

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN LANDAU, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

VIRIDIAN ENERGY PA, LLC;

Defendant.

No: _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

AND NOW, Plaintiff Steven Landau (hereinafter “Plaintiff” or “Mr. Landau”) brings this action individually and on behalf of all others similarly situated (the Proposed Class), and alleges as and for their Class Action Complaint against: Viridian Energy PA, LLC (hereinafter collectively referred to as “Defendant Viridian Energy” or “Defendant”), upon personal knowledge as to himself and his own acts, and as to all other matters upon information and belief, based upon, *inter alia*, the investigation made by his attorneys, as follows:

INTRODUCTION

1. This is a proposed class action brought by Plaintiff on behalf of himself and other similarly situated customers of Defendant. Defendant has in the past and continues to promise customers competitive market-based rates and savings on their electric energy bills if they switch from their local utilities or other energy suppliers to Defendant Viridian Energy.

2. However, despite these promises, a Defendant Viridian Energy customer may end up paying in excess of 50% more for electricity than what he or she would have paid if he or she had not converted to Defendant Viridian Energy. Instead of benefitting from switching to

Defendant Viridian Energy, a typical customer loses hundreds or even thousands of dollars per year. Thus, Defendant Viridian Energy deceptively causes its customers to pay considerably more for energy than they should have, and otherwise would have, paid. Defendant Viridian Energy's acts and/or omissions, as set forth herein, in connection with its energy supply activities constitute breach of contract, breach of the covenant of good faith and fair dealing, violate the *Pennsylvania Unfair Trade Practices And Consumer Protection Law*, unjust enrichment, and warrant declaratory relief.

PARTIES

3. Plaintiff Steven Landau is an adult individual and a resident of Jenkintown, Pennsylvania. Mr. Landau signed up to receive electric supply service from Defendant Viridian Energy on or about July 18, 2013.

4. Defendant Viridian Energy PA, LLC, registered in Pennsylvania as a foreign company, is a Nevada Limited Liability Company whose registered agent is *CSC Services of Nevada, Inc.* with a service address of 2215-B Renaissance Drive, Las Vegas, Nevada 89119. Defendant Viridian Energy has an office address located at 1055 Washington Boulevard, 7th Floor, Stamford, Connecticut 06901 and an office address located at 2620 Technology Forest Drive, The Woodlands, Texas 77381. It is believed and therefore averred that Defendant Viridian Energy is a residential and commercial retail energy service company (ESCO) and/or electric generation supplier that is licensed in the Commonwealth of Pennsylvania by the Pennsylvania Public Utility Commission to provide said services with a license number of: A-2009-2145794. It is further believed and therefore averred that at all times relevant to the instant action, Defendant Viridian Energy systematically and continuously conducted business throughout the Commonwealth of Pennsylvania.

5. At all times relevant hereto, Defendant Viridian Energy was engaged in the business of marketing, advertising and selling of electric utility services to consumers in Pennsylvania.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the claims asserted herein pursuant to 28 U.S.C. §1332(d)(2)(A) in that the amount in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interest and costs, and is a class action in which members of the Putative Class are citizens of States different from Defendant Viridian Energy.

7. No administrative or other non-judicial adjudicative body in the Commonwealth of Pennsylvania has jurisdiction or authority to hear the disputes raised in this litigation regarding Plaintiff's and the proposed class' claims against Defendant Viridian Energy.

8. Venue is proper pursuant to 15 U.S.C. § 80b-14 and 28 U.S.C. § 1391. Defendant Viridian Energy regularly transacts and solicits business in this District.

OVERVIEW

9. In the 1990s, in an effort to improve efficiency and foster competition, several states began experimenting with the deregulation of utilities, including electricity, provided to and made available for their citizens.

10. Under these states' deregulation laws, the supply portion of a consumer's electric bill is separated from the delivery portion. In theory, with the supply portion open to competition, customers can freely shop around for the best price for their energy, creating a market check on energy rates rather than a regulated tariff or rate structure. The intent of the deregulation law was to provide consumer choice and allow competition to drive down customer

rates. However, the system can only work when the promises energy providers make to the consuming public are truthful and honored.

11. Unfortunately, state deregulation has created a cottage industry of energy “middlemen” that have been the subject of various media investigative reports detailing the unsavory tactics many of these companies employ. One such article, *Electric Shadyland: How Power Companies Rip You Off*, is found in the January/February 2014 issue of MOTHER JONES at <http://www.motherjones.com/environment/2014/01/deregulation-energy-enron-company-electricity>.

12. Pennsylvania, through the 1996 Electricity Generation Customer Choice and Competition Act, and later, through Act 129 of 2008, became one of the first states to open the generation portion of its electric utilities to competition. These laws were enacted to enable consumers to purchase their energy supply from an Energy Services Company (ESCO) of their choice.

13. The distribution portion of the industry – the wires that carry electricity to homes and businesses – remain a monopoly under the traditional regulated model. However, the utility company, the former monopoly, is no longer the only option for energy supply. Customers can now purchase electricity from ESCOs while continuing to obtain delivery through their local public utilities. By opening up the market to consumer choice among various ESCO “bidders”, the Commonwealth intended for competition to drive down customer rates.

14. Defendant Viridian Energy “was founded in March 2009 with a single electricity product and a unique and inspiring idea: Make green energy affordable and readily available, and people will gladly choose it.” http://www.viridian.com/comp-about.asp?CO_LA=US_EN.

15. Defendant Viridian Energy promises on its website under the caption, *Affordably Green*, that “[c]hoosing a more responsible energy product shouldn’t hurt your budget.” http://www.viridian.com/comp-affordably-green.asp?CO_LA_US_EN. However, Defendant Viridian Energy neglects to mention that by choosing Viridian Energy, your energy costs will end up increasing rather than decreasing each year.

16. Defendant Viridian Energy’s practices emerge from, and attempt to exploit, the deregulation of the electricity supply market in Pennsylvania and other states where Defendant Viridian Energy does business - including Connecticut, Delaware, Illinois, Massachusetts, Maryland, New Jersey, New York, Ohio, Rhode Island, Texas, and Washington D.C. http://viridian.com/prod-service-areas.asp?CO_LA_US_EN. Under these States' deregulation laws, in theory, customers can freely shop around for the best price for their energy. Through its harmful actions, Defendant Viridian Energy subverts the consumer-friendly purpose of the laws and prevents its customers from making a free and informed choice. Defendant Viridian Energy states on its webpage: “Under deregulation, your local utility still exclusively manages the delivery of your power, but the supply, or generation, has been opened to competition for suppliers such as Viridian Energy to buy energy on the wholesale market, offer a selection of affordable, responsible energy products and then sell it to customers like you.” <http://customercare.viridian.com/customer/en/portal/articles/2076133-what-is-deregulation>. In reality, most customers would be far better off staying with their local utilities or another supplier than switching to Viridian Energy.

17. In May 2013, Defendant Viridian Energy pronounced that it is “a socially responsible retail energy supplier that provides green energy at an affordable price. In all of its markets, Viridian offers customers affordable electricity rates that comply with a higher

renewable energy content standard.”

<http://energynews.viridian.com/vnews/pr.asp?vid=&pr=40>.

18. In May 2014, Defendant Viridian Energy again pronounced that it is “a socially responsible retail energy supplier that provides greener electricity and clean-burning natural gas at affordable prices,” but contrary to Defendant’s assertions, Plaintiff was not provided with electricity at an affordable price. <http://energynews.viridian.com/vnews/pr.asp?vid=&pr=41>.

19. Defendant Viridian Energy even publicizes its affordability on the Montgomery County Federal Employees Credit Union in the FAQs by stating, “We are a socially responsible energy company that provides greener energy at affordable prices. Unlike our competitors who charge a premium for green, Viridian accepts a lower profit in order to make our product affordable to customers.” <http://www.mcefcuhb.org/home/faqs/viridian>.

20. Defendant Viridian Energy posts the following information on LinkedIn:

“Viridian was founded in March 2009 with a unique and inspiring value proposition: change the way customers see green energy, and by extension, change the industry itself. With a belief that green energy doesn’t have to cost more and a desire to offer people an affordable green option, we are committed to providing customers energy that is 50% more renewable than the default options required by state standards. And we became an industry leader and agent for change in just a few short years. Today, Viridian is a robust, highly-respected energy company with hundreds of thousands of residential and commercial customers, an ever-growing network of enthusiastic, empowered Independent Associates who represent our products with passion, and a plan for global outreach that hits gratifying milestones each year.

Viridian offers a selection of electricity and natural gas products for residential and commercial customers in deregulated energy markets including Connecticut, Delaware, Illinois, Maryland, Massachusetts, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, Virginia and Washington, DC, as well as solar energy in many of the same markets and on the West Coast. With Viridian, it’s easy to choose affordable, responsible energy for your home or business while staying with your utility for delivery, service and billing.”

<https://www.linkedin.com/company/viridian-energy>.

21. Defendant Viridian Energy offers a standard service contract to its customers with an initial competitive “teaser” rate that is then replaced by a variable rate plan once the fixed rate plan terminates. For example, after Mr. Landau received an initial competitive “teaser” rate, Defendant Viridian Energy’s variable rate plan averaged 49.8% higher than his local utility provider’s rates for the same time period.

22. Defendant Viridian Energy promises in its *Thank you for enrolling with Viridian Energy!* letter that “[y]ou are on your way to enjoying Viridian’s **affordable**, green energy.” (Emphasis added) *Exhibit A*. Defendant Viridian Energy confirms its promise of affordability and competitive rates in its *Pennsylvania Terms & Conditions* by stating that “[u]nder Viridian’s Variable Price, ***your price may fluctuate each month based on wholesale market conditions applicable to the DC’s service territory.***” (Emphasis added) *Exhibit B*. However, rather than provide such wholesale market based rates, after the initial “teaser” rate, Defendant Viridian Energy charges customers an exorbitant monthly rate far out of line with the competition or market factors. The rates Defendant Viridian Energy actually charged Plaintiff and the Proposed Class were not competitive and did not provide greater savings, as Defendant Viridian Energy failed to base the rates upon wholesale market conditions despite Defendant Viridian Energy’s contractual obligation to do so.

23. Defendant Viridian Energy’s promises are reinforced on their webpage where they attempt to solicit people to sell energy for them. Defendant Viridian Energy states that “[i]t’s all about seeing an opportunity and rising to meet it with power and vision. Starting in 2009 with a game-changing mission and a handful of Associates, Viridian harnessed the power of affordable, responsible energy and a direct selling model.” http://viridian.com/comp-about.asp?CO_LA=US_EN. Defendant Viridian Energy encourages its direct sellers to become

part of the *LiveViridian* community with promises of great wealth as shown by Defendant Viridian Energy's *Millionaires Circle Blogs*.

<http://www.liveviridian.com/community/blogs/millionaire-circle-blogs/>.

24. Electricity is essential. Defendant Viridian Energy clearly knows this fact of modern life and has decided to exploit it for its own financial gains. Defendant Viridian Energy has offered savings on a necessity of life to Plaintiff and the Proposed Class but has instead knowingly and intentionally delivered substantial losses to its customers.

25. On April 10, 2014, in testimony before the Pennsylvania House Consumer Affairs Committee, Tanya J. McCloskey, Acting Consumer Advocate for the Pennsylvania Office of Consumer Advocate stated as follows: “[E]lectric service is essential to the health, safety and economic well-being of all citizens of this Commonwealth. An electric bill has a major impact on a customer’s life, no matter the customer’s income level. When that bill soars to an unaffordable level, it can be a life changing event. For some customers, it means that spending on other life necessities will have to be stopped or reduced. For other customers, it may mean the difference between staying in their home and being forced to leave. And for still others, it may mean that their essential electric service will be terminated because they are unable to make payment on these bills.” http://www.oca.state.pa.us/Testimony/2014/Test_2014.htm#Electricity.

26. Notwithstanding the aforementioned promises, after the initial “teaser” rate, Defendant Viridian Energy’s rates are not competitive with other suppliers, other wholesale market services, or in line with genuine market-related factors. Customers who switch to Defendant Viridian Energy will pay in many cases over 50% more than a competitive rate in their area. Defendant Viridian Energy’s customers regularly complain that their rates far exceed that of any other supplier, that their rates have more than doubled after the expiration of the

teaser rate, and that they are often being overcharged by hundreds of dollars a year as compared to remaining with their local utilities, the old monopolies. Below are some of the complaints about Defendant Viridian Energy's services:

THEE WORST kind of business imaginable, all built on you guessed it, a pyramid scheme, and preying on people's good intentions when they believe they are getting "green energy" but not disclosing the hikes that the customer will endure.

I have attached photographic proof of a bill to show a 263% bait and switch increase between a year period after the "teaser" rate had expired with Viridian for the "generation rate". See for yourself if you're here and deciding whether it'll be a good idea because you're helping out the environment. All fine and dandy until what was once a \$100 bill each month starts to tick up to close to \$300 without notice from the company that the rate was going to increase so much.

Their customer service is atrocious and set up a separate cancellation line (how convenient for them) in order to cancel. It has been a nightmare to even get it resolved with the parent company who seems complicit in Viridian ripping off their own customers where they can simply pass the buck to the bad guy. The process does and will take you months to repair, of course Viridian wants to move at a snail's pace.

Do yourself a favor if a friend or relative ever approaches you about a wonderful thing they have discovered in terms of receiving green energy. RUN FOR THE HILLS because they won't tell you about the teaser rate and get a kickback for helping to sign you up. It's all multi-level marketing and they even admit to it on their website at Viridian dot com. These people are "Viridian Associates" who promote the pyramid scheme and it will strain relationships once you understand the full picture of these scam artists convincing others to suck in their friends.

Don't say I didn't warn you about this or if you are reading it after the fact because you too, discovered the overall rate hike from one month to the next. It's not the easiest to get cancelled but it can be done, DON'T GIVE UP! Also, I would rarely do this but I ask that you read the "not recommended" reviews for Viridian as well at the bottom of this page.

They are "not recommended" because the users only created an account on Yelp to complain about this company but everything they are stating is super legit. EVERY. SINGLE. ONE OF THEM.

Electric Bill Comparison

| | Current Month | Last Month | La |
|---------------------------------------------------------------------|----------------|----------------|----|
| ic Charges | \$69.68 | \$74.37 | ! |
| Electricity Use (kWh) | 243 | 261 | |
| ty Charges (per kWh) <i>deliver electricity to your home.</i> | 11.1¢ | 11.0¢ | |
| ty Charges Total | \$27.18 | \$28.72 | |
| tion Charges (per kWh) <i>purchase electricity from VIRIDIAN</i> | 17.4¢ | 17.4¢ | |
| tion Total | \$42.50 | \$45.85 | |

Just a total bait and switch. After one year the rates exceeded that of Washington Gas. The sales representative then tried to sell me on a three year plan (with \$150 termination fee) to reduce the rates. When I declined and initiated a cancellation, I then received via mail paperwork from Veridian confirming my enrollment in the three year plan anyway. If you decline they'll just sign you up anyway. Total scam operation.

Total bait and switch.

Rate was never fixed.

Went from .0699 to .1799.

Tried to hold me to a contract when I never signed anything.

All of my accounts were charged sales tax and none of them should have been.

RUN, RUN, RUN!!!

I wish that I had stayed with NStar and National Grid.

Now, that should tell you how bad this company is, that I wish I had stayed with a gigantic conglomerate over Viridian.

Stay away!!! Total bait and switch! If you are their customer now, get out now! Make sure you cancel all services, they bait you into only canceling one service and the other service remains on with a non fixed rate.

Real Estate Buyer/Tenant Beware: viridian.com known as Viridian Energy, uses independent contractors such as friends to sell you "Green"

energy. It is the biggest scam, as we have had many issues with them increasing rates on tenant without any notification. Please advise all your friends and family not to give they utility accounts to this "Green Monster!" The only thing "green" about this company is the money they extort from tenants on their electric bills. Watch out!

<http://yelp.com/biz/viridian-energy-norwalk>

Friends of mine joined the Viridian MLM program very enthusiastically in 2012. They 'sold' me on the concept and I switched my energy supplier to Viridian in January 2013, both because I believed their rates would be lower (and I could save some money), but also because I was willing to help them get established with Viridian figuring it would be a competitive supplier and at the same time helping my friends to build their downline. The first month, my energy bill was about \$15.00 higher than it would have been if I had stayed with my old supplier. Through the year my extra expense varied between \$23.00 and \$68.00 higher per month. For total year 2013, my extra costs through Viridian were \$524.38 higher than they would have been if I had stayed with my old supplier (Not even shopping for a lower rate from an alternative supplier, just remaining where I was before Viridian).

Viridian's rates jumped dramatically from \$0.0945/kWh, to \$.1749/kWh (or a total of a little over \$0.08/kWh). In the first 4 months of 2014, I've paid Viridian an extra \$523.10 to supply my energy over what the competitive market would have charged me.

Am I disappointed in Viridian? No. I should have realized what they were before I signed on. Am I disappointed in my so-called 'friends' who asked me to support them and save energy costs at the same time? You bet. It shows me that while Viridian can't save me money on my energy costs and will actually double your monthly expense for electricity, my friends are asleep at the wheel, and enriching themselves at the expense of their friends. Numbers don't lie. Do the math for yourselves.

<http://viridian-energy.pissedconsumer.com/viridian-energy-electric-supplier-more-than-double-the-starting-rate-20140625502467.html>

27. On April 10, 2014, Acting Consumer Advocate Tanya M. McCloskey also testified that, "Consumers who were trying to save a few dollars a month by shopping for electricity have instead found themselves overwhelmed by shocking bills that they could not possibly have anticipated. These are **not** consumers who voluntarily and knowingly selected a

product, took a gamble on the market, and just made the wrong bet. There was simply no way for consumers to know from the disclosure statements provided by suppliers, from the education about retail choice, or from any independent research that they were fully exposing themselves to such extraordinary bill increases.” (Emphasis in original) *Id. at Paragraph 25*.

28. Defendant Viridian Energy is a direct seller multi-level marketing organization that reaches its prospective lower level sellers and potential customers through internet advertising on company websites, through social media, and with online presentations and conferences as well as directly through in person presentations, brochures, meetings and conference calls.

29. Defendant Viridian Energy recruits potential customers in Pennsylvania and other states through a direct sales channel of salespeople Defendant refers to as “Viridian Associates.” Defendant Viridian Energy’s Associates are the primary vehicle by which Defendant sells its energy services to the public. Defendant Viridian Energy’s *Your Opportunity* follows:

“Building a business you can be proud of

In deregulated electricity and natural gas markets, customers have the power of choice. With Viridian, they have a choice they can feel good about: affordable, responsible energy. But many people don’t know they have a choice, and they don’t realize they can go easy on their budget and the environment at the same time. That’s where you come in.

As an Independent Viridian Associate, you'll acquire customers and build your business while feeling good about the difference you're making, one choice at a time. You're not selling a product that people may not need, you're telling them about a more sustainable choice for something they use every day. And you'll reach more people and have more influence as you grow your organization by sponsoring other Viridian Associates. That's the power of our business model.

You'll also be able to refer customers for residential solar, which puts extra money in your pocket while helping them harness the power of the sun to power their own homes.

Think about it: Are you more likely to buy a product or service recommended by a friend or one you see an ad for on TV? We trust the opinions of those we know and love, which is why Viridian chooses to market our energy products through direct selling. Our Associates are authentic and caring; they want to give back to the environment and they want to help others make a difference in their budgets.

Each of our Viridian Associates does this work for a different reason—each of them has a Why, whether it's to spend more time with family, save up for a child's education or simply to create a sense of freedom. Read some of their inspiring stories here.

What will be your Why? Enroll as an Associate today.”

http://www.viridian.com/opp-why.asp?CO_LA=US_EN.

30. Defendant Viridian Energy engages in unfair, unlawful and deceptive acts in trade and commerce, breached its contracts with Plaintiff and the Proposed Class and/or breached the covenant of good faith and fair dealing. Defendant Viridian Energy's acts and omissions as set forth herein warrant declaratory relief.

31. Defendant Viridian Energy knew, or but for its reckless indifference would have known, prior to agreeing to supply electricity to Plaintiff and the Proposed Class that it would be unable or unwilling to provide the savings and/or competitive rates that it agreed and/or promised to provide.

32. Defendant Viridian Energy knew, or but for its reckless indifference would have known, prior to agreeing to act as Plaintiff's and other customers' agent in acquiring sufficient energy supplies to meet Plaintiff's and other customers' needs in the energy supply market that Defendant Viridian Energy would be incapable, unable or unwilling to timely, skillfully,

knowledgeably, reliably and/or honestly make the necessary and/or appropriate energy purchases to provide the savings and/or competitive prices that it contracted and/or promised to provide.

33. It is clear that Plaintiff and other customers on the one hand, and Defendant Viridian Energy on the other, did not deal with each other on equal terms due to Defendant's purported skill and experience in purchasing electric energy supplies timely, skillfully, knowledgeably, reliably, honestly and efficiently in the open market and Plaintiff and other customers depended on and trusted Defendant to do so.

34. By making promises and contracts it did not intend to honor and by engaging in unfair dealings, Defendant Viridian Energy has subverted the consumer-friendly purpose of the deregulation of utilities in Pennsylvania and prevented its customers from receiving the benefits they were promised by Defendant Viridian Energy. In reality, most customers would have been far better off staying with their local utilities or another supplier rather than switching to Defendant Viridian Energy.

35. Upon information and belief, the proposed class consists of tens of thousands to hundreds of thousands of current and former customers with variable rate plans, each of whom has sustained damages of as much as hundreds or even thousands of dollars annually.

36. Plaintiff brings this class action to recover damages, penalties and other relief for himself and the Proposed Class who have suffered damages from Defendant Viridian Energy's imposition of unreasonable and exorbitant energy rates in violation and/or breach of the Defendant's *Pennsylvania Terms & Conditions* and representations and marketing. Only a class action will provide Plaintiff and the Proposed Class with any possibility of relief. Plaintiff and the Proposed Class are therefore entitled to a class-wide remedy.

PLAINTIFF'S ALLEGATIONS

37. Plaintiff and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

38. Prior to signing up with Defendant Viridian Energy, Mr. Landau was assured by two Viridian Associates that Viridian was not like those other unethical companies out there, that if he signed up with Viridian he would enjoy lower rates than those offered by PECO, that he would be receiving green energy, and that he would never have to worry about Defendant Viridian Energy suddenly increasing his rates.

39. After signing up with Defendant Viridian Energy, Mr. Landau never received any information or communication from Defendant Viridian Energy until he initiated communication with Defendant Viridian Energy in April 2015.

40. Mr. Landau's Viridian Energy account was established on or about July 18, 2013.

41. Mr. Landau was initially placed on a fixed rate contract for a six month period at 7.99¢ (0.0799) per kWh.

42. Mr. Landau did not receive notice from Defendant Viridian Energy that his contract term was about to expire and that he was about to be placed in a variable rate plan.

43. On March 9, 2014, unbeknownst to Mr. Landau, Defendant Viridian Energy placed him in Viridian's variable rate plan, and Mr. Landau was instantly charged almost 50% more than he would have been paying had he been receiving service from PECO, his local utility provider.

44. On Defendant Viridian Energy's variable rate plan, Mr. Landau was consistently over-charged well above market rates for electricity until he canceled his service with Defendant Viridian Energy on or about April 15, 2014. The following table compares the rates charged to

Mr. Landau by Defendant Viridian Energy to the rates that Mr. Landau would have been charged by his local utility provider, PECO. From February 11, 2014 until April 15, 2015, Mr. Landau was paying, on average, 49.8% more for his electric service than if he had not signed up with Defendant Viridian Energy.

| Date | PECO | Viridian |
|--------------------------------------|---------|----------|
| 12/9/13-1/11/14 | 0.0977 | 0.079902 |
| 1/11/14-2/11/14 | 0.0977 | 0.079898 |
| 2/11/14-3/12/14 | 0.0877 | 0.1749 |
| 3/12/14-4/10/14 | 0.0877 | 0.1749 |
| 4/10/14-5/11/14 | 0.0877 | 0.1799 |
| 5/11/14-6/10/14 | 0.0858 | 0.1799 |
| 6/10/14-7/11/14 | 0.0858 | 0.1799 |
| 7/11/14-8/10/14 | 0.0858 | 0.1799 |
| 8/10/14-9/9/14 | 0.0825 | 0.1799 |
| 9/9/14-10/8/14 | 0.0825 | 0.1699 |
| 10/8/14-11/6/14 | 0.0825 | 0.1699 |
| 11/6/14-12/9/14 | 0.0907 | 0.1799 |
| 12/9/14-1/12/15 | 0.0907 | 0.1799 |
| 1/12/15-2/11/15 | 0.0907 | 0.176568 |
| 2/11/15-3/12/15 | 0.0866 | 0.169898 |
| 3/12/15-4/12/15 | 0.0866 | 0.164736 |
| 4/12/15-4/15/15 | 0.0866 | 0.149928 |
| Average price 2/11/14-4/15/15 | 0.08666 | 0.174002 |
| Viridian average price is 49.8% more | | |

45. Mr. Landau would not have enrolled in Defendant Viridian Energy's program but for Defendant's promises of savings and rates competitive with the market. Had Mr. Landau known that the rates he would be charged by Defendant Viridian Energy would be substantially higher than the rates he would have paid with PECO he would not have agreed to receive Defendant's services.

46. As a result of Defendant Viridian Energy's deceptive and misleading conduct, as discussed herein, Mr. Landau has incurred significant overcharges for his electrical service.

47. As a result of Defendant Viridian Energy's inability or unwillingness to provide Mr. Landau with the competitive rates and/or savings they contracted and/or promised to provide, as discussed herein, Mr. Landau was overcharged by an average of 49.8% more for his electricity than the competitive rate of his local utility provider, PECO.

48. Defendant Viridian Energy failed to abide by its own *Pennsylvania Terms & Conditions*, representations, and marketing. Given knowledge of the relevant facts regarding Defendant's exorbitant rates when compared to their local energy supplier, no reasonable consumer would choose Defendant as an energy supplier.

CLASS ACTION ALLEGATIONS

49. Plaintiff and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

50. Plaintiff brings all claims herein as class claims pursuant to Fed. R. Civ. P. 23. The requirements of Fed. R. Civ. P. 23(a), (b)(2) and (b)(3) are met with respect to the class defined below.

A. Class Definition(s)

51. The (b)(2) Injunctive Relief Class consists of:

All persons who contracted with Defendant to act as their electric supplier.

52. Excluded from the Class(es) are: Defendant, any entities in which it has a controlling interest, any of its parents, subsidiaries, affiliates, officers, directors, employees and members of such person's immediate families and the presiding judge(s) in this case and his, her or their immediate family.

B. Numerosity

53. At this time, Plaintiff does not know the exact size of the Class; however, due to the nature of the trade and commerce involved, Plaintiff believes that the Class members are so numerous that joinder of all members is impracticable. The number and identities of Class members is administratively feasible and can be determined through appropriate discovery.

C. Commonality

54. There are questions of law or fact common to the class, including at least the following:

- a. What Defendant's contractual rate term was;
- b. Whether Defendant breached the rate term of its contract in setting the actual rate charged to its customers irrespective of the market and/or its competitors;
- c. Whether Defendant breached the covenant of good faith and fair dealing in making the promises it did regarding its rates;
- d. Whether Defendant breached the covenant of good faith and fair dealing in setting the actual rates it charged;
- e. Whether Defendant violated the provisions of the *Pennsylvania Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1 *et seq.*;
- f. Whether and the amount to which Plaintiff and other members of the Class have been damaged;
- g. Whether Defendant Viridian Energy was unjustly enriched by its conduct; and
- h. The amount of Defendant's unjust enrichment at the expense of the class.

D. Typicality

55. Plaintiff has the same interests in this matter as all other members of the Class, and his claims are typical of all members of the class.

E. Adequacy

56. Plaintiff is committed to pursuing this action and has retained competent counsel experienced in the prosecution and successful resolution of consumer class actions. Plaintiff will

fairly and adequately represent the interests of the Class members and does not have interests adverse to the Class.

F. The Prerequisites of Rule 23(b)(2) are Satisfied

57. The prerequisites to maintaining a class action for injunctive and equitable relief pursuant to Fed. R. Civ. P. 23(b)(2) exist as Defendant Viridian Energy has acted or refused to act on grounds generally applicable to the Class thereby making final injunctive and equitable relief appropriate with respect to the Class as a whole.

58. The prosecution of separate actions by members of the Class would create a risk of establishing incompatible standards of conduct for Defendant Viridian Energy. For example, one court might decide that the challenged actions are illegal and enjoin them, while another court might decide that those same actions are not illegal. Individual actions may, as a practical matter, be dispositive of the interests of Class members, who would not be parties to those actions.

59. Defendant Viridian Energy's actions are generally applicable to the Class as a whole, and Plaintiff seeks, inter alia, equitable remedies with respect to the Class as a whole.

60. Defendant Viridian Energy's systemic policies and practices make declaratory relief with respect to the class as a whole appropriate.

G. The Prerequisites of Rule 23(b)(3) are Satisfied

61. This case satisfies the prerequisites of Fed. R. Civ. P. 23(b)(3). The common questions of law and fact enumerated above predominate over questions affecting only individual members of the Class, and a class action is the superior method for fair and efficient adjudication of the controversy. The likelihood that individual members of the Class will prosecute separate actions is remote due to the extensive time and considerable expense necessary to conduct such

litigation, especially when compared to the relatively modest amount of monetary, injunctive and equitable relief at issue for each individual Class member. This action will be prosecuted in a fashion to ensure the Court's able management of this case as a class action on behalf of the Proposed Class defined above.

CAUSES OF ACTION

COUNT I

(BREACH OF CONTRACT)

62. Plaintiff and the Proposed Class Members incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

63. Defendant Viridian Energy entered valid and enforceable agreements with Plaintiff and the Proposed Class Members, which included terms relating to the rate to be charged for the electricity sold by Defendant as discussed herein.

64. Defendant Viridian Energy breached its agreements with Plaintiff and the Proposed Class Members by charging rates that did not meet the contractual obligation to offer a competitive rate that “may fluctuate each month based on wholesale market conditions applicable to the DC’s service territory.” *Exhibits A and B*. Instead, Defendant Viridian Energy charged excessive arbitrary rates that were divorced from any competitive market and which were not based on wholesale electric prices.

65. Defendant Viridian Energy’s breach of its agreement caused harm to Plaintiff and the Proposed Class Members.

COUNT II

(BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING)

66. Plaintiff and the Proposed Class Members incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

67. Defendant Viridian Energy created in Plaintiff and the Proposed Class Members the reasonable expectation that Defendant would set rates that were competitive in the marketplace and were otherwise based on wholesale market factors.

68. Defendant Viridian Energy was entrusted by Plaintiff and the Proposed Class Members to purchase electricity at competitive rates in the wholesale marketplace and, in turn, resell electricity to them at competitive, market based rates in the retail marketplace.

69. In violation of its duty to act in good faith under its agreements with Plaintiff and the Proposed Class Members and by its course of unfair dealing with Plaintiff and the Proposed Class Members as set forth above, Defendant caused Plaintiff's and the Proposed Class Members' harm.

COUNT III

(DECLARATORY RELIEF)

70. Plaintiff and the Proposed Class Members incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

71. Defendant Viridian Energy has acted in a uniform manner under the standard and common terms relating to the price of electricity it has agreed to charge Plaintiff and the Proposed Class Members.

72. Defendant Viridian Energy has acted or refused to act on grounds that apply generally to the declaratory relief of Plaintiff and the Proposed Class Members, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Proposed Class as a whole within the meaning of Fed.R.Civ.P. 23(b)(2).

73. Plaintiff and the Proposed Class Members seek a declaration of Defendant Viridian Energy's obligations to them under the agreement regarding the pricing of its electricity.

COUNT IV

(VIOLATION OF 73 P.S. § 201-1, ET SEQ., PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW)

74. Plaintiff and the Proposed Class Members incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

75. The Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL") protects consumers against "unfair or deceptive acts or practices" in connection with the sale or advertisement of any merchandise. 73 PS. § 201-1 *et seq.*

76. Defendant Viridian Energy engaged in unfair, unlawful, and deceptive acts in trade and commerce which have the capacity and tendency to deceive and did deceive Plaintiff and the Proposed Class members and damaged Plaintiff and the Proposed Class members.

77. Defendant represented that its energy supply rates would be market-based and competitive and/or that customers would on average save money over their local public utilities and other alternative providers. However, consumers did not save money with Defendant Viridian Energy. In fact, Defendant Viridian Energy's actual rates were excessive, unreasonable, and bore no reasonable relationship to market conditions.

78. Defendant Viridian Energy committed an unlawful, deceptive, and unconscionable trade practice by inducing its customers to switch from other providers and/or to remain with Viridian Energy and then charging them exorbitant, arbitrary rates that were not based on market conditions and not competitive with Defendant Viridian Energy's competitors.

79. Defendant Viridian Energy wrongfully concealed, suppressed, and omitted to disclose that its average rates were far higher than its competitors' rates and that the main goal of the so-called "competitive," "market-based" pricing system was not to save money on behalf of Plaintiff and the Proposed Class Members but to reap undue profits at their expense.

80. Defendant Viridian Energy's misrepresentations and omissions had the capacity to mislead Plaintiff and the Proposed Class members into believing: (i) that Defendant Viridian Energy's rates would be significantly lower than the amounts Defendant actually charged, and (ii) that these rates would be substantially equivalent to or better than the rates charged by Plaintiff s and the Proposed Class Members' local public utilities or Defendant's other competitors. Plaintiff and the Proposed Class Members suffered damages as a result Defendant Viridian Energy's misrepresentations and omissions.

81. Defendant Viridian Energy's practices are grossly disproportionate with the industry. Upon information and belief, most ESCOs do charge competitive market-based rates which generally meet or beat a customer's local public utility. On the occasions where a private supplier's rates are higher than the public utility, it is usually only by a very small percentage.

82. Because of Defendant's unlawful, deceptive, unfair, and unconscionable trade practice and scheme, Plaintiff and the Proposed Class Members have suffered injuries and damages in an amount to be determined at trial. Pursuant to the *Pennsylvania Unfair Trade Practices and Consumer Protection Law*, this Court has the power to enjoin Defendant Viridian Energy's conduct. Unless enjoined by this Court, Defendant Viridian Energy will continue its unlawful practice of charging excessive undisclosed rates to its customers.

COUNT V

(UNJUST ENRICHMENT- IN THE ALTERNATIVE)

83. Plaintiff and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth herein.

84. Should the Court determine that a valid, enforceable and binding contractual

relationship did not exist between the parties at any time or covering any aspect of their relationship, Plaintiff brings this claim in the alternative for unjust enrichment.

85. Because of Defendant's wrongful activities described above, including charging Plaintiff and the Class exorbitant rates grossly out of line with market conditions, Defendant has received money belonging to the Plaintiff and the Class.

86. By collecting exorbitant and unreasonable rates from Plaintiff and the Class, Defendant has benefited from receipt of the excessive rates, and under principles of equity and good conscience, Defendant should not be permitted to keep this money.

87. Defendant has reaped improperly obtained profits and unjustly enriched themselves at the expense of Plaintiff and the Class.

88. As a result of Defendant's imposition of these excessive and unreasonable energy rates, Defendant must account to Plaintiff and the Class for such unjust enrichment and disgorge their improperly obtained profits as restitution to Plaintiff and the Class.

89. Plaintiff seeks to obtain a pecuniary benefit for the Class in the form of all reimbursement, restitution and disgorgement from Defendant. Plaintiff's counsel are entitled to recover their reasonable attorneys' fees and expenses as a result of the conference of a pecuniary benefit on behalf of the Class, and will seek an award of such fees and expenses at the appropriate time.

90. By reason of the foregoing, Plaintiff and the Class have suffered money damages in an amount to be determined during the trial of this action.

/

/

/

/

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Proposed Class of persons described herein, pray for an Order:

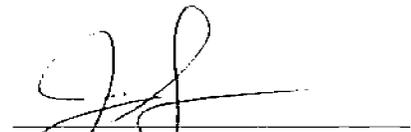
- a) Finding that this action satisfies the prerequisites for maintenance as a class action set forth in Fed. R. Civ. P. 23(a), (b)(2) and/or (b)(3), and certifying the Class defined herein;
- b) Designating Plaintiff as representative of the Class and his counsel as Class counsel;
- c) Entering judgment in favor of Plaintiff and the Class and against Defendants;
- d) Awarding Plaintiff and Class Members their individual damages including interest thereon;
- e) Awarding treble damages pursuant to law;
- f) Awarding Plaintiff all costs and disbursements, including attorneys' fees, experts' fees, treble-damages and other class action related expenses;
- g) Imposing a constructive trust, where appropriate, on amounts wrongfully collected from Plaintiff and the Class Members pending resolution of their claims herein;
- h) Issuing appropriate declaratory and injunctive relief to declare the rights of Plaintiff and the Class Members; and
- i) Granting such further relief as the Court deems just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims and issues.

Date: April 22, 2016

Respectfully Submitted By:



Jonathan Shub, Esquire
KOHN, SWIFT & GRAF, P.C.
Identification No: 53965
One South Broad Street
Suite 2100
Philadelphia, PA 19107
Phone: (215) 564-2300
Fax: (215) 851-8029
jshub@kohswift.com

and

Troy M. Frederick, Esquire
MARCUS & MACK, P.C.
Identification No: 207461
57 South Sixth Street
Indiana, PA 15701
Phone: (724) 349-5602
Fax: (724) 349-8362
TFrederick@MarcusandMack.com

*Attorneys for Plaintiff and the
Putative Class*

Exhibit A

18-Jul-13

PA_EG_ResComm_011012

STEVEN LANDAU
1739 SHARPLESS RD
JENKINTOWN, PA 19048-1029

Thank you for enrolling with Viridian Energy!

You are on your way to enjoying Viridian's affordable, green energy. If all the information you have provided during enrollment is accurate, then your service will be switched to Viridian in one to two billing cycles.

As a Viridian customer you are now part of our collective mission to do something better for the environment: The average Viridian Everyday Green customer avoids over 2,260 lbs in carbon emissions per year. That's the equivalent of emissions absorbed by 26 trees grown for 10 years or the emissions from over 115 gallons of gasoline consumed.

Your decision to choose a better energy supplier will have a positive environmental impact and directly contribute to a better energy solution for our nation. As a token of our appreciation for the environmental impact you're about to have, we've included a green power decal to show your support for responsible energy.

Once your Viridian service begins, you will still receive the bill from the utility and pay the utility, just like you always have. Except, from now on, you'll be doing your part to do something better for the environment while saving money on your energy costs at the same time.

Please also keep the enclosed terms of service for your reference.

Last but not least, we've included our 2012 Sustainability Brochure to give you insight on Viridian's Sustainability Initiative and how your individual choice is part of a larger collective impact. To learn more about local sustainability events in your area, please visit www.liveviridian.com/sustainability.

We look forward to providing you power with purpose!

Sincerely,



Michael Fallquist, Founder and CEO

You have enrolled for the following rate plan:

Electricity

- Everyday Green: 20% renewable energy
- 6-Month Fixed Rate Plan
- \$50 Early Termination Fee
- Your utility: PECO
- 7.99¢ per kWh - You will receive this rate for the length of your term. At the end of your term, your service will continue on a month-to-month basis on a variable rate.

Natural Gas

- Monthly Variable Rate Plan
- No cancellation fee
- Your utility: PECO
- 49.14¢ per ccf - You will receive this rate on your first bill, with each bill thereafter receiving Viridian's current monthly variable rate.

Exhibit B

PENNSYLVANIA TERMS & CONDITIONS

Your agreement with Viridian Energy PA LLC ("Viridian"), a member of the Crisus family of brands, authorizes Viridian to change your electric generation supplier and/or your natural gas supplier to Viridian. Viridian is licensed by the Pennsylvania Public Utility Commission ("PUC") to offer and supply electricity ("Electric Service") and natural gas ("Gas Service") as an Electric Generation Supplier and a Natural Gas Supplier (each a "Supplier"). Viridian's Pennsylvania Public Utility Commission's license number is A-2009-2145794 for electricity and # A-2010-2203042 for natural gas. Viridian supplies the electricity or natural gas commodity to your Electric Distribution Company ("EDC") and/or your Natural Gas Distribution Company ("NDGC" with each EDC and NDGC being referred to herein as a "DC") based on how much you consume. Your DC will then distribute (deliver) the electricity or natural gas to your location.

This Disclosure Statement/Terms and Conditions, the Welcome Letter and the Enrollment Form create your agreement with Viridian (the "Agreement") and supersede any oral or written statements made in connection with the Agreement or your Service.

TERMS OF SERVICE:

| | |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Term | <ul style="list-style-type: none"> For fixed price Service, the "Initial Term" of the Agreement with respect to such Service is the number of billing cycles set forth at time of enrollment and confirmed in your Welcome Letter, after which time the Agreement will continue with respect to such Service month to month at a variable rate until terminated by you or Viridian in accordance with the terms of the Agreement. For variable price Service, your Service with Viridian will continue month to month until terminated by you or Viridian in accordance with the terms of the Agreement. |
| Price | <ul style="list-style-type: none"> During the Initial Term of fixed price Service, you will pay Viridian the fixed price per kWh or the fixed price per Ccf or MCF set forth at time of enrollment and confirmed in your Welcome Letter, after which time the Agreement will continue with respect to such Service month to month at a variable rate until terminated by you or Viridian in accordance with the terms of the Agreement. For variable price Service, your rate for the first month of Service will be set forth at time of enrollment and confirmed in your Welcome Letter. After the first month you will pay a variable rate for such Service, which can fluctuate on a month-to-month basis, as described in the Price section below. |
| Rescission | You have the right to cancel your Agreement without fees or penalties of any kind at any time prior to midnight of the third (3rd) business day after receiving the Agreement. If you are receiving both Electric Service and Natural Gas Service from Viridian, you are entitled to cancel one Service without cancelling the other. |
| Early Cancellation Fee | After the right of rescission period ends, cancellation fees in the total amount of \$50 will apply if you terminate this Agreement with respect to a fixed price Service prior to the end of the then-current term. If you terminate this Agreement with respect to a variable price Service, there are no termination fees. |
| Fixed Price Renewal | After the Initial Term or any renewal term your Service will continue month to month with Viridian without additional notice, and you will pay a variable rate unless you affirmatively elect to renew for another fixed price term ("Renewal Term") or cancel the Agreement. |

Definitions:

- Generation Charge** – Part of the basic service charges on every customer's bill for electric supply service. Electric supply service is competitively priced and is not regulated by the PUC. This charge depends on the contract between the customer and the electric supplier.
- Transmission Charge** – Part of the basic service charges on every customer's bill for transporting electricity from the source of supply to the DC. The Federal Energy Regulatory Commission regulates retail transmission prices and services. This charge will vary with your source of supply.
- Distribution Charge** – Part of the basic service charges on every customer's bill for delivering electricity from the DC to your home or business. The distribution charge is regulated by the PUC. This charge will vary according to how much electricity you use.

Price

- Fixed Price:** Under Viridian's Fixed Price, you will pay the fixed price set forth at time of enrollment and confirmed in your Welcome Letter for the Initial Term, after which your existing Agreement will continue month to month with a variable rate. The fixed price during the Initial Term will be calculated (1) for Everyday Green Plan or Pure Green Plan Electric Service, by multiplying the price of electricity per kilowatt hour

(kWh) by the amount of electricity you use in the billing cycle plus any applicable fees, charges or taxes, and (b) for Gas Service, by multiplying the price of natural gas per Ccf or MCF by the amount of natural gas you use in the billing cycle plus any applicable fees, charges or taxes.

- Variable Rate:** Under Viridian's Variable Price, your price may fluctuate each month based on wholesale market conditions applicable to the DC's service territory. The variable price for Everyday Green Plan or Pure Green Plan Electric Service each month will be calculated by multiplying the variable price of electricity per kilowatt hour (kWh) that month by the amount of electricity you use in the billing cycle plus any applicable fees, charges or taxes. The variable price for Gas Service each month will be calculated by multiplying the variable price of natural gas per Ccf or MCF that month by the amount of natural gas you use in the billing cycle plus any applicable fees, charges or taxes.
- Viridian's prices may be higher or lower than the DC's rate in any given month.

Term: Viridian will begin supplying the applicable Service on a date set by the DC

- The fixed price Initial Term will be for the number of billing cycles set forth at time of enrollment and confirmed in your Welcome Letter starting on the first meter read date after your Service is started with Viridian and continuing through the last meter read date in the end month. If you do not affirmatively elect a Renewal Term, your Service will continue month to month with Viridian without additional notice, and you will pay a variable rate.
- The variable price term will begin on the first meter read date after your Service is started with Viridian and will continue month to month until terminated by you or Viridian in accordance with the terms in the Agreement.

Renewal Notice for Fixed Price and Notification of Changes in Terms:

- When the fixed price Initial Term or any Renewal Term with respect to Electric Service is approaching the expiration date or whenever we propose to change our terms of service in any type of agreement, you will receive a written notification from us in each of the last three bills for Electric Service charges or in corresponding separate mailings that precede either the expiration date or the effective date of the proposed changes. We will explain your options to you in these three advance notifications.
- When the fixed price Initial Term or any Renewal Term that is longer than 3 months with respect to Gas Service is approaching the expiration date, we will send you advance written notices at about 90 days and 60 days before the expiration date. If we propose to change our terms of service in any type of agreement, we will send you advance written notices at about 90 days and 60 days before the effective date of the change. If we are billing you directly for our services, then we will provide the notices as a bill message, a bill insert, or in a separate corresponding mailing. If the NDGC is billing our charges for us, then we will provide the notices in separate corresponding mailings. We will explain your options to you in these two advance notifications.

Rescission: You have the right to cancel this Agreement, without fees or penalties of any kind, by either calling your DC or Viridian at any time prior to midnight of the third business day after receiving this Agreement. If your DC is PPL, call 1-800-342-5775. If your DC is PECO, call 1-800-494-4000. If your DC is Duquesne Light Company (DLC), call 1-888-393-7000. If your DC is Peoples Natural Gas, call 1-800-400-4271. Viridian may be reached at 1-866-663-2508. Please provide your name, address, phone number, account number and a statement that you are rescinding this Agreement under the three-day right of rescission.

Termination by Customer: If you elect to cancel or terminate this Agreement with respect to any fixed price Service after the rescission period and prior to the end of the fixed price Initial Term or any Renewal Term, you will pay a cancellation fee as set forth above. If you elect to cancel or terminate your variable price Agreement, there are no termination fees. In order to cancel you must notify Viridian in advance by email at customer@viridian.com or in writing by mail at 3055 Washington Boulevard, 7th floor, Stamford, CT 06901 or by phone at 1-866-663-2508. Termination becomes effective upon the processing of your cancellation request by the DC. You shall be obligated to pay for the Service provided pursuant to the Agreement prior to the date that such cancellation becomes effective, including any applicable DC late fees, fees or charges. Should you cancel your Agreement, you will be returned to your DC's default Supplier unless you choose another Supplier.

Customer Initials: _____

PENNSYLVANIA TERMS & CONDITIONS

Termination by Viridian: Viridian may cancel or terminate the Agreement at any time, without penalty, by notifying you in writing. If for any reason performance of the Agreement becomes materially uneconomical to Viridian or if any change in law causes Viridian to no longer have the ability to serve you, Viridian may cancel the Agreement upon written notice to you. Termination becomes effective upon the processing of Viridian's cancellation request by the DC. You shall be obligated to pay for the Service provided by Viridian pursuant to the Agreement prior to the date that such cancellation becomes effective, including any applicable DC late fees, fees or charges. Should Viridian terminate the Agreement, you will be returned to your DC's default Supplier unless you choose another Supplier.

Relocation: If you relocate, you will provide a 30-day notice to Viridian. A final meter read will be made at your old address and your account will be finalized with both your DC and Viridian. You shall be obligated to pay for the Service provided pursuant to the Agreement prior to the date the termination due to relocation becomes effective, including any applicable DC late fees, fees or charges. If you relocate within your DC's service territory, you may have the option of entering into a new agreement with Viridian for Service.

Billing and Payment: You will receive a single consolidated bill from your DC that includes the DC's charges and Viridian's generation charge. The DC will set your payment due date and the payment address. Any bill not paid in full by its due date will incur a late payment fee in accordance with the DC's billing and payment policies and procedures.

Dispute Procedures: If you have billing questions or would like to make an inquiry about Viridian's terms of service, you may contact Viridian by telephone at 1-866-663-2508, by email at customercare@viridian.com or by mail at 1055 Washington Boulevard, 7th floor, Stamford, CT 06901. In the event of a dispute or disagreement under the Agreement, the parties must use their best efforts to resolve the dispute. If you are not satisfied after discussing the issue with Viridian, you may call the PUC at 1-800-692-7380 or write them at the Bureau of Consumer Service, P.O. Box 3265, Harrisburg, PA 17105-3265.

Emergency: In the event of an emergency, such as a power failure or a downed power line, you should call your DC. If your DC is PPL, call 1-800-342-5775. If your DC is PECO, call 1-800-841-4141. If your DC is Duquesne Light Company (DLC), call 1-888-393-7000. If your DC is Peoples Natural Gas, call 1-800-400-4271.

LIMITATIONS ON WARRANTY AND DAMAGES: THE COMODITY PROVIDED UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARDS OF THE APPLICABLE DC. YOU UNDERSTAND AND AGREE THAT THERE ARE NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, ASSOCIATED WITH THE SERVICE PROVIDED BY VIRIDIAN. VIRIDIAN HAS NO LIABILITY FOR SERVICE INTERRUPTIONS. LIABILITIES NOT EXCUSUED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. VIRIDIAN WILL BEAR NO LIABILITY TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, PUNITIVE, INCIDENTAL, SPECIAL OR OTHER INDIRECT DAMAGES. VIRIDIAN IS NOT LIABLE FOR INTERRUPTIONS TO OR SHORTAGES OF ELECTRICITY OR NATURAL GAS SUPPLY NOR ANY ASSOCIATED LOSS OR DAMAGE RESULTING THEREFROM.

Force Majeure: The Service is firm subject to force majeure. Viridian will not be responsible for supplying electricity or natural gas services to you in the event of circumstances beyond its control such as events of force majeure, as defined by the DC or any transmitting or transportation entity, which includes but is not limited to acts of terrorism, sabotage or acts of God. If there is a change in any law, rule or pricing structure that results in Viridian being prevented, prohibited or frustrated from carrying out the terms of the Agreement, Viridian reserves the right to cancel the Agreement in accordance with the termination provisions in the Agreement.

Universal Service Program: Your DC may have programs available to customers who are on a limited or fixed income to assist them with utility bills. Some of these programs might include bill payment assistance and weatherization services. Information on your DC's Universal Service Program can be obtained by contacting your DC at the number or address listed below.

Information Release Authorization: By entering into this Agreement, you authorize Viridian to obtain information from the DC concerning your account that includes, but is not limited to: billing history, payment history, account number, historical and future electricity or natural gas usage, meter readings and characteristics of your electricity or natural gas service. Subject to the terms set forth herein you may rescind this authorization at any time by contacting Viridian. The Company will not release your confidential information without your express

consent, except as required by legal authority.

Assignment: You may not assign the Agreement without Viridian's prior written consent. Viridian reserves the right to sell, transfer, pledge or assign the accounts, revenues or proceeds hereof in connection with any financial agreement. You authorize Viridian to assign this Agreement to another energy supplier, Supplier, or other entity as authorized by the PUC. Any required assignment notice will be considered to have been made to you if mailed to the appropriate party.

Miscellaneous: You agree to promptly notify Viridian if there are any anticipated major changes in your electricity or natural gas consumption. During enrollment you will notify Viridian if your account is a cogeneration/net metered account. For purposes of accounting, both parties accept the quantity, quality and measurements determined by the DC. Except as provided by law, you will pay all taxes due and payable with respect to customer obligations under the Agreement. There may be a delay before the applicable DC switches your electricity or natural gas supply to Viridian. Viridian is not responsible for any such delays. You agree to receive periodic updates of product and services from Viridian. Any changes to the Agreement must be made in writing. The Agreement is subject to any future legislation, orders, rules, regulations or DC tariff or policy changes. Venue for any lawsuit brought to enforce any term or condition of this Agreement shall lie exclusively in the Commonwealth of Pennsylvania. The Agreement shall be construed under and shall be governed by the laws of the Commonwealth of Pennsylvania without regard to the application of its conflicts of law principles. You acknowledge that electricity is the product of a mix of generation energy sources that is delivered over a system of wires.

Parties Bound: This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

Customer Contact Information:

Viridian Energy PA LLC
1055 Washington Boulevard, 7th floor
Stamford, CT 06901
Toll-Free: 866-663-2508 Fax: 203-413-4434
Monday through Friday, 8:30 a.m. to 6:30 p.m. EST
www.viridian.com

PECO
2301 Market Street
PO Box 8699
Philadelphia, PA 19101
Phone: 1-800-494-6000
www.peco.com/

PPL
PPL Electric Utilities
827 Hausman Road
Allentown, PA 18104-9392
Phone: 1-800-DIAL-PPL (1-800-342-5775)
www.pplelectric.com/

Duquesne Light Company (DLC)
Duquesne Light Customer Service
411 Seventh Avenue (6-1)
Pittsburgh, PA 15219
Phone: 412-393-7100
www.duquesnelight.com/

Peoples Natural Gas
PO Box 535323
Pittsburgh, PA 15264
Phone: 1-800-764-0111
www.peoples-gas.com

Peoples Natural Gas
PO Box 535323
Pittsburgh, PA 15264
Phone: 1-800-764-0111
www.peoples-gas.com

Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
Toll-Free: 1-800-692-7380

Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Customer Initials: _____

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>I. (a) PLAINTIFFS Steven Landau 1739 Sharpless Rd Jenkintown, Pennsylvania 19046</p> <p>(b) County of Residence of First Listed Plaintiff <u>Montgomery, PA</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Kohn, Swift & Graf, P.C., One South Broad Street Suite 2100, Philadelphia, PA 19107-3304 (215) 238-1700</p> | <p>DEFENDANTS Viridian Energy PA, LLC 1055 Washington Blvd, 7th Floor Stamford, CT 06901</p> <p>County of Residence of First Listed Defendant <u>Fairfield, CT</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|------------|------------|-----------------------|---------------------------------------|----------------------------|-----------------------------------------------------------|----------------------------|----------------------------|--------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|-----------------------------------------|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| <p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p> | <p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> | | PTF | DEF | | PTF | DEF | Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| | PTF | DEF | | PTF | DEF | | | | | | | | | | | | | | | | | | | | |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | | | | | | | | | | | | | | | | | | | | |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | <p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 |
| | | | <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark |
| | | | <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | <p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332

Brief description of cause:
Diversity; Breach of Contract

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000 CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE Hon. Gerald A. McHugh DOCKET NUMBER 2:14-cv-04464

DATE 04/22/16 SIGNATURE OF ATTORNEY OF RECORD /s/Jonathan Shub, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

| | | |
|--------------------------------------------------------------------------|---|--------------|
| STEVEN LANDAU, on behalf of himself and all others similarly situated | : | CIVIL ACTION |
| v. | : | |
| VIRIDIAN ENERGY PA, LLC | : | NO. |

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (✓)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

| | | |
|------------------------|-------------------------------------------------------------------------------------|-----------------------------|
| April 22, 2016 |  | Steven Landau |
| <hr/> Date | <hr/> Attorney-at-law | <hr/> Attorney for |
| (215) 238-1700 | (215) 238-1968 | jshub@koh Swift.com |
| <hr/> Telephone | <hr/> FAX Number | <hr/> E-Mail Address |

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1739 Sharpless Rd, Jenkintown, Pennsylvania 19046

Address of Defendant: 1055 Washington Boulevard, 7th Floor, Stamford, Connecticut 06901

Place of Accident, Incident or Transaction: Eastern District of Pennsylvania
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: 2:14-cv-04464 Judge Hon. Gerald A. McHugh Date Terminated: n/a

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
 Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
 Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
 Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
 Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
 (Please specify) _____

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases
 (Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Jonathan Shub, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: April 22, 2016 /s/ Jonathan Shub, Esq. 53965
 Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: April 22, 2016 /s/ Jonathan Shub, Esq. 53965
 Attorney-at-Law Attorney I.D.#