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October 2, 2015

Via Electronic Filing

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Second Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

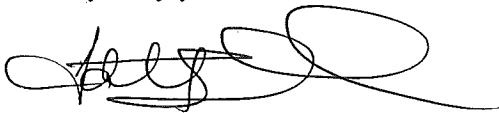
Re: Unified Energy Alliance, LLC v. Rodger K. Walter, et al.  
Docket No.: C-2015-2492473

Dear Ms. Chiavetta:

Enclosed you will find the Prehearing Memorandum of Unified Energy Alliance, LLC in the above referenced matter. Copies of the Prehearing Memo will be served in accordance with the attached Certificate of Service.

Thank you for your courtesy and cooperation. If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,



Adam M. Shienvold

AMS:kmo

Enclosure

cc: Honorable Elizabeth H. Barnes (w/enc.)  
Ricardo Hernandez, II (w/enc., via email)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

UNIFIED ENERGY ALLIANCE, LLC,	:	
	:	
Complainant	:	
	:	DOCKET NO.: C-2015-2492473
v.	:	
	:	
RODGER K. WALTER, et al.,	:	
	:	
Respondents	:	

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**PREHEARING CONFERENCE MEMORANDUM OF  
UNIFIED ENERGY ALLIANCE, LLC**

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Unified Energy Alliance, LLC (“UEA”), by and through its counsel, hereby files this Prehearing Conference Memorandum in the above-captioned matter in compliance with the Prehearing Order of the Honorable Administrative Law Judge Elizabeth H. Barnes (“Presiding Officer”), dated August 11, 2015, and the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.222(d), and states as follows:

**I. SERVICE LIST.**

In accordance with 52 Pa. Code § 1.55 and paragraph 2 of the Prehearing Conference Order, Complainant designates for service:

Adam M. Shienvold, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
717-237-6029  
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ashienvold@eckertseamans.com

## **II. POSSIBILITY OF SETTLEMENT**

UEA will cooperate with the other parties to facilitate settlement. At this time, however, no Respondent has made any offer to resolve UEA's complaints.

## **III. PROPOSED PLAN AND SCHEDULE OF DISCOVERY**

UEA will work with the other parties in this matter to adopt a reasonable litigation schedule and/or necessary modifications to the Commission's discovery rules.

UEA proposes a 6 month period of discovery, including all written discovery and depositions. The issues set forth in UEA's complaint are fairly straightforward and can be accomplished with relatively little difficulty. It is unlikely that experts will be necessary, but in the event that they are, UEA believes that all expert disclosures can be made within the same 6-month schedule.

Respondents have informed complainant that they will propose a significantly shortened discovery schedule, with modifications to the discovery rules to shorten response times. Under the circumstances of this proceeding, Complainant does not believe that such an aggressive schedule is warranted or appropriate.

## **IV. OTHER PROPOSED ORDERS WITH RESPECT TO DISCOVERY.**

UEA proposed a stipulated protective order of confidentiality to all parties. All parties agree to enter into a confidentiality order, and are working to reach an agreement as to the form of the agreement..

## **V. PROPOSED SCHEDULE FOR SUBMISSION OF WRITTEN TESTIMONY, IN-PERSON HEARING, AND SUBMISSION OF BRIEFS.**

UEA does not anticipate the need to submit written testimony in this proceeding.

UEA suggests an in-person hearing following the close of discovery.

UEA will brief any issues requested by the Commission.

**VI. WITNESSES**

Ricardo Hernandez, II

Corey Gonzalez

Joseph Mazer

Brion Ricks

Angies 11&15, Inc. / Althea Winters

Annis Corporation / Neil Annis

Arlin Steiner Farms / Arlin Steiner

Bender Farms / Roy Bender

Big Daddy's Ribs & Wings / Dennis Wagner

Brubaker Poultry Farm / Lloyd Brubaker

Clifford Zimmerman Farm / Clifford Z. Zimmerman

Curvin Weaver Farm / Curvin Weaver

Daryl Reiff Farm / Daryl Reiff

David King Farming / David King

Donald Windle for his farm

Douglas Lapp Farm / Doug Lapp

Ebergreen Farm / Kathy Mull

Eric Wolfe Farms and MAR-K Farms / Eric T. Wolfe

Farm Equipment Repair / James Zimmerman

Ferndale Farms / Donald Reist and Frank Reist Jr.

Fratelli Amato Inc. / A&M Pizza / Anthony Amato

Fraternal Order of Eagles, Aerie #2666 / Alan Hammel

Goofy's Eatery & Spirits / Josh Runkel

Gordon's Family Restaurant / Amir George

Harold Sensenig Farm / Harold Sensenig

Shirk Family Farm / Harold Shirk

Keystone Church / Joyce Slayball

Kwik Shoppe Inc. / Kwik Shoppe Drive-In / Nicholas Tortaro

Lancaster Nissan / Micki Plaza

Larry Grumbine / Larry Grumbine

Laura's Family Restaurant / Laura Dipfer

Mervin Stoltzfus Farm / Mervin Stoltzfus

PA Far East (Benihana Restaurant) / Theresa Ledger

Pizza Al Bacio / Giago Fiaroni

Portofino's Inc. / Stubby's Bar and Grill / Claude Bradley

Reamstown Athletic Association / Julie Deaner

Rendezvous Lounge / Linda Rafer

Rick's Home Center / Rick Stein

Sauder Farms / Jason Sauder

The Flower Boutique / Donna McCleaf

Thompstontown Corner Deli and Richard Hart Salon / Sandy Hart

Wanner Pride & Joy Farm / Alfred

Wegman's Restaurant in Reading PA / Ken Wegman / Sylvanus Wegman

WM Fisher Machine / William S. Fisher

Mitch Himmelberger

Andrew Ill

Karen Bowers

Dee Leonard

Eric Perrone

Alfred M. Wanner, Jr.

All Respondents, including corporate representatives of Navigate Power LLC

All witnesses identified by Respondents

UEA reserves the right to identify additional witnesses who may be identified during the discovery process.

## **VII. ISSUES AND SUB-ISSUES UEA INTENDS TO ADDRESS**

This proceeding is about significant misconduct by the Individual Defendants and Navigate Power that is directed towards UEA and UEA's customers. To summarize,

- During 2014, the Individual Respondents were independent contractors for UEA and, in that capacity, referred customers to UEA for electric supply contracts brokered by UEA. Subsequently, UEA learned that the Individual Respondents were not exclusively marketing electric energy products brokered by UEA. They were also marketing electric energy products brokered by Navigate Power. That conduct violated the Commission's licensing requirements.
- UEA ended its relationship with the Individual Respondents – who are now marketing energy on behalf of Navigate Power. The Individual Defendants and/or Navigate Power are targeting UEA and UEA's customers and are using confusing, deceptive, and misleading marketing tactics that violate the Public Utility Code and the Commission's regulations.

- Navigate Power and UEA are competing electric energy marketer/brokers in the Commonwealth of Pennsylvania. This fact does not in any way diminish the significance of its misconduct by the Individual Defendants and/or Navigate Power.
- Navigate has falsely marketed that it is licensed to broker natural gas contracts in the Commonwealth of Pennsylvania. Navigate is not now, and never has been, licensed in the Commonwealth as a broker/marketer for natural gas suppliers.

UEA contends that Navigate Power and the Individual Agents have violated the Commission's regulations as it relates to each of the issues, as set forth in the Complaint:

- A. Inaccurate and Misleading Information to Customers by Respondents
- B. Slamming
- C. Lack of Agent Identification; Misrepresentations by Individual Agents
- D. Provision of Inaccurate Information
- E. License Requirements

### **VIII. EVIDENCE UEA PROPOSES TO PRESENT**

UEA will present testimonial and documentary evidence of the Respondents' violations of the Commission's regulations, including testimony from consumers that were slammed, and from consumers who personally witnessed the deceptive and misleading conduct of the Respondents. UEA also will present the admissions and testimony of the Respondents themselves.

**IX. SERVICE OF DOCUMENTS**

UEA agrees to electronic service of all documents to the email addresses below with one  
(1) hard copy mailing of all documents sent to Eckert Seamans.

Adam M. Shienvold – [ashienvold@eckertseamans.com](mailto:ashienvold@eckertseamans.com), [kobrien@eckertseamans.com](mailto:kobrien@eckertseamans.com)

Carl R. Shultz – [cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)

*/s/Adam M. Shienvold*

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Adam M. Shienvold, Esquire (I.D. No. 81941)  
Carl R. Shultz, Esquire (I.D. No. 70328)  
ECKERT SEAMANS CHERIN & MELLOTT, LLC  
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Harrisburg, PA 17101  
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[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)

Attorneys for Unified Energy Alliance, LLC

## CERTIFICATE OF SERVICE

I certify that on this 2<sup>nd</sup> day of October, 2015, I served a copy of the foregoing PREHEARING CONFERENCE MEMORANDUM OF UNIFIED ENERGY ALLIANCE, LLC upon the persons indicated below, via ECF and/or U.S. First-Class mail, which service satisfies the requirements of the Commissions formal rules at 52 Pa. Code § 1.1:

Thomas J. Sniscak, Esquire  
Christopher M. Arfaa, Esquire  
HAWKE, McKEON & SNISCAK LLP  
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*Counsel for Navigate Power, LLC*

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Charles B. Zwally, Esquire  
METTE, EVANS & WOODSIDE  
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Harrisburg, PA 17110-0950

*Counsel for Rodger K Walter, Ernie Horning,  
J. Nick Storch, Duane Albright, Andy Youndt,  
Don Shipp, and Future Energy Solutions, LLC*

*/s/Adam M. Shienvold*

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Adam M. Shienvold, Esquire

Counsel for Unified Energy Alliance, LLC