Plaintiff in a lawsuit seeking damages for himself and all others similarly situated in the United States District Court for the Eastern District of Pennsylvania, Docket Number 2:14-CV-04464-GAM, against The Company (the "Class Action") for conduct that is the subject of this proceeding.

Petitioner Sobiech now seeks leave to intervene in the instant action in connection with Complainants' and The Company's Joint Petition for Approval of Settlement (hereafter "The Petition"). It is Petitioner's position that the proposed settlement is not in the best interests of The Company's customers or the citizens of the Commonwealth of Pennsylvania. The proposed settlement unlawfully exceeds the authority of the Pennsylvania Public Utility Commission

(hereafter the PUC) in that the proposed settlement requires any of The Company's Pennsylvania Customers to release all private causes of action they may have against The Company, including claims for breach of contract.

For any customer of The Company to take advantage of the proposed settlement, said customer is required to execute a general release that would discharge The Company from any and all claims for liability regardless of whether the PUC has jurisdiction over said claims. Paragraph 43 of the Petition states in part: "Release -No customer shall be paid any funds from the Refund Pool without executing a 'Release of Claims' pursuant to which the customer agrees, in exchange for payment of the funds, to release, acquit, and forever discharge the Company and all of it [sic] current and former officers, shareholders, and employees from any and all claims arising from or related to the conduct alleged in the Joint Complaint." Petition at 12. This provision is intended by The Company to serve as precedent to bail out the EGS industry in Pennsylvania for their egregious unprecedented fleecing of the citizens of this Commonwealth.

Further, The Petition advocates for a settlement that is patently insufficient in determining which of The Company's customers were defrauded by The Company's misconduct. *The Bureau Of Investigation And Enforcement Statement In Support Of Settlement Petition* states: "The fifth factor to be considered relates to the number of customers affected by the Company's actions and the duration of the violations. 52 Pa. Code§ 69.1201(c)(5). Given the nature of the allegations of the Joint Complaint, potentially all of PaG&E's current and former customers may have been affected by the alleged conduct since PaG&E received approval to operate as an electric generation supplier ("EGS") on May 9, 2011." Petition Appendix C at 6. Further, The Company stated in its *Statement In Support Of Settlement Of Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric*: "The fifth factor to be considered under the

Policy Statement relates to the number of customers affected by the Company's actions and the duration of its violations. 52 Pa. Code § 69.1201(c)(5). Given the nature of the allegations of the Joint Complaint, all of PaG&E's current and former variable rate customers may have been affected in different ways by the conduct alleged." Petition Appendix B at 5. However, they failed to state how many Pennsylvania Customers they have defrauded. This information is squarely in the control of The Company and could have been provided at any time. This is a critical issue that must be disclosed and considered prior to determining whether the proposed settlement is sufficient.

The PUC has previously concluded it does *not* have jurisdiction over private breach of contract claims. *Commonwealth of Pennsylvania, et al. v. IDT Energy, Inc.*, Pennsylvania Public Utility Commission, Docket No. C-2014-2427657, 2014 WL 4374209 (Aug. 20, 2104). Therefore, it has no ability to release the private breach of contract claim that is the subject of the Class Action nor does it have the ability to require that The Company's aggrieved customers waive their right to pursue private breach of contract claims against The Company in exchange for partaking in the proposed settlement.

The Company is seeking to "expedite" the approval of this proposed settlement in order to establish a precedent that will benefit the EGS industry at the expense of the Pennsylvania Consumer. The Company states in its *Statement In Support Of Settlement Of Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric*: "Second, the Settlement is in the public interest because it provides a model for resolution of similar disputes in the EGS industry. The Settlement is the product of extensive negotiations between an industry leader and the Pennsylvania public advocates. Prompt approval will provide a template for resolution of pending similar proceedings, thus potentially multiplying the substantial public benefits

generated by this Settlement: conservation of administrative and public advocate resources, mitigation of business uncertainty, and timely implementation of market protections and customer restitution." Petition Appendix B at 8.

The Company's assertion could not be more self-serving or further divorced from reality. The Proposed Settlement is solely in The Company's interest and in the interest of the EGS industry. This Proposed Settlement and resulting precedent will harm Pennsylvania consumers and insulate the EGS industry from their continued wrongdoings by setting the stage for other sweetheart deals that will extinguishing private causes of action that the PUC has no jurisdiction over.

The Company successfully obtained this sweetheart deal from the Complainants which permits them to pay what Petitioner believes in good faith is a fraction of the damages for which the Company is actually liable for in return for demanding complete general releases from its Pennsylvania Customers thus prohibiting them from pursuing any other private causes of actions against the Company.

For the reasons set forth above, it is Petitioner's position that the proposed settlement is unfair, unreasonable and not in the best interests of the Company's customers for the following reasons including but not limited to:

a. The PUC is not the appropriate venue nor does it have jurisdiction to permit Complainants to engage in a settlement with the Company that requires its aggrieved Pennsylvania Customers to release private causes of action that are not before the PUC and for which the PUC does not have jurisdiction over, such as private breach of contract claims;

b. The Petition is overly vague in that it fails to identify which of the Company's customers are entitled to relief;

c. The Petition is overly vague in that it fails to identify how many of the Company's customers are entitled to relief despite the fact that this information is within The Company's control;

d. The Petition is overly vague in that it fails to identify the guide line(s) and procedure(s) by which it will be determined which of the Company's Pennsylvania Customers are entitled to relief;

e. The Petition is insufficient in that it fails to establish the amount of money that the Company overbilled Petitioner or its Pennsylvania Customers;

f. The Petition is insufficient in that it fails to establish the timeframe within which the Company's Pennsylvania Customers would have to have suffered damages to be eligible for relief from the proposed settlement; and

g. The settlement amount proposed in the Petition is woefully deficient considering it improperly requires a complete and total release of all claims the Company's Pennsylvania Customers' may have against the Company despite the fact that the PUC lacks jurisdiction over said claims; such as the breach of contract class action claims currently proceeding in the United States District Court for the Eastern District of Pennsylvania at Docket Number 2:14-CV-04464-GAM against The Company. A at 15.

For the aforementioned reasons Petitioner believes and avers that the Petition and proposed settlement are deficient. Petitioner specifically objects to, and has a direct interest in, the PUC's lack of jurisdiction over the dismissal of a customer's private causes of action, such as

breach of contract which is required by the Petition. As such, Petitioner respectfully requests leave to intervene in the instant action for the purpose of lodging the aforementioned objections to the Petition and requests argument on the same.

Date: March 27, 2015

Respectfully Submitted By,

SEEGER WEISS LLP

Jonathan Shub, Esquire
Identification No: 53965
Scott George, Esquire
Identification No: 81996
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029

MARCUS & MACK, P.C.

Troy M. Frederick, Esquire
Identification No: 207461
57 South Sixth Street
Indiana, PA 15701
Phone: (724) 349-5602
Fax: (724) 349-8362

Attorneys for Petitioner Sobiech

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS SOBIECH, on behalf of himself and all others similarly situated, Plaintiff, vs. U.S. GAS & ELECTRIC, INC., i/t/d/b/a PENNSYLVANIA GAS & ELECTRIC; ENERGY SERVICES PROVIDERS, INC., i/t/d/b/a PENNSYLVANIA GAS & ELECTRIC; and PENNSYLVANIA GAS & ELECTRIC, Defendants.	No: 2:14-CV-04464-GAM **FIRST AMENDED CLASS ACTION COMPLAINT** **JURY TRIAL DEMANDED**

FIRST AMENDED CLASS ACTION COMPLAINT

AND NOW, Plaintiff Thomas Sobiech brings this action individually and on behalf of all others similarly situated (the Class), and alleges as and for their First Amended Class Action Complaint against Defendants U.S. Gas & Electric, Inc., i/t/d/b/a Pennsylvania Gas & Electric; Energy Services Providers, Inc., i/t/d/b/a Pennsylvania Gas & Electric; and Pennsylvania Gas & Electric, (hereafter "Defendants"), upon personal knowledge as to himself and his own acts, and as to all other matters upon information and belief, based upon, *inter alia*, the investigation made by his attorneys, as follows:

INTRODUCTION

1. This is a proposed class action brought by Plaintiff on behalf of himself and other like customers of Defendants. Defendants have and continue to promise customers competitive market-based rates and savings on their electric energy bills if they switch from their local utilities or other energy suppliers to Defendant Pennsylvania Gas & Electric (hereafter "PAG&E").

However, these promises are quickly broken. After the initial "teaser" rate expires, Defendants routinely increase their customers' rates well above the market. A customer may end up paying two to three times more for electricity than what he or she paid before converting to PAG&E. Instead of benefitting from switching to PAG&E, a typical customer loses hundreds or even thousands of dollars per year. Defendants' acts and omissions in connection with its energy supply activities constitute breach of contract and/or a breach of the covenant of good faith and fair dealing and warrant declaratory relief.

PARTIES

2. Plaintiff Thomas Sobiech is a resident of Jersey Shore, Lycoming County, Pennsylvania.

3. Defendant U.S. Gas & Electric, Inc. is a Delaware Corporation with its principle place of business in Miramar, Florida.

4. Defendant Energy Services Providers, Inc. is a New York Corporation with its principle place of business in Miramar, Florida.

5. Defendant PAG&E, is a fictitious name with an office address of 4075 Linglestown Road #113, Harrisburg, PA 17112. It is believed that Defendant PAG&E is the fictitious name under which Defendants U.S. Gas & Electric, Inc., and Energy Services Providers, Inc. operate as electric suppliers in Pennsylvania. PAG&E is licensed as an electricity supplier in Pennsylvania with a license number of A-2009-2121686. Upon information and belief, Defendants created PAG&E in 2009 and have regularly and systematically conducted business throughout this district.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction of the claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1332(d)(2)(A) in that the amount in controversy exceeds the sum or value of $5,000,000.00 exclusive of interest and costs, and is a class action in which members of the putative Class are citizens of States different from Defendants.

7. Venue is proper pursuant to 15 U.S.C. § 80b-14 and 28 U.S.C. § 1391. Defendants regularly transact and solicit business in this District.

GENERAL FACTUAL BACKGROUND

8. In the 1990s, in an effort to improve efficiency and foster competition, several states began experimenting with the deregulation of utilities, including electricity, provided to and made available for their citizens.

9. Under these states' deregulation laws, the supply portion of a consumer's electric bill is separated from the delivery portion. In theory, with the supply portion open to competition, customers can freely shop around for the best price for their energy, creating a market check on energy rates rather than a regulated tariff or rate structure. However, the system can only work when the promises energy providers make to the consuming public are truthful and honored.

10. Regrettably, state deregulation has created a cottage industry of energy "middleman" that have been the subject of various media investigative reports detailing the unsavory tactics many of these companies employ. See, e.g. "Electric Shadyland: How Power Companies Rip You off", MOTHER JONES (January/February 2014 issue) (located at http://www.motherjones.com/environment/2014/01/deregulation-energy-enron-company-electricity).

11. In 1996, Pennsylvania joined those states that were experimenting with deregulation of energy supply. Energy deregulation in Pennsylvania was to enable consumers to purchase their energy supply from an Energy Services Company (ESCO) of their choice. Since deregulation, the utility company (the former monopoly) is no longer the only option for energy supply. After deregulation, customers can purchase electricity from ESCOs while continuing to obtain delivery through their local public utilities. By opening up the market to consumer choice among various ESCO "bidders", the Commonwealth intended for competition to drive down customer rates.

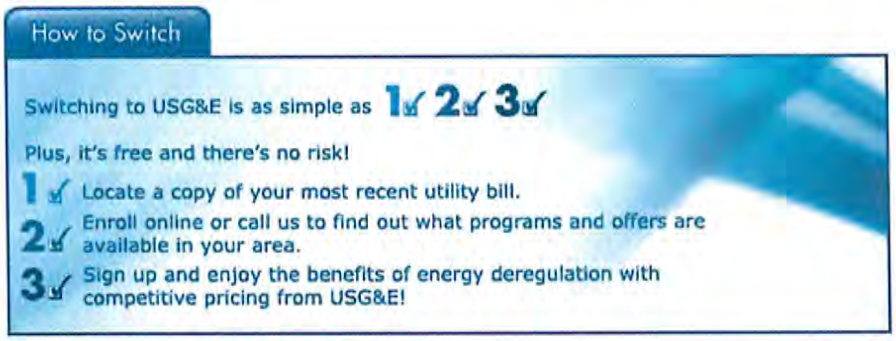
12. Defendants' practices emerge from, and attempt to exploit, the deregulation of the electricity supply market in Pennsylvania.

13. The scheme works as follows: Defendants offer a standard service contract to residents of Pennsylvania with an initial "teaser" rate that is then replaced by a variable rate which Defendants promise will be set by market conditions and factors and will be "competitively priced." However rather than provide "competitively priced" rates that are set by market conditions and factors in each subsequent month, Defendants switch customers to an exorbitant monthly rate far out of line with the competition or market factors.

14. Defendants tell their customers that: "When customers participate in energy deregulation, they benefit from competitive pricing for energy related products and services;"[1] "Unlike your utility, energy suppliers have the ability to offer structured pricing plans *that are tailored to meet the expectations of your budget*. Value-added offers, programs and incentives are also additional benefits of deregulation."[2] (Emphasis added); and "When you are ready to gain control of your energy costs, we will work with your current provider to finalize the details of your

[1] http://www.usgande.com/markets/pennsylvania/EnergyChoice/Deregulation.aspx
[2] http://www.usgande.com/markets/pennsylvania/EnergyChoice/WhySwitch.aspx

enrollment with us to ensure a smooth and seamless transition."[3] As can be seen in item number "3" in the image below, taken from Defendants' webpage, the clear implication is that Defendants are purchasing energy at market rates, where vigorous competition ensures the lowest possible prices for their customers.[4] Aside from these statements being completely false and purposefully misleading, the alleged value of these inducements is negligible, if nonexistent, when compared to the amounts by which Defendants overcharge their customers through their deceptive conduct and practices.



15. Once a person signs up with Defendants, they receive Defendants' welcome package which includes a prefatory and explanatory cover letter along with two enclosures: "Terms and Conditions – Electricity – Purchase and Sale Agreement" and a rebate certificate. *See* Exhibit A hereto.

16. Continuing their unambiguous promises of competitive pricing, Defendants thank the customer "for enrolling in our competitive electricity supply program," and again state that "We are committed to helping you lower your total energy costs." Indeed, Defendant assures the customer that as long as the customer is current in making payments, she will "receive our competitively priced variable rate." *Id.*

[3] http://www.usgande.com/markets/pennsylvania/EnergyChoice/WhySwitch.aspx
[4] http://www.usgande.com/markets/pennsylvania/EnergyChoice/WhySwitch.aspx

17. Accordingly, the Terms and Conditions make clear to the customer that Defendants are not an "electric distribution company" like the old monopolies; so the "Public Utility Commission does not regulate the price of energy or other charges found in this Agreement." Rather, as Defendant states, "PAG&E sets the generation charges and charges that you pay." *Id.*

18. Thus as relates to the cost of Defendant's electricity, the Terms and Conditions provide under the term for "Price" that, while the rate is variable, "your rate will reflect your cost of electricity, including energy, other *wholesale market services*, the associated transmission and distribution charges[5] and *other market-related factors* for your utilities transmission zone." *Id.*

19. As the rate is a variable rate, Defendants' customers are not told the actual rates that they will be charged after the initial monthly rate until they receive their bill and have utilized the energy for which they are being charged.

20. Notwithstanding the aforementioned promises, Defendants' rates (after the initial "teaser" rate) are not competitive with other suppliers, other wholesale market services, or in line with genuine market-related factors. Customers who switch to PAG&E can pay as much as up to almost four times the going rate in their area. Defendants' customers regularly complain that their rates far exceed that of any other supplier, that their rates have more than doubled after the first few months, and that they are often being overcharged by up to 300% or 400% as compared to remaining with their local utilities (the old monopolies).

21. Defendants knew (or but for their reckless indifference would have known) prior to agreeing to supply electricity to Plaintiff and other customers that they would be unable or unwilling to provide the savings and/or competitive rate that they agreed/promised to provide.

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5 Transmission and distribution charges are not set by Defendants.

22. Defendants knew (or but for their reckless indifference would have known) prior to agreeing to act as Plaintiff's and other customer's agent/power of attorney in acquiring sufficient energy supplies to meet Plaintiff's and other customer's needs in the energy supply market that Defendants would be incapable, unable or unwilling to timely, skillfully, knowledgeably, reliably and/or honestly make the necessary and/or appropriate energy purchases to provide the savings and/or competitive price that they contracted/promised to provide.

23. It is clear that Plaintiff and other customers on the one hand and Defendants on the other did not deal with each other on equal terms due to Defendants' purported skill and experience in purchasing electric energy supplies timely, skillfully, knowledgably, reliably, honestly and efficiently in the open market and Plaintiff and other customers depended on and trusted Defendants to do so.

24. By making promises it did not intend on honoring and engaging in unfair dealings, Defendants subvert the consumer-friendly purpose of the deregulation of utilities in Pennsylvania and prevent their customers from receiving the benefits they were promised by Defendants. In reality, most customers would be far better off staying with their local utilities or another supplier rather than switching to PAG&E.

PLAINTIFF'S ALLEGATIONS

25. Based on Defendants' above representations and promises, Plaintiff's wife, Tina Sobiech, enrolled Plaintiff as a PAG&E customer in its "competitive electricity supply program" with an initial competitive rate of $0.07899 per kWh for the first month of service. *See* Exhibit A

26. The terms of service offered by Defendants to Plaintiff were its standard terms of service to its other customers in Pennsylvania, as set forth above. *Id.*

27. Plaintiff was timely in making his payments for the electricity he received from

Defendants.

28. After the first month under the initial rate, Defendants effectively tripled the rate it charged Plaintiff. For example, by February 2014, Defendants charged Plaintiff $0.2729 per kilowatt hour (Kwh) which was more than three times the rate of both the initial rate set by Defendants but also more than three times that of Plaintiff's local energy provider, PPL Electric Utilities (the old monopoly) which would have only charged him $0.0875 per kwh.

29. As a result of Defendants' inability or unwillingness to provide Plaintiff with the competitive rates and/or savings they contracted/promised to provide, Plaintiff incurred significant overcharges for his electricity.

CLASS ACTION ALLEGATIONS

30. Plaintiff brings all claims herein as class claims pursuant to Fed. R. Civ. P. 23. The requirements of Fed. R. Civ. P. 23(a), (b)(2) and (b)(3) are met with respect to the class defined below.

A. Class Definition(s)

31. The (b)(2) Injunctive Relief Class consists of: All persons in the Commonwealth of Pennsylvania who contracted with Defendants to act as their electric supplier.

32. Excluded from the Class(es) are: Defendants, any entities in which they have a controlling interest, any of their parents, subsidiaries, affiliates, officers, directors, employees and members of such person's immediate families and the presiding judge(s) in this case and his, her or their immediate family.

B. Numerosity

33. At this time, Plaintiff does not know the exact size of the Class; however, due to

the nature of the trade and commerce involved, Plaintiff believes that the Class members number in the thousands and are so numerous that joinder of all members is impracticable. The number and identities of Class members is administratively feasible and can be determined through appropriate discovery.

C. Commonality

34. There are questions of law or fact common to the class, including at least the following:

a. What the rate term was with its contract with its customers for the supply of electric services;

b. What the rate term was with its contract with its customers;

c. Whether Defendants breached the rate term of its contract in setting the actual rate charged to its customers;

d. Whether Defendants breached the covenant of good faith and fair dealing in making the promises it did regarding the promised rate;

e. Whether Defendants breached the covenant of good faith and fair dealing in setting the actual rate charged; and

f. Whether and the amount to which Plaintiff and other members of the Class have been damaged?

D. Typicality

35. Plaintiff has the same interests in this matter as all other members of the Class, and his claims are typical of all members of the class.

E. Adequacy

36. Plaintiff is committed to pursuing this action and has retained competent counsel

experienced in the prosecution and successful resolution of consumer class actions. Plaintiff will fairly and adequately represent the interests of the Class members and does not have interests adverse to the Class.

F. The Prerequisites of Rule 23(b)(2) are Satisfied

37. The prerequisites to maintaining a class action for injunctive and equitable relief pursuant to Fed. R. Civ. P. 23(b)(2) exist as Defendants have acted or refused to act on grounds generally applicable to the Class thereby making final injunctive and equitable relief appropriate with respect to the Class as a whole.

38. The prosecution of separate actions by members of the Class would create a risk of establishing incompatible standards of conduct for Defendants. For example, one court might decide that the challenged actions are illegal and enjoin them, while another court might decide that those same actions are not illegal. Individual actions may, as a practical matter, be dispositive of the interest of Class members, who would not be parties to those actions.

39. Defendants' actions are generally applicable to the Class as a whole, and Plaintiff seeks, inter alia, equitable remedies with respect to the Class as a whole.

40. Defendants' systemic policies and practices make declaratory relief with respect to the class as a whole appropriate.

G. The Prerequisites of Rule 23(b)(3) are Satisfied

41. This case satisfies the prerequisites of Fed.R.Civ.P. 23(b)(3). The common questions of law and fact enumerated above predominate over questions affecting only individual members of the Class, and a class action is the superior method for fair and efficient adjudication of the controversy. The likelihood that individual members of the Class will prosecute separate actions is remote due to the extensive time and considerable expense necessary to conduct such

litigation, especially when compared to the relatively modest amount of monetary, injunctive and equitable relief at issue for each individual Class member. This action will be prosecuted in a fashion to ensure the Court's able management of this case as a class action on behalf of the Class defined above.

CAUSES OF ACTION

COUNT I

(BREACH OF CONTRACT)

42. Plaintiff and the Class incorporate by reference each preceding and succeeding paragraphs as though fully set forth herein.

43. Defendants entered valid and enforceable agreements with Plaintiff and the Class Members, which included terms relating to the rate to be charged for the electricity sold by Defendants.

44. Defendant breached their agreements with Plaintiff and the Class Members by setting rates that were neither competitive in the market place not genuinely keyed to market factors.

45. Defendants' breach of their agreements caused harm to Plaintiff and the Class Members.

COUNT II

(BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING)

46. Plaintiff and the Class incorporate by reference each preceding and succeeding paragraphs as though fully set forth herein.

47. Defendants created in Plaintiff and the Class Members the reasonable expectation

that Defendants would set rates that were competitive in the marketplace and were otherwise keyed to market factors.

48. Defendants were entrusted by Plaintiffs and the Class Members to purchase electricity at competitive rates in the wholesale marketplace and, in turn, resell electricity to them at competitive rates in the retail marketplace.

49. In violation of its duty to act in good faith under its agreement with the Plaintiff and the Class Members and by its course of unfair dealing with Plaintiff and the Class Members set forth above, Defendants caused Plaintiff and the Class Members harm.

COUNT III

(DECLARATORY RELIEF)

50. Plaintiff and the Class incorporate by reference each preceding and succeeding paragraphs as though fully set forth herein.

51. Defendants have acted in a uniform manner under the standard and common terms relating to the price of its electricity it has agreed to with Plaintiff and the Class Members.

52. Defendants have acted or refused to act on grounds that apply generally to the declaratory relief of Plaintiff and the Class Members, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole within the meaning of Fed.R.Civ.P. 23(b)(2).

53. Plaintiff and the Class Members seek a declaration of Defendants' obligations to them under the agreement regarding the pricing of its electricity.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class of persons described herein, pray for an Order as follows:

a) Finding that this action satisfies the prerequisites for maintenance as a class action set forth in Fed. R. Civ. P. 23(a), (b)(2) and/or (b)(3), and certifying the Class defined herein;

b) Designating Plaintiff as representative of the Class and his counsel as Class counsel;

c) Entering judgment In favor of Plaintiff and the Class and against Defendants;

d) Awarding Plaintiff and Class members their individual damages including interest thereon;

e) Issuing appropriate declaratory and injunctive relief to declare the rights of Plaintiff and the Class Members ; and

f) Granting such further relief as the Court deems just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims and issues.

Dated: September 29, 2014

Respectfully Submitted,

SEEGER WEISS LLP

Jonathan Shub, Esquire
Scott George, Esquire
1515 Market St., Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029

Troy M. Frederick, Esquire
Marcus & Mack, P.C.
Identification No: 207461
57 South Sixth Street
Indiana, PA 15701
Phone: (724) 349-5602
Fax: (724) 349-8362

Attorneys for Plaintiff

SPECIAL

United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:14-cv-04464-GAM

SOBIECH v. U.S. GAS & ELECTRIC, INC. et al
Assigned to: HONORABLE GERALD A. MCHUGH
Demand: $5,000,000
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 07/25/2014
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

THOMAS SOBIECH
ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED

represented by **JONATHAN SHUB**
SEEGER WEISS LLP
1515 MARKET STREET
SUITE 1380
PHILADELPHIA, PA 19102
215-564-2300
Fax: 215-851-8029
Email: jshub@seegerweiss.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

TROY M. FREDERICK
MARCUS & MACK PC
57 SOUTH SIXTH ST
INDIANA, PA 15701
724-349-5602
Email:
TFrederick@marcusandmack.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

SCOTT A. GEORGE
SEEGER WEISS
1515 MARKET STREET
SUITE 1380
PHILADELPHIA, PA 19102
215-553-7982
Email: sgeorge@seegerweiss.com
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. GAS & ELECTRIC, INC.
i/t/d/b/a PENNSYLVANIA GAS & ELECTRIC

represented by **CHARLES A. FITZPATRICK , IV**
BLANK ROME LLP
130 NORTH 18TH ST

PHILADELPHIA, PA 19103
215-569-5608
Email: fitzpatrick-c@blankrome.com
ATTORNEY TO BE NOTICED

EVAN LECHTMAN
BLANK ROME
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103
215-569-5367
Fax: 215-832-5367
Email: lechtman@blankrome.com
ATTORNEY TO BE NOTICED

GRANT S. PALMER
BLANK ROME COMISKY & McCAULEY
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103
215-569-5578
Fax: 215-832-5578
Email: palmer@blankrome.com
ATTORNEY TO BE NOTICED

JOHN P. WIXTED
BLANK ROME LLP
130 N. 18TH ST
PHILADELPHIA, PA 19103-6998
215-569-5649
Email: jwixted@blankrome.com
ATTORNEY TO BE NOTICED

Defendant

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

represented by **CHARLES A. FITZPATRICK , IV**
(See above for address)
ATTORNEY TO BE NOTICED

EVAN LECHTMAN
(See above for address)
ATTORNEY TO BE NOTICED

GRANT S. PALMER
(See above for address)
ATTORNEY TO BE NOTICED

JOHN P. WIXTED
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

PENNSYLVANIA GAS & ELECTRIC

represented by **CHARLES A. FITZPATRICK , IV**
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(See above for address)
ATTORNEY TO BE NOTICED

GRANT S. PALMER
(See above for address)
ATTORNEY TO BE NOTICED

JOHN P. WIXTED
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/25/2014	1	COMPLAINT against All Defendants (Filing fee $ 400 receipt number 104975.), filed by THOMAS SOBIECH. (Attachments: # 1 Exhibit, # 2 Civil Cover Sheet, # 3 Designation Form, # 4 Case Management Track Form)(tj,) (Entered: 07/28/2014)
07/25/2014		Summons Issued as to ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC.. Forwarded To: Counsel on 7/28/14 (tj,) (Entered: 07/28/2014)
07/25/2014		DEMAND for Trial by Jury by THOMAS SOBIECH. (tj,) (Entered: 07/28/2014)
08/18/2014	2	AFFIDAVIT of Service by Willie Wiggins Jr. re: served Complaint and Summons upon Energy Services Providers Inc. by Hand Delivery on 8/12/2014 (SHUB, JONATHAN) (Entered: 08/18/2014)
08/18/2014	3	AFFIDAVIT of Service by Willie Wiggins Jr. re: served Complaint and Summons upon U.S. Gas & Electric by Hand Delivery on 8/12/2014 (SHUB, JONATHAN) (Entered: 08/18/2014)
08/18/2014	4	SUMMONS Returned Executed by THOMAS SOBIECH re: Willie Wiggins Jr. served Summons and Complaint upon ENERGY SERVICES PROVIDERS, INC. by Hand Delivery. ENERGY SERVICES PROVIDERS, INC. served on 8/12/2014, answer due 9/2/2014. (SHUB, JONATHAN) (Entered: 08/18/2014)
08/18/2014	5	SUMMONS Returned Executed by THOMAS SOBIECH re: Willie Wiggins Jr. served Summons and Complaint upon U.S. GAS & ELECTRIC, INC. by Hand Delivery. U.S. GAS & ELECTRIC, INC. served on 8/12/2014, answer due 9/2/2014. (SHUB, JONATHAN) (Entered: 08/18/2014)
08/20/2014	6	AFFIDAVIT of Service by Willie Wiggins Jr. re: served Complaint and Summons upon Pennsylvania Gas and Electric by Hand Delivery on 8/18/2014 (SHUB, JONATHAN) (Entered: 08/20/2014)
08/20/2014	7	SUMMONS Returned Executed by THOMAS SOBIECH re: Willie Wiggins Jr. served Summons and Complaint upon PENNSYLVANIA GAS & ELECTRIC by

		Hand Delivery. PENNSYLVANIA GAS & ELECTRIC served on 8/18/2014, answer due 9/8/2014. (SHUB, JONATHAN) (Entered: 08/20/2014)
09/02/2014	8	NOTICE of Appearance by GRANT S. PALMER on behalf of ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC. with Certificate of Service(PALMER, GRANT) (Entered: 09/02/2014)
09/02/2014	9	NOTICE of Appearance by JOHN P. WIXTED on behalf of ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC. with Certificate of Service(WIXTED, JOHN) (Entered: 09/02/2014)
09/02/2014	10	NOTICE of Appearance by CHARLES A. FITZPATRICK, IV on behalf of ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC. with Certificate of Service(FITZPATRICK, CHARLES) (Entered: 09/02/2014)
09/02/2014	11	NOTICE of Appearance by EVAN LECHTMAN on behalf of ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC. with Certificate of Service(LECHTMAN, EVAN) (Entered: 09/02/2014)
09/04/2014	12	STIPULATION AND ORDER THAT THE TIME FOR DEFENDANTS TO ANSWER, MOVE, OR OTHERWISE RESPOND TO THE COMPLAINT IN THE ABOVE-CAPTIONED MATTER IS EXTENDED 14 DAYS UP TO AND INCLUDING 9/16/2014. SIGNED BY HONORABLE GERALD A. MCHUGH ON 9/4/14. 9/4/14 ENTERED AND COPIES MAILED E-MAILED.(ti,) Modified on 9/4/2014 (ti,). (Entered: 09/04/2014)
09/10/2014	13	Disclosure Statement Form pursuant to FRCP 7.1 with Certificate of Service by U.S. GAS & ELECTRIC, INC..(FITZPATRICK, CHARLES) (Entered: 09/10/2014)
09/10/2014	14	Disclosure Statement Form pursuant to FRCP 7.1 including U.S. Gas & Electric, Inc. with Certificate of Service by ENERGY SERVICES PROVIDERS, INC.. (FITZPATRICK, CHARLES) (Entered: 09/10/2014)
09/15/2014	15	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC..Memorandum, Certificate of Service. (Attachments: # 1 Text of Proposed Order, # 2 Memorandum, # 3 Certificate of Service)(WIXTED, JOHN) (Entered: 09/15/2014)
09/16/2014	16	NOTICE of Appearance by SCOTT A. GEORGE on behalf of THOMAS SOBIECH with Certificate of Service (Attachments: # 1 Certificate of Service) (GEORGE, SCOTT) (Entered: 09/16/2014)
09/29/2014	17	AMENDED COMPLAINT against ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC., filed by THOMAS SOBIECH. (Attachments: # 1 Exhibit)(kp,) (Entered: 09/29/2014)
09/30/2014	18	ORDER THAT DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S

		COMPLAINT IS DENIED AS MOOT. SIGNED BY HONORABLE GERALD A. MCHUGH ON 9/30/14.9/30/14 ENTERED AND COPIES E-MAILED.(ti,) (Entered: 09/30/2014)
10/16/2014	19	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Amended Complaint* filed by ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC..Memorandum, Certificate of Service. (Attachments: # 1 Text of Proposed Order, # 2 Memorandum, # 3 Certificate of Service)(FITZPATRICK, CHARLES) (Entered: 10/16/2014)
10/28/2014	20	STIPULATION re 19 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Amended Complaint* by THOMAS SOBIECH. (Attachments: # 1 Certificate of Service)(GEORGE, SCOTT) Modified on 10/29/2014 (afm,). (FILED IN ERROR BY ATTORNEY, FORWARDED TO JUDGE FOR APPROVAL) (Entered: 10/28/2014)
10/28/2014	21	ORDER THAT PLAINTIFF SHALL FILE HIS RESPONSE TO DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT ON OR BEFORE 11/10/2014. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/28/14. 10/28/14 ENTERED AND COPIES E-MAILED.(ti,) (Entered: 10/28/2014)
11/10/2014	22	RESPONSE in Opposition re 19 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Amended Complaint* filed by THOMAS SOBIECH. (Attachments: # 1 Certificate of Service)(SHUB, JONATHAN) (Entered: 11/10/2014)
11/18/2014	23	REPLY to Response to Motion re 19 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Amended Complaint* filed by ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC.. (FITZPATRICK, CHARLES) (Entered: 11/18/2014)
02/04/2015	24	ORDER THAT DEFENDANTS' REQUEST TO DISMISS PLAINTIFF'S BREACH OF CONTRACT CLAIM (COUNT I) IS DENIED WITHOUT PREJUDICE. DEFENDANTS' REQUEST TO DISMISS COUNT II IS ALSO DENIED WITHOUT PREJUDICE. DEFENDANTS' REQUEST TO DISMISS COUNT III IS DENIED WITHOUT PREJUDICE. SIGNED BY HONORABLE GERALD A. MCHUGH ON 2/4/15.2/4/15 ENTERED AND COPIES E-MAILED. (ti,) (Entered: 02/04/2015)
02/17/2015	25	STIPULATION AND ORDER THAT THE TIME FOR DEFENDANTS TO ANSWER, MOVE, OR OTHERWISE RESPOND TO PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT 17 IS EXTENDED TO 3/6/2015, ETC. SIGNED BY HONORABLE GERALD A. MCHUGH ON 2/17/15. 2/17/15 ENTERED AND COPIES E-MAILED.(ti,) (Entered: 02/17/2015)
03/06/2015	26	ANSWER to 17 Amended Complaint by ENERGY SERVICES PROVIDERS, INC., PENNSYLVANIA GAS & ELECTRIC, U.S. GAS & ELECTRIC, INC.. (Attachments: # 1 Certificate of Service)(WIXTED, JOHN) (Entered: 03/06/2015)
03/09/2015	27	NOTICE of Hearing: PRETRIAL CONFERENCE SET FOR 3/30/2015 09:30 AM IN JUDGE CHAMBERS (ROOM 9613) BEFORE HONORABLE GERALD A. MCHUGH.(pc,) (Entered: 03/09/2015)

03/10/2015	28	ORDER THAT THE PRETRIAL CONFERENCE IS NOW SCHEDULED FOR 4/15/2015, AT 9:30 AM IN THE CHAMBERS OF THE HONORABLE GERALD AUSTIN MCHUGH, ROOM 9613, UNITED STATES COURTHOUSE, 601 MARKET STREET, PHILADELPHIA, PA. SIGNED BY HONORABLE GERALD A. MCHUGH ON 3/10/15. 3/10/15 ENTERED AND COPIES E-MAILED.(ti,) (Entered: 03/10/2015)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

And

Docket No. C-2014-2427656

TANYA J. McCLOSKEY, Acting Consumer Advocate,
Complainants

v.

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

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Notice of Intervention and Public Statement Of Petitioner Thomas Sobiech And Request For Hearing, on behalf of Thomas Sobiech by e-filing, e-mail, and/or first-class mail (unless otherwise noted) upon the persons addressed below:

Hon. Charles E. Rainey, Jr.
Chief Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1191
(717) 787-0481 (fax)
crainey@pa.gov
(E-mail and first-class mail)

Michael Swindler, Esquire
Law Bureau
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-5000
(717) 783-3458 (fax)
mswindler@pa.gov
(E-mail and first-class mail)

Candis A. Tunilo, Esquire
Brandon J. Pierce, Esquire
Office of Consumer Advocate
55 5 Walnut Street – 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048
(717) 783-7152 (fax)
ctunilo@paoca.org

Christopher A. Lewis, Esquire
Charles A. Fitzpatrick, IV, Esquire
Blank Rome, LLP
130 North 18th Street
Philadelphia, PA 19103-6998
Lewis@BlankRome.com
Fitzpatrick-C@BlankRome.com
(E-mail and first-class mail)

bpierce@paoca.org
(E-mail and first-class mail)

Cheryl Walker Davis, Esquire
Office of Special Assistants
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1827
(717) 783-6324 (fax)
cwalkerdav@pa.gov
(E-mail and first-class mail)

Johnnie E. Simms, Esquire
Bureau of Investigation and Enforcement
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1191
(717) 787-0481 (fax)
josimms@pa.gov
(E-mail and first-class mail)

Michelle Mann
Energy Services Providers, Inc.
3700 Lakeside Drive- 6th Floor
Miramar, FL 33027
(First-class Mail Only)

John M. Abel, Esquire
Nicole R. Beck, Esquire
PA Office of Attorney General
Bureau of Consumer Protection
Strawberry Square – 15th Floor
Harrisburg, P A 17120
jabel@attorneygeneral.gov
nbeck@attorneygeneral.gov
(E-mail and first-class mail)

Todd S. Stewart, Esquire
Christopher M. Arfaa, Esquire
Hawke McKeon & Sniscak LLP
P.O. Box 1778
100 N. Tenth Street
Harrisburg, PA 17105-1778
tsstewart@hmslegal.com
cmarfaa@hmslegal.com
(E-mail and first-class mail)

Sharon Webb, Esquire
Office of Small Business Advocate
Commerce Building, Suite 11 02
300 North Second Street
Harrisburg, PA 17101
(E-mail and first-class mail)

Troy M. Frederick, Esquire
Counsel for Thomas Sobiech

March 27, 2015