



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY
PLEASE REFER
TO OUR FILE
C-2020-3020127

July 13, 2020

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Clearview Electric, Inc. d/b/a Clearview Energy
Docket No. C-2020-3020127
I&E Reply to New Matter

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Reply of the Bureau of Investigation and Enforcement to the New Matter of Clearview Electric, Inc. d/b/a Clearview Energy with regard to the above-referenced proceeding.

Copies are being served on the parties of record in accordance with the attached Certificate of Service.

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

Sincerely,

Stephanie M. Wimer
Senior Prosecutor
Attorney ID No. 207522

SMW/jfm
Enclosure

cc: Michael L. Swindler, Deputy Chief Prosecutor
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2020-3020127
	:	
Clearview Electric, Inc. d/b/a	:	
Clearview Energy,	:	
Respondent	:	

**REPLY OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE NEW MATTER OF
CLEARVIEW ELECTRIC, INC. d/b/a CLEARVIEW ENERGY**

NOW COMES the Bureau of Investigation and Enforcement (“I&E” or “Complainant”) of the Pennsylvania Public Utility Commission (“Commission”) by and through its prosecuting attorneys, and files this Reply to the New Matter of Clearview Electric, Inc. d/b/a Clearview Energy (“Clearview,” “Company” or “Respondent”), pursuant to 52 Pa. Code § 5.63(a). In support thereof, I&E avers as follows:

47. Denied. The averments in Paragraph 47 of Respondent’s New Matter are conclusions of law to which no response is required. To the extent a response is required, I&E denies the allegations. By way of further answer, Section 3301(a) of the Public Utility, 66 Pa.C.S. § 3301(a), speaks for itself.

48. Denied. The averments in Paragraph 48 of Respondent’s New Matter are conclusions of law to which no response is required. To the extent a response is required,

I&E denies the allegations. By way of further answer, Section 3301(a) of the Public Utility Code, 66 Pa.C.S. § 3301(a), speaks for itself.

49. Denied. To the best of I&E's knowledge and belief, the Commission has not established a penalty schedule to specify an amount or range of amounts of the civil penalty between \$1 and \$1,000 that should be imposed on electric generation suppliers for particular violations of the Public Utility Code, Commission regulations or Commission directives. It is denied that the establishment of such a penalty schedule is necessary or required to authorize the Commission to impose civil penalties upon electric generation suppliers that violate the Public Utility Code, Commission regulations or Commission directives. By way of further answer, the Commission analyzes the ten factors set forth in its Policy Statement at 52 Pa. Code § 69.1201(c) to evaluate the appropriateness and amount of a civil penalty on a case-by-case basis.

50. The averments in Paragraph 50 of Respondent's New Matter are admitted in part and denied in part. It is admitted that I&E has not established a penalty schedule to specify an amount or a range of amounts of the civil penalty between \$1 and \$1,000 that should be imposed on electric generation suppliers for particular violations of the Public Utility Code, Commission regulations or Commission directives. It is denied that the establishment of such a penalty schedule is necessary or required to authorize I&E to seek the imposition of civil penalties upon electric generation suppliers that violate the Public Utility Code, Commission regulations or Commission directives. By way of further answer, I&E analyzes the ten factors set forth in the Commission's Policy Statement at 52 Pa. Code § 69.1201(c) when determining the amount of a requested civil penalty.

51. Denied. Upon reasonable investigation, I&E is without sufficient information or knowledge to form a belief regarding the averments in Paragraph 51 of Respondent's New Matter that I&E disseminated criteria to regulated motor carriers that establish a penalty schedule or range to specific civil penalty amounts for particular violations of the Public Utility Code, Commission regulations or Commission directives. By way of further answer, it is denied that violations of the Public Utility Code, Commission regulations or Commission directives committed by motor carriers are relevant to the instant proceeding.

52. Denied. The averments in Paragraph 52 of Respondent's New Matter are conclusions of law to which no response is required. To the extent a response is required, I&E denies the allegations. By way of further answer, the Commission's Order at *Rosi v. Bell-Atlantic-PA, Inc. and Sprint Communications, L.P.*, Docket No. C-00992409 (Order entered March 16, 2006) and the Commission's Policy Statement at 52 Pa. Code § 69.1201(c), speak for itself.

53. Denied. The averments in Paragraph 53 of Respondent's New Matter are conclusions of law to which no response is required. To the extent a response is required, I&E denies the allegations. By way of further answer, I&E's Complaint seeks appropriate relief from Clearview that considers the factors set forth in the Commission's Policy Statement at 52 Pa. Code § 69.1201(c) and is consistent with past Commission decisions involving similar allegations of overbilling, unauthorized switching, failing to notify appropriate entities of door-to-door marketing activities, deceptive and unlawful marketing, and failing to conduct criminal background checks.

54. Denied. The averments in Paragraph 54 of Respondent's New Matter are conclusions of law to which no response is required. To the extent a response is required,

I&E denies the allegations. By way of further answer, it is denied that Clearview has not been afforded with sufficient due process or that there is an absence of structure regarding I&E's proposed civil penalty, which was properly computed in accordance with 66 Pa.C.S. § 3301(a) and the Commission's Policy Statement at 52 Pa. Code § 69.1201(c).

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that, after consideration of the record, the Office of Administrative Law Judge and the Commission deny Clearview's New Matter and find Clearview in violation of each and every count as set forth in the Complaint.

Respectfully submitted,



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

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

Pennsylvania Public Utility Commission
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Date: July 13, 2020

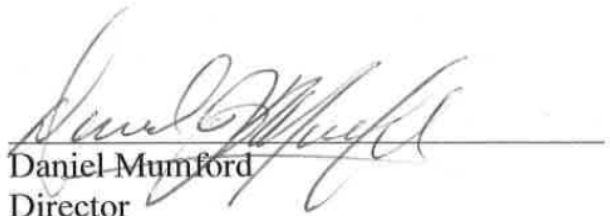
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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2020-3020127
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Clearview Electric, Inc. d/b/a	:	
Clearview Energy,	:	
Respondent	:	

VERIFICATION

I, Daniel J. Mumford, Director, Office of Competitive Market Oversight, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. 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: July 13, 2020



Daniel Mumford
Director
Office of Competitive Market Oversight
Pennsylvania Public Utility Commission
400 North Street
3rd Floor, North
Harrisburg, PA 17120

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
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Complainant	:	
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	:	
Clearview Electric, Inc. d/b/a	:	
Clearview Energy,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail and Electronic Mail:

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Counsel for Clearview Electric, Inc.
d/b/a Clearview Energy



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

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Dated: July 13, 2020