



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 3, 2016

Via Electronic Filing

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. Clearview Electric, Inc.
Docket No. C-2016-2543592
Motion To Convert Initial Hearing Into A Prehearing Conference

Dear Secretary Chiavetta:

On behalf of the Bureau of Investigation and Enforcement, enclosed please find a Motion to Convert the Initial Hearing currently scheduled for Monday, September 12, 2016 in the above-referenced proceeding into a Prehearing Conference. Clearview Electric, Inc. indicated that it would not object to converting the Initial Hearing into a prehearing conference.

Copies have been served on the parties of record in accordance with the Certificate of Service.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephanie M. Wimer".

Stephanie M. Wimer
Prosecutor

Enclosure

cc: As per certificate of service
Honorable Elizabeth H. Barnes

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2016-2543592
	:	
Clearview Electric, Inc.,	:	
Respondent	:	

NOTICE TO PLEAD

To: Karen O. Moury, Esq. Counsel for Clearview Electric, Inc.

Pursuant to 52 Pa. Code § 5.103(b), you are hereby notified to file a written response to the enclosed Motion of the Bureau of Investigation and Enforcement (I&E) to Convert the Initial Hearing into a Prehearing Conference within twenty (20) days from the date of service of this notice. If you do not file a written response opposing the enclosed Motion within twenty (20) days of service, the Office of Administrative Law Judge of the Pennsylvania Public Utility Commission (Commission) may rule on this Motion without further input.

All pleadings, such as answers to motions, must be filed with the Secretary of the Commission:

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

You must also serve a copy of your response on the undersigned prosecutor.



Stephanie M. Wimer, Prosecutor
PA Attorney ID No. 207522

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
717.772.8839
stwimer@pa.gov

Dated: August 3, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2016-2543592
	:	
Clearview Electric, Inc.,	:	
Respondent	:	

**MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO CONVERT THE INITIAL HEARING INTO A PREHEARING
CONFERENCE**

TO THE HONORABLE ELIZABETH H. BARNES:

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), by and through its prosecuting attorneys, pursuant to 52 Pa. Code § 5.103, files this Motion respectfully requesting that the Initial Hearing currently scheduled for Monday, September 12, 2016 be converted into an in-person prehearing conference. In support thereof, I&E avers as follows:

I. BACKGROUND

1. On May 4, 2016, I&E filed a Formal Complaint against Clearview Electric, Inc. (Clearview, Respondent or Company) at Docket No. C-2016-2543592, alleging that the Company violated Chapter 54 of the Commission’s regulations pertaining to electricity generation customer choice, 52 Pa. Code §§ 54.1, *et seq.* I&E avers that it initiated an informal investigation of Clearview as a result of customer complaints received by the Commission’s Bureau of Consumer Services (BCS) related to allegations

that Clearview billed rates that were higher than the rates promised by the Company at the time customers were enrolled. I&E avers that its investigation determined that Clearview billed a large number of customers in the PECO Energy Company (PECO) and PPL Electric Utilities (PPL) service territories a unit rate for electricity supply that exceeded the maximum capped variable rate of \$0.179 per Kilowatt-hour (kWh) that the customers were entitled to receive pursuant to the terms and conditions of the capped variable pricing plan in which they had enrolled. I&E alleges that Clearview overcharged customer accounts on 10,351 separate occasions between February and April 2014. I&E further alleges that Clearview failed to provide the requisite notice to affected customers of the change in contract terms prior to billing customers in excess of the guaranteed capped discounted rate the customers were entitled to receive.

2. I&E seeks appropriate relief, including that the Commission: (1) find Respondent to be in violation of 52 Pa. Code § 54.4(a), which requires that prices billed by an electric generation supplier (EGS) reflect the marketed and agreed-upon prices in the disclosure statement, for each of the 10,351 occasions where Clearview overcharged customer accounts; (2) find Respondent to be in violation of 52 Pa. Code § 54.10, pertaining to the requirement to provide notice of a change in terms of a contract for residential and small business customers; (3) impose a cumulative civil penalty upon Respondent in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000); (4) suspend the authority of Respondent to do business as an EGS in Pennsylvania until Respondent has complied with all measures set forth in the Complaint;

(5) direct Respondent to provide proof that refunds have been issued to each affected customer; and (6) order such other relief as the Commission may deem to be appropriate.

3. On June 14, 2016, Respondent, through counsel, filed an Answer and New Matter at the above docket.¹ Clearview admits overcharging customers and asserts that the overcharges are the result of an administrative error. Clearview denies that it failed to provide notice to customers of a change in contract terms. The Company disagrees with the civil penalty that I&E seeks to impose.

4. On July 5, 2016, I&E replied to Clearview's New Matter denying the material averments made therein.

5. By notice dated July 28, 2016, this matter was immediately scheduled for an Initial Hearing on Monday, September 12, 2016 at 10:00 AM in Harrisburg before Administrative Law Judge (ALJ) Elizabeth H. Barnes.

6. A Prehearing Order dated July 28, 2016 was served to the parties on August 1, 2016.

7. No prehearing conference has been scheduled and no litigation schedule has been established in the instant matter.

II. MOTION

8. Pursuant to Section 5.222 of the Commission's regulations, it is the Commission's policy to arrange for prehearing conferences in non-rate proceedings "to make possible a more effective use of hearing time in formal proceedings . . . to

¹ By Secretarial Letter dated May 18, 2016, Respondent was granted an extension of time until June 14, 2016 to respond to I&E's Complaint.

otherwise expedite the orderly conduct and disposition of the proceedings and to serve the ends of justice and the public interest” 52 Pa. Code § 5.222(a).

9. I&E respectfully asserts that a prehearing conference will aid in accomplishing the goals set forth in 52 Pa. Code § 5.222.

10. Similar to several recent cases that were brought before the Commission,² the instant matter is a complex case involving allegations that the billing of an EGS did not conform to the marketed and agreed-upon prices set forth in the EGS’ disclosure statement, resulting in 10,351 occurrences of overbilling during the winter months of 2014. I&E requests monetary relief well over One Million Dollars.

11. Due to the complexity of the instant matter, a prehearing conference is necessary to arrange for the submission of written testimony in advance of the hearing, determine the amount of hearing time necessary, arrange for the exchange and service of exhibits, identify the number and names of witnesses, develop a procedural schedule, simplify the issues, and discuss any other unique issue that may arise.

12. On August 2, 2016, I&E conferred with counsel for Clearview who has authorized I&E to represent that Clearview does not object to converting the Initial Hearing scheduled for September 12, 2016 into a prehearing conference.

² *Pa. Public Util. Comm’n, Bureau of Investigation and Enforcement v. HIKO Energy, LLC*, Docket No. C-2014-2431410 (Order entered December 3, 2015), *Cmwlth. of Pa., et al. v. HIKO Energy, LLC*, Docket No. C-2014-2427652 (Order entered December 3, 2015), *Cmwlth. of Pa., et al. v. Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric*, Docket No. C-2014-2427656 (Tentative Form Opinion and Order entered March 9, 2016; Secretarial Letter deeming the Opinion and Order to be final issued March 18, 2016), *Cmwlth. of Pa., et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Tentative Form Opinion and Order entered June 30, 2016; Secretarial Letter deeming the Opinion and Order to be final issued July 14, 2016), *Cmwlth. of Pa., et al. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655 (Initial Decision issued July 7, 2016), and *Pa. Public Util. Comm’n, Bureau of Investigation and Enforcement v. Respond Power LLC and Cmwlth. of Pa., et al. v. Respond Power LLC*, Docket Nos. C-2014-2427659 and C-2014-2438640 (Initial Decision issued July 15, 2016). Prehearing conferences were held in all of these cases.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, the Bureau of Investigation and Enforcement respectfully requests that Your Honor grant I&E's Motion and convert the Initial Hearing currently scheduled for September 12, 2016 into a prehearing conference.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

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Pennsylvania Public Utility Commission
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