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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 Reply 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)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**SMARTENERGY HOLDINGS, LLC'S
REPLY BRIEF**

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Dated: December 8, 2025

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I. INTRODUCTION

Pursuant to Administrative Law Judge Chad L. Allensworth’s October 7, 2025, Amended Briefing Order and the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) regulations, SmartEnergy Holdings LLC (“SmartEnergy”) hereby submits this Reply Brief to complainant Vincent Mattiola’s (“Complainant” or “Mr. Mattiola”) Main Brief (“Mattiola MB”) of at Docket No. F-2025-3054761. SmartEnergy has addressed all issues raised in this proceeding in its Main Brief. To the extent any argument is not restated in this reply, it is because SmartEnergy addressed the matter Main Brief and no further reply is warranted in response to arguments contained in the Mattiola MB.

II. SUMMARY OF REPLY ARGUMENT

Mr. Mattiola’s Main Brief raised multiple arguments all based on his reinterpretation of his Terms of Service. Simply put, 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. Mr. Mattiola’s foundational argument that his contract automatically terminated when he took no action following notice of his fixed rate expiration has no evidentiary or legal basis whatsoever. Further, Mr. Mattiola’s requests seeking retroactive regulatory changes and a long list of industry-wide reforms he would like implemented on the competitive supplier industry are all contrary to the Public Utility Code and existing regulations. The simple reality is that his requested industry wide reforms have exactly zero basis in the instant evidentiary record, and even if they did, such reforms cannot be adequately addressed or implemented through a single, consumer

complaint. This is *especially* true where Complainant did not even establish that SmartEnergy violated any law, regulation, or order of the Commission in its renewal notices and transition of service to a variable rate when Mr. Mattiola failed to act. His Complaint should be dismissed.

III. REPLY ARGUMENT

A. COMPLAINANT'S BELIEF THAT HIS CONTRACT'S "AUTOMATIC" TERMINATION WAS "DEFINITE AND BINDING" IS WRONG AND CONTRARY TO HIS TERMS OF SERVICE AND 52 PA. CODE § 54.10. (MATTIOLA MB AT 4, 10-11).

In his Main Brief, Complainant argues that his “four-month fixed rate term” was “definite and binding” and could only be interpreted as he does, i.e. an exact, four calendar month (120 day) term from his date of enrollment. Mattiola MB at 4, 10-11. On the other hand, Complainant argues his contract allegedly includes “ambiguities” so that his interpretation of “four-month fixed rate term” must be adopted. *Id.* According to Mr. Mattiola, SmartEnergy should not be permitted to “rewrite clear temporal limits post-hoc.” Mattiola MB at 10. Mr. Mattiola’s arguments lack merit and must be rejected.

While SmartEnergy addressed Mr. Mattiola’s view that “four-calendar month” can only mean what he says,(see SmartEnergy MB at 9-25), it is important to point out that SmartEnergy’s Terms of Service are industry standardized, clear, and fully compliant with the Commission’s prescriptive requirements. Contrary to Mr. Mattiola’s preferred interpretation, SmartEnergy’s position involves no “reinterpretation” of the terms of service whatsoever as discussed in SmartEnergy’s testimony. *Id.* There can be no dispute that Mr. Mattiola enrolled with SmartEnergy in a “Four (4) monthly billing cycle” with explicit renewal terms. Indeed, at hearing Mr. Mattiola acknowledged the renewal terms of

the contract.¹ Those terms, as a matter of fact, do not contain any “definite and binding” automatic termination clause to support Mr. Mattiola’s belief that the contract was only to last for four months. See SmartEnergy Exhibit 3. Mr. Mattiola’s terms of service were provided to him in writing as required by the Commission’s regulations and were repeated to him during the recorded call verification of his enrollment which explicitly informed him of his contract’s renewal term. There can be no dispute that Mr. Mattiola was informed and his contract terms made clear that after his “four (4) monthly billing cycles” rate term expired, his rate would transition to a “month to month based on market conditions.” SmartEnergy Exhibit 2 and 2a – pg. 1, line 35-36) N.T. 50:19-51:21. Thus, arguments that SmartEnergy was under some contractual obligation to automatically terminate Mr. Mattiola’s contract after four months are unfounded and not consistent with general industry practice as permitted by the Commission’s regulations. See 52 Pa. Code § 54.10 (discussed *infra*).

Next, after misstating the testimony of SmartEnergy witness Ms. Chavez, Mr. Mattiola wrongly claims that SmartEnergy “conceded under oath” a “breach of contract.” Mattiola MB at 10-11. Mr. Mattiola claims that SmartEnergy “unilaterally extended” his fixed rate, violating alleged (but unstated) “contract” legal precedent and allegedly breached a “duty of good faith and fair dealing implicit in all Pennsylvania Contracts.” Mattiola MB at 11. As explained above, there is no support for the view that Mr. Mattiola’s service was required to be automatically canceled after four months. As a matter of law,

¹ See as discussed in SmartEnergy MB at 15-17.

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)).

That said, a simple review of the evidentiary record and testimony unequivocally proves Mr. Mattiola is misconstruing Ms. Chavez’s testimony by cherry picking, non-sequential parts to repackage Ms. Chavez’s testimony entirely out of context. The contract’s fixed rate expiration was discussed in detail at the evidentiary hearing where SmartEnergy’s Ms. Chavez explained that the “benefit” she was discussing was based on him receiving the entire duration of his fixed rate term. Ms. Chavez was clearly not discussing some sleight of hand unilateral modifications as Mr. Mattiola is claiming. See SmartEnergy MB at 21-24 (discussing the impact of the utility “billing period” outside of SmartEnergy’s control as it impacted Mr. Mattiola’s “Four (4) monthly billing cycle” fixed rate term). Mr. Mattiola’s arguments that his contract automatically terminated, that his term was unilaterally extended by SmartEnergy, or that SmartEnergy committed a breach of contract lack merit and are not based on competent evidence of record. As such, Mr. Mattiola’s complaint must be denied.

B. COMPLAINANT’S DEMAND TO RETROACTIVELY REQUIRE SMARTENERGY TO PRODUCE VERIFIABLE “POSTAL RECEIPTS... [OR] CUSTOMER CONFIRMATION” PRIOR TO TRANSITIONING TO A VARIABLE RATE PRODUCT AFTER NOTICE DISREGARDS SMARTENERGY’S UNREBUTTED EVIDENCE AND SWORN BUSINESS RECORDS AND MUST BE DENIED. MATTIOLA MB AT 11-12.

Mr. Mattiola argues that because SmartEnergy did not provide “postal receipts... customer confirmation, or [allegedly] business records certification demonstrating dispatch” of the October 31, 2024 and November 15, 2024 notices sent pursuant to 52 Pa. Cose § 54.10, all other evidence must be disregarded – including SmartEnergy’s sworn testimony verifying its business records proving all notices were sent and not returned as undeliverable to SmartEnergy.² Mattiola MB at 11. According to Mr. Mattiola, “SmartEnergy’s deadlines” to send such notices should have been earlier (again, based on his “calendar day” interpretation of his contract duration). *Id.* Neither of Mr. Mattiola’s arguments have merit and must be rejected.

First, as discussed in SmartEnergy’s main brief at 9-13, Mr. Mattiola’s beliefs, regardless of how firmly they are held, are not competent evidence of anything, let alone any statutory or regulatory interpretation of requirements for the Notice of Contract Expiration SmartEnergy is required to send. See 52 Pa. Code § 54.10. Indeed, Mr. Mattiola did not meet his burden because he could not identify any law or regulation which supports his belief that SmartEnergy is required to send his Options and Renewal notices via certified mail or with other tracking to support his claim now that the Commission must

² See as discussed in SmartEnergy’s MB at 18-19. (citing N.T. 56-57).

penalize SmartEnergy for not producing any “postal receipts.” To the contrary, the Commission’s regulations require:

An EGS shall provide the following notices to customers prior to the expiration of a fixed duration contract or prior to a change in contract terms:

(1) An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. For customers who have elected to receive electronic communications from the EGS, the notice shall be transmitted in the manner chosen by the customer.

...

(2) An options notice shall be provided, **by first class mail**, to each affected customer at least 30 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms.

52 Pa. Code § 54.10. The evidence is clear that SmartEnergy complied with these requirements. See SmartEnergy Exhibits 4, 5. Additionally, the Commission’s regulations at 52 Pa. Code § 111.11 further illustrate Mr. Mattiola’s position to require “postal receipts” is inconsistent with the Commission’s regulations which set forth a “rebuttable presumption” for first class mailing when mailed to the customer’s address:

(c) There shall be a rebuttable presumption that a disclosure statement correctly addressed to a customer with sufficient first class postage attached shall be received by the customer 3 days after it has been properly deposited in the United States mail.

52 Pa. Code § 111.11(c)

There is no dispute that SmartEnergy mailed its Terms of Service, Disclosure Statement, and Renewal Notices to Mr. Mattiola’s address at 3552 Broadway.³ Therefore, Mr.

³ Tr. 9:3-10.

Mattiola’s “postal receipt” obligations are not, as a matter of law, required for either the initial or options notices.

Second, Mr. Mattiola’s belief that SmartEnergy was required to obtain his “customer confirmation” despite his failure to respond to the written Notices of Contract Expiration is wrong and again contrary to the law and his Terms of Service. Indeed, 52 Pa. Code § 54.10(2)(ii)(A) provides:

(A) If a customer *fails to respond to the options notice* and is converted to a month-to-month contract, the EGS shall provide a disclosure statement under § 54.5 (relating to disclosure statement for residential and small business customers).

52 Pa. Code § 54.10. Despite Mr. Mattiola’s incorrect belief that his contract automatically terminated (discussed *supra*) or that he had to give affirmative confirmation prior to his fixed rate term’s expiration, it is plain and clear that SmartEnergy’s notices and ultimately the transition of his service to a variable rate when he failed to act complied with the law and his terms of service.

Lastly, as discussed in greater detail in SmartEnergy’s MB at 20-24, Mr. Mattiola’s belief that his contract term ended at a four month (120 day) calendar day term on November 23, 2024 simply has no merit. His belief does not change the fact that SmartEnergy timely sent both notice on October 31, 2024 and November 15, 2024 for his actual fixed rate term expiration following “four (4) month billing cycles.” His arguments must be denied.

C. **COMPLAINANT’S ARGUMENT THAT SMARTENERGY VIOLATED 66 PA. C.S. § 1501 IS WRONG AS A MATTER OF LAW – ELECTRIC GENERATION SUPPLIERS ARE NOT PUBLIC UTILITIES GOVERNED BY CHAPTER 15 OF THE PUBLIC UTILITY CODE. MATTIOLA MB AT 10, 13.**

Throughout his brief, Mr. Mattiola argues that SmartEnergy’s actions, billings, marketing, and renewal practices “violate § 1501” and SmartEnergy should, therefore, be assessed “civil penalties for each day of continuing violation; such authority should be exercised to deter recurrence” pursuant to 66 Pa. C.S. § 3301. Mattiola MB at 10 – 13. Mr. Mattiola’s position is contrary to *significant* binding precedent from our appellate courts which makes clear that Electric Generation Suppliers (“EGSs”), like SmartEnergy, are not “Public Utilities” and Section 1501’s “Services and Facilities” provisions clearly do not apply to EGSs under the Electricity Generation Customer Choice and Competition Act at Chapter 28 of the Public Utility Code (“Chapter 28”).

Chapter 15 of the Public Utility Code – Services and Facilities, and in particular, 66 Pa. C.S. § 1501 (Character of Service and Facilities) only applies to “Public Utilities” as defined in the Public Utility Code at 66 Pa. C.S. § 102. In pertinent part, Section 1501 provides:

Every ***public utility*** shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.

66 Pa. C.S § 1501 (emphasis added).

Chapter 28 gives retail customers in Pennsylvania, like Mr. Mattiola, the ability to procure electric generation supply from independent EGSs while continuing to receive

distribution services from their local distribution Company. Chapter 28 defines “Electric Generation Supplier” as:

A person or corporation, including municipal corporations which choose to provide service outside their municipal limits except to the extent provided prior to the effective date of this chapter, brokers and marketers, aggregators or any other entities, that sells to end-use customers electricity or related services utilizing the jurisdictional transmission or distribution facilities of an electric distribution company or that purchases, brokers, arranges or markets electricity or related services for sale to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company.

66 Pa. C.S. § 2803.

In interpreting Chapter 28, the Pennsylvania Supreme Court has held that the definition of “electric generation supplier” (“EGS”) under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801 – 2815, suppliers are clearly excluded from the definition of “public utility” for most purposes, subject to limited express exemptions. *Delmarva Power & Light Co. v. Com.*, 582 Pa. 338, 352, 870 A.2d 901, 909 (2005). With these statutory mandates in mind, the appellate courts have made clear the PUC’s purview is strictly limited to entities over which the legislature has granted the PUC authority.⁴

Additionally, the Commission itself has recently overruled an Initial Decision applying Section 1501 to competitive suppliers (there a natural gas supplier) following

⁴ See *Bethlehem Steel Corp. v. Pennsylvania Public Utility Commission*, 552 Pa. 134, 144, 713 A.2d 1110, 1115 (1998) (“It is for the legislature, not the PUC or this court to determine what business activity comes within the purview of the PUC. Because the legislature has determined [which] businesses ... are not public utilities, ... we are constrained to determine that they are not subject to regulation by the PUC. If the legislature determines that such businesses should, in fact, be regulated by the PUC, it can always amend the Public Utility Code to that effect.”)

these brightline principles that competitive suppliers “...are not public utilities, and thus, cannot violate Section 1501.” See *Naborn and Pronko v. Direct Energy Services LLC*, Docket No. F-2023-3037611, Opinion and Order at 18-23 (Order entered March 4, 2024) (“*Naborn*”). In granting the supplier’s exceptions there, the Commission held:

“...the Commission does not have jurisdiction over the services of Direct Energy under 66 Pa. C.S. § 1501. Therefore, the requirement in 66 Pa. C.S. § 1501 that a “public utility...furnish and maintain adequate, efficient, safe and reasonable services and facilities” does not apply to Direct Energy here. Accordingly, we shall grant Direct Energy’s Exception No. 1.”

Naborn at 19.

As such, Mr. Mattiola’s arguments that SmartEnergy violated Section 1501 must be denied. SmartEnergy is a competitive EGS to which Section 1501 does not apply as a matter of law. It follows further that Mr. Mattiola’s belief that SmartEnergy must suffer civil penalties and license suspensions for alleged violation of Section 1501 must also be denied as a matter of law.

D. ASSUMING, ARGUENDO, THAT COMPLAINANT MET HIS BURDEN OF PROOF IN ANY ASPECT OF HIS CASE (HE DID NOT) COMPLAINANT’S CALL FOR REFORM OF THE COMPETITIVE SUPPLIER INDUSTRY “ON BEHALF OF ALL CONSUMERS” CANNOT BE GRANTED. MATTIOLA MB AT 13-16

In his Main Brief, Mr. Mattiola argues for retail-energy industry wide reforms, including but not limited to: the Commission applying Section 1501 to competitive suppliers (discussed *supra*); require restitution from EGSs (i.e. damages which cannot be granted- See SmartEnergy MB at 26); implement vague “direct compliance reporting”; mandate Mr. Mattiola’s interpretation of “calendar month” terms for all EGS contracts in lieu of existing regulations, billing cycles, and billing periods; mandate postal and

evidentiary standards for EGS's contract expiration notices;⁵ enhance penalties for EGSs; and expand consumer education. Mattiola MB at 13-14. Mr. Mattiola's requests are legally impermissible under Pennsylvania law or contrary to existing regulations. His requested "reforms" have exactly zero basis in the instant regulatory record where he failed to meet his burden of proof that SmartEnergy violated any law, regulation or order. See SmartEnergy MB at 9-19.

That said, it is important to recognize that even if Mr. Mattiola's claims had merit (they do not) the context of this matter is a single consumer's formal complaint. Mr. Mattiola's complaint (even if it had merit) is not evidence of anything that gives authority to the Commission to grant the industry-wide relief and reforms Mr. Mattiola would like to apply to the industry – even if all of his allegations were supported by evidence, which they are not.

The record makes clear that SmartEnergy complied with the Commission's regulations in every aspect of service provided to Mr. Mattiola, and Mr. Mattiola simply failed to meet his burden to show otherwise. If he is unhappy with the Commission's regulations and rules governing EGSs, his instant complaint is not the proper forum in which to seek broad reaching, industry wide statutory and regulatory reform. Ultimately, the Commission is without any legal authority to grant Mr. Mattiola's his requested industry-wide reform-based relief in the context of this case - SmartEnergy is but one

⁵ Aside from no regulatory requirements or rationale for his request where SmartEnergy produced verified business records of all first-class mailings, this position would further overrule decades of black letter law setting forth a Complainant's burden of proof before the Pennsylvania Public Utility Commission. See SmartEnergy MB at 5-7, 9-19.

supplier and this is but one complaint. Mr. Mattiola's beliefs and theories - which are wholly contrary to existing law and established Commission regulatory processes - are not evidence of anything beyond his personal opinions of how Mr. Mattiola feels the Commission should regulate the supplier industry.

Lastly, to the extent that Mr. Mattiola is in-fact pursuing relief "on behalf of all customers" in Pennsylvania (Mattiola MB at 13-14) the law is clear that Complainant can only represent his own interests, and lacks standing to "vindicate the rights of a third party who has the opportunity to be heard."⁶ The same goes for Mr. Mattiola pursuing relief outside the Public Utility Code, including his requests under the Pennsylvania Unfair Trade Practices and Consumer Protection law, 73 P.S. § 201-1 *et seq.* Such relief cannot be granted by this Commission even if Mr. Mattiola met his burden. Thus, all of Mr. Mattiola's requests for industry-wide reforms and changes must be denied.

E. COMPLAINANT'S ALLEGATIONS REGARDING UNTIMELY PLEADINGS SHOULD BE DISREGARDED AS THERE WERE NO DUE PROCESS IMPLICATIONS WHERE A COMPLETE EVIDENTIARY RECORD WAS CREATED. MATTIOLA MB AT 12-13.

Complainant argues that because SmartEnergy submitted an answer to his formal complaint, allegedly, "forty-two days late", SmartEnergy must be deemed to have retroactively "waived defenses that could have been raised timely" which "conduct warrants administrative penalty." Mattiola MB at 12. This issue was addressed and disposed of during the evidentiary hearing. N.T. 94-97.

⁶ *Mid-Atlantic Power Supply Ass'n v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citing Pa. *Dental Ass'n v. Cmwlth., Dep't of Health*, 461 A.2d 329 (Pa. Cmwlth. 1983)).

Mr. Mattiola's renewed argument fails to articulate any prejudice or due process harm regarding the June 26, 2025 Answer - *nor could there be*. Your Honor conducted a full evidentiary hearing which created an evidentiary record over the course of four (4) hours leading to 134 transcript pages and seven admitted exhibits.⁷ Simply put, Mr. Mattiola's arguments that SmartEnergy's entire case must be discarded and all defenses waived as a result of its June 26, 2025 Answer is wholly irrelevant given the evidentiary record. Indeed, to the extent required, 52 Pa. Code § 1.2(a) should be applied in this circumstance, which provides:

(a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

52 Pa. Code § 1.2(a)

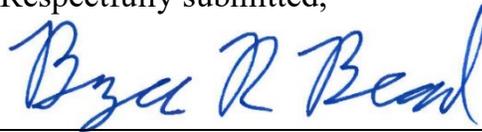
Mr. Mattiola has not articulated any way in which SmartEnergy's June 26, 2025 Answer "affect[ed] [his] substantive rights." See 52 Pa. Code § 1.2(a). As such, Your Honor should disregard any alleged error or defect of procedure with SmartEnergy's June 26, 2025 Answer which had no impact on Mr. Mattiola's presentation of his case whatsoever.

⁷ While SmartEnergy's Answer was admitted into evidence in this proceeding the Commission's regulations at 52 Pa. Code § 5.405 sets forth that a pleading, or any part thereof, is not competent fact evidence.

IV. CONCLUSION AND REQUEST FOR RELIEF

Wherefore, as discussed in more detail in SmartEnergy Holdings, LLC's Main Brief, SmartEnergy 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: December 8, 2025

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