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October 6, 2025

Via Electronic Filing

Matthew Homsher, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Vincent Mattiola v. SmartEnergy Holdings, LLC
Docket No. F-2025-3054761

Dear Secretary Homsher:

Enclosed for electronic filing please find SmartEnergy Holdings, LLC's Main Brief with regard to the above-referenced matter.

Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Bryce R. Beard
Bryce R. Beard

BRB/red

cc: Cert. of Service w/enc.
Administrative Law Judge Chad L. Allensworth (via email callenswor@pa.gov)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of SmartEnergy Holdings, LLC's Main Brief, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Date: October 6, 2025

Bryce R. Beard

Bryce R. Beard, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vincent Mattiola,	:	
	:	
v.	:	Docket No. F-2025-3054761
	:	
SmartEnergy Holdings, LLC	:	

**SMARTENERGY HOLDINGS, LLC’S
MAIN BRIEF**

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Dated: October 6, 2025

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I. INTRODUCTION

Pursuant to Administrative Law Judge Chad L. Allensworth’s August 20, 2025, Briefing Order and the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) regulations, SmartEnergy Holdings LLC (“SmartEnergy”) hereby submits this Main Brief on the Complaint of Vincent Mattiola (“Complainant” or “Mr. Mattiola”) at Docket No. F-2025-3054761.

II. QUESTIONS PRESENTED

Did Complainant meet his burden of proof to show that SmartEnergy failed to provide him advance notice that his four (4) monthly billing cycle, fixed rate contract term expired December 22, 2024 and that his service would transition to a variable rate if no action was taken?

Answer: No. The unrebutted record established SmartEnergy sent renewal notices to Complainant at his mailing address on October 31, 2024 (SmartEnergy Exhibit 4) and again on November 15, 2024 (SmartEnergy Exhibit 5) informing Complainant that his service would transition to a variable rate effective December 22, 2024, if no action was taken by him. With unrebutted evidence of the mailing of SmartEnergy notices and Terms of Service (SmartEnergy Exhibit 3), Complainant failed to meet his burden of proof to show that SmartEnergy violated any Law, Commission Regulation, or Commission Order when his account’s 4-month fixed rate term expired on December 22, 2024 and his account transitioned to a variable rate.

Assuming, *arguendo*, that the Commission had jurisdiction over claims of breach of contract (it does not), did Complainant meet his burden of proof to show that SmartEnergy committed a breach by providing fixed rate service until December 22, 2024 due to Complainant’s belief that the term “Four (4) month billing cycles” should have been interpreted in strict calendar days/months rather than his billing period?

Answer: No. Complainant failed to meet his burden of proof to show that his interpretation of his Terms of Service is valid, and he is simply wrong because utility billing cycles are not set in strict, 30-day calendar days/month periods. The evidence proved that the December 22, 2024 fixed rate expiration date ensured Complaint received “Four (4) month billing cycles” of fixed rate service pursuant to his Terms of Service. The record evidence is clear that SmartEnergy does not control the utility’s (here PPL Electric Utilities) meter read cycle, billings, or other dates used to determine a “billing period” under the utility tariff and Commission’s regulations. To the extent Mr. Mattiola disputes the meaning of “four (4) monthly billing cycles” in his Terms of Service, his beliefs are not supported by logic or law – especially where Complainant’s position advocates that his fixed rate service should have terminated at an earlier date (i.e. November 23, 2024)¹ and at a time prior to the completion of “four (4) monthly billing cycles” as determined by his utility and set forth in the Commission’s regulations.² Ultimately, Complainant did not establish that SmartEnergy violated any law, regulation, or order of the Commission when his fixed rate service expired on December 22, 2024 as provided in all notices issued by SmartEnergy.

¹ E.g. N.T. at 22, 39

² See 52 Pa. Code § 56.2 (“*Billing month*—A period of not less than 26 days and not more than 35 days...”)

III. STATEMENT OF THE CASE

A. HISTORY OF PROCEEDING

This matter involves a Formal Complainant filed by Vincent Mattiola (Complainant) against SmartEnergy Holdings, LLC (“SmartEnergy”) with the Pennsylvania Public Utility Commission at Docket No. F-2025-3054761. In his Complaint, Mr. Mattiola alleges, *inter alia*, that: he signed up for a fixed-rate 4-month contract with SmartEnergy that was effective on July 23, 2024; his contract’s fixed rate expired November 23, 2024; and his service from SmartEnergy was required to “terminate” and return to his default service from his utility, PPL Electric Utilities (“PPL”) on November 23, 2024. For relief, Complainant requested, *inter alia*: compensation for two billing statements after his account transitioned to variable rate service with SmartEnergy; that SmartEnergy be assessed civil penalties and investigated; that “all Pennsylvania consumers” of SmartEnergy be compensated; that the Commission suspend SmartEnergy’s certificate of public convenience and revoke its Pennsylvania Department of State “business license”; and otherwise compensate him for loss of time and expenses in bringing his complaint.

The Complaint is a timely appeal of a decision of the Commission’s Bureau of Consumer Services (BCS) on an informal complaint at BCS Case No. 4040842. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

SmartEnergy filed an Answer to Mr. Mattiola’s Complaint, a copy of which is admitted as SmartEnergy Exhibit 1. In its answer, SmartEnergy denied the allegations of the Complaint, and requested dismissal on several grounds.

By Initial Telephonic Hearing notice dated June 17, 2025, the parties were advised that an Initial Telephonic Hearing was scheduled for Thursday, July 31, 2025, and that Judge Allensworth was assigned as the presiding officer.

The hearing was convened as scheduled on July 31, 2025 at 10:00 AM. Mr. Mattiola appeared *pro se* and testified on behalf of himself. Bryce R. Beard, Esquire, appeared on behalf of SmartEnergy and SmartEnergy presented the testimony Ms. Lidia Chavez, Director Regulatory Compliance, who sponsored 5 exhibits including: SmartEnergy Exhibit 1 - Answer and New Matter; SmartEnergy Exhibit 2/2a - the .mp3 recording and transcript of Mr. Mattiola's July 15, 2024 sign-up call verification; SmartEnergy Exhibit 3 - SmartEnergy's July 16, 2024 Welcome Letter and Terms of Service; SmartEnergy Exhibit 4 – SmartEnergy's October 31, 2024 renewal notice; and SmartEnergy Exhibit 5 – SmartEnergy's November 15, 2024 options notice. All SmartEnergy's exhibits were admitted into the record.³ The record consists of 129-page transcript, 5 SmartEnergy Exhibits, and 2 Mattiola Exhibits.

The record closed on August 20, 2025 and a briefing order was issued.

B. PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW, ORDERING PARAGRAPH

SmartEnergy's Proposed Findings of Facts, Conclusions of Law, and Ordering Paragraphs are included with this Main Brief as **Appendix A**.

³ Add N.T. 64.

IV. LEGAL STANDARDS AND BURDEN OF PROOF

Burden of Proof

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). As a matter of law, a Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Public Utility Code, the Commission’s regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701. In this proceeding, Mr. Mattiola filed a Complaint seeking legal relief. Mr. Mattiola, therefore, has the burden of proof in this proceeding.

Allegations of Breach of Contract

Breach of contract claims are beyond the jurisdiction of the Commission. *See Naborn and Pronko v. Direct Energy Services, LLC*, Docket No. F-2023-3037611 (Opinion and Order entered March 4, 2024); *Yaglidereliler Corp. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2413732, (Opinion and Order entered Jan. 16, 2015), (citing *Allport Water Auth. v. Winburne Water Co.*, 393 A.2d 673 (Pa. Super. 1978)).

Request for Refunds of Supply Charges

The Commission does not regulate the supply prices charged by EGSs and lacks statutory authority to require EGSs to issue refunds to customers. *Coalition for Affordable*

Utility Services and Energy Efficiency in Pennsylvania v. Pa. PUC, 120 A3d 1087, 1101 (Pa Cmwlth. 2015). *See also* 66 Pa. C.S. §§ 2203(11) and 2802(16); *Blue Pilot Energy, LLC v. Pa. PUC*, 241 A.3d 1254, 1265-68 (Pa. Cmwlth. 2020).

Under the Commission’s regulations governing customer dispute procedures, refunds of supply charges are warranted **only if**: (a) if a customer disputes an enrollment within the first two billing periods since the customer should have reasonably known of a change of the supplier; **and** (b) the dispute investigation establishes that the change occurred without the customer’s consent. 52 Pa. Code § 57.177(b); 52 Pa. Code § 59.97(b).

Requests for Damages and Compensation for “loss of time”

It is fundamental that the Commission lacks the statutory authority to hear claims on or award damages as compensation or for loss of time claims.⁴ Pennsylvania law has long held that damages are a question for the trial courts.⁵ The Commission has consistently dismissed claims for alleged monetary damages and compensation for lack of jurisdiction.⁶

⁴ *Byer v. Peoples Natural Gas Co.*, 380 A.2d 383 (Pa. Super. 1977); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980)

⁵ *See Miller Oral Surgery, Inc. v. Dinello*, 416 Pa. Super. 310, 611 A.2d 232 (1992) (finding award of lost profits as damages); *see also Delahanty v. First Pennsylvania Bank, N.A.*, 318 Pa. Super. 90, 126, 464 A.2d 1243, 1261 (1983).

⁶ *See e.g. Carlson v. Equitable Gas Company*, Docket No. C-20078025, Opinion and Order (Order Entered June 10, 2008)(Holding that complainant’s claims of lost income, property damage, and mental stress were “monetary damages” that the Commission lacks authority to award.)(*citing DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982)).

V. SUMMARY OF ARGUMENT

This case does not dispute Complainant’s authorized enrollment with SmartEnergy in a “four (4) monthly billing cycles” fixed rate service contract. Rather, this case was filed because Mr. Mattiola: 1) believed his contract “automatically terminated” at the expiration of “four (4) monthly billing cycles”; 2) believed the term “four (4) monthly billing cycles” equates to a strict thirty (30) calendar day/month count divorced from his utility billing periods; and 3) that, therefore, he should be awarded damages and SmartEnergy fined or no longer permitted to do business in Pennsylvania. However, Complainant failed to meet his burden of proof that SmartEnergy violated any law, regulation, or order in the provisioning of service to him from July 23, 2024 – February 7, 2025, and his complaint must be dismissed.

Regarding his claims for his contract’s “automatic termination,” the unrebutted record established that Mr. Mattiola’s allegations and interpretation of his Terms of Service was wrong. His recorded call verification (SmartEnergy Exhibit 2, 2a) with SmartEnergy on July 15, 2024 and the plain terms of his Terms of Service (SmartEnergy Exhibit 3) irrefutably explained to Mr. Mattiola what would occur on the expiration of his fixed rate term if he took no action. Indeed, SmartEnergy sent both renewal and option notices to Complainant at his address on October 31, 2024 (SmartEnergy Exhibit 4) and again on November 15, 2024 (SmartEnergy Exhibit 5) informing Complainant that his service would transition to a variable rate effective December 22, 2024, if no action was taken by him. SmartEnergy’s written notices complied with the Commission’s regulations at 52 Pa.

Code § 54.10. These notices were not returned to SmartEnergy as undeliverable mail, and Mr. Mattiola took no action as his fixed rate was to expire on December 22, 2024.

Further, Complainant failed to meet his burden of proof that his interpretation of his Terms of Service is supported by law or fact – and he is simply wrong. His fixed rate term was defined based on the utility billing cycles - **not** set in strict calendar days/months as he advocated. Indeed, SmartEnergy’s December 22, 2024 fixed rate expiration date provided Complainant with “Four (4) month billing cycles” of fixed rate service. The record evidence is clear that SmartEnergy does not control the utility (here PPL Electric Utilities) meter read cycle, billings, or other dates they use to determine a “billing period” under the utility tariff and the Commission’s regulations.⁷ To the extent Mr. Mattiola disputes the meaning of “four (4) month billing cycles” in his terms of service, his competing interpretation is supported neither by logic nor law – especially where Complainant’s position advocates that his fixed rate service should have expired and thus transitioned to a variable rate at an earlier date and at some time other than following the billing cycles as determined by his utility.

Ultimately, Complainant did not establish that SmartEnergy violated any law, regulation, or order of the Commission in its renewal notices, transition of service to a variable rate when Mr. Mattiola failed to act, or by setting fixed rate service expiration date of December 22, 2024. His Complaint should be dismissed.

⁷ See 52 Pa. Code § 56.2 (“*Billing month*—A period of not less than 26 days and not more than 35 days...”)

VI. ARGUMENT

A. COMPLAINANT FAILED TO MEET HIS BURDEN OF PROOF THAT SMARTENERGY FAILED TO PROVIDE NOTICE THAT HIS FIXED RATE SERVICE EXPIRES ON DECEMBER 22, 2024.

The crux of Mr. Mattiola’s complaint does not dispute his July 15, 2024 enrollment with SmartEnergy or the generation service provided. Rather, Mr. Mattiola alleged that he believed his contract with SmartEnergy “would terminate at the conclusion of the contract period.” See Complaint at ¶ 4. In testimony, Mr. Mattiola affirmed his belief, testifying that “I *believe* that when a contract says the duration is for four months, that’s final. At the end of four months, the contract is no longer valid.” N.T. 10:18-21 (emphasis added). Based on his belief, Mr. Mattiola alleged that his terms of service with SmartEnergy did not authorize his fixed rate to transition to a variable rate upon its expiration when he took no action and failed to respond to SmartEnergy’s notices. Indeed, the record established that all of SmartEnergy’s notices were sent to Mr. Mattiola’s address, as was his Terms of Service, pursuant to the Commission’s regulations. See 52 Pa. Code § 54.10. Mr. Mattiola’s belief is simply wrong, and the record is clear he failed to provide substantial evidence to meet his burden of proof for his belief that his contract was “no longer valid” after his four-month fixed rate service expired.

1. Mr. Mattiola has the Burden of Proof and failed to meet his burden where his opinions, regardless of how earnestly they are believed by him to be true, do not constitute substantial evidence to rebut verified business records and the parties’ written terms of service.

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing,

by even the smallest degree, than the evidence presented by the other party.⁸ As a matter of law, a Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail.⁹ The offense must be a violation of the Public Utility Code, the Commission's regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701.

In this proceeding, Mr. Mattiola filed a Complaint seeking legal relief. Mr. Mattiola, therefore, has the burden of proof. As stated above, Mr. Mattiola testified that he "believed" his "contract stated that service would be provided for four months." Complaint at ¶ 4. He further testified that "I believe that when a contract says the duration is for four months, that's final. At the end of four months, the contract is no longer valid." N.T. 10:18-21 (emphasis added). Yet, later in testimony, Mr. Mattiola admitted that his contract's renewal terms were written in his Terms of Service, but that he simply "disagreed" with the meaning or effect of the terms. N.T. at 42:11-14. Despite his blatant change of position to recognize but then refuse the effect of the renewal terms, Mr. Mattiola rested his entire case on his beliefs where he claimed he "reviewed" the contract and determined that the "length, four months" which meant, at conclusion, his service automatically "terminated" and he was to be returned to default service or otherwise not transitioned to a variable rate. N.T. at 42.

While Mr. Mattiola may have these firmly held convictions, his position is not supported by the factual record evidence and the very documents Mr. Mattiola wishes to cherry-pick terms from. At bottom, none of Mr. Mattiola's beliefs regarding his "automatic

⁸ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

⁹ *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990).

termination” are supported by any record evidence or document, and his beliefs certainly does not show that SmartEnergy violated any law or regulation. Although the Complainant may be firmly convinced that his interpretation of the contract is correct despite the black and white expiration and renewal terms in his Terms of Service (SmartEnergy Exhibit 3), his mere beliefs are not competent evidence to substantiate his claims. Indeed, the Commission has dismissed complaints in similar, customer opinion only circumstances where complainants fail to meet their burden of proof, holding:

Complainant’s testimony consisted solely of his opinion ... Regardless of how earnestly Complainant believes the Complaint allegations to be true, personal opinions or perceptions do not constitute substantial evidence sufficient to permit him to sustain his burden of proof.

Kirby v. PPL Electric Utilities Corporation, Docket No. C-20066297 (Final Order entered November 16, 2006) (citing *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (1987)).

In response to Mr. Mattiola’s beliefs, SmartEnergy’s Director of Regulatory Compliance, Ms. Lidia Chavez, provided un rebutted evidence directly disproving Mr. Mattiola’s beliefs showing that SmartEnergy complied with the law, the Commission’s regulations, and the Terms of Service. Indeed, SmartEnergy proved by a preponderance of the evidence that:

- Mr. Mattiola found SmartEnergy’s supply offer on PA Power Switch on July 15, 2024 and then contacted SmartEnergy directly via the phone to enroll. N.T. 49:8-11.

- During the enrollment call, SmartEnergy explained the offer and his terms of service as part of the sale, including details on SmartEnergy’s historic variable pricing following his offer’s fixed rates. N.T. 50:1-5.
- The recorded call verification of his enrollment explicitly informed him that after notice, his four (4) monthly billing cycle fixed rate term expired, his rate would transition to a “month to month based on market conditions”¹⁰ (SmartEnergy Exhibit 2 and 2a – pg. 1, line 35-36) N.T. 50:19-51:21.
- The plain language of his July 16, 2024 Terms of Service “Renewal Terms” and Disclosure Statement “Expiration/Change in Terms” informed Mr. Mattiola of what occurs when his fixed rate term expires. N.T. 51:22 – 53:4; SmartEnergy Exhibit 3.
- The evidence of the October 31, 2024 renewal and November 15, 2024 options notices sent to Mr. Mattiola complied with the Commission’s Notice of Contract Expiration found at 52 Pa. Code § 54.10 with his last day of fixed rate service being December 22, 2024. See SmartEnergy Exhibit 4 and 5; N.T. 54:11-56:7.
- That December 22, 2024 was Mr. Mattiola’s last day of fixed rate service based on the timing of his utility billing cycle (as set by his utility, PPL) to ensure he

¹⁰ The transcript contained in SmartEnergy exhibit 2a provides “SmartEnergy Rep.: ...So do you understand that by enrolling this SmartEnergy's 100% renewable energy plan you will receive the fixed rate of 6.79 cents per kilowatt hour for four months and after that, the rate mentions [SIC] from month to month based on market conditions, including cost, weather, and other business factors. And as mentioned, PPL will continue to deliver your electricity, stamp your bill, and respond to emergencies. Do you understand? Mattiola: Yes.” See also SmartEnergy Exhibit 2, the verification recording in .mp3 format.

received the entire length of “four (4) monthly billing cycles” of his fixed rate service guaranteed by SmartEnergy. N.T. 53:5-54:7.

- Ultimately, SmartEnergy provided fixed rate service pursuant to the initial contract term until December 22, 2024 and, then, with all notices under a month-to-month variable rate until service was canceled on February 3, 2025. N.T. 48.

Based on the substantial record presented by SmartEnergy and unrebutted by Mr. Mattiola, Mr. Mattiola’s mere “beliefs” as to the parties’ contract (as opposed to their explicit written terms), shows as a matter of law he has failed to meet his burden of proof for his belief that his service automatically terminated without any further action at the expiration of his fixed rate term on December 22, 2024. Indeed, Mr. Mattiola presented exactly no evidence to rebut SmartEnergy’s verified business records and evidence that all materials were sent to his service address at 3552 Broadway¹¹ and not returned as undeliverable.¹² Therefore, Mr. Mattiola failed to meet his burden of proof and his complaint must be dismissed.

2. As a matter of law, no refund is available under 52 Pa. Code § 57.117(b) as there is no dispute that Mr. Mattiola’s enrollment was authorized by him and verified on July 15, 2024.

To be clear, this case does not question the valid and authorized enrollment of Mr. Mattiola’s account with SmartEnergy. In testimony, Mr. Mattiola confirmed that he enrolled with SmartEnergy as his supplier on July 15, 2024 after finding an offer on “papowerswitch.com”. N.T. 9:25 – 10:1. Mr. Mattiola goes on to explain the terms of his Terms of Service that SmartEnergy mailed on July 16, 2024, which included “a four-

¹¹ Tr. 9:3-10.

¹² See 56:21-57:5. (“We track undeliverable mail, like the notices and contracts that we mailed, and none of our records show that these mailings were undeliverable and returned to SmartEnergy. They were sent to 3552 Broadway.

month, fixed rate electricity supply. Four months. The contract was beginning on July 23 of 2024.” N.T. at 10:1-4. Mr. Mattiola also highlighted that his contract “states that I will receive two written separate notifications, the first approximately 45-60 days in advance, the second 30 days in advance of either the expiration date or the effective date of the proposed changes.” N.T. at 10:10-14. Therefore, there is no question that Mr. Mattiola’s enrollment with SmartEnergy was valid.

As SmartEnergy’s Ms. Chavez concurred, business records showed that Mr. Mattiola contacted SmartEnergy after finding the offer of PaPowerSwitch. N.T. 49. Ms. Chavez discussed the enrollment call, and produced the recorded enrollment verification from SmartEnergy’s business records showing the enrollment was valid and authorized by Mr. Mattiola. N.T. 50-51; SmartEnergy Exhibit 2, 2a. With an undisputed, valid enrollment, Mr. Mattiola’s requested relief by way of refunds or damages is not warranted. Under the Commission’s regulations, refunds of supply charges are warranted only: (a) if a customer disputes an enrollment within the first two billing periods since the customer should have reasonably known of a change of the supplier; **and** (b) the dispute investigation establishes that the change occurred without the customer’s consent. See 52 Pa. Code § 57.117(b). As is clear by the record, Mr. Mattiola does not meet either prong of the Commission’s customer dispute procedures to permit a refund because he did not dispute his enrollment within 2 billing cycles – in contrast he affirmed his July 15, 2024 authorized enrollment on the record. As such, no refund of supply charges can be granted.

3. The plain language of the Terms of Service shows that Mr. Mattiola's belief that his service automatically terminated is wrong – he verified his understanding of the terms during the enrollment, including what happens when the fixed rate term expired and this terms of service unequivocally provides the written terms agreed to by Mr. Mattiola.

During the hearing, Mr. Mattiola's evidence hinged on his "belief" as to the parties' Terms of Service, rather than reviewing any actual document or record. In this respect, Mr. Mattiola's belief that the "renewal terms" in his contract contained an automatic termination clause is provably incorrect, no matter how much he may believe them to be true. Highlighting his belief, Mr. Mattiola testified:

My contract had no clauses of any type of succession or automatic renewal. It stated a beginning date and an end date. And I don't believe that consumers would have to self-police after the known conclusion of a contract with an end date to determine if the company has extended or renewed, or opened a new contract in their name without their permission. I never gave permission for them to continue my service.

I certainly would not have done that if I had known about the rate being four times as high, and I reject the idea that their contract could be based upon a non-response from the consumer received from notification letters that I don't even think they actually sent to me, because I never received them, and the dates are incorrect.

N.T. 26.

However, on cross examination reviewing his July 16, 2024 terms of service (SmartEnergy Exhibit No. 3) which Mr. Mattiola affirmed that he read previously (N.T. 39:4), Mr. Mattiola confirmed that "I see the renewal terms written in the box, and I'm happy to read them." N.T. 38:6-25. In that regard, Mr. Mattiola's discredited his own testimony that "no clauses of any type of succession or automatic renewal" existed. N.T. 26. His beliefs on what he thought the written contract to read has no merit.

Indeed, the recorded call verification of his enrollment explicitly informed him that after his four billing cycle fixed rate term expired, his rate would transition¹³ to a “month to month based on market conditions” (SmartEnergy Exhibit 2 and 2a – pg. 1 Line 35-36). Similarly, as required by the Commission’s regulations, 52 Pa. Code § 54.5, the written terms memorializing the parties contract were provided in writing to Mr. Mattiola. See N.T. 51:22 – 52:8; SmartEnergy Exhibit No. 3. As Ms. Chavez discussed, the July 16, 2024 terms of service “Renewal Terms” and Disclosure Statement “Expiration/Change in Terms (SmartEnergy Exhibit 3) made clear exactly what occurs if Mr. Mattiola failed to act leading up to the expiration date of his fixed rate service and receipt of notices by SmartEnergy. N.T. 52-54.

SmartEnergy’s July 16, 2024 Terms of Service provides the following “Renewal Terms” as:

If you have a fixed duration contract approaching the expiration date, or whenever SmartEnergy proposes to change the contract, you will receive two separate written notifications, the first approximately 45 60 days in advance, and the second 30 days in advance of either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.

SmartEnergy Exhibit 3 at 1 of 7 (contract summary).

Additionally, SmartEnergy’s July 16, 2024 “Pennsylvania Disclosure Statement...” also defines the “Expiration/Chage of Terms” which provide:

¹³ The transcript contained in SmartEnergy exhibit 2a provides “SmartEnergy Rep.: ...So do you understand that by enrolling this SmartEnergy's 100% renewable energy plan you will receive the fixed rate of 6.79 cents per kilowatt hour for four months and after that, the rate mentions [SIC] from month to month based on market conditions, including cost, weather, and other business factors. And as mentioned, PPL will continue to deliver your electricity, stamp your bill, and respond to emergencies. Do you understand? Mattiola: Yes.” See also SmartEnergy Exhibit 2, the verification recording in .mp3 format.

If you enrolled in a fixed-rate plan, your Agreement will continue for the duration as set forth at the time of enrollment and confirmed in the Welcome Letter or the Contract Summary unless terminated by you or SmartEnergy in accordance with the terms of this Agreement. If you have a fixed duration contract approaching the expiration date, or whenever SmartEnergy proposes to change the contract, you will receive two separate written notifications, the first approximately 45-60 days in advance, and the second 30 days in advance of either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.

SmartEnergy Exhibit 3 at 2 of 7 (disclosure statement).

After cross examination, Mr. Mattiola admitted that his contract in-fact contained the renewal terms discussed above, testifying:

I'm not disagreeing that the contract has a box for renewal terms, but I am disagreeing that those renewal terms explain that the rate will be changed to a variable rate.

N.T. 42 at 11-14.

Under Pennsylvania Law¹⁴ and the Commission's regulations, the terms of the parties written contract are binding on the parties and overrule any "belief" Mr. Mattiola may have. As such, the plain language of Mr. Mattiola's July 16, 2024 Terms of Service regarding the Renewal Terms and Expiration/Change of Terms are irrefutable, substantial evidence warranting dismissal of Mr. Mattiola's complaint.

¹⁴ *Wert v. Manorcare of Carlisle PA, LLC*, 633 Pa. 260, 278–79, 124 A.3d 1248, 1259 (2015). ("A contract shall be interpreted in accordance with the parties' intent. *Lesko*, 15 A.3d at 342. When a written contract is clear and unambiguous, the parties' intent is contained in the writing itself. *Insurance Adjustment Bureau, Inc. v. Allstate Ins. Co.*, 588 Pa. 470, 905 A.2d 462, 468 (2006); *Hutchison v. Sunbeam Coal Corp.*, 513 Pa. 192, 519 A.2d 385, 390 (1986). A party will be bound by this writing regardless of whether he or she read and fully understood its terms. *See generally* *279 *Samuel-Bassett v. Kia Motors America, Inc.*, 613 Pa. 371, 34 A.3d 1, 25 (2011). A court cannot alter these terms "under the guise of construction." *Delaware County v. Delaware County Prison Employees Independent Union*, 552 Pa. 184, 713 A.2d 1135, 1138 (1998). Unless otherwise specified, a contract's language shall be given its plain and ordinary meaning. *TruServ Corp. v. Morgan's Tool & Supply Co.*, 614 Pa. 549, 39 A.3d 253, 260 (2012).")

4. The record established that SmartEnergy sent Mr. Mattiola both renewal and options notices in compliance with 52 Pa. Code § 54.10 prior to his expiration of fixed rate service on December 22, 2024.

During the hearing, SmartEnergy’s Ms. Chavez testified and provided copies of the renewal and options notices sent to Mr. Mattiola on October 31, 2024 and November 15, 2024. *See* SmartEnergy Exhibits 4 and 5. As SmartEnergy’s Ms. Chavez testified, these notices were sent in compliance with the July 16, 2024 Terms of Service, and further complied with the Commission’s advance notice requirements, or “Notice of Contract Expiration” found at 52 Pa. Code § 54.10. N.T. 54-55. Indeed, Ms. Chavez verified that the renewal notice was sent on October 31, 2024, 52 days prior to when his fixed-rate plan for electricity supply was set to expire on December 22, 2024. *See* SmartEnergy Exhibit 4. Similarly, Ms. Chavez verified the options notice was sent on November 15, 2024, 37 days prior to when his fixed rate plan was set to expire on December 22, 2024. These notices are fully compliant with the Commission’s regulations at 52 Pa. Code § 54.10 and gave Mr. Mattiola the required written notice prior to his December 22, 2024 fixed rate expiration and transition to a variable rate product after he failed to act.

Importantly, while Mr. Mattiola merely claimed he did not receive the October 31, 2024 or November 15, 2024 notices from SmartEnergy, Mr. Mattiola affirmed that these notices were addressed to his service address of 3552 Broadway. N.T 9:3-10. Further, Ms. Chavez explained SmartEnergy’s returned mail tracking procedures whereby SmartEnergy tracks all mail returned as “undeliverable”:

Q. Ms. Chavez, now, were any of the mailings sent to Mr. Mattiola that we just went through -- that being SmartEnergy Exhibits Numbers -- let me just confirm -- Numbers 3, 4, and 5. Were those ever returned to SmartEnergy as undeliverable?

A. No, they were not. We track undeliverable mail, like the notices and contracts that we mailed, and none of our records show that these mailings were undeliverable and returned to SmartEnergy. They were sent to 3552 Broadway.

N.T. 56-57 (emphasis added). Based on Ms. Chavez’s verification of SmartEnergy’s business records, the October 31, 2024 and November 15, 2024 notices were in-fact sent to Mr. Mattiola and **not** returned to SmartEnergy as undeliverable mail. While SmartEnergy does not wish to discredit the veracity of Mr. Mattiola’s testimony, it is probable based on the totality of the circumstances that SmartEnergy’s notices were received and left unread or discarded by Mr. Mattiola – especially in light of his firmly held conviction (albeit wrong) that his service automatically terminated at the expiration of four calendar months, discussed below. Therefore, SmartEnergy’s evidence and testimony shows that it complied with the law in noticing the expiration of Mr. Mattiola’s fixed rate on December 22, 2024.

B. COMPLAINANT’S BELIEFS REGARDING HIS FIXED RATE TERM’S “CALENDAR DAY” OR “CALENDAR MONTH” DURATION ARE CONTRARY TO LAW, UTILITY BILLING REGULATIONS, AND WHICH, IF ACCEPTED, WOULD HARM HIS AND OTHER CUSTOMER’S INTERESTS BY CREATING UNCERTAINTY IN FIXED RATE CONTRACT DURATIONS.

During the hearing, Mr. Mattiola testified that he believed that his Terms of Service with SmartEnergy was “a four-month fixed-rate contract, which begins on July 23 and ends on November 23, should, in fact, end on November 23.” E.g. N.T. at 22, 39. In that same belief, Mr. Mattiola alleged that his December 22, 2024 fixed rate expiration date was

“incongruent with my initial contract with SmartEnergy” and that he believed, without evidence, that SmartEnergy “fabricated” the dates “because the dates are incorrect.” N.T. at 23. Further, Mr. Mattiola testified that in his view:

...coming back to my timeline -- our timeline here, 45 days in advance of November 23 is October 9. Sixty days in advance is September 24. So, the first notice for their own contract, the first notice should have been sent between September 24 and October 9, but their own notice is dated October 31. So that's in breach of what they explained would happen. The second notice was to be sent 30 days in advance of the expiration date. That should have been October 24, but instead, the second notice from their own notice is dated November 15.

N.T. at 24. However, Mr. Mattiola’s entire belief hinges on his opinion that his “four month fixed-rate contract” (N.T. 22, 39) should have been a fixed “calendar day” or “calendar month” term which, under utility billing procedures, is incorrect. Indeed, on Cross examination, Mr. Mattiola admitted that he does not understand the Commission’s regulations defining a “Billing Month”¹⁵ or that his PPL utility billing cycle can be different than an exact four month (120 day) period under the Commission’s regulation of PPL’s utility billing and service:

Q. And do you understand that a utility billing cycle could be different than the exact four months -- a static four months in time. But in other words, that the billing cycles may not exactly line up with four months from the date of a contract?

A. No, I do not understand that. Four months to me means four months.

Q. Okay. But you agree with me here, though, on the contract, it does say four monthly billing cycles, correct?

A. In that line, it does say four monthly billing cycles. That's correct.

¹⁵ See 52 Pa. Code § 56.2 (“*Billing month*—A period of not less than 26 days and not more than 35 days...”)

N.T. 39-40 (emphasis added). While Mr. Mattiola's testimony shows some confusion regarding the Commission's defined "billing month" as applied to his utility monthly billing cycle and his Terms of Service (SmartEnergy Exhibit 3), Mr. Mattiola's misunderstanding does not show that SmartEnergy's December 22, 2024 expiration date violated the Public Utility Code or the Commission's regulations.

As Ms. Chavez testified, Mr. Mattiola's fixed rate expiration date was set to December 22, 2024 to account for his monthly billing cycles as determined by his utility, PPL, and the related meter reading for the November/December billing cycle. N.T. 89. Based on Ms. Chavez's review of SmartEnergy's records, PPL reported a meter read and end of the November/December billing cycle on December 4, 2024, which is when it appears (to SmartEnergy) that PPL sent Mr. Mattiola a bill. N.T. 89. Indeed, SmartEnergy setting Mr. Mattiola's fixed rate expiration just after his estimated November/December billing cycle for December 22, 2024 was for his benefit to ensure he received the entire duration of his fixed rate as Ms. Chavez explained:

The utility says your bill -- they calculate your supply based on your meter readings. So your last meter read under this fixed rate that SmartEnergy offered was December 4. That is because ... if your rate had expired on the November 23, date you've indicated was the four months, and you would have been charged on December 4, which is when the utility sent you a bill, you would've been charged at a variable rate, because your rate would have expired on November 23. **And the utility uses the effective date. I'm sorry, the rate or price that is effective at the time they read your meter to calculate your supply charges. So SmartEnergy's rate did not expire on the 23rd because we are supposed to provide you with full -- with four full monthly billing cycles of service. And that wouldn't have happened if the rate expired on November 23.**

N.T. 90-91 (emphasis added).

Ms. Chavez later explained again:

So the timing of the billing depends on the utility. So if we had not -- if our rate or the fixed rate that was offered to Mr. Mattiola had expired before December 4, he would have been charged a variable rate. ... There are aspects that are -- depend on the utility. And I feel that I can't really explain this in a more clear way because again, that it's determined by the utility. **All I can say is that we just make sure that the customer, any customer who signs up for a four-month, six-month, or 12-month period, receives that amount a month in monthly billing cycles.**

N.T. 108:5-19 (emphasis added). As a final rationale, Ms. Chavez clarified that SmartEnergy set the expiration date of Mr. Mattiola's fixed rate term to be December 22, 2024 because:

...we don't really know when the utility is going to switch the customer's account to a service or when they're going to bill the customer.

N.T. 118:2-4. Ms. Chavez's explanation for Mr. Mattiola's December 22, 2024 fixed rate expiration is supported by the utility billing cycle, and is rational, reasonable, and to Mr. Mattiola's benefit despite Mr. Mattiola apparently wishing to have had his fixed rate expire earlier than four full billing periods on November 23, 2024. Indeed, Ms. Chavez made clear SmartEnergy's position that December 22, 2024 "ensure[d] that the customer had four full monthly billing cycles of service at the fixed rate." N.T. 118:13-15.

Ms. Chavez further explained that SmartEnergy's setting of fixed rate expiration dates depends on the utility involved (N.T. 109:20), which here PPL Electric Utilities is Mr. Mattiola's electric utility. In-fact, when looking at PPL's rules and tariff that are aligned with the Commission's regulations,¹⁶ SmartEnergy's approach is reasonable due to the

¹⁶ See 52 Pa. Code § 56.2 ("Billing month—A period of not less than 26 days and not more than 35 days...")

variability permitted by the Commission in PPL’s “Billing Period.” Indeed, PPL’s tariff, as approved by the Commission provides that the utility “billing period” is **not** a fixed thirty (30) calendar day or calendar month as Mr. Mattiola argues, which is why Ms. Chavez testified to SmartEnergy practices and reason for setting his fixed rate expiration date of December 22, 2024. PPL’s tariff is publicly available, has the force and effect of law, and provides:

A. BILLING PERIOD (1) Bills for service supplied during the preceding billing period, other than initial and final bills, are rendered monthly. Normal billing is for a period of 26-35 days and is based on meter readings taken by Company at the end of each period.

PPL Tariff, Electric Pa. P.U.C. No. 201, Supp. No. 194, Sixth Revised Page No. 13.¹⁷

Indeed, both the Commission’s regulations and PPL provides that a “normal” billing period can range from 26-35 days and is based exclusively on when meter readings are taken by the utility. It goes without saying that SmartEnergy has no control over PPL, its meter reading dates, or when its utility billing periods start or end. Mr. Mattiola’s want to find fault with SmartEnergy’s rational and reasonable approach to ensure he received the entire duration of his four billing cycle fixed rate term as required by his Terms of Service lacks merit. Worse, his position is actively advocating *against his own interests* to have had his variable rate expire early so that his account transitioned to a variable rate at some point prior to December 22, 2024 (apparently November 23, 2024). SmartEnergy’s approach is

¹⁷ Publicly available at: <https://www.pplelectric.com/site/More/About-Us/Electric-Rates-and-Rules/Current-Electric-Tariff>

both reasonable, protected Mr. Mattiola's interests, complied with the Terms of Service, and based on the monthly billing cycles set by PPL.¹⁸

Lastly, the simple fact of the matter is even if a court (not the Commission) were to accept Mr. Mattiola's breach of contract theory (discussed *Infra.*) that a the Commission's "Billing Month" definition or the PPL's utility billing period is somehow unreasonable in favor of Mr. Mattiola's strict thirty (30) "calendar day" or "calendar month" belief, this would mean that Mr. Mattiola is asking for his fixed rate service to have expired earlier and having his service transition to a variable rate earlier as well. Had the new variable rate increased relative to the initial fixed rate, this would mean Mr. Mattiola would owe SmartEnergy additional money for the service provided (i.e. the difference between fixed rate and variable rate from November 23, 2024 – December 22, 2024). Stated differently, Mr. Mattiola's breach of contract theory is illogical and unreasonable in that it asks a fact finder to rule against his own interests and rule his fixed rate no longer applied at an earlier date. Such a policy is on its face unreasonable and harmful to customers so that the standard "monthly billing cycle" could be arbitrarily shortened to limit supply contract durations – something that is not in the public interest. While SmartEnergy does not believe Mr.

¹⁸ In further support of the reasonableness to SmartEnergy's approach, SmartEnergy is aware that the Commission has found PPL to have had a number of issues related to improper billing periods, recently recognized by the Commission at M-2025-3041757. Specifically, the Commission noted that in reviewing the settlement at that docket, I&E identified a number of related improper billing period cases, including: (1) *Judith Taptich v. PPL Electric Utilities Corp.*, Docket No. C-2023-3042726 (Final Order issued September 20, 2024), whereby the Commission imposed a \$500 civil penalty upon PPL for failing to render the customer's bill for two billing periods; and (2) *Judith Wallace v. PPL Electric Utilities Corp.*, Docket No. F-2023-3042297 (Final Order issued March 29, 2024), whereby the Commission imposed a \$200 civil penalty upon PPL for incorrectly calculating the customer's bill. In light of these examples, SmartEnergy's approach to ensure a PPL customer receives the entire benefit of their contract due to the 26-35 day billing period is reasonable and benefited Mr. Mattiola by providing him continued, fixed rate service until December 22, 2024 to ensure his contract duration was fulfilled. There simply is no substantial evidence that the December 22, 2024 fixed rate expiration date violated any law, regulation or order, and Mr. Mattiola failed to meet his burden.

Mattiola fully understands he is advocating that he should have had his fixed rate term shortened based on his strict calendar based position, it is the only outcome of his breach of contract theory where in-fact no harm occurred to his interest. The Commission should not endorse Complainant's position, and his Complaint should be dismissed.

C. **EVEN IF COMPLAINANT'S BELIEFS REGARDING "CALENDAR" TERM OF HIS FIXED RATE WERE TRUE HIS CLAIM IS BEYOND THE COMMISSION'S JURISDICTION AS HIS ALLEGATIONS INVOLVE A CLAIM THAT SMARTENERGY COMMITTED A BREACH OF CONTRACT – NOT A VIOLATION OF THE PUBLIC UTILITY LAW OR COMMISSION REGULATION.**

At its core, Mr. Mattiola's arguments turned **not** on him disputing his account's transition to variable rates following the expiration of his fixed rate term and proper notice, but rather that he is disputing the meaning of the Terms of Service based on his belief and interpretation of the duration of his fixed rate service stated as "four (4) monthly billing cycles" in the July 16, 2024 contract (SmartEnergy Exhibit 3). While SmartEnergy has shown that Mr. Mattiola's beliefs were wrong and SmartEnergy's fixed rate expiration date of December 22, 2024 was reasonable and tied to the utility billing structure, Mr. Mattiola is ultimately advocating for damages and relief for his position that SmartEnergy somehow breached the contract between the parties by not adhering to Mr. Mattiola's (albeit wrong) interpretation of a contract term, here utility billing cycles and billing periods.

As a matter of law, breach of contract claims are not within the Commission's jurisdiction. *See Naborn and Pronko v. Direct Energy Services, LLC*, Docket No. F-2023-3037611 (Opinion and Order entered March 4, 2024); *Yaglidereliler Corp. v. Blue Pilot*

Energy, LLC, Docket No. C-2014-2413732, (Opinion and Order entered Jan. 16, 2015), (citing *Allport Water Auth. v. Winburne Water Co.*, 393 A.2d 673 (Pa. Super. 1978)).

Complainant's allegations regarding breach of contract based on his wrong interpretation of the "Four (4) monthly billing cycle" fixed rate term are beyond the jurisdiction of the Commission. As such, Mr. Mattiola's dispute over the meaning of any contract terms and breach thereof cannot be considered here and those breach of contract claims must be dismissed on jurisdictional grounds.

D. COMPLAINANT'S REQUEST FOR REFUND OF SUPPLY CHARGES AND COMPENSATORY DAMAGES CANNOT BE GRANTED.

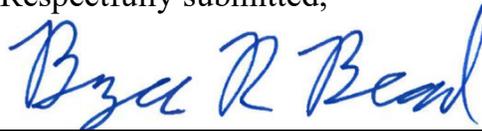
While Complainant recognized and waived his claims for refunds and compensatory damages at the hearing (N.T. 27:16-17), SmartEnergy notes that the pleadings still seek relief of compensatory damages and loss of time. As a matter of law, this relief cannot be granted by the Commission. Pennsylvania law has long held that damages are a question for the trial courts. *See Miller Oral Surgery, Inc. v. Dinello*, 416 Pa. Super. 310, 611 A.2d 232 (1992) (finding award of lost profits as damages); *see also Delahanty v. First Pennsylvania Bank, N.A.*, 318 Pa. Super. 90, 126, 464 A.2d 1243, 1261 (1983). The Commission has consistently dismissed claims for alleged monetary damages and compensation for lack of jurisdiction. *See e.g. Carlson v. Equitable Gas Company*, Docket No. C-20078025, Opinion and Order (Order Entered June 10, 2008)(Holding that complainant's claims of lost income, property damage, and mental stress were "monetary damages" that the Commission lacks authority to award.)(citing *DeFrancesco v. Western*

Pennsylvania Water Company, 499 Pa. 374, 453 A.2d 595 (1982)). As such, any claims of damages must be dismissed.

VII. CONCLUSION AND REQUEST FOR RELIEF

Wherefore, SmartEnergy Holdings, LLC requests that Your Honor dismiss the Formal Complaint of Vincent Mattiola at Docket No. F-2025-3054761 for Mr. Mattiola's failure to meet his burden of proof that SmartEnergy violated any provision of the Public Utility Code, the Commission's regulations, or a Commission Order in the service provided and that the notices provided complied with the law.

Respectfully submitted,



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Date: October 6, 2025

Counsel for SmartEnergy Holdings, LLC.

Appendix A - Proposed Findings of Fact, Conclusions of Law, Ordering Paragraphs

Proposed Finding of Facts

1. The Complainant in this case is Vincent Mattiola.
2. The Respondent is SmartEnergy Holdings LLC.
3. Complainant's service address is 3552 Broadway, Allentown, PA 18104. N.T. 9, 40.
4. PPL Electric Utilities is Mr. Mattiola's Electric Distribution Company. N.T. 11; Mattiola Exhibits 4, 5.
5. SmartEnergy is a licensed Electric Generation Supplier ("EGS") in Pennsylvania at Docket No. A-2014-2416214. N.T. 46.
6. On July 15, 2024, Mr. Mattiola contacted SmartEnergy directly via the phone and enrolled with SmartEnergy as his EGS in a "Four (4) monthly billing cycle" fixed rate contract at 6.79 cents/kWh. N.T. 9, 10, 46; SmartEnergy Exhibit 2, 2a, and 3.
7. During the July 15, 2024, enrollment, Mr. Mattiola requested a "web only" offer that he found on papowerswitch.com, which SmartEnergy honored. N.T. 49.
8. During the July 15, 2024, enrollment call, Mr. Mattiola completed a verification that he understood his terms of service and that his account would transition to a variable rate after the fixed rate term expired. N.T. 40:23-41:6; SmartEnergy Exhibit 2, 2a.
9. On July 16, 2024, SmartEnergy sent a Welcome Letter and Terms of Service. N.T. 10, 51; SmartEnergy Exhibit 3.

10. SmartEnergy’s July 16, 2024 Terms of Service provides the following “Renewal Terms” as:

If you have a fixed duration contract approaching the expiration date, or whenever SmartEnergy proposes to change the contract, you will receive two separate written notifications, the first approximately 45 60 days in advance, and the second 30 days in advance of either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.

SmartEnergy Exhibit 3 at 1 of 7 (contract summary).

11. SmartEnergy’s July 16, 2024 “Pennsylvania Disclosure Statement...” also defines the “Expiration/Chage of Terms” which provide:

“If you enrolled in a fixed-rate plan, your Agreement will continue for the duration as set forth at the time of enrollment and confirmed in the Welcome Letter or the Contract Summary unless terminated by you or SmartEnergy in accordance with the terms of this Agreement. If you have a fixed duration contract approaching the expiration date, or whenever SmartEnergy proposes to change the contract, you will receive two separate written notifications, the first approximately 45-60 days in advance, and the second 30 days in advance of either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.

SmartEnergy Exhibit 3 at 2 of 7 (disclosure statement).

12. Mr. Mattiola does not dispute that he authorized the enrollment with SmartEnergy as his supplier on July 15, 2024. N.T. 9-10.

13. Mr. Mattiola’s July 16, 2024 Welcome Letter and Terms of Service was not returned as undeliverable to SmartEnergy from Complainant’s mailing address. N.T. 56:21-57:5.

14. On October 31, 2024, SmartEnergy sent Mr. Mattiola a renewal notice to his address at 3552 Broadway indicating that his four (4) monthly billing cycles, fixed rate

term will expire on December 22, 2024 and informed him of his options. N.T. 48, 54; SmartEnergy Exhibit 4.

15. SmartEnergy's October 31, 2024 renewal notice was sent 52 days prior to his fixed rate term expiration on December 22, 2024 in compliance with the Commission's regulations at 52 Pa. Code § 54.10(1). SmartEnergy Exhibit 4.

16. Mr. Mattiola did not respond to SmartEnergy's October 31, 2024 renewal notice. N.T. 56:6-7.

17. Mr. Mattiola's October 31, 2024 renewal notice was not returned as undeliverable to SmartEnergy from Complainant's mailing address. N.T. 56:21-57:5.

18. On November 15, 2024, SmartEnergy sent Mr. Mattiola an options notice to his address at 3552 Broadway, informing him that if he did not act, he would be switched to a month-to-month variable rate consistent with his terms of service on December 22, 2024 and informed him of his options. N.T. 48, 55; SmartEnergy Exhibit 5.

19. SmartEnergy's November 15, 2024 options notice was sent 38 days prior to his fixed rate term expiration on December 22, 2024 in compliance with the Commission's regulations at 52 Pa. Code § 54.10(2). N.T. 48, 55; SmartEnergy Exhibit 5.

20. Mr. Mattiola did not respond to SmartEnergy's November 15, 2024, options notice. N.T. 56:6-7.

21. Mr. Mattiola's November 15, 2024 options notice was not returned as undeliverable to SmartEnergy from Complainant's mailing address. N.T. 56:21-57:5.

22. SmartEnergy's renewal and options notices were sent to Mr. Mattiola's service address as required by the Commission's regulations. 52 Pa. Code § 54.10.

23. While Mr. Mattiola testified that he allegedly did not receive the notices in the mail (N.T. 22), SmartEnergy tracks all mail returned to them as undeliverable, and none of the July 16, 2024, October 31, 2024 or November 15, 2024 mailings sent to 3552 Broadway were returned to SmartEnergy as undeliverable. N.T. 56:21-57:5.

24. Mr. Mattiola's fixed rate term expired on December 22, 2024 and his service transitioned to a variable rate consistent with his terms of service and notice provided by SmartEnergy. N.T. 48, 54, 55.

25. On February 3, 2025, Mr. Mattiola contacted SmartEnergy to discontinue his service. N.T. 11, 56.

26. On February 3, 2025, SmartEnergy honored his request, submitted a drop request to PPL, and his last day of service from SmartEnergy was February 7, 2024, as determined by PPL. N.T. 56.

Proposed Conclusions of Law

1. The Commission has jurisdiction over this matter and parties to this proceeding. 66 Pa. C.S. § 701.

2. Pursuant to 66 PA. C.S. § 332(a), the burden of proof in this proceeding is on the Complainant.

3. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

4. The Complainant failed to meet his burden of proof to demonstrate that his electricity supply from SmartEnergy was improperly transitioned to a variable rate following the expiration of his Four (4) monthly billing cycle fixed rate term.

5. SmartEnergy's October 31, 2024 and November 15, 2024 notices informed Complainant of the expiration of his fixed rate term on December 22, 2024 and his options in compliance with 52 Pa. Code § 54.10.

6. Complainant failed to show that these notices violated the Public Utility Code, a Commission regulation, or a Commission Order.

7. Breach of contract claims are beyond the jurisdiction of the Commission. *See Naborn and Pronko v. Direct Energy Services, LLC*, Docket No. F-2023-3037611 (Opinion and Order entered March 4, 2024); *Yaglidereliler Corp. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2413732, (Opinion and Order entered Jan. 16, 2015), (citing *Allport Water Auth. v. Winburne Water Co.*, 393 A.2d 673 (Pa. Super. 1978)).

8. Complainant's breach of contract allegations regarding his preferred interpretation of the "Four (4) monthly billing cycle" fixed rate term are beyond the jurisdiction of the Commission.

9. Notwithstanding, Complainant failed to meet his burden of proof that his contract: 1) required automatic termination at its expiration; or 2) that SmartEnergy failed to provide him "Four (4) monthly billing cycles" of service based on utility billing periods the Commission's regulations.¹⁹

¹⁹ See 52 Pa. Code § 56.2 ("Billing month—A period of not less than 26 days and not more than 35 days...")

10. The Commission does not regulate the supply prices charged by EGSs and lacks statutory authority to require EGSs to issue refunds to customers. *Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania v. Pa. PUC*, 120 A3d 1087, 1101 (Pa Cmwlth. 2015). *See also* 66 Pa. C.S. §§ 2203(11) and 2802(16); *Blue Pilot Energy, LLC v. Pa. PUC*, 241 A.3d 1254, 1265-68 (Pa. Cmwlth. 2020).

11. Complainant's request for compensation for supply charges and damages for time spent are beyond the jurisdiction of the Commission. It is fundamental that the Commission lacks the statutory authority to hear claims on or award damages. *Byer v. Peoples Natural Gas Co.*, 380 A.2d 383 (Pa. Super. 1977); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980)

12. Pennsylvania law has long held that damages are a question for the trial courts. *See Miller Oral Surgery, Inc. v. Dinello*, 416 Pa. Super. 310, 611 A.2d 232 (1992) (finding award of lost profits as damages); *see also Delahanty v. First Pennsylvania Bank, N.A.*, 318 Pa. Super. 90, 126, 464 A.2d 1243, 1261 (1983).

13. The Commission has consistently dismissed claims for alleged monetary damages and compensation for lack of jurisdiction. *See e.g. Carlson v. Equitable Gas Company*, Docket No. C-20078025, Opinion and Order (Order Entered June 10, 2008)(Holding that complainant's claims of lost income, property damage, and mental stress were "monetary damages" that the Commission lacks authority to award.)(*citing*

DeFrancesco v. Western Pennsylvania Water Company, 499 Pa. 374, 453 A.2d 595 (1982)).

14. Where Complainant failed to meet his burden of proof that SmartEnergy violated any provision in the Public Utility Code, the Commission's Regulations, or a Commission order, no civil penalty is appropriate.

Proposed Ordering Paragraphs

1. That the Formal Complaint filed by Vincent Mattiola in Vincent Mattiola v. SmartEnergy Holdings, LLC at Docket No. F-2025-3054761 is hereby dismissed.

2. That the Secretary's Bureau shall mark the proceeding at Docket No. F-2025-3054761 as closed.