



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 29, 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.
Eligo Energy PA, LLC
Docket No. M-2020-3019204
Joint Petition for Approval of Settlement

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's ("I&E") and Eligo Energy PA, LLC's ("Eligo") **Joint Petition for Approval of Settlement** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads "Kayla L. Rost". The signature is written in a cursive, flowing style.

Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosures

cc: Per Certificate of Service
Matthew Hrivnak, Bureau of Consumer Services (*via email - mhrivnak@pa.gov*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2020-3019204
	:	
Eligo Energy PA, LLC	:	

JOINT PETITION FOR APPROVAL OF SETTLEMENT

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to the regulations at 52 Pa. Code §§ 5.41 and 5.232, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) and Eligo Energy PA, LLC (“Eligo” or “Company”) hereby submit this Joint Petition for Approval of Settlement (“Settlement,” “Settlement Agreement,” or “Petition”) to resolve all issues related to an Informal Investigation initiated by I&E. I&E’s Informal Investigation was initiated based upon information provided by the Commission’s Bureau of Consumer Services (“BCS”), which had received complaints regarding Eligo’s alleged misleading and deceptive marketing materials, which included references or quotes allegedly from the Commission that may have violated the Public Utility Code and Commission’s regulations.

As part of this Settlement Agreement, I&E and Eligo (hereinafter referred to collectively as the “Parties”) respectfully request that the Commission enter a Final Opinion and Order approving the Settlement, without modification. Statements in Support of the Settlement expressing the individual views of I&E and Eligo are attached hereto as Appendix A and Appendix B, respectively, and are incorporated herein.

I. INTRODUCTION

1. The Parties to this Settlement Agreement are the Commission’s Bureau of Investigation and Enforcement, by its prosecuting attorneys, 400 North Street, Commonwealth Keystone Building, Harrisburg, PA, 17120, and Eligo Energy PA, LLC, with a business address of 201 West Lake Street, Suite 151, Chicago IL 60606.

2. The Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within this Commonwealth, as well as other entities subject to its jurisdiction, pursuant to the Public Utility Code (“Code”), 66 Pa.C.S. §§ 101, *et seq.*

3. I&E is the entity established to prosecute complaints against public utilities and other entities subject to the Commission’s jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011)(delegating authority to initiate proceedings that are prosecutorial in nature to I&E).

4. Section 501(a) of the Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Code.

5. Section 701 of the Code, 66 Pa.C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints alleging a violation of any law, regulation, or order that the Commission has jurisdiction to administer.

6. Section 3301 of the Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or on any other person or corporation subject to the Commission's authority for violations of the Code, the Commission's regulations and orders. Section 3301 of the Code allows for the imposition of a fine for each violation and each day's continuance of such violation(s). 66 Pa.C.S. § 3301.

7. Eligo is a jurisdictional electric generation supplier ("EGS")¹ licensed by the Commission at Docket No. A- 2014-2433211 to operate in the Pennsylvania electric distribution company ("EDC") service territories of UGI Utilities ("UGI"), Duquesne Light Company ("Duquesne Light"), Metropolitan Edison Company ("Met-Ed"), PECO Energy Company ("PECO"), PPL Electric Utilities Corporation ("PPL"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn").

8. Eligo, as an EGS in Pennsylvania, is a public utility as defined by Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, for the limited purposes as described in Sections 2809 and 2810 of the Competition Act, 66 Pa.C.S. §§ 2809-2810.

9. Eligo, as a provider of electric generation service for compensation, is subject to the power and authority of the Commission and must observe, obey, and comply with

¹ "Electric generation supplier" is defined in Section 2803 of the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2812 ("Competition Act"); see also, 52 Pa. Code § 57.171.

the Commission's regulations and orders pursuant to Section 501(c) of the Code, 66 Pa.C.S. § 501(c).

10. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter and the actions of Eligo in its capacity as an EGS serving consumers in Pennsylvania.

11. This matter involves allegations related to misleading and deceptive marketing materials issued by Eligo from approximately January 2019 through approximately March 2020.²

12. As a result of successful negotiations between I&E and Eligo, the Parties have reached an agreement on an appropriate outcome to the Informal Investigation as encouraged by the Commission's policy to promote settlements. *See* 52 Pa. Code § 5.231. The Settlement also is consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and Commission regulations, 52 Pa. Code Section 69.1201. The Parties agree to the settlement terms set forth herein and urge the Commission to approve the Settlement as submitted as being in the public interest.

II. STIPULATED FACTS

13. The Commission has jurisdiction over the subject matter of and the Parties to this proceeding. 66 Pa.C.S. §§ 102, 501.

² Eligo provided information in discovery through approximately July 2020.

14. “It is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231(a).

15. On or about March 10, 2020, BCS initiated a referral to I&E regarding Eligo’s alleged misleading and deceptive marketing materials. Specifically, BCS requested that I&E investigate Eligo’s marketing materials, which included references to the Commission or quotes allegedly from the Commission that may have violated the Code and Commission regulations.

16. By letter dated March 13, 2020, I&E informed Eligo of the scope of its Informal Investigation and requested responses to I&E’s seventeen (17) data requests set forth in I&E Data Request-Set I. Eligo’s responses were due on April 3, 2020.

17. Sometime after March 13, 2020, counsel for Eligo contacted I&E to confirm receipt of I&E’s letter containing I&E Data Request-Set I and to discuss I&E’s investigative process.

18. On or about March 15, 2020, the Office of Administration closed the Capitol Complex buildings in an effort to mitigate the spread of COVID-19. Accordingly, the Commission closed its physical location and all employees were instructed to telework. Similarly, around the same time, all non-essential Pennsylvania businesses were instructed to close.

19. On or about March 27, 2020, counsel for Eligo sent an email to the assigned I&E Prosecutor requesting an extension of the due date for Eligo’s responses to I&E Data

Request-Set I due to the shelter-in-place order issued by the State of Illinois Governor J. B. Pritzker.³ I&E granted the request and extended the response deadline to April 24, 2020.

20. On or about April 22, 2020, counsel for Eligo requested an additional extension, noting that an employee responsible for gathering the responses was recovering from COVID-19-like symptoms. On April 23, 2020, I&E granted the request and instructed Eligo to provide the responses as they became available.

21. On May 8, 2020, Eligo provided its responses to I&E Data Request-Set I, Nos. 1-5, 12, 15, and 17.

22. On May 15, 2020, Eligo provided its responses to I&E Data Request-Set I, Nos. 6-11, 13-14, and 16.

23. On July 17, 2020, the Parties held a conference call to discuss I&E's Informal Investigation.

24. On July 29, 2020, Eligo provided a supplemental response to I&E Data Request-Set I, No. 4.

25. The results of I&E's Informal Investigation, which included review of the customer complaints, Eligo's responses to I&E Data Request-Set I, and the additional written and verbal information provided by Eligo, form the basis for the instant Settlement Agreement.

³ Eligo's corporate headquarters are located in Chicago, Illinois.

A. Use of the Commission’s Name

26. Under Section 111.8(d) of the Commission’s regulations, a public utility shall not use the name of a governmental agency in a way that suggests a relationship that does not exist. 52 Pa. Code § 111.8(d). Additionally, pursuant to Sections 54.122(3), 111.12(d)(1), and 111.12(d)(2), an electric generation supplier may not engage in misleading or deceptive conduct or representations. 52 Pa. Code § 54.122(3) (“An electric distribution company or electric generation supplier may not engage in false or deceptive advertising to customers with respect to the retail supply of electricity in this Commonwealth); 52 Pa. Code § 111.12(d)(1) (“May not engage in misleading or deceptive conduct as defined by State or Federal law, or by Commission rule, regulation or order”); and 52 Pa. Code § 111.12(d)(2) (“May not make false or misleading representations including misrepresenting rates or savings offered by the supplier”).

27. In response to I&E Data Request-Set I, Eligo provided eleven (11) mailers that had the phrases “Pennsylvania Public Utility Commission Notice” or “Important PUC Notice” printed in bold letters. Specifically, “Pennsylvania Public Utility Commission Notice” was printed in bold on the front of the mailer above the customer address. *See* Exhibit 1.

28. Approximately 302,189 of these mailers were issued in the electric distribution territories of Met-Ed, Penelec, Penn Power, PPL, and West Penn.

29. “Important PUC Notice” was printed in red bolded letters on the inside with the following quote:

To avoid the possibility of ‘sticker shock’ from high bills during the coming cold months, the Pennsylvania Public Utility Commission reminds consumers that the start of winter is an important time to compare prices for electric generation and evaluate competitive supplier options.⁴

B. Use of Misleading and Deceptive Phrases

30. Pursuant to Sections 54.122(3), 111.12(d)(1), and 111.12(d)(2), an electric generation supplier may not engage in misleading or deceptive conduct or representations. 52 Pa. Code § 54.122(3) (“An electric distribution company or electric generation supplier may not engage in false or deceptive advertising to customers with respect to the retail supply of electricity in this Commonwealth); 52 Pa. Code § 111.12(d)(1) (“May not engage in misleading or deceptive conduct as defined by State or Federal law, or by Commission rule, regulation or order”); and 52 Pa. Code § 111.12(d)(2) (“May not make false or misleading representations including misrepresenting rates or savings offered by the supplier”).

a) Final Electric Notice: Request for Immediate Action

31. In response to I&E Data Request-Set I, Eligo provided twenty-two (22) mailers, which contained the phrase “Final Electric Notice: Attn Recipient: Request for Immediate Action.” *See Exhibit 2.*

⁴ The Parties acknowledge that this quote is in the December 16, 2019 press release found on the Commission’s website. See http://www.puc.pa.gov/about_puc/press_releases.aspx?ShowPR=4294.

32. Approximately 867,499 mailers were issued with the phrase “Final Electric Notice: Attn Recipient: Request for Immediate Action.”⁵

33. Specifically, the phrase was in bold on the front of the mailer right above the customer address.

b) Rate Change Notice

34. In response to I&E Data Request-Set I, Eligo provided thirty-four (34) mailers, which contained the phrase “Rate Change Notice” in bolded red letters right below the customer address. *See Exhibit 3.*

35. Approximately 1,200,000 mailers were issued with the phrase “Rate Change Notice.”⁶

36. In response to the mailers, one thousand one hundred ninety-three (1,193) customers enrolled with Eligo.

C. Eligo’s Response to the Alleged Conduct

37. Eligo is a relatively small EGS that supplies approximately 276,000 MWh of electricity annually in Pennsylvania.

38. Eligo avers that, during the time-period of the alleged deceptive and misleading information, Eligo’s marketing team was comprised of two (2) persons, one of whom created the marketing materials.

39. The mailers that are the subject of I&E’s Informal Investigation were sent for printing and distribution by Eligo without review by Eligo’s legal department.

⁵ An additional 103,524 mailers were issued that were labeled under both phrases, “Final Electric Notice: Attn Recipient: Request for Immediate Action” and “Rate Change Notice.”

⁶ *See supra* footnote 5.

40. Eligo became aware of the allegedly deceptive mailers prior to I&E's Informal Investigation and immediately implemented a formal review process applicable to mailers. This formal review process, among other things, now prevents any marketing material from being sent for printing unless approved by Eligo's legal department.

41. Eligo avers that, as of September 2020, eighty-three percent (83%) of the customers enrolled as a result of the mailers saved an approximate \$87,000 over the prices they would have paid to their local utilities during the same timeframe, and these customers are estimated to save more than \$246,000 over the lifetime of their multi-year supply contracts.

III. ALLEGED VIOLATIONS

42. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to demonstrate that Eligo committed the following violations:

- a. The mailers that had the phrases "Pennsylvania Public Utility Commission Notice" or "Important PUC Notice" are deceptive and misleading marketing materials. If proven, such conduct would have violated 52 Pa. Code §§ 54.122(3), 111.8(d), 111.12(d)(1), 111.12(d)(2) (multiple counts).
- b. The mailers that had the phrase "Final Electric Notice: Attn Recipient: Request for Immediate Action" are deceptive and misleading marketing materials. If proven, such conduct would have violated 52 Pa. Code §§ 54.122(3), 111.12(d)(1), and 111.12(d)(2) (multiple counts).

- c. The mailers that had the phrase “Rate Change Notice” are deceptive and misleading marketing materials. If proven, such conduct would have violated 52 Pa. Code §§ 54.122(3), 111.12(d)(1), and 111.12(d)(2) (multiple counts).
- d. The deceptive and misleading mailers resulted in 1,193 customer enrollments. If proven, such conduct would have violated 52 Pa. Code §§ 54.122(3) and 111.12(d)(1).

43. Had this matter been fully litigated, Eligo would have denied each of the alleged violations of the Commission’s Regulations, the Code, or Commission’s Orders, raised defenses to each of these allegations, and defended against the same at hearing. However, at no time during this Informal Investigation has Eligo denied the content of the mailers sent to prospective customers.

IV. SETTLEMENT TERMS

44. Pursuant to the Commission’s policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of discussions that culminated in this Settlement. I&E and Eligo desire to (1) terminate I&E’s Informal Investigation; and (2) settle this matter completely without litigation. The Parties recognize that this is a disputed matter, and given the inherent unpredictability of the outcome of a contested proceeding, the Parties further recognize the benefits of amicably resolving the disputed issues. The conditions of the Settlement, for which the Parties seek Commission approval, are set forth below.

45. Eligo shall pay a total civil penalty of \$188,125.00, broken down as follows:
- a. A civil penalty of \$1,000.00 for each of the 11 mailers with the phrases “Pennsylvania Public Utility Commission Notice” or “Important PUC Notice,” totaling \$11,000.00.
 - b. A civil penalty of \$500.00 for each of the 22 mailers with the phrase “Final Electric Notice: Attn Recipient: Request for Immediate Action,” totaling \$11,000.00.
 - c. A civil penalty of \$500.00 for each of the 34 mailers with the phrase “Rate Change Notice,” totaling \$17, 000.00.
 - d. A civil penalty of \$125.00 for each of the 1,193 customer enrollments, totaling \$149,125.00.

46. The civil penalty shall not be tax deductible or passed through as an additional charge to Eligo’s customers in Pennsylvania.

V. CONDITIONS OF SETTLEMENT

47. The benefits and obligations of this Settlement Agreement shall be binding upon the successors and assigns of the Parties to this Agreement.

48. This Agreement may be signed in counterparts and all signatures attached hereto will be considered as originals.

49. In order to effectuate the Parties’ Settlement Agreement, the undersigned Parties request that the Commission issue an Order approving the Petition without modification.

50. The Parties agree that any party may petition the Commission for reconsideration or take other recourse allowed under the Commission's rules if the Commission Order substantively modifies the terms of this Petition. However, if the Commission takes any action in a Tentative or other Order substantively modifying the terms of this Settlement, any party may give notice to the other party that it is withdrawing from this Petition. Such notice must be in writing and must be given within twenty (20) business days of the issuance of any Initial or Recommended Decision or any Commission Order or Secretarial Letter that adopts this Petition with substantive modifications of its terms. The consequence of any party withdrawing from this Petition as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated unless otherwise stipulated between the Parties and all obligations of the Parties to each other are terminated and of no force and effect. In the event that a Party withdraws from this Petition as set forth in this Paragraph, I&E and Eligo jointly agree that nothing in this Agreement shall be construed as an admission against or as prejudice to any position either Party might adopt during subsequent litigation of this case.

51. I&E and Eligo jointly acknowledge that approval of this Agreement is in the public interest and is fully consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and Commission regulations, 52 Pa. Code § 69.1201. The Commission will serve the public interest by adopting this Joint Petition for Approval of Settlement.

52. This Petition avoids the time and expense of litigation in this matter before the Commission, which likely would entail preparation for and attendance at hearings and

the preparation and filing of briefs, reply briefs, exceptions, reply exceptions. The Parties further recognize that their positions and claims are disputed and, given the inherent unpredictability of the outcome of a contested proceeding, the Parties recognize the benefits of amicably resolving the disputed issues through settlement. Attached as Appendices A and B are Statements in Support submitted by I&E and Eligo, respectively, setting forth the bases upon which they believe the Settlement Agreement is in the public interest.

53. Adopting this Agreement will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus avoiding the additional time and expense that they might incur in such an appeal.

54. This Settlement consists of the entire agreement between I&E and Eligo regarding the matters addressed herein. Moreover, this Settlement represents a complete settlement of I&E's Informal Investigation of Eligo's alleged violations of the Code and the Commission's regulations related to the misleading and deceptive mailers issued between approximately January 2019 and March 2020, and fully satisfies I&E's Informal Investigation of the matters discussed herein. The Parties expressly acknowledge that this Agreement represents a compromise of positions and does not in any way constitute a finding or an admission concerning the alleged violations of the Code and the Commission's regulations.

WHEREFORE, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Eligo Energy PA, LLC respectfully request that the Commission enter an Order approving the terms of the Joint Petition for Approval of Settlement in their entirety as being in the public interest and granting such other relief not inconsistent with the Settlement as may be just and reasonable under the circumstances.

IN WITNESS WHEREOF, I&E and Eligo by their authorized representatives have hereunto set our hands and seals on this 29th day of October 2020.

Date: October 29, 2020

DocuSigned by:

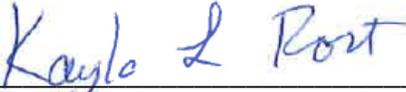
73673405454A410...

Alexander Rozenblat, Esq.
General Counsel for Eligo Energy PA, LLC

Date: October 29, 2020


John F. Povilaitis, Esq.
Alan M. Seltzer, Esq.
Counsel for Eligo Energy PA, LLC

Date: October 29, 2020


Kayla L. Rost
*Prosecutor for the Commission's
Bureau of Investigation and Enforcement*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2020-3019204
	:	
Eligo Energy PA, LLC	:	

PROPOSED ORDERING PARAGRAPHS

1. That the Joint Petition for Approval of Settlement filed on October 29, 2020 between the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and Eligo Energy PA, LLC, (“Eligo”) is approved in its entirety without modification.

2. That, in accordance with Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, within sixty (60) days of the date this Order becomes final, Eligo shall pay One Hundred Eighty-Eight Thousand One Hundred Twenty-Five Dollars (\$188,125.00), which consists of the entirety of the civil penalty amount. Said payment shall be made by certified check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

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

3. That the civil penalty shall not be tax deductible or passed through as an additional charge to Eligo’s customers in Pennsylvania.

4. The above-captioned matter shall be marked closed upon receipt of the civil penalty.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement :
 :
v. : Docket No. M-2020-3019204
 :
Eligo Energy PA, LLC :

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S
STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.231, 5.232 and 69.1201, the Pennsylvania Public Utility Commission's ("Commission" or "PUC") Bureau of Investigation and Enforcement ("I&E"), a signatory party to the Joint Petition for Approval of Settlement ("Settlement" or "Settlement Agreement") filed in the matter docketed above, submits this Statement in Support of the Settlement Agreement between I&E and Eligo Energy PA, LLC ("Eligo" or "Company").¹ I&E avers that the terms and conditions of the Settlement are just and reasonable and in the public interest for the reasons set forth herein.

¹ I&E and Eligo are collectively referred to herein as the "Parties."

I. Background

On or about March 10, 2020, the Commission's Bureau of Consumer Services ("BCS") initiated a referral to I&E regarding Eligo's alleged misleading and deceptive marketing materials. Specifically, BCS requested that I&E investigate Eligo's marketing materials which included references or quotes allegedly from the Commission that may have violated the Public Utility Code and Commission's Regulations.

By letter dated March 13, 2020, I&E informed Eligo of the scope of its investigation and requested responses to I&E's seventeen (17) data requests set forth in I&E Data Request-Set I. Eligo's responses were due on April 3, 2020.

On or about March 15, 2020, the Office of Administration closed the Capitol Complex buildings in an effort to mitigate the spread of COVID-19. Accordingly, the Commission closed its physical location and all employees were instructed to telework. Similarly, around the same time, all non-essential businesses were instructed to close.

Accordingly, Eligo was subsequently granted two (2) extension requests to respond to I&E Data Request-Set I.² Eligo provided its responses on May 8, 2020 and May 15, 2020, and provided a supplemental response on July 29, 2020.

As a result of Eligo's responses, I&E identified four (4) types of potential violations based upon I&E's review of the marketing materials issued between January 2019 through March 2020. Specifically, I&E alleged that Eligo issued deceptive and

² Eligo's corporate headquarters is located in Chicago, Illinois. Due to the pandemic, the State of Illinois' Governor J. B. Pritzker also issued a shelter-in-place order which impacted Eligo's ability to respond to I&E Data Request-Set I.

misleading marketing materials which resulted in 1,193 customer enrollments in violation of the Public Utility Code. *See generally*, 52 Pa. Code § 54.122(3); 52 Pa. Code § 111.8(d); 52 Pa. Code § 111.12(d)(1); and 52 Pa. Code § 111.12(d)(2).

Eligo advised I&E that it is a very small company with, at the time of the alleged conduct, employed two individuals who were responsible for the marketing department. Eligo explained that the alleged deceptive and misleading marketing materials were printed and distributed without review and approval from the legal department. Once it was made aware of the marketing materials, Eligo implemented a formal legal review process for all marketing materials. Accordingly, I&E and Eligo began discussing settlement to amicably resolve the instant matter.

On October 29, 2020, the Parties filed a Joint Petition for Approval of Settlement resolving all issues between I&E and Eligo in the instant matter. This Statement in Support is submitted in conjunction with the Settlement Agreement.

II. The Public Interest

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to I&E informal investigation involving allegations that Eligo distributed deceptive and misleading marketing materials from January 2019 through March 2020. Notably, as briefly explained above, noticing the misleading and deceptive nature of the marketing materials prior to I&E's informal investigation, Eligo implemented a formal review process to prevent this conduct from reoccurring. This

formal process prevents any marketing materials from being sent for printing and distribution unless approved by the legal department. Thus, Eligo acknowledged the lack of oversight provided in its informal marketing review process and immediately addressed the oversight with the new formal process.

This new process, in addition to the civil penalty discussed below, is in the public interest because it will protect the public from potential misleading and deceptive marketing materials in the future and will act as a deterrent for future misconduct.

I&E intended to prove the factual allegations set forth in its investigation at hearing to which Eligo would have disputed. This Settlement Agreement results from the compromises of the Parties. I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits to amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement constitutes a reasonable compromise of the issues presented and is in the public interest. As such, I&E respectfully requests that the Commission approve the Settlement without modification.

III. Terms of Settlement

Under the terms of the Settlement Agreement, I&E and Eligo have agreed that Eligo will pay a civil penalty of \$188,125.00, broken down as follows:

- a) A civil penalty of \$1,000.00 for each of the 11 mailers with the phrases “Pennsylvania Public Utility Commission Notice” or “Important PUC Notice,” totaling \$11,000.00.

- b) A civil penalty of \$500.00 for each of the 22 mailers with the phrase “Final Electric Notice: Attn Recipient: Request for Immediate Action,” totaling \$11,000.00.
- c) A civil penalty of \$500.00 for each of the 34 mailers with the phrase “Rate Change Notice,” totaling \$17,000.00.
- d) A civil penalty of \$125.00 for each of the 1,193 customer enrollments, totaling \$149,125.00

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Furthermore, the civil penalty shall not be passed through as an additional charge to Eligo’s customers in Pennsylvania.

In consideration of Eligo’s payment of a monetary civil penalty, I&E agrees that its informal investigation relating to Eligo’s conduct as described in the Settlement Agreement referenced herein shall be terminated and marked closed upon approval by the Commission of the Settlement Agreement without modification and payment of the civil penalty.

Upon Commission approval of the Settlement in its entirety without modification, I&E will not file any complaints or initiate other action against Eligo at the Commission with respect to the deceptive and misleading mailers issued from January 2019 through March 2020 which were the subject of I&E’s instant investigation.

IV. Legal Standard for Settlement Agreements

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same

time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. “The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a ‘burden of proof’ standard, as is utilized for contested matters.” *Pa. Pub. Util. Comm’n, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011) at p. 11. Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with the Commission’s Policy Statement regarding *Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* (“Policy Statement”), 52 Pa. Code § 69.1201; *See also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000). The Commission’s Policy Statement sets forth ten (10) factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201.

The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties “will be afforded flexibility in reaching amicable

resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.*

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a higher civil penalty while conduct that is less egregious warrants a lower amount. 52 Pa. Code § 69.1201(c)(1). I&E alleges that the conduct in this matter involves an administrative or technical error as a result of Eligo’s lack of oversight/formal review process of the marketing department. Consequently, the less egregious nature of the conduct was considered in arriving at the civil penalty amount in the Settlement Agreement.

The second factor considers whether the resulting consequences of Eligo’s alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(2). I&E submits that no personal injury or property damage occurred as a result of the alleged violations.

The third factor to be considered under the Policy Statement is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). “This factor may only be considered in evaluating litigated cases.” *Id.* Whether Eligo’s alleged conduct was intentional or negligent does not apply since this matter is being resolved by settlement of the Parties.

The fourth factor to be considered is whether Eligo has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). Prior to I&E's investigation, Eligo's marketing department consisted of two individuals, one who created the marketing material. The marketing materials that are the subject of the informal investigation were sent for printing and distribution without legal review. In response to this administrative error, Eligo implemented a formal review process to ensure that all marketing materials are reviewed by the legal department prior to being sent for printing and distribution. Thus, Eligo made efforts to ensure that any marketing materials issued in the future undergo the proper legal review.

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). During the time frame of January 2019 through March 2020, I&E identified approximately 2,500,000 mailers that were issued by Eligo which contained deceptive and misleading phrases. Approximately 1,193 customers enrolled with Eligo through the receipt of the marketing material. These facts were considered when calculating the civil penalty.

The sixth factor to be considered relates to the compliance history of Eligo. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise compliant company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* To date, I&E is not aware of any formal complaint being filed against Eligo regarding this matter. Additionally, I&E is not aware of any other

enforcement action brought against Eligo relating to deceptive and misleading marketing materials.

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). I&E submits that Eligo fully cooperated in the investigation in this matter, including cooperating in both informal discovery as well as settlement discussions.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I&E submits that a civil penalty amount of \$188,125.00, which is not tax deductible, is substantial and sufficient to deter Eligo from committing future violations.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). I&E submits that the instant Settlement Agreement should be viewed on its merits as there are no past Commission decisions that are directly responsive to this matter.

The tenth factor considers "other relevant factors." 52 Pa. Code § 69.1201(c)(10). I&E submits that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the governmental agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser fine or penalty, or other remedial action. Both parties negotiate from their initial litigation positions. The fines and penalties, and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable

settlement terms can represent economic and programmatic compromise while allowing the parties to move forward and to focus on implementing the agreed upon remedial actions.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced compromise of the interests of the Parties in this proceeding. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement avoids the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the Parties.

WHEREFORE, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,



Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-1888
karost@pa.gov

Dated: October 29, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau	:	
of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2020-3019204
	:	
Eligo Energy PA, LLC	:	

**ELIGO ENERGY PA, LLC STATEMENT IN SUPPORT OF FULL SETTLEMENT
OF INFORMAL INVESTIGATION**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Eligo Energy PA, LLC (“Eligo” or the “Company”) hereby files this Statement In Support Of Full Settlement Of Informal Investigation in connection with a Joint Petition for Approval of Settlement (“Settlement Agreement,” “Settlement,” or “Petition”) entered into by Eligo and the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) (collectively, “Joint Petitioners”) in the above-captioned proceeding. Eligo believes the Settlement Agreement balances the duty of the Commission to protect the public interest, the interests of the Company’s customers, and the obligations of the Company by resolving this informal I&E investigation (“Informal Investigation”) timely and at reduced cost to I&E, Eligo and the Commission. Rather than engage in months of potential litigation that would delay final resolution of the issues in this matter, Eligo has provided I&E with all information requested, fully cooperated with I&E, and the Joint Petitioners have developed a reasonable resolution of this Informal Investigation. The Settlement Agreement is in the public interest, supportive of I&E’s objectives, and consistent with the interests of Eligo and its customers. The Settlement Agreement is fair, just and reasonable, is in the public interest, and meets all legal requirements. Therefore, it should be approved without modification.

I. BACKGROUND

1. The background of this proceeding is sufficiently set forth in Paragraphs 11, 13-25 of the Settlement Agreement and is incorporated by reference herein. As noted therein, this matter involves allegations related to Eligo's issuance of marketing materials that could have been misleading and deceptive to potential electric shopping customers in Pennsylvania from approximately January 2019 through approximately March 2020.¹ In particular, Eligo issued mailers to prospective customers that, among other things, referenced the Commission's name, used the words "Rate Change Notice," and "Final Electric Notice: Attn Recipient: Request for Immediate Action." I&E has taken the position that the statements in the mailers, which were sent for printing and distribution by Eligo without review by Eligo's legal department, constitute, among other things, deceptive and misleading marketing materials in violation of the Commission's regulations at 52 Pa. Code §§ 54.122(3), 111.8(d), 111.12(d)(1), 111.12(d)(2).

2. Eligo understands the nature of the allegations that I&E would have asserted in a formal complaint if one had been filed, and acknowledges its error in not reviewing the marketing materials for compliance with applicable law and Commission regulations before issuing them to the public. At no time during this Informal Investigation has Eligo denied the content of the mailers sent to prospective customers. If not resolved via this Settlement, in addition to availing itself to any customary defenses, Eligo would have argued at hearing, among other things, that its conduct here (i) was inadvertent and not intended to be misleading and deceptive; (ii) was immediately identified as improper and remediation and prophylactic measures were promptly

¹ Eligo provided information in discovery through approximately July 2020.

instituted to minimize – if not eliminate – the likelihood of this situation from re-occurring; and (iii) any civil penalty imposed by the Commission should reflect these facts, the amount of customer savings, and other potential mitigation factors specified in the Commission’s regulations at 52 Pa. Code Section 69.1201.

3. Eligo has put into effect appropriate measures to ensure that the issuance of potentially misleading or deceptive mailers is not likely to reoccur. Indeed, Eligo became aware of the allegedly deceptive mailers prior to I&E’s Informal Investigation, immediately stopped the use of such mailers, and implemented a formal review process applicable to mailers. This formal review process, among other things, now prevents any marketing material from being sent for printing and distribution to prospective customers unless approved by Eligo’s legal department in advance.

4. In addition, Eligo has agreed to submit to the Pennsylvania General Fund payment of a civil penalty in the amount of \$188,125.00.

II. PUBLIC INTEREST ANALYSIS

5. It is well-established that Commission policy promotes settlements.² The public benefits from settlements because they reduce the time and expense the parties must expend in litigating a case while simultaneously conserving important administrative resources. Also, settlements are more predictable than the results likely to be achieved in full litigation. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest.³

6. In *Rosi v. Bell Atlantic Pennsylvania Inc., et al.*, 94 Pa. P.U.C. 103 (Order

² See 52 Pa. Code§ 5.231.

³ *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, Docket No. C-2010-2071433, 2012 Pa. PUC LEXIS 1377 at *6 (Order approving settlement agreement entered on August 31, 2012).

entered March 16, 2000)(“*Rosi*”), the Commission established standards to be applied in determining whether a particular enforcement outcome is in the public interest. *See also, Pennsylvania Public Utility Commission v. NCIC Operator Services*, M-00001440 (Tentative Order entered December 20, 2000 outlining the “*Rosi* Standards”). These standards have been reviewed by the Joint Petitioners and compared against the proposed outcome in this case. The Settlement Agreement meets the standards outlined by *Rosi* as being in the public interest, as further discussed below.

Further, approval of this Settlement Agreement is consistent with the Policy Statement promulgated by the Commission establishing the ten *Rosi* factors it may consider in evaluating whether a civil penalty for violating a Commission order, regulation or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest.⁴ The Policy Statement, by its own language, is only considered a “guide” to the Commission in evaluating these types of matters. Moreover, the Commission has recognized that “the parties in settled cases should be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest.”⁵ The factors and standards used by the Commission under the Policy Statement are as follows:

- a. Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- b. Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

⁴ *See* 52 Pa. Code§ 69.1201.

⁵ *Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff. UGI Utilities, Inc.*, 2009 Pa. PUC LEXIS 1867, M-2009-2031571(Order approving settlement agreement entered January 14, 2010).

- c. Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
- d. Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the regulated entity to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.
- e. The number of customers affected and the duration of the violation.
- f. The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant regulated entity may result in a lower penalty, whereas frequent, recurrent violations by a regulated entity may result in a higher penalty.
- g. Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
- h. The amount of the civil penalty or fine necessary to deter future violations. The size of the regulated entity may be considered to determine an appropriate penalty amount.
- i. Past Commission decisions in similar situations.
- j. Other relevant factors.⁶

The substantial public benefits of the Settlement Agreement, as well as the ten factors the Commission evaluates in reviewing a settlement of an alleged violation, are addressed below.

7. The first factor to be considered when reviewing a settlement is whether the conduct at issue was of a serious nature. Eligo considers any violation of this Commission's rules or regulations, or the Code to be serious in nature and warranting remediation.

⁶ See 52 Pa. Code § 69.1201(c).

However, as noted above, immediately upon becoming aware of the potentially misleading and deceptive mailers being sent to the public, Eligo commenced remediation efforts. As of September 2020, eighty three percent (83%) of the customers enrolled as a result of the mailers at issue saved an approximate \$87,000 over the prices they would have paid to their local utilities during the same timeframe, and these customers are estimated to save more than \$246,000 over the lifetime of their multi-year supply contracts relative to default service.⁷ Eligo is fully aware of the potential harm that could result from issuing misleading and deceptive material to the public, which is why it acted swiftly and decisively to remediate the situation to minimize the likelihood of the situation from reoccurring.

As noted by I&E and in the Settlement Agreement, Eligo has fully cooperated with I&E in its informal investigation of this matter, has answered all questions and provided all documents reasonably requested by I&E.

Irrespective of the specific analysis of Eligo's conduct giving rise to the informal investigation, the terms and conditions of the Settlement Agreement fully take Eligo's conduct into account, as well as Eligo's cooperative response to I&E under the circumstances.

8. The second factor to be considered is whether the resulting *consequences* of Eligo's conduct were of a "serious nature." While any violation of the Public Utility Code ("Code") or any rule or regulation of the Commission is serious, in this case 83% of the customers enrolled after receipt of the mailers received substantial benefits and savings. Eligo has instituted and implemented procedures to ensure the proper vetting of marketing mailers prospectively and believes these procedures will minimize the likelihood of any adverse consequences to the public in the future.

⁷ This is a net savings analysis and provides the total aggregate net savings across the entirety of the customers.

9. The third factor, whether Eligo's conduct was intentional or negligent, does not apply here because this factor only applies to litigated matters. In contrast, this case arose from an Informal Investigation and is being settled. However, Eligo has repeatedly indicated throughout the Informal Investigation that it never intended to mislead or deceive potential customers with respect to any of the information, statements or notices on its mailers. It did fail to have a process in place that would ensure such information was thoroughly reviewed by its legal department before sending the marketing materials for printing and distribution. However, this structural and internal breakdown was swiftly remediated.

10. The fourth factor to be considered is whether Eligo made efforts to modify internal policies and procedures to address the alleged conduct at issue and to prevent similar conduct in the future. As noted above, this process change has occurred. Eligo is confident that this process substantially minimizes the likelihood of a reoccurrence of the events that transpired here.

11. The fifth factor to be considered is the number of customers affected and the duration of the violation. As noted in paragraph 33 of the Settlement, 1193 customers enrolled after receiving the mailers at issue. These customers signed service agreements of varying durations, the majority of which are multi-year in nature. However, as noted above, the great majority of these impacted customers have and are expected to save substantial money as a result of entering into these agreements with Eligo.

12. The sixth factor is Eligo's compliance history. The Company has a history of compliance with the Code and/or Commission regulations with regard to this matter. At a broader level, Eligo consistently complies with applicable Commission orders and regulations and the Code in the conduct of its business and the provision of service in Pennsylvania and will comply with the terms of this Settlement Agreement as well.

13. The seventh factor to be considered is whether the regulated entity cooperated with the Commission's investigation. As noted in the Settlement Agreement, Eligo has supported and fully cooperated with I&E throughout the Informal Investigation leading to the Settlement Agreement.

14. The eighth factor is whether the amount of the civil penalty or fine will deter future violations. A relatively small electric generation supplier in Pennsylvania, Eligo has agreed to pay a civil penalty in the amount of \$188,125.00, which shall not be tax deductible under Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f). This is a substantial amount of money which, in Eligo's view, is sufficient to reinforce conduct consistent with the Code and the Commission's regulations, and to deter any future violations by Eligo relating to the review and issuance of marketing materials to prospective customers in Pennsylvania. Eligo, as a good corporate citizen, would be deterred from engaging in any conduct like that giving rise to the Informal Investigation in the absence of any civil penalty. However, the existence of the substantial civil penalty will further enhance both Eligo's future compliance with the Code and Commission regulations and deter any potentially violative future conduct.

15. The ninth factor assesses past Commission decisions in similar situations. There have been previous cases involving claims of misleading or deceptive materials and practices by electric generation suppliers, and the proposed civil penalty here is not inconsistent with prior Commission-approved settlements, recognizing these matters are highly dependent on their specific and unique circumstances. When all relevant factors are considered, the Settlement Agreement is consistent with past Commission actions. Moreover, because this case has been settled and not litigated, it should be considered on its own unique

merits and circumstances.

16. The tenth factor is a catch-all for other relevant factors. In this regard, Eligo notes that the Settlement Agreement obviates the need for I&E, as the prosecuting entity, to file a Formal Complaint and prove the elements of each possible allegation. Regardless of where the ultimate burden of proof lies, the Settlement Agreement eliminates any risk to I&E of not being able to meet its burden of persuasion on matters pertinent to any potential Formal Complaint. In exchange for this minimized risk and in a good faith effort to mitigate any potential reoccurrence of the conduct at issue here, Eligo has agreed to pay a substantial civil penalty, in addition to already implementing prophylactic measures within the Company. Fines, penalties and other measures resulting from a fully litigated case are difficult to predict and can differ substantially from a settlement. On the other hand, reasonable settlement terms agreed to by the parties allow them to refocus their efforts from *proving* their cases to *implementing* and enhancing important responsive measures. This important refocusing is precisely what has occurred here.

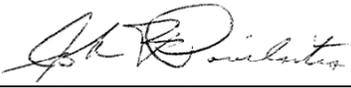
17. Based on the above analysis, the Settlement Agreement is consistent with the Commission's ten-factor Policy Statement, has been designed to provide a thorough and appropriate response to I&E's Informal Investigation, and is therefore in the public interest. The Company has endeavored to work with I&E to prepare a settlement package that represents a thoughtful and thorough response to the present situation, in which Eligo does not ever want to find itself again. The Settlement Agreement is intended to address all concerns raised during the Informal Investigation and is evidence of Eligo's commitment to ensure that the circumstances giving rise to the conduct at issue will not reoccur. In addition, the Settlement Agreement will eliminate the possibility of further Commission litigation and appeals, along with their attendant costs.

III. CONCLUSION

Eligo and I&E have worked diligently and cooperatively to craft a fair, balanced and comprehensive settlement of the issues raised by I&E's Informal Investigation that is in the public interest. The Settlement Agreement resolves all issues related to I&E's Informal Investigation while implementing measures designed to minimize the likelihood of a reoccurrence of the conduct at issue. The Settlement Agreement terms and conditions should be expressly found to satisfy the ten factors in the Commission's Policy Statement at 52 Pa. Code § 69.120l(c) as being in the public interest. Eligo fully supports the Settlement Agreement and respectfully requests that the Commission approve it in its entirety without modification.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

By: 

John F. Povilaitis (PA ID No. 28944)
Alan M. Seltzer (PA ID No. 27890)
409 North Second Street, Suite # 500
Harrisburg, PA 17101-1357Tel:
(717) 237-4800
john.povilaitis@bipc.com
alan.seltzer@bipc.com

Counsel for Eligo Energy PA, LLC

Dated: October 29, 2020

EXHIBIT 1

Why should I get a quote with you?

Eligo Energy is a direct supplier, so we can offer competitive products, innovative solutions, and more customer-focused service.

Is this legitimate?

Eligo Energy is BBB accredited and currently serves 100,000+ customers. As an authorized energy supplier we can offer you the most competitive rates.

What if I don't have my electricity bill handy?

No worries. Simply fill out as much as you can on our site and we'll remind you by email.

Will my electricity ever stop?

Nope. There are two sides of electricity service: supply and delivery. Usually your electric utility does both. When you change the supplier, your utility will continue to deliver electricity to you without interruption.

Why should I lock in rates now?

Energy rates are near multi-year lows - so it's best to do it now before they go back up.

Get your FREE energy quote today!

 Eligo.com/offer

 **888-205-2636**

 **Unique Offer ID: <CKFAM>**

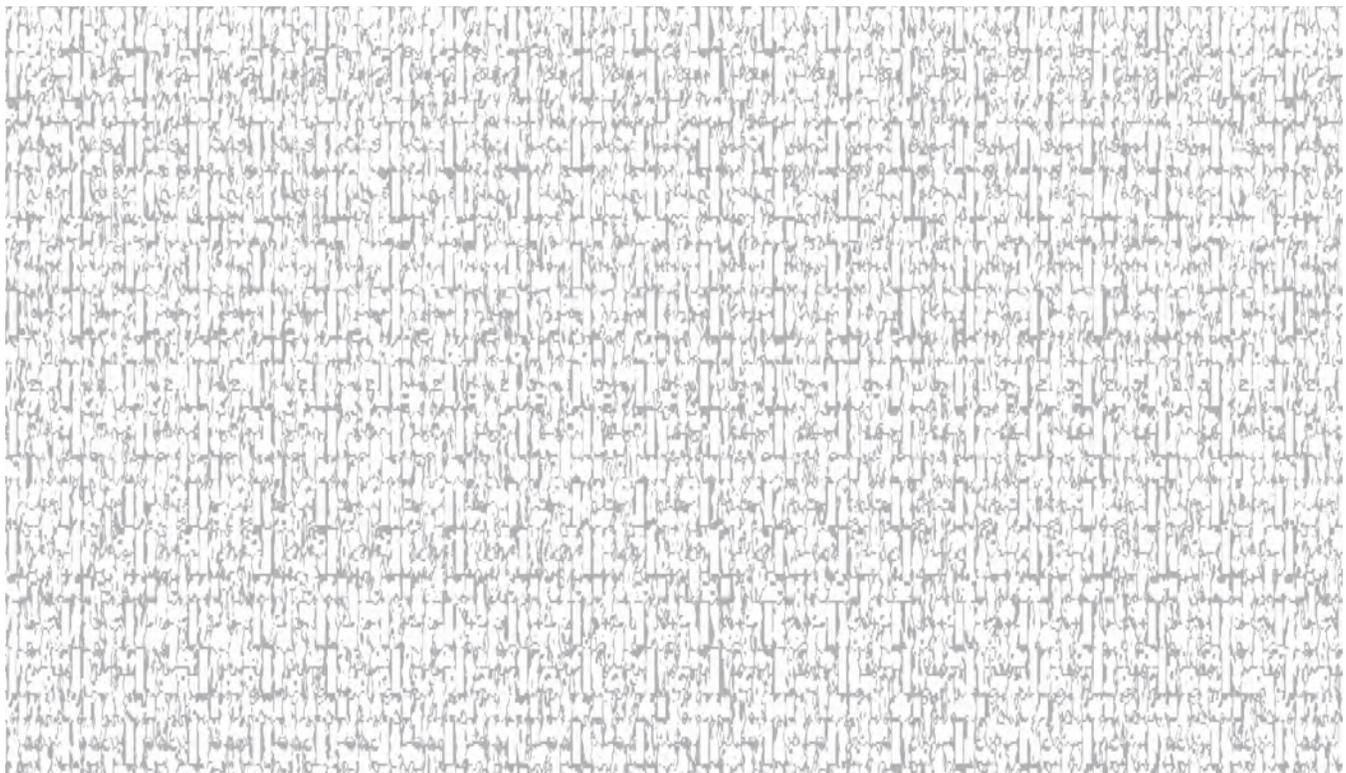


PENNSYLVANIA PUBLIC UTILITY COMMISSION NOTICE

<Sample A. Sample>
<123 Oak Street>
<Hometown, US 12345>



WINTER RATE CHANGE ALERT



▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

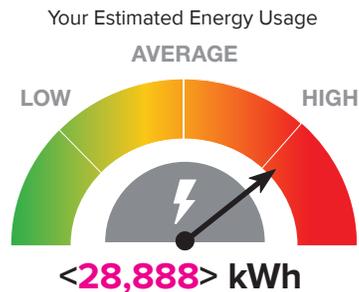


Featured in:

Inc.5000 FORTUNE

<Energy_Co>

Authorized Supplier
in this service territory



IMPORTANT PUC NOTICE:

"To avoid the possibility of 'sticker shock' from high bills during the coming cold months, the Pennsylvania Public Utility Commission reminds consumers that the start of winter is an important time to compare prices for electric generation and evaluate competitive supplier options."

Get your personal quote today!

Eligo.com/offer

888-205-2636

Unique Offer ID: <CKFAM>

SELECT <ENERGY_CO> CUSTOMERS CAN SAVE UP TO 20%

Dear <Customer_Name>,

Did you know that as a household that has used <energy_variable> in kWh in the past year you are eligible to receive a lower rate on your electricity bill? Eligo Energy, an electric supplier with over 100,000 customers, is offering customers in <Energy_Co> service territory a savings opportunity.

Since your household uses a high amount of energy, we can get a more competitive rate. Don't let <Energy_Co> stick you with a generic rate.

With Eligo Energy you can:

- ✓ Save up to **20% off your bill***
- ✓ Lock in the lowest rate possible for **3-36 month**

SAME ENERGY, SAME BILL, LOWER RATE

P.S. We'll tell you if we can help or if you should stay with <Energy_Co>. This offer expires <Month XX, 2020> so hurry up!

Here's How It Works:



Your energy bill has 2 main parts: **Delivery & Supply**. **Delivery** means distributing the energy i.e. via transmission lines. **Supply** refers to energy purchased on the open market.



Think of us as a **Discount Club** for energy. Eligo Energy can also buy electricity on the open market, usually more efficiently, passing the savings on to you.



We are an **Authorized Supplier** in <Energy_Co> service territory and our rates will appear on their bill. <Energy_Co> still handles everything like reading the meter, and servicing you in a power outage.

It's That Easy!

Get your **FREE** personal quote today!

Eligo.com/offer

888-205-2636

Unique Offer ID: <CKFAM>



*Length of actual term depends on your energy usage profile. Savings not guaranteed.

EXHIBIT 2

Why should I get a quote with you?

Eligo Energy is a direct supplier, so we can offer competitive products, innovative solutions, and more customer-focused service.

Is this legitimate?

Eligo Energy is BBB accredited and currently serves 100,000+ customers. As an authorized energy supplier we can offer you the most competitive rates.

What if I don't have my electricity bill handy?

No worries. Simply fill out as much as you can on our site and we'll remind you by email.

Will my electricity ever stop?

Nope. There are two sides of electricity service: supply and delivery. Usually your electric utility does both. When you change the supplier, your utility will continue to deliver electricity to you without interruption.

Why should I lock in rates now?

Energy rates are near multi-year lows - so it's best to do it now before they go back up.

Get your FREE energy quote today!

 EligoEnergy.com/home

 **888-258-6244**

 **Promo Code: <CKFAM>**

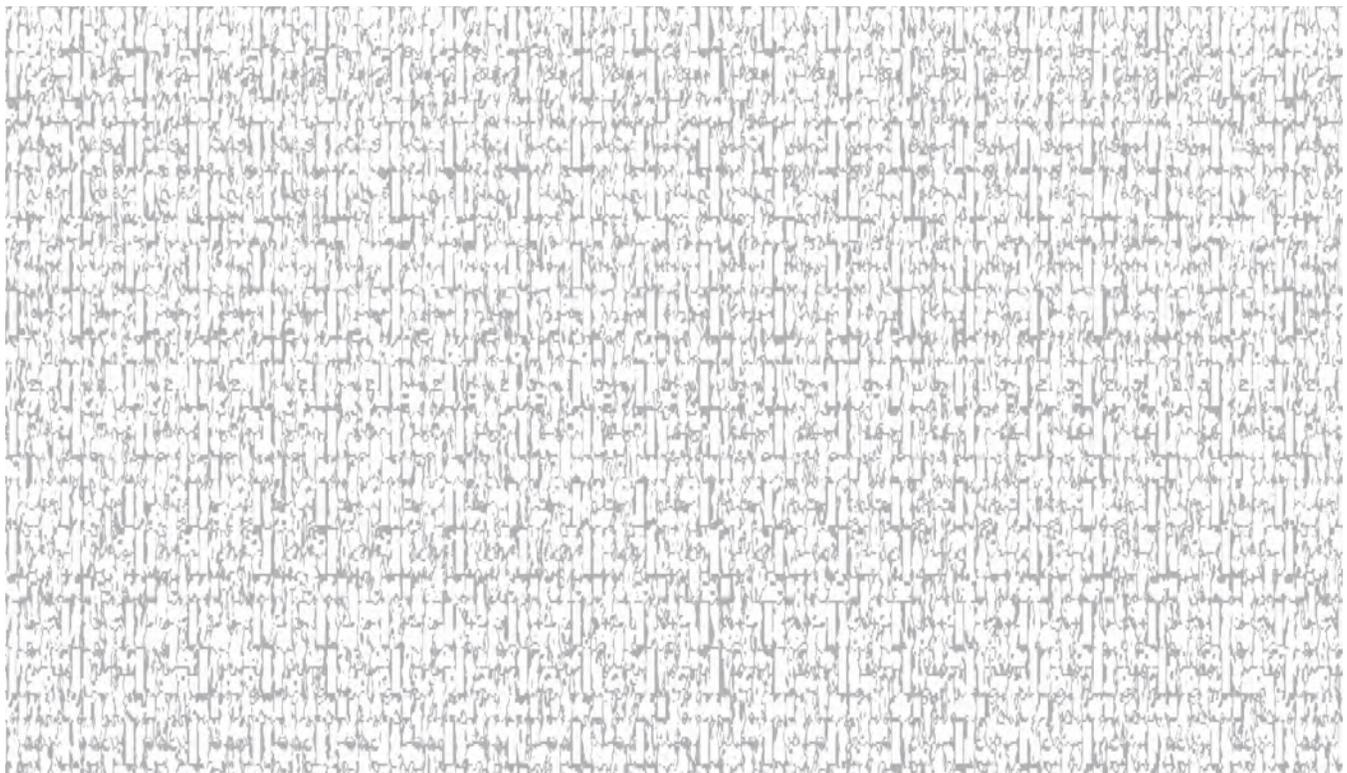


FINAL ELECTRIC NOTICE

ATTN RECIPIENT: REQUEST FOR IMMEDIATE ACTION - CHECK THE ENCLOSED



<Sample A. Sample>
<123 Oak Street>
<Hometown, US 12345>



▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼



Featured in:

Inc.5000 FORTUNE

PECO
Estimated Usage
Comparison

Average Usage	Your Estimated Usage
10,000 kWh	<28,888> kWh

Get your personal quote today!

EligoEnergy.com/home

888-258-6244

Promo Code: <CKFAM>

*Up To
20% Savings
a Year!*

NOTICE:

SELECT PECO CUSTOMERS CAN SAVE UP TO 20%

Did you know that as a household that has used <energy_variable> in kWh in the past year you are eligible to receive a lower rate on your electricity bill? Eligo Energy, an electric supplier with over 100,000 customers, is offering customers in PECO service territory a savings opportunity.

Since your household uses a high amount of energy, we can get a more competitive rate. Don't let PECO stick you with a generic rate. We can potentially save you up to 20% off your bill!

Here's How It Works:



Your energy bill has 2 main parts:
Delivery & Supply.

Delivery means distributing the energy i.e. via transmission lines.

Supply refers to energy purchased on the open market.



Think of us as a

Discount Club for energy.

Eligo Energy can also buy electricity on the open market, usually more efficiently, passing the savings on to you.



We are an **Authorized Supplier** in PECO service territory and our rates will appear on their bill. PECO still handles everything like reading the meter, and servicing you in a power outage.

It's That Easy!

The best part is your energy will still be delivered and serviced by PECO, but we lock in the lowest rate possible for **3-36 month plans**. You will never see a change in the quality of your electrical utility service, just savings on your monthly bill.

SAME ENERGY, SAME BILL, LOWER RATE

Visit EligoEnergy.com/home and get a free quote now! It takes only a couple of minutes. Or, call 888-258-6244. We'll tell you if we can help or if you should stay with PECO. This offer expires <Month XX, 2018> so hurry up!

Get your **FREE** personal quote today!

EligoEnergy.com/home

888-258-6244

Promo Code: <CKFAM>



ELIGOENERGY

1653 Lititz Pike
Suite #1028
Lancaster, PA 17601



*Length of actual term depends on your energy usage profile. Savings not guaranteed.

EXHIBIT 3

Why should I get a quote with you?

Eligo Energy is a direct supplier, so we can offer competitive products, innovative solutions, and more customer-focused service.

Is this legitimate?

Eligo Energy is BBB accredited and currently serves 100,000+ customers. As an authorized energy supplier we can offer you the most competitive rates.

What if I don't have my electricity bill handy?

No worries. Simply fill out as much as you can on our site and we'll remind you by email.

Will my electricity ever stop?

Nope. There are two sides of electricity service: supply and delivery. Usually your electric utility does both. When you change the supplier, your utility will continue to deliver electricity to you without interruption.

Why should I lock in rates now?

Energy rates are near multi-year lows - so it's best to do it now before they go back up.

Get your FREE energy quote today!

 EligoEnergy.com/home

 **888-807-1526**

 **Promo Code: <CKFAM>**

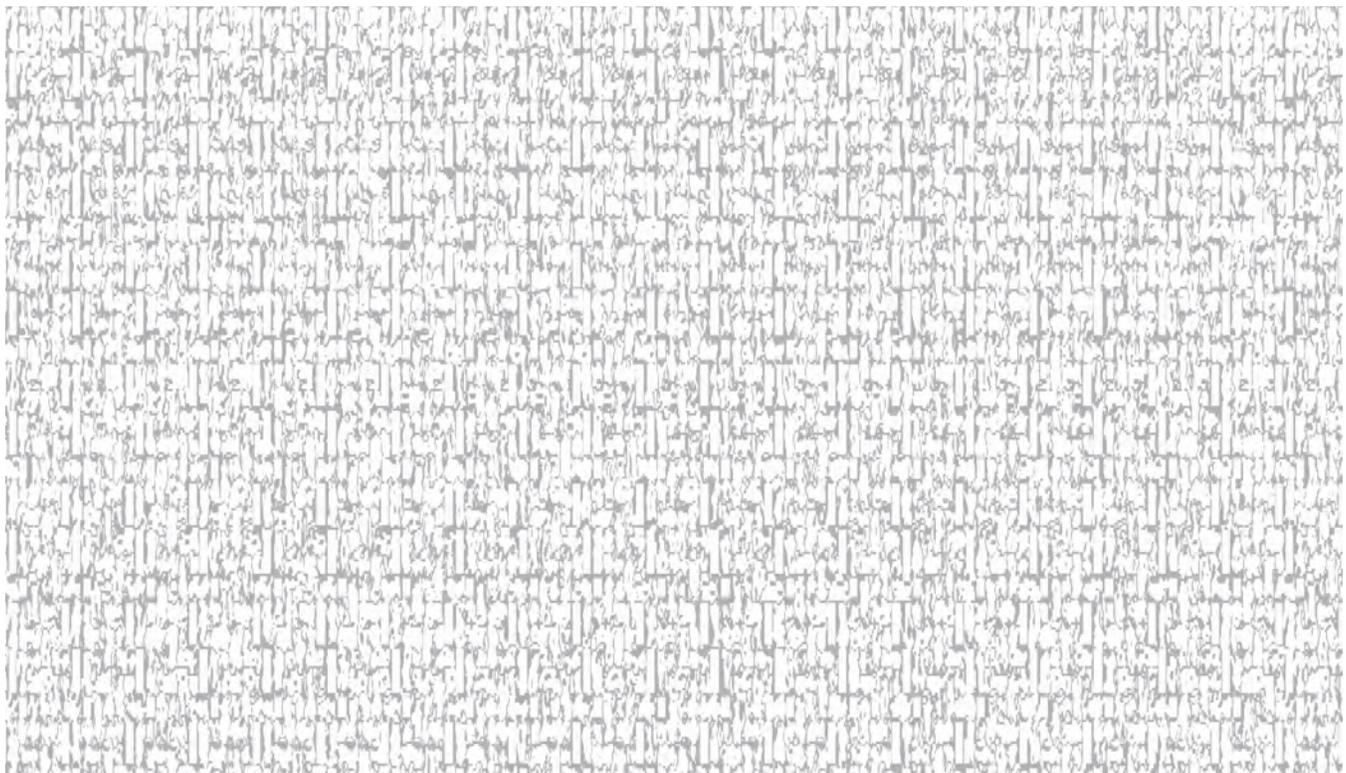


IMPORTANT ENERGY INFORMATION ENCLOSED

<Sample A. Sample>
<123 Oak Street>
<Hometown, US 12345>



RATE CHANGE NOTICE



▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼

▼ TO OPEN: FOLD AND TEAR ALONG DOTTED LINE ▼



Featured in:

Inc.5000 FORTUNE

Met-Ed

Estimated Usage Comparison

Average Usage	Your Estimated Usage
11,000 kWh	<28,888> kWh

Get your personal quote today!

EligoEnergy.com/home

888-807-1526

Promo Code: <CKFAM>

*Up To
20% Savings
a Year!*

NOTICE:

SELECT MET-ED CUSTOMERS CAN SAVE UP TO 20%

Did you know that as a household that has used <energy_variable> in kWh in the past year you are eligible to receive a lower rate on your electricity bill? Eligo Energy, an electric supplier with over 100,000 customers, is offering customers in Met-Ed service territory a savings opportunity.

Since your household uses a high amount of energy, we can get a more competitive rate. Don't let Met-Ed stick you with a generic rate. We can potentially save you up to 20% off your bill!

Here's How It Works:



Your energy bill has 2 main parts:
Delivery & Supply.

Delivery means distributing the energy i.e. via transmission lines.

Supply refers to energy purchased on the open market.



Think of us as a

Discount Club for energy.

Eligo Energy can also buy electricity on the open market, usually more efficiently, passing the savings on to you.



We are an **Authorized Supplier** in Met-Ed service territory and our rates will appear on their bill. Met-Ed still handles everything like reading the meter, and servicing you in a power outage.

It's That Easy!

The best part is your energy will still be delivered and serviced by Met-Ed, but we lock in the lowest rate possible for **3-36 month plans**. You will never see a change in the quality of your electrical utility service, just savings on your monthly bill.

SAME ENERGY, SAME BILL, LOWER RATE

Visit EligoEnergy.com/home and get a free quote now! It takes only a couple of minutes. Or, call 888-807-1526 . We'll tell you if we can help or if you should stay with Met-Ed. This offer expires <Month XX, 2018> so hurry up!

Get your **FREE** personal quote today!



EligoEnergy.com/home



888-807-1526



Promo Code: <CKFAM>



ELIGOENERGY

1653 Lititz Pike
Suite #1028
Lancaster, PA 17601



ACCREDITED BUSINESS



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement :
 :
v. : Docket No. M-2020-3019204
 :
Eligo Energy PA, LLC :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Joint Petition for Approval of Settlement** dated October 29, 2020, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail Only

Alexander Rozenblat, Esq.
Chief Legal Officer & Corporate Secretary
Eligo Energy, LLC
201 West Lake St.
Suite 151
Chicago, IL 60606
arozenblat@eligoenergy.com

John F. Povilaitis, Esq.
Alan M. Seltzer, Esq.
Buchanan Ingersoll & Rooney PC
409 North Second Street
Suite 500
Harrisburg, PA 17101-1357
john.povilaitis@bipc.com
alan.seltzer@bipc.com



Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov