

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrew Perrong	:	
	:	
v.	:	Docket # C-2020-3019899
	:	
Frontier Utilities Northeast, LLC	:	

**ANSWER TO RESPONDENT FRONTIER UTILITIES NORTHEAST, LLC’S  
MOTION FOR SUMMARY JUDGMENT**

Complainant ANDREW PERRONG hereby replies to the Motion for Summary Judgment of FRONTIER UTILITIES NORTHEAST, LLC (hereinafter “Respondent”) as follows:

1. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied

2. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

3. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

4. Denied. This averment is a conclusion of law to which no responsive pleading is

required. The characterization of Complainant as a “serial plaintiff” seeking “financial gain” is expressly denied and Complainant demands strict proof of the basis for such statements. To the extent that this averment contains an averment that is not a conclusion of law or which has not been otherwise responded to, that averment is denied.

5. Denied. This averment attempts to characterize Frontier’s status with the Commission and licensure status, and any attempt to characterize the same is therefore denied. Denied in all other respects.

6. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the formal complaint and other documents filed in this matter, which speak for themselves, and any attempt to characterize their contents is therefore denied. Denied in all other respects.

7. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

8. Denied. This averment attempts to characterize the formal complaint and the supplemental narrative thereto, which speaks for itself, and any attempt to characterize its contents is therefore denied. Denied insofar as this averment makes conclusions of law to which no responsive pleading is required. Denied in all other respects.

9. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the formal complaint and other documents filed in this matter, which speak for themselves, and any attempt to characterize their contents is

therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts, as more fully set forth in his Memorandum of Law. Denied in all other respects.

10. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the formal complaint and other documents filed in this matter, which speak for themselves, and any attempt to characterize their contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts, as more fully set forth in his Memorandum of Law. Expressly denied that The Fairway Address is Complainant's service address. Denied in all other respects.

11. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the formal complaint, the calls at issue in this case, and other documents filed in this matter, which speak for themselves, and any attempt to characterize their contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts, as more fully set forth in his Memorandum of Law. Expressly denied that The Fairway Address is Complainant's service address. Denied in all other respects.

12. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the Commission's TPV regulations and how the TPV operates, which speaks for itself. Denied in all other respects.

13. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the calls at issue in this case, which speak for themselves, and any attempt to characterize their contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts and states that

Respondent has no basis for its “association” argument as a matter of law, as more fully set forth in his Memorandum of Law. Expressly denied that Complainant made any representations as to the authority to make changes to an account associated with the The Fairway address or that the account number provided is associated with the The Fairway address. Denied in all other respects.

14. Denied. This averment is a conclusion of law to which no responsive pleading is required. Denied that Exhibit 3 is a publicly available copy of Complainant’s Commercial Pilot Certificate. Further denied that such documents are relevant or constitute admissible evidence in these proceedings. Denied in all other respects.

15. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the calls at issue and pleadings in this case, which speak for themselves, and any attempt to characterize their contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts and states that Respondent has no basis for its “association” argument as a matter of law, as more fully set forth in his Memorandum of Law. Denied in all other respects.

16. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize Complainant’s address, which speaks for itself, and any attempt to characterize its contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts and states that Respondent has no basis for its “association” argument as a matter of law, as more fully set forth in his Memorandum of Law. Denied in all other respects.

17. Denied. This averment is a conclusion of law to which no responsive pleading is

required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

18. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

19. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

20. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

21. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the calls at issue and pleadings in this case, which speak for themselves, and any attempt to characterize their contents is therefore denied. Further denied insofar as some or all of such documents relied upon are not relevant and do not constitute admissible evidence in these proceedings. Expressly denied that 215-322-XXXX is not a private residential telephone number. Denied in all other respects.

22. Denied. This averment is a conclusion of law to which no responsive pleading is required. As more fully detailed in Complainant's Memorandum of Law, there are genuine issues of material fact including, *inter alia*, the registration status of the Telephone Number. Respondent has no basis for its "association" argument as a matter of law, as more fully set forth in his Memorandum of Law. Denied in all other respects.

23. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize other pleadings filed by Complainant, which speak for themselves, and any attempt to characterize their contents is therefore denied. Further denied insofar as some or all of such documents relied upon are not relevant and do not constitute admissible evidence in these proceedings. Denied in all other respects.

24. Denied. Complainant is ignorant of Frontier's position on consumer rights and expressly alleges that Frontier desires to limit consumers' rights in order to perpetuate its illegal practices. This averment attempts to characterize other pleadings filed by Complainant, which speak for themselves, and any attempt to characterize their contents is therefore denied. Denied in all other respects.

25. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize other pleadings filed by Complainant, which speak for themselves, and any attempt to characterize their contents is therefore denied. Further denied insofar as some or all of such documents relied upon are not relevant and do not constitute admissible evidence in these proceedings. Denied in all other respects.

26. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize other pleadings filed by Complainant, which speak for themselves, and any attempt to characterize their contents is therefore denied. Further denied insofar as some or all of such documents relied upon are not relevant and do not constitute admissible evidence in these proceedings. Denied in all other respects.

Denied. This averment is a conclusion of law to which no responsive pleading is required. Denied insofar as this averment purports to assert that complainant is authorized by statute to bring an action under the Telemarketing and Consumer Fraud and Abuse Prevention Act or Telemarketing Sales Rule. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

27. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the address and telephone number at issue and pleadings in this case, which speak for themselves, and any attempt to characterize their contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts and states that Respondent has no basis for its “association” argument as a matter of law, as more fully set forth in his Memorandum of Law. Denied in all other respects.

28. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize the address and telephone number at issue and pleadings in this case, which speak for themselves, and any attempt to characterize their contents is therefore denied. Complainant further objects to the characterizations in this paragraph as disputed facts and states that Respondent has no basis for its “association” argument as a matter of law, as more fully set forth in his Memorandum of Law. Expressly denied that Complainant engaged in any misimpression. Denied in all other respects.

29. Denied. This averment is a conclusion of law to which no responsive pleading is required. This averment attempts to characterize other pleadings filed by Complainant, which speak for themselves, and any attempt to characterize their contents is therefore denied. Further

denied insofar as some or all of such documents relied upon are not relevant and do not constitute admissible evidence in these proceedings. Denied in all other respects.

30. Denied. This averment is a conclusion of law to which no responsive pleading is required. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied. Expressly denied that there are no disputed facts. Denied in all other respects.

31. Denied. This averment is a conclusion of law to which no responsive pleading is required. Expressly denied that Respondent is entitled to summary judgment. Further denied insofar as some or all of such documents relied upon are not relevant and do not constitute admissible evidence in these proceedings. To the extent that this averment contains an averment that is not a conclusion of law, that averment is denied.

### CONCLUSION

Complainant prays that the Commission DENY Respondent's Motion for Summary Judgment and grant any other relief in favor of Complainant that it deems meet and just.

Dated: **October 26, 2020**

 /s/

Andrew Perrong  
*Complainant Pro-Se*  
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**MEMORANDUM OF LAW IN OPPOSITION TO RESPONDENT FRONTIER  
UTILITIES NORTHEAST, LLC’S MOTION FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

This formal complaint seeks to hold Frontier Utilities Northeast, LLC (hereinafter “Respondent”) accountable for their violations of the Commission’s Regulations, namely 52 Pa. Code § 111.10, by, *inter alia*, calling complainant’s residential home telephone number on the National Do-Not-Call Registry, calling the complaint with a “spoofed” caller ID, misrepresenting their endorsement and sponsorship by PECO and the PUC, as well as failing to identify themselves as competitive electric suppliers.

Rather than own up to these actions, Respondent has resorted to advance a strange, baseless, and unsupported legal theory whereby they assert that Complainant’s actions during the call resulted in “associating” his residential home telephone number with a private mailbox that he uses. Respondent advances this argument despite being fully aware that they were attempting to sell the Complainant residential utility service. This, Respondent claims, transforms the illegal solicitations into solicitations for commercial electric service, which it claims are not covered by the protections of 52 Pa. Code § 111 (“Chapter 111”).

In a second futile attempt to shirk responsibility for and draw attention away from its most egregious violations pertaining to its illegal telemarketing, Respondent attempts to confuse the Commission into sophistic maneuvering by claiming that Complainant's actions, and not its own, "associated" its illegal actions with a solicitation for commercial electric service. In essence, Respondent is doing exactly what it tried to do in its Preliminary Objections: attempting to hoodwink the Commission into thinking that it was conducting commercial marketing activities, not based on any of its actions, but based on the purported actions of Complainant during the investigative and litigation process. In addition to being legally meritless, Respondent's Motion demonstrates the existence of disputed material facts and should therefore be denied.

## **II. STANDARDS FOR MOTIONS FOR SUMMARY JUDGMENT**

The Commission's Regulations authorize filing motions for summary judgment under similar circumstances to those authorized before courts of general jurisdiction within the Commonwealth. 52 Pa. Code § 5.102. Similarly, motions for summary judgment are similar to those of motions under Rule 56 of the Federal Rules of Civil Procedure. Accordingly, the Commission may only dismiss a complaint if the dismissal is supported by law. *Guesman v. Columbia Gas of Pa., Inc.*, No. C-2012-2326301 (Pa. PUC Jan. 4, 2013). Additionally, the Commission may only dismiss a complaint at summary judgment where, unlike here, there are no disputes of material facts. 52 Pa. Code § 5.102(d)(2).

## **III. RESPONDENT'S INTERPRETATIVE FRAMEWORK IS UNSUPPORTED BY LAW**

The bulk of Respondent's motion is premised on the assertion that Complainant "associated" his residential telephone number with a "business" address—a private mailbox service which he utilizes—and, as a result, renders Respondent's solicitation as one for commercial utility service,

which is not covered under Chapter 111 of the Utilities Code. *See* Mot. for Summ. J. at ¶¶7, 13, 15–17. This argument should fail for two reasons. *First*, Respondent is unable to advance any legal rationale why the Commission should consider or adopt its framework, which would have the effect of essentially undermining the Commission’s regulatory powers over a supplier’s advertising conduct. *Second*, Respondent’s declarations and conduct during the calls in question illustrates that, *under the very same framework Respondent advances*, the calls were made for the purpose of soliciting residential electric customers, which “associate” the calls with solicitations to residential customers.

*a. Respondent’s “association” framework is unsupported and dangerous.*

Respondent, *without advancing any argument as to why the Commission should adopt its interpretative framework*, relies on a specious legal theory in which it asserts that the consumer protection provisions in Chapter 111 do not apply if a business address is provided during the process of a call. Respondent claims that this is the case, despite the fact that *Respondent* initiated the call, to a *residential* customer, for the purpose of selling *residential* electric service. *See generally* Compl. Supp. Narrative. Respondent is unable to cite to any legal theory supporting such a specious argument because none exists. Federal law is particularly instructive when it comes to interpreting whether a telephone number is residential, and multiple courts have expressly rejected the framework relied upon by Respondent here. *See, e.g., Cunningham v. Capital Advance Sols., LLC*, No. 17-13050, 2018 U.S. Dist. LEXIS 197590, at \*10 (D.N.J. Nov. 20, 2018). In *Cunningham*, the defendants alleged that the plaintiff’s prior litigation history demonstrated that he was not a residential telephone subscriber, and therefore not afforded the protections for residential customers under the Federal Telephone Consumer Protection Act, because he allegedly pursued litigation as a business. *Id.* The district judge, in rejecting this

*associative* argument, gave great deference to plaintiff's averments that the number was *actually* used for residential purposes. *Id.* Besides, as Complainant explains below, Complainant's number is a residential number and Complainant uses it for residential and household purposes, and this material fact is disputed. *See also* Perrong Aff. ¶6.

Complainant's representations made during an illegal call that Respondent initiated for the purpose of soliciting residential electric service should in no way affect his rights as a consumer. In effect, Respondent claims that if a business address is provided during a call that it initiated, that number is magically transformed into a business number for the purposes of determining applicable marketing regulations under the Utilities Code. But the mere fact that the Plaintiff provided a private *residential* mailbox address to the agent during a call to his *residential* number, when the caller was calling to solicit Plaintiff for Frontier's *residential* electric service does not make the call a non-residential call, nor does it magically transform the solicitation into one for commercial electric service. If it did, than any consumer who provided a private mailbox or PO box address when signing up for utility service would be ineligible for the consumer protections provided for in Chapter 111, even if the service was for a residential address.

Requiring the Commission to examine representations made during a violative solicitation would allow suppliers to duck liability under Chapter 111 by prefacing any solicitation that the call should be considered as one for commercial electric service. Obviously, such an argument strips the Commission of its regulatory authority, and it seems incongruous that the Legislature would have intended such an absurd result.

Moreover, Respondent's interpretation is radically underinclusive because it excludes from Chapter 111's protection any supplier-consumer interaction that occurs outside of those where the telephone number and address are both residential. Under Respondent's framework, a supplier who gave a seminar at a place of business or set up a table to solicit customers at a store or train station would not be subject to the provisions of Chapter 111 because the solicitations took place in a business setting. One can envision other scenarios, such as a landlord or property management firm, where residential electric service is provided to a residential address but where all correspondence is mailed to a business address. If Respondent's framework were adopted, these would all be scenarios where Chapter 111 would not apply. Conversely, a person calling from their work telephone to inquire about their residential electric service would be unable to avail themselves of the protections of Chapter 111. Shall the Commission deprive the individuals in these hypotheticals from the protections of Chapter 111? Certainly not, but this would be the inevitable consequence if the Commission adopted Respondent's "association" framework.

*b. Frontier's conduct demonstrates residential aiming.*

Notwithstanding Respondent's inability to articulate why the Commission should adopt its legal framework or provide any rationale or method for applying it, such interpretation is squarely rebutted by the fact that Frontier's express conduct during the calls makes it clear that it was designed to solicit residential electric customers. Under its very framework, whereby statements made during an energy marketing pitch "associate" a solicitation with residential or commercial utility service for the purpose of applying Chapter 111, the statements of Frontier's agents indicate that the purpose of the calls was to solicit *residential* electric service. Therefore, the protections of Chapter 111 unquestionably apply to the solicitations.

Exhibit “A” is a true and correct transcript of the first call placed from Respondent to Complainant’s residential telephone number, 215-322-XXXX. At the outset of the call, “Jordan Smith” illegally and fraudulently states that he is “calling from the supply department of PECO.” Ex. A at 00:12. Mr. Smith then wants to “make sure that the benefit goes on the right customer’s account” and provides a “service address” of “841 Willow Street, Southampton Pennsylvania, 18966.” Ex. A at 00:56, 01:09. Public records indicate that 841 Willow Street is zoned “Residential” and is a “Ranch” type home. Ex. B. Evidently, Respondent was attempting to contact a resident of 841 Willow Street, a residential address, and seeking to solicit them to sign up for Frontier’s residential electric service. Complainant instead corrected the agent and provided his The Fairway address and an electric account number which is *not* associated with The Fairway address. Ex. A at 02:46, 03:40.

Exhibit “C” is a true and correct transcript of the second call placed from Respondent to Complainant’s residential telephone number, 215-322-XXXX. During this call, Mr. Smith, who had previously not identified himself, states that “the name of the supplier would be Frontier Utilities.” Ex. C at 01:18. Mr. Smith then asks the Complainant if he has “any assistance from the government to pay the bills, like CAP program, C-A-P program.” Ex. C at 01:35. The CAP Program is “designed to help low-income *residential* customers maintain utility service.” *Utility Assistance Programs*, Pennsylvania Public Utility Commission, <https://www.puc.pa.gov/about-the-puc/consumer-education/utility-assistance-programs/> [<https://archive.is/h6u61>] (emphasis added). Importantly, Mr. Smith asked this question *after* the Complainant had provided him—and Mr. Smith confirmed—his The Fairway address. Ex. A at 02:46. It would be incongruous to ask this question if Respondent was not attempting to victimize residential customers, like

Complainant. Indeed, the very fact that Respondent asked this question demonstrates that it was not applying its “association” framework at the time of the call.

#### **IV. COMPLAINANT’S EVIDENCE DEMONSTRATES RESIDENTIAL STATUS**

As complainant has argued, the Commission should disregard Respondent’s “association” argument because it is unsupported by law and sets a dangerous precedent and because an analysis under that very framework leads to the opposite conclusion that Respondent alleges. Looking to the facts of this case, Complainant has also demonstrated (a) that his telephone number is a residential number, (b) that his The Fairway address is residential, and (c) that these averments are not inconsistent with those in the proceedings in this case. On this basis, the Commission must conclude, at the very least, that there are material facts in dispute in these proceedings.

##### *a. Complainant’s telephone number is residential.*

Complainant’s 215-322-XXXX telephone number is a residential telephone number. This has been the uniform averment of Complainant since he initiated these proceedings. Compl. Supp. Narrative at ¶5. In an effort to uncover details about the nature of the telephone number it contacted or in an attempt to refute these allegations directly, Respondent could have sought discovery as to Complainant’s use of the telephone number or its registration status with his telephone carrier. Respondent did not do so, presumably because it knew that such discovery would reveal that the number is associated with a residence, as Complainant has averred. As demonstrated in Exhibit “D”, Complainant’s telephone number is on the National Do-Not-Call Registry, which only permits registration of *residential* telephone numbers. Ex. D. The FCC has confirmed that registrations on the Do-Not-Call registry are presumably residential.

Complainant has also executed an affidavit in which he confirms the registration status of the telephone number on which he was contacted. Perrong Aff. ¶5. More to the point, Complainant also states, *under penalty of perjury*, that the 215-322-XXXX number's billing and service address is zoned as "Residential" in county property records and is not The Fairway address. Perrong Aff. And compare Complainant's allegations of the residential uses of his home telephone in his affidavit with the allegations in *Cunningham*. Compare Perrong Aff. ¶6 with *Cunningham*, 2018 U.S. Dist. LEXIS 197590, at \*12 ("personal, family, and household use").

Furthermore, even if true, the allegation that Complainant's telephone number is related to a commercial electricity service address is likewise legally unavailing. If Respondent is to be believed, a competitive electric supplier would not be liable for violating Chapter 111 if it called a residential electric subscriber's cellular telephone and violated one of its provisions if that number was, for example, a work cell phone. Similarly, if a supplier called a customer on their cellular telephone, but the customer has their residential telephone number on file with their existing utility, the provisions of Chapter 111 would not apply. Moreover, in Respondent's world, if a victim used their cellular telephone in any matter to transact business, even business wholly unrelated to the solicitation at issue, the victim would have no claim against a competitive supplier that violated the Utilities Code.

Respondent ignores the actual registration status and location of the telephone number at issue in this case *entirely*. Indeed, taken in the light most favorable to Respondent, there are factual issues surrounding the alleged status of the telephone number at issue in this case. The fact that Complainant had the misfortune of being contacted by Respondent on a telephone number that is indisputably residential should be dispositive of this issue, regardless of any conduct alleged to have occurred during the call.

b. *Complainant's The Fairway address is residential.*

The fact that the The Fairway address is a private residential mailbox should not change the analysis, either. The money Respondent spent in sending an employee from Texas to Pennsylvania to photograph a mailbox and shopping center on its behalf could have better been spent on investing in compliance with the provisions of the Utilities Code. *Wasserman Aff.* The photos presented by Respondent prove nothing. All they prove is that Complainant's private residential mailbox happens to be in a building which appears commercial. But just because a private residential mailbox is in a commercial building does not make it commercial. That Complainant's private residential mailbox is located in a business complex does not turn it into a business address any more than living in the back room of a business complex turns that complex into a residence. *Margulis v. Fairfield Resorts, Inc.*, No. 03AC-008703VCV, 2004 WL 5400462 (Mo. Cir. Aug. 03, 2004).

The Complainant uses the The Fairway address for residential purposes. *Perrong Aff.* ¶7. The Complainant receives personal mail there. *Id.* Millions of persons in this country use private mailboxes and PO boxes to conduct personal business, receive bills, correspondence, and packages. There is nothing illegal, unethical, or untoward about the use of private mailboxes. Persons who use them for residential purposes should in no way have this use used against them, especially for the purpose of enforcing and interpreting consumer protection statutes.

Furthermore, Complainant's provision of his The Fairway address to the Frontier agent demonstrates, if anything, that Complainant is concerned with protecting his privacy and stymied an attempted "slamming" by Respondent. The Commission has expressed grave concern over competitive electric suppliers "slamming" customers. *See generally PUC v. Verde Energy USA, Inc.*, No. C-2020-3017229 (Pa. PUC June 30, 2020). Indeed, Complainant's provision of an

address which was not his service address appears to have stopped the “slamming” attempt. Answer at ¶4(b). Instead, Respondent attacks Complainant for taking these measures designed to protect his privacy and prevent “slamming” and has undertaken to “doxx” the Complainant by revealing another address in a public pleading.

Complainant has received death threats, suspicious activity, unsolicited visits from angry telemarketers, and similar such nonsense at places in which he has lived as a result of his consumer advocacy. Perrong Aff. ¶17. As a result, Complainant endeavors to use his private mailbox as much as possible unless absolutely necessary and refrains, as a general matter, and as much as he is able, from using any other address. Complainant provided his The Fairway address on the formal complaint form for identical reasons. Responded has not provided, and complainant is unaware of, any authority, either in this Commonwealth or in any other state or jurisdiction, holding that the use of a private mailbox or PO box for residential purposes in any way substantively affects a person’s classification under consumer protection statutes.

Again, Respondent’s reading of the facts lends itself to absurd conclusions. Applying Respondent’s arguments, any address at which business is conducted, such as Counsel’s home office, would be considered a “business” address, subject to commercial tariffs, and not be subject to the consumer protections of Chapter 111. Complainant is unaware of any PUC authority which authorizes utilities to charge commercial rates to customers who operate home offices. Similarly, applying Respondent’s reasoning, any consumer who purchased goods and had them shipped to a private mailbox or PO box would not be able to avail themselves of the protections of the Unfair Trade Practices and Consumer Protection Law.

*c. Complainant's formal complaint form is not inconsistent with residential usage.*

The Complainant placed the telephone number 215-791-6957 under the PUC's formal complaint form under the block for the "home" number merely because that seemed to be the most logical block to place the number in which he desired to be contacted about the proceedings by the Commission, if necessary. The 6957 number is not a cellular telephone number, so the only other block that makes sense is to place it under "home". That the Complainant placed his number in the best block when presented with two blocks in a form, neither of which completely capture the nature of the number, should not form the basis for an implausible inference in making a Motion for Summary Judgment. Indeed, immediately above the two blocks, the form requests the Complainant to "provide a telephone number which the Commission can contact" the Complainant, and Complainant did so by providing the preferred number through which he desired to be contacted. Complainant has followed that up in all his pleadings, including this one.

Even if the Commission was inclined to associate a telephone number with Complainant's The Fairway Address, the 6957 number should control. The purpose of providing the 6957 number instead of the number on which Respondent contacted him is twofold. First, Complainant uses the 6957 telephone number on all his public pleadings to protect his privacy from docket trolls and other persons who may threaten him. Additionally, using a number for use on pleadings streamlines communications with tribunals and opposing counsel, since Complainant knows that calls received on that number are pertaining to a pending legal matter. Moreover, not providing the number on which he was contacted safeguards Complainant's private home telephone number from the public docket and preserves his privacy interests, which is one of the purposes for which the Complainant has brought this Complaint.

Obviously, the complaint form makes the assumption that the Commission will hear the majority of complaints from Customers who are experiencing problems with their utility services. Complainant specified no utility account number on his complaint, and so should have made it clear to the Commission that his Complaint pertains to Respondent's marketing and sales conduct and not any particular account. The Complainant does not know the electric account number for the The Fairway address and did not provide the electric account number for the The Fairway address on the calls. Perrong Aff. ¶8. Indeed, on these facts, Complainant expressly disavowed any association between the address provided and any characterization of the electric service provided, the account number, or the telephone number on which he received the illegal marketing conduct from Respondent.

Again, taken to its logical end, Respondent's position would drastically reduce the number of persons who could seek redress from the Commission for illegal actions of licensees. Applying Respondent's argument, the Commission would have no choice but to dismiss complaints merely because the complainant placed a different number on their complaint form from that on which the licensee's illegal conduct took place. Such a conclusion is patently absurd, as Respondent itself concedes. Mot. for Summ. J. at 2 (recognizing a need for the Commission to "preserv[e] its processes for those consumers who legitimately require the protections afforded to them.").

## **V. RESPONDENT'S ATTACKS ON COMPLAINANT**

Respondent also alleges that the Respondent is entitled to summary judgment because Complainant is "experience[d] in the use of the judicial system." Mot. for Summ. J. at ¶25. Respondent avers that Complainant's experience, as well as his unrelated allegations and conduct in another case alleging violations of the Telephone Consumer Protection Act, not the Utilities Code, somehow support Respondent's characterization that the Complainant is

deliberately attempting to mislead the Commission. Mot. for Summ. J. at ¶29. Respondent alleges that this experience supports its interpretative posture for its “association” argument. *Id.*

As a preliminary matter, the Complainant has already demonstrated that Respondent’s interpretative framework should be rejected as legally unsupported on face because of its absurd result and because applying the framework in light of the representations made by Respondent and its agents during the calls in question leads to the opposite conclusion. Complainant has also furthered a much more plausible reading of events which also demonstrate the existence of disputed factual issues. The Complainant has already demonstrated in the preceding sections that he engaged in no misleading conduct and squarely rebutted Respondent’s incredulous interpretations of the facts at issue here which they contend support the conclusion that the solicitations were for business electric service and therefore not covered under Chapter 111 of the Utilities Code.

Moreover, Complainant has already addressed his substantial privacy interests and how his use of a private mailbox and a telephone number to place on pleadings and his use of a private mailbox with those who call him further those interests. The best Respondent can muster is that, because of Complainant’s litigation history, the Commission should nevertheless use its radical interpretative framework to hold that Complainant “associated” his number with a business.

Notwithstanding these facts, Complainant feels compelled to address the unsubstantiated, false, and calumnious assertions that the Complainant is bringing this action for an improper purpose or for some other ulterior motive other than the desire to vindicate his rights, and to further illustrate how Respondent should not be given deference in its framework. In making this instant Motion, Respondent is simply rehashing and recasting old arguments that it advanced in support of its Preliminary Objections. The Commission has already overruled these arguments

and recognized that Complainant is seeking to enforce the Commission's regulations and is entitled to do so. *See* Order Denying Resp'ts Prelim. Objections at 3–4.

In ruling on the Preliminary Objections, the Commission realized the need and right of consumer advocates to bring complaints alleging violations of the Commission's regulations. This is Complainant's first (and only) time doing so. Like in federal litigation, Complainant is unaware of any rule of the Commission which states that a consumer may only bring a complaint against a subset of licensed entities who have wronged him. *See Cunningham v. Rapid Response Monitoring Servs., Inc.*, 251 F. Supp. 3d 1187, 1194-97 (M.D. Tenn. Apr. 26, 2017) (“Litigation is not college athletics: there is no ‘amateurs only’ rule.”).

But for Complainant's action in bringing the Complaint, the Commission would not have been aware of Respondent's illegal pattern of conduct and violations of the Utilities Code, and would likely have continued to victimize with impunity innocent consumers who are not as knowledgeable or prepared to fight back. That Complainant used a private mailbox to identify and confirm the entity who called him and uttered false and misleading statements to him in no way should affect his right to bring claims under Chapter 111. *See Mey v. Venture Data, LLC*, 245 F. Supp. 3d 771, 783 (N.D. W. Va. 2017) (holding that plaintiff's use of “sophisticated” equipment did not “deprive the plaintiff of standing any more than the purchase of a burglar alarm would indicate that the homeowner wanted her house to be broken into”).

## **VI. CONCLUSION**

Knowing that Complainant has evidence proving its misrepresentations, illegal conduct, and violations of the Utilities Code, Respondent has chosen to pivot away from these allegations and make the shocking argument that Section 111 should not apply to its own illegal conduct. Citing no authority for its position, and ignoring its own illegal conduct and representations during the

calls it placed, it claims that Complainant's conduct during the calls and in these proceedings somehow "associated" the telephone number at issue, and therefore the telephone solicitations, with those for commercial, not residential, utility service. As Complainant has demonstrated, such an incredulous reading has no bases, and is squarely controverted by the evidence in this case.

Indeed, based on their vicious attacks against Complainant, it would be unsurprising if it was later revealed that Respondent was a serial violator of the Utilities Code and continues to violate it. Respondent does not care about enforcement of legitimate claims, justice, or public interest. Its actions squarely rebut that fact. Respondent only cares that it got caught. For these reasons, the Complainant prays that the Commission DENY Respondent's Motion for Summary Judgment.

Dated: **October 26, 2020**

 /s/

---

Andrew Perrong  
*Complainant Pro-Se*  
1657 The Fairway #131  
Jenkintown, PA 19046  
Phone: 215-791-6957  
Facsimile: 888-329-0305  
andyperrong@gmail.com

**CERTIFICATE OF SERVICE**

Pursuant to 52 Pa. Code § 1.54, I hereby certify that I served a copy of the foregoing via

E-Mail and First Class Mail, to:

Deanne O'Dell, Esquire  
Eckert Seamans Cherin &  
Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
dodell@eckertseamans.com

Rosemary Chiavetta,  
Secretary  
Pennsylvania Public Utility  
Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Hon. Elizabeth Barnes  
Administrative Law Judge  
Pennsylvania Public Utility  
Commission  
PO Box 3265  
Harrisburg, PA 17105  
ebarnes@pa.gov

I also certify that I e-filed the foregoing with the Commission via their web portal.

Dated: **October 26, 2020**

 /s/ 

Andrew Perrong  
*Complainant Pro-Se*  
1657 The Fairway #131  
Jenkintown, PA 19046  
Phone: 215-791-6957  
Facsimile: 888-329-0305  
andyperrong@gmail.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrew Perrong	:	
	:	
v.	:	Docket # C-2020-3019899
	:	
Frontier Utilities Northeast, LLC	:	

**AFFIDAVIT OF ANDREW PERRONG**

I, Andrew Perrong, being duly sworn, do hereby affirm according to law, depose, and say that the facts set forth below are true and correct to the best of my knowledge, information and belief:

1. My name is Andrew Perrong. I am over 18 years old. I am of sound mind, and I can testify competently to the undersigned statements.
2. My home residential telephone number 215-322-XXXX is on the National Do-Not-Call Registry and has been since at least November of 2018. I have never removed it from the National Do-Not-Call Registry.
3. According to my telephone carrier billing records, the telephone number 215-322-XXXX is not associated with the address 1657 The Fairway #131, Jenkintown, PA 19046.
4. In fact, my telephone carrier billing records indicate that the billing and service address for 215-322-XXXX is a single family home in Pennsylvania. In addition, I have verified that this address is zoned "Residential" in county property records.
5. My telephone plan for 215-322-XXXX is not a commercial or business service. Instead, it is a residential service.
6. I use the 215-322-XXXX number for personal, residential, and household use, such as contacting family and friends, including family overseas. I also receive calls from friends and family on this number, including family overseas.

7. My mailing address is 1657 The Fairway #131, Jenkintown, PA 19046. I use this address for residential purposes. I receive personal mail at this address. I receive mail addressed to myself at this address.
8. I do not know who provides the electric service at 1657 The Fairway, Jenkintown, PA 19046 or 1657 The Fairway #131, Jenkintown, PA 19046. I do not know and have never provided anyone the electric account number for 1657 The Fairway, Jenkintown, PA 19046 or 1657 The Fairway #131, Jenkintown, PA 19046.
9. I do not know who provides the electric service for the entities identified in Respondent's affidavit as "The Postal Factory," "Baederwood Shoppes on the Fairway," or "Baederwood Offices on the Fairway." I do not know and have never provided anyone the electric account number(s) for any of these entities.
10. The account number which I provided on the calls, 70038-19799, is not associated with 1657 The Fairway, Jenkintown, PA 19046, 1657 The Fairway #131, Jenkintown, PA 19046, or the entity identified in Respondent's affidavit as "The Postal Factory," "Baederwood Shoppes on the Fairway," or "Baederwood Offices on the Fairway."
11. I have extensive technical experience, including in the field of telephony.
12. This experience has given me insight into the methods competitive electric suppliers use to conceal their identities while committing violations of the Utilities Code and has allowed me to develop methods of identifying those suppliers who violate the Utilities Code.
13. For example, one method used by Respondent in this case was to send calls using the caller ID 1010040, which is an invalid NPA/NXX combination. The only way this can be achieved is through caller ID "spoofing." Simply put, the number is invalid and bogus.

14. The other caller ID used by Respondent was 215-637-9305, which appears to be that of a local resident. Unless the local resident operates Respondent's call center and staffs them with offshore agents calling themselves "Jordan Smith", this is another case in which Respondent "spoofed" the caller ID to manipulate it to make it appear that it originated from a local number.
15. As more fully set forth in my Supplemental Narrative and Brief in Opposition to Respondent's Motion for Summary Judgment, I was aware that the call was a potential "slamming" attempt and did not want to have my electric service switched to Respondent. I did, however, want to identify the entity responsible for their violations of consumer protection statutes, including the Utilities Code.
16. For these reasons, and in an effort to investigate the origin of the calls and resolve the misrepresentations made by Respondent during the calls, I provided my mailing address 1657 The Fairway #131, Jenkintown, PA 19046.
17. I did not provide the address at which I lived because I value my privacy and have experienced issues in the past with individuals and entities making death threats to me and paying unsolicited and threatening visits to me.
18. By Respondent's own admission, my participation in the calls placed to me through the TPV (third party verification) process allowed it to identify the vendors and agents whom it hired to make the calls while at the same time preventing an unwanted and unauthorized change of electric service.
19. I brought this complaint because I know that there are likely thousands more people in a similar situation such as myself, having been lied to by Respondent and received illegal calls from Respondent without their consent. This complaint was brought not for personal

motives or financial gain, but as a bulwark for the rights of consumers against competitive suppliers who violate the Utilities Code.

FURTHER AFFIANT SAYETH NAUGHT

Commonwealth of Pennsylvania, County of

Bucks. Signed and sworn to

before me on 10-26-20 by

Andrew Perrong.

[Signature]

Notary Public

[Signature]

Commonwealth of Pennsylvania - Notary Seal  
ALINA PUSKELNIK - Notary Public  
Bucks County  
My Commission Expires Feb 12, 2024  
Commission Number 1203859

[Signature]

Andrew Perrong

**EXHIBIT**

**“B”**

**Parcel**

---

Included Parcel No  
Included Parcel Parent  
Has Included Parcel

Property Address 841 WILLOW ST  
Unit Desc -  
Unit #  
City SOUTHAMPTON  
State PA  
Zip 18966

File Code 1 - Taxable  
Class R - Residential  
LUC 1002 - Ranch  
Additional LUC -  
School District S04 - CENTENNIAL SD  
Special Sch Dist -

Topo -  
Utilities 1 - All Public  
Roads 1 - Paved

Total Cards 1  
Living Units 1  
CAMA Acres 0

**Parcel Mailing Details**

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In Care Of  
Mailing Address 1027 FREDERICK RD  
  
MEADOWBROOK PA 19046

**Current Owner Details**

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Name REIMOLD, JEAN

In Care Of  
Mailing Address 1027 FREDERICK RD  
  
MEADOWBROOK PA 19046

Book 6473  
Page 1427

**Owner History**

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Date	Owner Name 1	Owner Name 2	Address	Recorded Dt	Sale Date	Book	Page
18-MAY-18	REIMOLD, JEAN		1027 FREDERICK RD	16-AUG-10	13-AUG-10	6473	1427
19-NOV-02	MCALINN, JAMES ,III & HEATHER			19-NOV-02	30-SEP-02	2978	1177
15-SEP-97	WEBB, THOMAS D & JACQUIE			15-SEP-97	09-SEP-97	1450	2067

**Residential**

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Card 1

Year Built 1951

Remodeled Year

LUC 1002 - Ranch

ESTIMATED Ground Floor Living Area 768

ESTIMATED Total Square Feet Living Area 960

Number of Stories 1

Style 02 - Ranch

Bedrooms 0

Full Baths 1

Half Baths 0

Total Fixtures 5

Additional Fixtures 0

Heating 2 - Basic

Heating Fuel Type -

Heating System -

Attic Code 3 - Partly Finished

Unfinished Area

Rec Room Area

Finished Basement Area

Fireplace Openings 0

Fireplace Stacks 0

Prefab Fireplace

Bsmt Garage (Num of Cars) 0

Condo Level

Condo Type -

Basement 1 - None

Exterior Wall 1 - Frame or Equal

**Additions**

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Card #	Addition #	Lower	First	Second	Third	Year Built	Area
1	0	-	-	-	-		768
1	1	-	12 - EFP	-	-		336

**Land**

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Line Number 1

Frontage

Depth 115.0000

Units

CAMA Square Feet

CAMA Acres

**Legal Description**

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Municipality 48

School District S04

Property Location 841 WILLOW ST

Description -  
 Building/Unit #  
 Subdivision Parent Parcel 48013144  
 Legal 1 WILLOPENN LOT #48  
 Legal 2 1745-345  
 Legal 3 55X115  
 Deeded Acres  
 Deeded Sq Ft

**Values**

Exempt Land 0  
 Exempt Building 0  
 Total Exempt Value 0  
 Assessed Land 3,640  
 Assessed Building 9,560  
 Total Assessed Value 13,200  
 Estimated Market Value 140,420

**Assessment History**

Date	Reason CD	Notice Date	Effective Date	Land Asmt	Bldg Asmt	Total Asmt	319 Land	319 Bldg	319 Homestead Total Mailed?	Tax Year
02-JUL-20	390 - School			\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2020
31-JAN-20	999 - Year End Certification			\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2020
03-JUL-19	390 - School			\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2019
26-JAN-19	999 - Year End Certification			\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2019
28-APR-11	374 - Ratio Change 2005 Tax Year	05-JAN-05	01-JAN-05	\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2010
28-APR-11	374 - Ratio Change 2005 Tax Year	05-JAN-05	01-JAN-05	\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2009
28-APR-11	374 - Ratio Change 2005 Tax Year	05-JAN-05	01-JAN-05	\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2008
28-APR-11	374 - Ratio Change 2005 Tax Year	05-JAN-05	01-JAN-05	\$3,640	\$9,560	\$13,200	\$0	\$0	\$0 M	2007
28-APR-11	374 - Ratio Change 2005 Tax Year	05-JAN-05	01-JAN-05	\$3,640	\$9,560	\$13,200	\$0	\$0	\$0	2005

**ASSESSMENT HISTORY**

Note: To find the current assessment for totally exempt parcels you MUST refer to the Values Tab. Parcels that are partially taxable and partially exempt will show the assessed taxable portion only in the Assessment History Tab.

**Sales**

Sale Date	Sale Price	New Owner	Old Owner
13-AUG-10	200,000	REIMOLD, JEAN	MCALINN, JAMES ,III & HEATHER
30-SEP-02	138,000	MCALINN, JAMES ,III & HEATHER	WEBB THOMAS D & JACQUIE
09-SEP-97	116,000	WEBB, THOMAS D & JACQUIE	TOWNSEND ROBERT A P&ELAINE
18-NOV-63	0	TOWNSEND, ROBERT A P&ELAINE	

**Sale Details**

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Sale Date	13-AUG-10
Sales Price	200,000
New Owner	REIMOLD, JEAN
Previous Owner	MCALINN, JAMES ,III & HEATHER
Transfer Tax	2000.00
Recorded Date	16-AUG-10
Instrument Type	
Book	6473
Page	1427
Instrument No.	20100551770001

**Estimated Tax Information**

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County		\$335.94
Municipal		\$354.82
School		\$1,940.57
	Total	\$2,631.33

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PLEASE NOTE THAT THE MUNICIPAL RATES DO NOT INCLUDE SPECIAL TAXES, IE: TRASH; ELECTRIC; FIRE HYDRANTS, ETC. THAT INFORMATION MAY BE OBTAINED FROM YOUR LOCAL TAX COLLECTOR DIRECTLY.

**EXHIBIT**

**“D”**

# National Do Not Call Registry - Your Registration Is Confirmed

1 message

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**Verify@donotcall.gov** <Verify@donotcall.gov>

Thank you for registering your phone number with the National Do Not Call Registry. You successfully registered your phone number ending in [REDACTED] on November 12, 2018. Most telemarketers will be required to stop calling you 31 days from your registration date.

Visit <https://www.donotcall.gov> to register another number or file a complaint against someone violating the Registry.

\*\*\*\*\*

Please do not reply to this message as it is from an unattended mailbox. Any replies to this email will not be responded to or forwarded. This service is used for outgoing emails only and cannot respond to inquiries.