



Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101

TEL: 717 237 6000
FAX: 717 237 6019

October 12, 2021

Karen O. Moury
717.237.6036
kmoury@eckertseamans.com

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: Fei Dong v. Stream Energy Pennsylvania, LLC d/b/a Stream Energy
Docket Nos. C-2021-3027641 and C-2021-3027671

Dear Secretary Chiavetta:

Enclosed for electronic filing please the Motion to Consolidate of Stream Energy Pennsylvania, LLC d/b/a Stream Energy with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Karen O. Moury

Karen O. Moury

Enclosure

cc: Certificate of Service (with Enclosures)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing Motion to Consolidate upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Fei Dong
116 Coachlight Circle
Chalfont, PA 18914
Feidong07@gmail.com

Hon. Charles E. Rainey, Jr.
Chief Administrative Law Judge
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120
bobbwillia@pa.gov

Date: October 12, 2021

/s/ Karen O. Moury

Karen O. Moury, Esquire
Counsel for
The Pittsburgh Water and Sewer Authority

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fei Dong,	:	
	Complainant,	:
	:	Docket Nos.
v.	:	C-2021-3027641
	:	C-2021-3027671
Stream Energy Pennsylvania, LLC d/b/a	:	
Stream Energy,	:	
	Respondent.	:

NOTICE TO PLEAD

To: Fei Dong
116 Coachlight Circle
Chalfont, PA 18914
Feidong07@gmail.com

You are hereby notified that an **Answer to the Motion to Consolidate** of Stream Energy Pennsylvania, LLC d/b/a Stream Energy must be filed within 20 days of the date of service. All pleadings, such as an Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for the Authority and where applicable, the Administrative Law Judge presiding over the issue.

File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265
<https://efiling.puc.pa.gov/>

With an electronic copy to:

Karen O. Moury, Esquire
Sarah C. Stoner, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
sstoner@eckertseamans.com

/s/ Karen O. Moury

Karen O. Moury, Esquire

Date: October 12, 2021

Counsel for Stream Energy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fei Dong,	:	
	:	
Complainant,	:	
	:	Docket Nos.
v.	:	C-2021-3027641
	:	C-2021-3027671
Stream Energy Pennsylvania, LLC d/b/a	:	
Stream Energy,	:	
Respondent.	:	

**PITTSBURGH WATER AND SEWER AUTHORITY’S
MOTION TO CONSOLIDATE**

Pursuant to 52 Pa. Code §5.81(a), Stream Energy Pennsylvania, LLC d/b/a Stream Energy (“Stream Energy”) submits this Motion to Consolidate the above-captioned matters. In support of this Motion, Stream Energy avers as follows:

1. The Commission electronically served on Stream Energy the Formal Complaints (“Complaints”) of Fei Dong (“Complainant”) at Docket Nos. C-2021-3027641 and C-2021-3027671 due to both the electric and natural gas service boxes being checked on the Complaint form. Complaints, Paragraph 3.

2. As a licensed electric generation supplier (“EGS”) and natural gas supplier (“NGS”), Stream Energy previously provided both electric generation and natural gas supply services to the Complainant. Answers and New Matter, Paragraphs 2 and 3.

3. The Complaints allege that Stream Energy overcharged her for electric and natural gas supply over a period of eight years and request a refund of \$5,000 in electric and natural gas supply charges imposed by Stream Energy and included on bills rendered by PECO Energy Company. Complaints, Paragraph 4.

4. Although the Complaints involve different facts concerning the prices charged for electric supply and natural gas supply, they are identical and involve the same issues of law related to the Commission's lack of statutory authority to regulate the prices charged by EGSs and NGSs or to direct EGSs and NGSs to issue refunds to customers. They also involve the same issue of law concerning any claims regarding unauthorized switching in 2013 since the statutory time period has passed for raising such issues and the dispute was not raised within two months of the switch. Answers and New Matter, Paragraphs 12-23.

5. Section 5.81(a) of the Commission's regulations states that "[t]he Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer [also] may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay." 52 Pa. Code § 5.81(a).

6. Other considerations in ruling on a consolidation include the following: (a) whether additional issues exist that could cloud the determination of common issues; (b) whether consolidation will reduce litigation costs and decision-making for the parties and the Commission; (c) whether the issues in one proceeding go to the heart of an issue in the other proceeding; (d) whether consolidation will unduly protract a hearing or produce a disorderly or unwieldy record; (e) whether different statutory and legal issues are involved; (f) whether the party with the burden of proof differs in the proceedings; (7) whether consolidation will unduly delay the resolution of one of the proceedings; and (8) whether supporting data in both proceedings will be repetitive. *See PUC v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366, Second Prehearing Order at 3-4 (Nov. 26, 2012) ("*Lancaster Sewer Fund Prehearing Order*"). As stated in that order, no single consideration, nor group of these considerations, is dispositive of consolidation. Rather, all

factors must be evaluated, and a balancing of those favoring and disfavoring consolidation is required. *Id.* at 3.

7. The Complaints involve a similar set of facts and identical legal issues, including the inability of the Commission to grant the relief requested. Additionally, the Complainant carries the burden of proof in both proceedings, and consolidation will reduce litigation costs and decision-making for the parties and the Commission. Moreover, consolidation will neither interfere with the development of an orderly record nor unduly delay the resolution of either proceeding.

8. As consolidating these proceedings would promote judicial economy and conserve valuable resources of the parties and the Commission, Stream Energy respectfully requests that the Office of Administrative Law Judge consolidate the Formal Complaints docketed at C-2021-3027641 and C-2021-3027671 into one proceeding.

WHEREFORE, Stream Energy Pennsylvania, LLC d/b/a Stream Energy respectfully requests that the Office of Administrative Law Judge (“OALJ”) grant this Motion to Consolidate.

Respectfully submitted,

/s/ Karen O. Moury

Karen O. Moury, Esquire (I.D. No. 36879)
Sarah C. Stoner, Esquire (I.D. No. 313793)
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
(717) 237-6036 (phone)
(717) 237-6019 (fax)
kmoury@eckertseamans.com
sstoner@eckertseamans.com

Date: October 12, 2021

*Counsel for
Stream Energy Pennsylvania, LLC
d/b/a Stream Energy*

Attorney Verification

I, Karen O. Moury, counsel of record for Stream Energy Pennsylvania, LLC d/b/a Stream Energy, hereby state that the facts set forth in the foregoing **Motion to Consolidate** are true and correct to the best of my knowledge, information and belief and that I expect Stream Energy be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: October 12, 2021

/s/ *Karen O. Moury*
Karen O. Moury, Esq.