

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held June 18, 2026

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Vincent Mattiola

F-2025-3054761

v.

SmartEnergy Holdings, Inc.

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Vincent Mattiola (Mr. Mattiola or Complainant), filed on March 20, 2026, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Chad L. Allensworth, issued on February 27, 2026, in the above-captioned proceeding. Replies to Exceptions were filed by SmartEnergy Holdings, LLC (SmartEnergy, Company, or Respondent) on March 30, 2026. For the reasons set forth below, we shall deny the Complainant's Exceptions and adopt the Initial Decision of ALJ Allensworth, consistent with this Opinion and Order.

I. History of the Proceeding

On April 22, 2025, Mr. Mattiola filed a Formal Complaint (Complaint) against SmartEnergy, an electric generation supplier (EGS).¹ Therein, the Complainant alleged that there were incorrect charges on his electric bills and that, without his authorization, the Company enrolled his account in a variable rate contract. For relief, the Complainant identified the following, which he requested from the Commission:

1. Compensation for the difference in price charged for our two Billing Statments [sic] from PPL.
2. Penalty fine the EGS “Smartenergy.com Inc” for fraudulently opening a new contract in our name, without our permission.
3. Open an investigation into other cases where the EGS “Smartenergy.com Inc” similarly created fraudulent new contracts for Pennsylvania residents who enrolled in a promotional fixed-rate, fixed-term electricity supply plan, then were transitioned to a variable-rate plan without proper notification nor permission from the consumer.
4. Compensation for all Pennsylvania consumers who have been negatively impacted by the predatory practices of the EGS “Smartenergy.com Inc”.
5. Suspension of the EGS “Smartenergy.com Inc” license to supply power in the Commonwealth of Pennsylvania.
6. Revocation of the EGS “Smartenergy.com Inc” business license in the Commonwealth of Pennsylvania.
7. Compensation for our loss of time accrued dealing with the Informal, and now Formal complaint process with the PUC regarding this case.

Complaint ¶ 5.

¹ The Complaint is an appeal of an informal decision of the Commission’s Bureau of Consumer Services (BCS) at BCS Case No. 4040842, issued on March 19, 2025.

On June 17, 2025, an Initial Telephonic Hearing Notice was issued, and the matter was set for an initial hearing on July 31, 2025, at 10:00 a.m. The case was assigned to ALJ Allensworth as presiding officer.

On June 17, 2025, ALJ Allensworth issued a Prehearing Order which addressed procedural matters and hearing procedures.

On June 26, 2025, SmartEnergy filed an untimely Answer and New Matter to the Complaint denying the material allegations of the Complaint.² In its Answer, the Company admitted Mr. Mattiola enrolled with SmartEnergy in a four-month fixed rate contract on July 15, 2024. The Company denied that the Complainant's contract stated that SmartEnergy's contract would terminate at the conclusion of the four-month fixed rate contract. Further, the Company claimed it provided Mr. Mattiola required notices informing him that his four-month fixed rate contract was ending and if no further action was taken, he would be transferred to a variable rate contract. Answer and New Matter at 4. In its New Matter, SmartEnergy stated the Commission's regulations only allow refunds of supply charges if: (1) a customer disputes an enrollment within the first two billing periods since the customer should have reasonably known of a change of supplier; and (2) the dispute investigation establishes that the change of supplier occurred without the customer's consent. Answer and New Matter at 6 (citing 52 Pa. Code § 57.177(b); 52 Pa. Code § 59.97(b)). Additionally, the Company asserted the Commission does not regulate the supply prices charged by EGSs and lacks authority to require EGSs to issue refunds to customers. Answer and New Matter at 6 (citing *Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania v. Pa. PUC*, 120 A3d 1087, 1101 (Pa Cmwlth. 2015). 66 Pa.C.S. §§ 2203(11) and 2802(16); *Blue Pilot Energy, LLC v.*

² On April 25, 2025, the Commission served the Complaint to SmartEnergy. 52 Pa. Code § 5.61(a) requires that answers be filed within twenty (20) days of the date of service, or May 15, 2025. Therefore, SmartEnergy's Answer was untimely as it was filed 62 days after the date of service.

Pa. PUC, 241 A.3d 1254, 1265-68 (Pa. Cmwlth. 2020)). Finally, SmartEnergy averred that the Commission lacks jurisdiction to award damages. Therefore, the Company asserted, Mr. Mattiola's request for compensation and any other damages cannot be awarded by the Commission and his request for relief must be denied. Answer and New Matter at 7.

The hearing convened, as scheduled, on July 31, 2025. Mr. Mattiola participated *pro se*, testified, and presented two exhibits that were admitted into the record. The Respondent appeared and was represented by Bryce Beard, Esquire. Attorney Beard presented the testimony of Ms. Lidia Chavez, Director of Regulatory Compliance for SmartEnergy, and offered six exhibits, all of which were entered into the record.

The hearing generated a transcript of 134 pages.

On August 20, 2025, ALJ Allensworth issued a briefing order advising the parties when main briefs and reply briefs were due.

On October 6, 2025, the Respondent filed its main brief in accordance with the briefing order.

Also, on October 6, 2025, the Complainant submitted an email request to the ALJ and counsel for SmartEnergy to extend the time to file his main brief. The Respondent did not object to the extension.

On October 7, 2025, ALJ Allensworth issued an amended briefing order advising the parties of revised due dates for main briefs and reply briefs.

On November 7, 2025, Mr. Mattiola filed his main brief.

On December 8, 2025, Mr. Mattiola and SmartEnergy filed their respective reply briefs.

On December 9, 2025, ALJ Allensworth issued an order closing the record.

The Initial Decision of ALJ Allensworth was issued February 27, 2026, wherein he denied the Complaint. The Exceptions of Mr. Mattiola, as noted, were filed March 20, 2026.³ On March 30, 2026, SmartEnergy filed Replies to Exceptions.

II. Discussion

A. Legal Standards

1. Burden of Proof

Pursuant to Section 332(a) of the Public Utility Code (Code), the proponent of a rule or order bears the burden of proof. 66 Pa.C.S. § 332(a). To satisfy the burden of proof, the Complainants, as the party seeking relief, must establish a sufficient case that the Respondent is responsible or accountable for the problem described in the Complaints. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). That is, the Complainants' evidence must be more convincing, by even the smallest amount, than the evidence presented by the Respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, this Commission's decisions must be supported by substantial evidence in the record. More is required than

³ Exceptions were to be filed by March 19, 2026. Although the Exceptions are dated March 19, 2026, the Commission's records indicate the Exceptions were filed on March 20, 2026. Therefore, Mr. Mattiola's Exceptions are untimely.

a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & West Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Upon presentation by the Complainants of sufficient evidence to initially satisfy the burden of proof, the evidentiary burden shifts to the Respondent to present persuasive evidence rebutting that of the Complainants. If the Respondent's evidence is of co-equal value or weight, the Complainants have not satisfied their burden of proof, and they must provide some additional evidence to rebut that of the Respondent. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983). While the evidentiary burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission to prove its case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

2. Electric Generation Suppliers

EGSs are excluded from the definition of a public utility at 66 Pa.C.S. § 102, except for the purposes described in 66 Pa.C.S. § 2809, regarding licensing requirements and 66 Pa.C.S. § 2810, regarding revenue neutral reconciliation. 66 Pa.C.S. § 102; *see also Delmarva Power & Light Co. v. Pa. PUC*, 870 A.2d 901 (Pa. 2005) (*Delmarva*). Therefore, the Commission lacks the authority to determine whether EGS rates are “just and reasonable” pursuant to Section 103 of the Code, 66 Pa.C.S. § 1301. *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, 120 A.3d 1087 (Pa. Cmwlth. 2015). In *Commonwealth v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Opinion and Order entered December 18, 2014) (*IDT Energy*), the Commission held that, pursuant to Section 1312, 66 Pa.C.S. § 1312, it could not generally refund charges for electric generation supply service.

However, in *IDT Energy*, the Commission established two exceptions where it may order an EGS to refund charges for electric generation supply service. First, pursuant to 52 Pa. Code § 57.177(b), the Commission found that it may direct an EGS to refund charges when a customer has been switched to an EGS without the customer's consent. The unauthorized switch of a customer's electric generation supply service, known as "slamming", is addressed at 66 Pa.C.S. § 2807(d)(1). Section 2807 of the Code provides that

...the commission shall establish regulations to ensure that an electric distribution company does not change a customer's electricity supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier.

66 Pa.C.S. § 2807(d)(1).

The Commission's regulation at Section 54.42, 52 Pa. Code § 54.42(a)(9), provides that the Commission may impose sanctions on an EGS for "the transfer of a customer without the customer's consent."

Second, the Commission held that it has authority under 66 Pa.C.S. § 501, to direct an EGS to issue a credit or refund for an over bill. *IDT Energy* at 17.

3. Jurisdiction

Jurisdiction relates solely to the competency of the particular court or administrative body to determine controversies of the general class to which the case then presented for its consideration belongs. *Riedel v. The Human Relations Comm'n of the City of Reading*, 559 Pa. 33, 739 A.2d 121 (1999). The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Code. *Shedlosky v. Pa. Elec. Co.*, Docket No. C-20066937

(Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. PUC*, 157 Pa. Super. 595, 43 A.2d 348 (1945). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 152 Pa. Cmwlt. 409, 619 A.2d 390 (1992), *app denied*, 536 Pa. 633, 637 A.2d 293 (1993). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 427 Pa. 581, 235 A.2d 602 (1967). Neither silence nor agreement of the parties will confer jurisdiction where it otherwise would not exist, *Commonwealth v. VanBuskirk*, 303 Pa. Super. 148, 449 A.2d 621 (1982), nor can jurisdiction be obtained by waiver or estoppel. *Scott v. Bristol Twp. Police Dep't*, 669 A.2d 457 (Pa. Cmwlt. 1995).

B. ALJ's Initial Decision

ALJ Allensworth made 35 Findings of Fact and reached 12 Conclusions of Law. I.D. at 5-9, 28-30. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

In his Initial Decision, ALJ Allensworth dismissed the Complaint of Mr. Mattiola. I.D. at 1. At the outset, the ALJ addressed the Complainant's argument that SmartEnergy's failure to file a timely response to the Complaint demonstrates a disregard for the Commission's procedures and warrants a civil penalty under Section 3301. *Id.* at 12-13 (citing 52 Pa. Code § 5.61(a) and 66 Pa.C.S. § 3301). The ALJ acknowledged SmartEnergy's argument that the Complainant did not express prejudice or that his due process was harmed by the late filing of its Answer. ALJ Allensworth noted that Mr. Mattiola did not claim his substantive rights were affected by the late Answer, only that the untimely Answer demonstrated disregard for procedures. Because the Complainant did not file a motion for default judgment, nor did

he move to strike the testimony and evidence presented by SmartEnergy at the hearing, the ALJ allowed SmartEnergy to present testimony and evidence pursuant to Section 1.2 of the Commission's Regulations. I.D. at 13 (citing 52 Pa. Code § 1.2).

Next, the ALJ analyzed the Complainant's argument that the Company breached its disclosure statement by continuing service beyond the four-month contract duration. ALJ Allensworth noted that as an EGS, SmartEnergy is required to provide a disclosure statement that sets forth, in pertinent part, the following:

§ 54.5. Disclosure statement for residential and small business customers.

(a) The agreed upon prices in the disclosure statement must reflect the marketed prices and the billed prices.

(b) The EGS shall provide the customer written disclosure of the terms of service at no charge whenever:

(1) The customer requests that an EGS initiate service.

(2) The EGS proposes to change the terms of service.

(3) Service commences from a default service provider.

(c) The contract's terms of service shall be disclosed, including the following terms and conditions, if applicable:

(1) Disclosure of generation charges must conform to the following requirements:

(i) If the customer will be billed under a price per kilowatt-hour price structure, generation charges must be disclosed according to the actual prices per kilowatt-hour.

(ii) If a customer will not be billed under a price per kilowatt-hour price structure, the contract's terms must clearly explain the pricing structure and what the

customer's price for generation charges will be for a given period of time.

(iii) Generation charges must include an estimate of all applicable taxes except for State sales tax and county tax.

(2) If the price is introductory, the pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.

(3) If the price is variable, the variable pricing statement must include:

(i) Conditions of variability (state on what basis prices will vary) including the factors that the EGS will rely upon to establish the variable price.

(ii) Limits on price variability:

(A) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the duration of the contract, the EGS shall clearly explain the applicable limits. The EGS shall also state that the price can change each billing period, which must be printed in font size larger than the font size appearing in the terms of service.

(B) If there is not a limit on price variability, the EGS shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next. The EGS shall also state that the price can change each billing period, which must be printed in font size larger than the font size appearing in the terms of service.

(iii) The price to be charged, per kilowatt-hour, for the first billing cycle of generation service.

(iv) A description of when and how the customer will receive notification of price changes. If the customer will not know the price until the time of billing, this must be disclosed in font size larger than the font size appearing in the terms of service.

(4) If the unit price changes based on actual customer usage or if the offer includes fees in addition to the unit price, the price per kWh must factor in all costs associated with the rate charged to the customer, including any fees, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format. If the offer includes an introductory price, the disclosure statement must show the average price per kWh of the introductory price, including any fees, and the price offered after the introductory period, including any fees, in separate tables.

(i) If the price is a fixed monthly amount, including any fees, that does not change based on actual customer usage, the disclosure statement must show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.

(ii) If the price varies based on when the customer actually uses electricity, such as a time-of-use offer, the disclosure statement must show the price per kWh for each time period in table format.

(5) An itemization of basic and nonbasic charges distinctly separate and clearly labeled.

(6) The duration of the agreement, which includes:

(i) The starting date.

(ii) The expiration date, if applicable.

(7) An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.

(8) An explanation of prices, terms and conditions for special services, including advanced metering deployment, if applicable.

(9) The cancellation provisions, if applicable.

(10) The renewal provisions, if applicable.

(g) Disclosure statements must include the following customer notifications for fixed duration or non-fixed duration contracts:

(1) For fixed-duration contracts, disclosure statements must include the following notification: “If you have a fixed duration contract that will be ending, or whenever <EGS name> wants to change the contract, you will receive two separate notices before the contract ends or the changes happen. You will receive the first notice 45 to 60 days before, and the second notice 30 days before the expiration date or the date the change becomes effective. These notices will explain your options.”

I.D. at 14-17 (citing 52 Pa. Code § 54.5 (emphasis in original)).

Based on the Company’s testimony, the ALJ found SmartEnergy met the requirements for providing a contract/disclosure statement and it specified the terms of the fixed rate along with when and how the Complainant would be notified of termination and renewal terms. Therefore, ALJ Allensworth dismissed the Complainant’s allegations that SmartEnergy failed to provide an accurate disclosure statement in violation of 52 Pa. Code § 54.5. I.D. at 18.

The ALJ turned his attention to the Complainant's argument that the Company failed to provide timely and verifiable notices regarding the expiration or change in terms for his electric generation supply service. ALJ Allensworth found that EGSs are required to provide notices to customers prior to the expiration of a fixed duration contract or prior to a change in contract terms, based on 52 Pa. Code § 54.10, which states as follows:

§ 54.10. Notice of contract expiration or change in terms for residential and small business customers.

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. The initial notice must include:
 - (i) A general description of the proposed change in terms of service.
 - (ii) The date a change shall be effective or when the fixed duration contract is to expire.
 - (iii) An explanation of why a change in contract terms is necessary.
 - (iv) A statement indicating when a follow-up options notice shall be issued with details regarding the proposed change.
 - (v) A statement explaining that the options notice must discuss the customer's options to the proposed change in terms of service or expiring fixed duration contract.

(vi) A statement indicating whether the existing fixed duration contract has a cancellation fee, and an explanation of the fee amount and how to avoid the fee, including a notice that the customer is not subject to the cancellation fee if the customer terminates the contract at any time after the customer receives the options notice required under § 54.10(2).

(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. The options notice must include:

(i) A statement advising the customer of the specific changes being proposed by the EGS and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed changes, to choose another product offering from the customer's existing EGS, to select another EGS or to return to default service.

(ii) Information regarding new pricing or renewal pricing including the price to be charged, per kilowatt-hour, for the first billing cycle of generation service:

(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).

(I) Notice of a subsequent change in pricing shall be provided to the customer at least 30 days prior to the new price being charged.

(II) For customers who have elected to receive electronic communications from the EGS, notice of the change in pricing shall be transmitted in the manner chosen by the

customer. For all other customers, notice shall be provided by first class mail.

(B) If a customer fails to respond to the options notice and is entered into a new fixed duration contract, the EGS shall provide the fixed, per kilowatt-hour price to be charged and term length of the contract.

(iii) The telephone numbers and Internet addresses, as applicable, for the Office of Consumer Advocate, the Commission and PaPowerSwitch.com.

(iv) Language clearly visible on the front of the envelope used to provide the options notice stating that it contains important information regarding the expiration or changes in terms of the customer's electric supply contract.

(v) A statement indicating whether the existing fixed duration contract has a cancellation fee and, if so, that the customer is not subject to the cancellation fee if the customer terminates the contract at any time between the date of the options notice and the expiration date of the fixed duration contract.

(3) When a customer fails to respond to either notice, the following apply:

(i) A fixed duration contract shall be converted to one of the following:

(A) A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.

(B) Another fixed duration contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.

(ii) The converted contracts shall remain in place until the customer chooses one of the following options:

(A) Select another product offering from the existing EGS.

(B) Enroll with another EGS.

(C) Return to the default service provider.

I.D. at 19-22 (citing 52 Pa. Code § 54.10).

The ALJ found that the initial notice and options notice were both mailed appropriately and within the timeframes required. Because both notices were served by U.S. First-Class Mail to the service address and were not returned as undeliverable, ALJ Allensworth stated it must be presumed that this mail was received by the Complainant. I.D. at 23 (citing *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982)). Based on the testimony presented by the Company, the ALJ found that SmartEnergy met the requirements for serving the initial and options notice on the Complainant. Accordingly, ALJ Allensworth dismissed the Complainant's allegations that SmartEnergy failed to timely provide the initial notice and options notice required by 52 Pa. Code § 54.10. I.D. at 23.

Next, the ALJ addressed Mr. Mattiola's argument that the Company violated 66 Pa.C.S. § 1501 by providing unreasonable service based on misleading communications and billing beyond the expiration of the four-month fixed rate term. Here, ALJ Allensworth agreed with SmartEnergy's claim that as an EGS, 66 Pa.C.S. § 1501 does not apply because it is not a public utility. Thus, the ALJ found that the Complainant failed to establish that SmartEnergy violated 66 Pa.C.S. § 1501.

I.D. at 23-24 (citing *Delmarva; Naborn and Pronko v. Direct Energy Servs. LLC*, Docket No. F-2023-3037611 (Opinion and Order entered March 4, 2024) (*Naborn*)).

ALJ Allensworth next analyzed Mr. Mattiola's claim that the Company breached its disclosure statement by continuing service beyond four calendar months. The ALJ noted the Complainant's assertion that the four-month fixed rate contract at \$0.0679 per kWh should have ended on November 23, 2024, and by continuing to bill at the fixed rate until December 22, 2024, followed by billing a variable rate of \$0.1780 per kWh, SmartEnergy breached the contract. ALJ Allensworth agreed with the Company's argument that the Commission does not have jurisdiction to adjudicate breach of contract claims. I.D. at 24-25 (citing *Naborn; Yaglidereliler Corp. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2413732 (Opinion and Order entered January 16, 2015) (citing *Allport Water Auth. v. Winburne Water Co.*, 393 A.2d 673 (Pa. Super. 1978))). Therefore, the ALJ dismissed Mr. Mattiola's claim that SmartEnergy breached the contract by extending the fixed rate beyond the four-month fixed rate term and switched him to a variable rate, on the basis that breach of contract claims are outside of the Commission's jurisdiction. I.D. at 25.

Finally, the ALJ addressed the Complainant's request for relief seeking the reversal of all charges the Company billed to Mr. Mattiola after November 23, 2024, or after December 4, 2024. ALJ Allensworth noted that the Commission has plenary authority under Section 501, 66 Pa.C.S. § 501, to direct an EGS to issue a credit or refund for an overbill. I.D. at 26 (citing *IDT Energy* at 17). The ALJ found SmartEnergy presented sufficient credible evidence to rebut the Complainant's claims.

ALJ Allensworth noted the Company provided Mr. Mattiola electricity supply at the agreed upon fixed rate of \$0.0679 kWh for four full monthly billing cycles from July 23, 2024, to December 4, 2024. Moreover, the ALJ found SmartEnergy sent the required notices to the Complainant advising him of the expiration of his fixed rate contract and notifying the Complainant that if no action was taken, the account would be switched to a

variable rate. Based on the evidence that the Company provided electric generation service in accordance with the agreed upon contract and that the Company sent the required notices to Mr. Mattiola, ALJ Allensworth found that SmartEnergy had not overbilled the Complainant. I.D. at 26-27.

Based on the foregoing, the ALJ found Mr. Mattiola failed to establish that SmartEnergy violated any provision of the Code, any Commission Regulations, or a Commission order, and therefore, dismissed the Complaint. I.D. at 27.

C. Exceptions and Replies

In Mr. Mattiola's Exception No.1, he asserts that the Company engaged in slamming by extending, creating, or manipulating the fixed rate contract beyond its termination date. The Complainant maintains that the Commission's ruling in *IDT Energy* forbids a new EGS contract from being formed without the customer's consent. Mr. Mattiola argues that SmartEnergy extended a contract and then created an entirely new contract without his permission. Therefore, the Complainant asks the Commission to apply its ruling in *IDT Energy* to this instant proceeding. Exc. at 3.

In his Exception No. 2, the Complainant asserts ALJ Allensworth incorrectly calculated that the Company filed its Answer and New Matter 62 days after service of the Complaint to the Company. Mr. Mattiola claims the ALJ should have calculated the number of days from May 15, 2025, the date answers were due, to June 26, 2025, the date SmartEnergy filed its Answer and New Matter, for a total of 42 days beyond the required date to file answers. The Complainant states that the alleged miscalculation is irrelevant and excepts to being held to a different standard than the Company. Exc. at 4-5.

In his Exception No. 3, Mr. Mattiola claims that the ALJ erred by allowing SmartEnergy to file its Answer and New Matter more than twenty days after the Complaint was served. The Complainant excepts to ALJ Allensworth making a discretionary ruling to allow the late filed Answer and New Matter. Mr. Mattiola argues that the Commission choosing which laws are applied to EGSs shows favoritism. Additionally, the Complainant states that he did not file a motion for default judgement because there was no hearing scheduled on the day after the Company failed to file an answer. Therefore, Mr. Mattiola avers he did not know to whom or what office to submit a motion for default judgement. Exc. at 5-6.

In his Exception No. 4, the Complainant asserts that the ALJ erred by determining the end of the four-month billing cycle, and therefore the end of the four-month fixed rate contract, to be December 22, 2024. Mr. Mattiola insists that December 4, 2024 is the correct final date of the four-month billing cycle. Therefore, the Complainant affirms the initial notice should have been sent 45 to 60 days prior to December 4, 2024, or between October 5 and October 20, 2024. However, Mr. Mattiola points out that the Company sent the notice on October 31, 2024, later than his calculated required time frame. Further, the Complainant maintains the options notice was not sent 30 days prior to December 4, 2024. More specifically, Mr. Mattiola notes the options notice was sent on November 15, 2024, although he claims it should have been provided on November 4, 2024. The Complainant further asserts that the Commission cannot allow EGSs to modify the termination date of the contract without the permission of the affected party. Exc. at 6-8.

In Exception No. 5, Mr. Mattiola states his Complaint should not be outside the Commission's jurisdiction and that the ALJ made contradictory statements. In this regard, the Complainant notes that on page 25 of the Initial Decision, the ALJ stated that the Complainant's claims are outside the jurisdiction of the Commission. However, Mr. Mattiola observes that on page 28, ALJ Allensworth found the Commission has

jurisdiction over the Complaint. Thus, the Complainant asks the Commission to clarify if it has full jurisdiction or partial jurisdiction over the Complaint. Exc. at 8.

Finally, in Exception No. 6, Mr. Mattiola disagrees with the ALJ allowing SmartEnergy to claim that extending the Complainant's fixed contract from December 4, 2024, to December 22, 2024 was for the benefit of the Complainant. Mr. Mattiola asserts that he is the only entity that has the right to decide if the fixed contract extension was for his benefit, not the Company or ALJ Allensworth. The Complainant avers that he did not want the fixed rate contract to be extended, regardless of whether SmartEnergy considered it to be for his benefit. Exc. at 9-10.

In its Reply to Exception No. 1, the Company states that because Mr. Mattiola voluntarily enrolled with SmartEnergy, slamming did not occur. The Company stresses that it disclosed the terms of the four-month fixed rate contract and the contract contained renewal provisions and termination options consistent with the Commission's Regulations. SmartEnergy maintains that by extending the four-month fixed rate contract beyond the billing cycle ending December 4, 2024, through December 22, 2024, this demonstrates a continuation and expiration of the Complainant's existing fixed rate service under disclosed terms, and is not an unauthorized supplier switch. R. Exc. at 3-4.

In its Replies to Exceptions No. 2 and No. 3, SmartEnergy maintains that ALJ Allensworth properly allowed the Company's late filed Answer. Additionally, the Company agrees with the ALJ finding that Mr. Mattiola did not express prejudice to his substantive rights and he did not file a motion for default judgment or to strike the Answer. SmartEnergy claims that the ALJ correctly found that its late filed Answer did not impair the Complainant's ability to litigate the case and did not warrant a default judgement under the Commission's discretionary standard. R. Exc. at 4-6.

In Reply to Exception No. 4, the Company asserts that ALJ Allensworth correctly determined that SmartEnergy's notices complied with the Commission's Regulations based on the end date of Mr. Mattiola's fixed rate service. SmartEnergy notes the record evidence that it mailed the initial notice on October 31, 2024, and the options notice on November 15, 2024, to Mr. Mattiola's service address, advising that his fixed rate would end on December 22, 2024, and a variable rate would apply if the Complainant took no action. Further, the Company avers, Mr. Mattiola's contract dispute arguments are outside of the Commission's jurisdiction. Exc. at 6-7.

In its Reply to Exception No. 5, SmartEnergy declares that the ALJ correctly limited his decision to only matters within the Commission's jurisdiction. The Company states that the ALJ properly distinguished between the Commission's jurisdiction over the Code and its Regulations and the Commission's lack of jurisdiction over breach of contract issues and the reasonableness of EGS rates. Therefore, SmartEnergy affirms that contrary to Mr. Mattiola's claims, there is no inconsistency in the ALJ's Initial Decision. R. Exc. at 8.

Lastly, in Reply to Exception No. 6, the Company asserts that the Complainant is misconstruing ALJ Allensworth's reasoning that the Complainant benefitted by extending the fixed rate contract through December 22, 2024. SmartEnergy claims Mr. Mattiola received the benefit of a fixed rate contract through four full monthly billing cycles. Additionally, the Company notes the Complainant was transitioned to a variable rate only after SmartEnergy provided the required notices, and the Complainant did not take responsive action. Thus, SmartEnergy declares that the ALJ correctly found that the Company did not overbill or make unauthorized rate changes, and did not violate notice regulations. R. Exc. at 8-10.

E Disposition

At the outset, we advise the Parties that any issue or argument that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consl. Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, Univ. of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).⁴

On consideration of the positions of the parties, the Initial Decision, and the Exceptions of the Complainant, we shall adopt the ALJ's Initial Decision. The Exceptions of Mr. Mattiola are, therefore, denied, consistent with the discussion below.

First, we shall address Mr. Mattiola's request that the Commission clarify if it has jurisdiction over the Complaint. We agree with the ALJ's determination that the Commission has jurisdiction to adjudicate matters concerning the Code and our Regulations at 66 Pa.C.S. § 2809, 52 Pa. Code § 54.42, and 52 Pa. Code § 57.177. However, the Commission lacks jurisdiction over breach of contract issues and EGS rates. These issues are appropriately addressed before the courts. Therefore, we find that ALJ Allensworth correctly delineated the Commission's authority over the Complaint.

Next, we shall address the untimely filing of SmartEnergy's Answer. We agree with the ALJ that the Commission's Regulations provide discretionary authority to deem the Company in default and the Complaint to be admitted. 52 Pa. Code § 5.61(c).

⁴ *See also Metropolitan Edison Co. v. Pa. PUC*, 22 A.3d 353 (Pa. Cmwlth. 2011), *appeal denied*, 22 A.3d 353 (Pa. 2012) (citing *Wheeling & Lake Erie Railway Company v. Pa. PUC*, 778 A.2d 785, 794 (Pa. Cmwlth. 2001) for the proposition that the Commission is not required to expressly consider all of the arguments set forth by the parties in its Order).

Notably, the Complainant did not raise an objection to SmartEnergy's Answer, and we do not believe the substantive rights of either party will be negatively impacted by accepting the Answer. We agree with the ALJ's exercise of discretion in concluding that the Company's late-filed Answer would be accepted in the circumstances of this case.

The crux of Mr. Mattiola's Complaint and Exceptions is that at the end of his four-month fixed rate contract with SmartEnergy, he believes that his electric supplier should have returned to the default service provider and that SmartEnergy unlawfully created a new month-to-month contract in his name. We disagree with the Complainant, as his belief does not correspond with Commission Regulations. On July 15, 2024, Mr. Mattiola voluntarily enrolled in a four-month fixed rate contract with the Company as his EGS. Tr. at 46.

On July 16, 2024, SmartEnergy established that it provided the Complainant with the terms of his four-month fixed rate contract and a disclosure statement consistent with the requirements of 52 Pa. Code § 54.5. Tr. at 49. The Company sent Mr. Mattiola an initial notice and an options notice, on October 31, 2024, and November 15, 2024, respectively, informing the Complainant that his fixed rate for electric supply will end on December 22, 2024. Both notices stated if Mr. Mattiola did not respond or take other action, his account would automatically transition to a month-to-month variable rate plan with SmartEnergy. Tr. at 48, 54; SmartEnergy Exhibits 4 and 5. Mr. Mattiola did not respond to either of the notices the Company mailed to him. Tr. at 56. When an EGS customer fails to respond, our Regulations at 52 Pa. Code § 54.10(3), state that:

§ 54.10. Notice of contract expiration or change in terms for residential and small business customers.

(3) When a customer fails to respond to either notice, the following apply:

(i) A fixed duration contract shall be converted to one of the following:

(A) A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.

(B) Another fixed duration contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.

(ii) The converted contracts shall remain in place until the customer chooses one of the following options:

(A) Select another product offering from the existing EGS.

(B) Enroll with another EGS.

(C) Return to the default service provider.

52 Pa. Code § 54.10(3) (emphasis added).

As emphasized above, our Regulations require that a customer chooses the option to return to the default service provider. If the customer does not respond and does not choose another option, the EGS is required to retain the customer by converting the contract. Mr. Mattiola did not make the choice to return to his default service

provider when the fixed rate ended on December 22, 2024. Rather, he authorized the return on February 3, 2025. Tr. at 11, 46. Absent a response or other action from the Complainant, we find that SmartEnergy appropriately followed Commission Regulations when it converted Mr. Mattiola’s fixed rate contract to a month-to-month variable rate contract until he chose to return to the default service provider.

Furthermore, we find that the Company did not engage in slamming by converting Mr. Mattiola to a new month-to-month contract. As ALJ Allensworth noted in the Initial Decision, 66 Pa.C.S. § 2807(d)(1) addresses slamming, and provides that “the commission shall establish regulations to ensure that an electric distribution company does not change a customer's electricity supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier.” The Commission's Regulation at 52 Pa. Code § 54.42(a)(9), provides that the Commission may impose sanctions on an EGS for “the transfer of a customer without the customer's consent.” I.D. at 11-12 (citing 66 Pa.C.S. § 2807(d)(1), 52 Pa. Code § 54.42(a)(9)). Here, the Complainant voluntarily enrolled with SmartEnergy as his EGS and it remained his EGS at the conclusion of the four-month contract. Since Mr. Mattiola did not consent to switch to another EGS or to return to his default service provider at the end of the four-month fixed rate contract, no unauthorized switch of the Complainant’s EGS, or slamming, occurred.

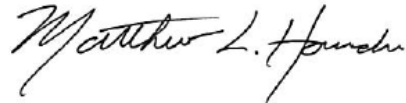
III. Conclusion

For the reasons set forth in this Opinion and Order, we shall deny the Exceptions of Mr. Mattiola, adopt the Initial Decision of ALJ Allensworth, and dismiss the Complaint; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions of Vincent Mattiola, filed March 20, 2026, to the Initial Decision of Administrative Law Judge Chad L. Allensworth, issued on February 27, 2026, at Docket No. F-2025-3054761, are denied, consistent with the discussion in this Opinion and Order.
2. That the Initial Decision of Administrative Law Judge Chad L. Allensworth, issued on February 27, 2026, at Docket No. F-2025-3054761, is adopted, consistent with the discussion in this Opinion and Order.
3. That the Commission Secretary shall marked this matter closed.

BY THE COMMISSION



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: June 18, 2026

ORDER ENTERED: June 18, 2026