

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 20, 2014

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Commonwealth of Pennsylvania, by Attorney General
KATHLEEN G. KANE, Through the Bureau of Consumer
Protection,
And
TANYA J. McCLOSKEY, Acting Consumer Advocate,
Complainants

v.

Respond Power, LLC,
Respondent

Docket No. C-2014-_____

Secretary Chiavetta:

Enclosed please find the Joint Complaint of the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate and the Public Statement of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

Candis A. Tunilo

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. #89891

Enclosures

cc: Office of Administrative Law Judge
Office of Special Assistants
Certificate of Service

*185196

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, by	:	
Attorney General KATHLEEN G. KANE,	:	
Through the Bureau of Consumer Protection,	:	
	:	
And	:	
	:	
TANYA J. McCLOSKEY, Acting Consumer	:	
Advocate,	:	
Complainants	:	
	:	Docket No. C-2014-
v.	:	
	:	
RESPOND POWER, LLC,	:	
Respondent	:	

JOINT COMPLAINT

AND NOW, comes the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane through the Bureau of Consumer Protection (Attorney General) and the Acting Consumer Advocate Tanya J. McCloskey (OCA) (collectively referred to as Joint Complainants), who bring this action pursuant to the Public Utility Code, 66 Pa. C.S. Ch. 28, the Pennsylvania Public Utility Commission’s regulations, 52 Pa. Code Ch. 54, 56 and 111, the Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* (Consumer Protection Law) and the Telemarketer Registration Act, 73 P.S. § 2241, *et seq.*

PRELIMINARY STATEMENT

1. This Joint Complaint is brought in the public’s interest to address multiple violations of Pennsylvania law and Pennsylvania Public Utility Commission (Commission)

orders and regulations, whereby consumers were misled and deceived as to the price they would pay for their electricity, all to their harm and detriment.

PARTIES

2. Tanya J. McCloskey is the Acting Consumer Advocate. The Office of Consumer Advocate (OCA) is the agency authorized by law to represent the interests of utility consumers before the Commission, as provided in 71 P.S. § 309-1, *et seq.* The names and address of the OCA's attorneys are as follows:

Candis A. Tunilo
Assistant Consumer Advocate
Christy M. Appleby
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, Pennsylvania 17101

3. The Attorney General is authorized by the Consumer Protection Law to bring an action in the name of the Commonwealth of Pennsylvania to restrain by temporary or permanent injunction unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce as provided in 73 P.S. § 201-4.

4. The Consumer Protection Law further authorizes the Attorney General to take such action when she has reason to believe that any person is using or is about to use a method, act, or practice unlawful under the Consumer Protection Law and when she determines that proceedings would be in the public interest as provided in 73 P.S. § 201-4.

5. The Attorney General, as the chief law officer of the Commonwealth of Pennsylvania pursuant to Article IV § 4.1 of the Pennsylvania Constitution, is further authorized to initiate and maintain this action, and does so, pursuant to the Commonwealth Attorneys Act,

71 Pa. Stat. § 732-204. The names and address of the Attorney General's attorneys are as follows:

John M. Abel, Senior Deputy Attorney General
Nicole R. Beck, Deputy Attorney General
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120

6. Respond Power, LLC (Respondent) is a New York limited liability company licensed to supply electric generation supplier services to residential, small commercial (25 kw and under) and large commercial (over 25 kw) customers in the Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, PECO Energy Company, PPL Electric Utilities Corporation and UGI Utilities, Inc. service territories in Pennsylvania. The Commission approved Respondent's license application by Order entered August 19, 2010 at Docket No. A-2010-2163898.

7. The Commission is responsible for regulating the service of electric generation suppliers, as it relates to their activities in the marketing and sale of electricity and electric services. See 66 Pa. C.S. § 2809(e).

8. Respondent provides electric generation supplier (EGS) services to residential customers, and as such, it must comply with applicable residential service regulations in Chapters 54 and 56 of the Commission's regulations. See 52 Pa. Code Ch. 54 and 56. See also License Application of Respond Power LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power, Docket No. A-2010-2163898, Order at 3 (Aug. 19, 2010) (Licensing Order).

9. Respondent must also comply with Chapter 111 of the Commission's regulations. See 52 Pa. Code § 111.1.

10. Additionally, Respondent must abide by all applicable federal and state laws and Commission regulations, procedures and orders and ensure that its employees, representatives, agents and independent contractors do so as well. See Licensing Order at 3.

11. Respondent offers variable rate electric generation supply to residential customers in the service territories designated in the Licensing Order.

12. Upon information and belief, Respondent uses a variety of marketing and advertising mediums to solicit residential customers for its variable rate plan including door-to-door, telephonic, internet, mass mail and print solicitations.

13. Respondent, by advertising, marketing, and selling variable rate electric generation service, is engaged in trade or commerce within the Commonwealth.

14. Among the consumers charged high variable prices by Respondent's actions are hundreds of citizens over the age of 60.

15. On or about February 10, 2014, the OCA began receiving a high volume of calls and written correspondence from residential consumers on variable rate plans with EGSs regarding the level of electric generation charges on the consumers' electric bills. The OCA has received approximately 3,000 contacts from consumers regarding variable rates.

16. As of May 5, 2014, the OCA had collected information from approximately 2,434 of its consumer contacts.

17. Of the referenced 2,434 contacts, 189 or 8% were from customers of Respond Power. Of the referenced 189 total contacts, approximately 162 were telephone calls and approximately 27 were written correspondence.

18. From February 27, 2014 to June 4, 2014, the Attorney General received approximately 39,607 telephone calls and 7,503 consumer complaints related to variable rates

charged by EGSs. Of the 7,503 consumer complaints, 520 or approximately 7% were against Respondent.

19. Upon information and belief, from January 1, 2014 to April 21, 2014, approximately 500 Formal Complaints were filed at the Commission by customers regarding variable rates charged by EGSs. Additionally, upon information and belief, approximately 6,500 informal complaints and nearly 10,000 inquiries were made by consumers to the Commission regarding variable rates charged by EGSs. Of the approximately 203 Formal Complaint reviewed by the OCA to date, approximately 20 or 10% were filed against Respondent.

**COUNT I – MISLEADING AND DECEPTIVE CLAIMS OF AFFILIATION WITH
ELECTRIC DISTRIBUTION COMPANIES**

20. The foregoing paragraphs are incorporated herein.

21. Of the referenced 27 customers that provided written correspondence and information to the OCA, 4 or approximately 15% stated that the Respondent's salesperson in the initial sales contact represented that he or she was from the consumer's electric distribution company (EDC) and used this misrepresentation to induce the consumer to switch to Respondent.

22. Of the referenced 520 consumer complaints received by the Attorney General, 13 complainants indicated that the Respondent's salesperson claimed to be from the complainant's EDC and used this misrepresentation to induce the complainant to switch to Respondent.

23. Of the referenced 20 Formal Complaints filed at the Commission against Respondent reviewed by the OCA to date, at least 4 or 20% of the complainants averred that the Respondent's door-to-door salesperson represented that he or she was from the complainant's EDC and used this misrepresentation to induce the complainant to switch to Respondent.

24. Sections 111.8 and 111.9 of the Commission's regulations, 52 Pa. Code §§ 111.8 and 111.9, require that door-to-door salespeople:

- Prominently display his or her identification badge issued by the EGS and
- Shall immediately identify himself or herself by name and the EGS he or she represents and state that he or she is not working for and is independent of the local distribution company.

25. The Commission's regulations state that a licensed EGS is responsible for any fraudulent, deceptive or other unlawful marketing acts by its employees, agents and representatives. See 52 Pa. Code § 54.43(f).

26. The Commission's regulations require EGSs to train its agents on, *inter alia*:

- Responsible and ethical sales practices;
- The proper completion of transaction documents; and
- The EGS's disclosure statement.

See 52 Pa. Code § 111.5(a).

27. The Commission's regulations require EGSs to monitor telephonic and door-to-door marketing activities to ensure that their agents are providing accurate and complete information and complying with applicable rules and regulations. See 52 Pa. Code § 111.5(e).

28. The Commission's regulations require compliance with Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.*, (Consumer Protection Law). See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

29. The Consumer Protection Law defines "unfair or deceptive acts or practices" as, *inter alia*:

- Passing off goods or services as those of another;

- Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
- Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he does not have;
- Disparaging the goods, services or business of another by false or misleading representation of fact; and
- Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See 73 P.S. § 201-2(4)(i), (ii), (iii), (v), (viii) and (xxi).

30. It is averred, upon information and belief, that Respondent's employees, agents and/or representatives have engaged in and continue to engage in activities that are fraudulent, deceptive and/or in violation of the Commission's regulations and orders and the Consumer Protection Law by:

- a. Salespeople failing to properly identify themselves as affiliated with Respond Power when engaging in door-to-door sales;
- b. Salespeople failing to clearly state that they are not affiliated with consumers' local distribution companies when engaging in door-to-door sales;
- c. Salespeople deceiving consumers by claiming to be affiliated with consumers' local distribution companies; and

d. Salespeople deceiving consumers in order to induce consumers to switch to Respondent.

31. It is averred, upon information and belief, that Respondent has failed to adequately train and monitor its agents, as required by the Commission's regulations. See 52 Pa. Code §§ 111.4 and 111.5.

COUNT II – MISLEADING AND DECEPTIVE PROMISES OF SAVINGS

32. The foregoing paragraphs are incorporated herein.

33. Of the referenced 520 consumer complaints against Respondent received by the Attorney General, 64 or approximately 12% of the complainants indicated that Respondent's salespeople stated that the consumers' rates with Respondent would be competitive with their EDCs' rates (also referred to as the Price to Compare (PTC)) or would always be lower than or equal to their EDCs' rates as inducement for the complainants to switch to Respondent. These complainants then received bills for Respondent's generation supply that were at least two or three times more than the PTC.

34. Of the referenced 520 consumer complaints against Respondent received by the Attorney General, 57 or nearly 11% of the complainants indicated that Respondent's salespeople promised guaranteed savings over the PTC as inducement for complainants to switch to Respondent. These complainants then received bills for Respondent's generation supply that were at least two or three times more than the PTC.

35. Of the referenced 27 customers that provided written correspondence and information to the OCA, 5 or approximately 18.5% stated that Respondent's salespeople promised guaranteed savings over the PTC as inducement for complainants to switch to

Respondent. These complainants then received bills for Respondent's generation supply that were at least two or three times more than the PTC.

36. Of the referenced 20 Formal Complaints filed at the Commission against Respondent and reviewed by the OCA to date, at least 5 or 25% of the complainants averred that Respondent's salespeople promised guaranteed savings over the PTC as inducement for complainants to switch to Respondent. These complainants then received bills for Respondent's generation supply that were at least two or three times more than the PTC.

37. The Commission's regulations state that a licensed EGS is responsible for any fraudulent, deceptive or other unlawful marketing acts by its employees, agents and representatives. See 52 Pa. Code § 54.43(f).

38. The Commission's regulations require compliance with the Consumer Protection Law. See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

39. The Consumer Protection Law defines "unfair or deceptive acts or practices" as, *inter alia*:

- Advertising goods or services with the intent not to sell them as advertised;
- Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; and
- Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See 73 P.S. § 201-2(4)(ix), (xi) and (xxi).

40. It is averred, upon information and belief, that Respondent's employees, agents and/or representatives have engaged in and continue to engage in activities that are fraudulent,

deceptive and/or in violation of the Commission's regulations and orders and the Consumer Protection Law by promising savings that may not, and for many customers did not, materialize.

41. Additionally, as averred above, upon information and belief, Respondent has failed to adequately train and monitor its agents, as required by the Commission's regulations. See 52 Pa. Code §§ 111.4 and 111.5.

COUNT III – FAILING TO DISCLOSE MATERIAL TERMS

42. The foregoing paragraphs are incorporated herein.

43. Of the referenced 20 Formal Complaints filed at the Commission against Respondent reviewed by the OCA to date, at least 5 or 25% of the complainants averred that they were not informed by the Respondent's salesperson that they had signed up for a variable rate. Respondent supplied some of these complainants with Terms and Conditions of Service that did not state whether the price was fixed or variable.

44. Of the referenced 520 consumer complaints against Respondent, received by the Attorney General, 61 or nearly 12% of the complainants indicated that they were not informed by the Respondent's salesperson that they had signed up for a variable rate. Further, 16 complainants provided sales agreements with their consumer complaints that failed to indicate whether they were for fixed or variable rate contracts.

45. Upon information and belief, many of Respondent's customers believed they were on a fixed rate plan, but Respondent charged these customers rates pursuant to a variable rate plan.

46. The Commission's regulations require that an EGS shall provide the customer with a copy of its disclosure statement. See 52 Pa. Code §§ 54.5(b) and 111.11.

47. Section 111.12 requires suppliers to provide accurate and timely information to customers about their services and products, including their rates. See 52 Pa. Code § 111.12(d)(4).

48. The Commission's regulations require that EGS prices billed must reflect the marketed prices and the agreed-upon prices in the disclosure statement. See 52 Pa. Code § 54.4(a).

49. If an EGS offers a variable price plan, its disclosure statement must include the conditions of variability and the limits on price variability. See 52 Pa. Code § 54.5(c)(2).

50. Additionally, the EGS's advertised prices must reflect the prices in its disclosure statements and billed prices. See 52 Pa. Code § 54.7(a).

51. Pennsylvania's Consumer Protection Law defines "unfair or deceptive acts or practices" as, *inter alia*, engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding. See 73 P.S. § 201-2(4)(xxi).

52. It is averred, upon information and belief, that Respondent has violated and continues to violate the Consumer Protection Law and the Commission's regulations and orders by failing to provide adequate price disclosures to customers and deceiving customers about the rate they would be charged by Respondent.

53. Additionally, as averred above, upon information and belief, Respondent has failed to adequately train and monitor its agents, as required by the Commission's regulations. See 52 Pa. Code §§ 111.4 and 111.5.

COUNT IV – DECEPTIVE AND MISLEADING WELCOME LETTER AND INSERTS

54. The foregoing paragraphs are incorporated herein.

55. In its Welcome Letters and Inserts to customers, Respondent warns to “BEWARE of FIXED PRICE offerings” and makes statements such as:

- “We keep our customers by offering real savings;”
- “Respond Power offers REAL savings – NOT GIMMICKS;”
- “Respond Power’s main focus is to provide you with great customer service and access to historically proven savings on your energy bills;”
- Respond Power is licensed and approved by the Public Utility Commission “AND by local utility’s [sic] to supply” electricity;
- Unlike other EGSs, Respond Power delivers “electricity at the best available rates;”
- The management of Respond Power is “proud of the record that’s been built and they remain committed to the core principles on which the company was founded: Lowering customers’ energy bills safely and reliably and providing superior customer service;”
- “[R]est assured knowing that you are now with an industry leader when it comes to credibility and reliability in energy choice;” and
- “Should another energy company knock on your door or reach you on the phone, proudly let them know that you are a Major Energy customer and to leave you alone.”

See Welcome Letter and Inserts attached hereto as Appendix A.

56. The Commission’s regulations require compliance with Pennsylvania’s Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.*, (Consumer Protection Law). See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

57. The Consumer Protection Law defines “unfair or deceptive acts or practices” as, *inter alia*:

- Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of good or services;
- Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
- Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he does not have;
- Disparaging the goods, services or business of another by false or misleading representation of fact;
- Advertising goods or services with intent not to sell them as advertised;
- Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; and
- Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See 73 P.S. § 201-2(4)(ii), (iii), (v), (viii), (ix), (xi) and (xxi).

58. The Joint Complainants aver that the Respondent’s claims in its Welcome Letter and Inserts represent benefits of its services that Respondent did not provide to its customers and EDC sponsorship that it does not have in violation of the Consumer Protection Law.

59. The Joint Complainants aver that the Respondent’s claims in its Welcome Letter and Inserts were and are deceptive, which created and continues to create a likelihood of

confusion and misunderstanding for the Respondent's customers in violation of the Consumer Protection Law.

60. The Joint Complainants aver that the Respondent's claims in its Welcome Letter and Inserts were and are disparaging of the offers of other EGSs in violation of the Consumer Protection Law.

COUNT V - SLAMMING

61. The foregoing paragraphs are incorporated herein.

62. Of the referenced 520 consumer complaints against Respondent received by the Attorney General, 41 or nearly 8% of the complainants indicated that they did not consent to switch to Respondent.

63. Of the referenced 27 customers that provided written correspondence and information to the OCA, 2 or approximately 7.4% stated that they did not consent to switch to Respondent.

64. Of the referenced 20 Formal Complaints filed at the Commission against Respondent reviewed by the OCA to date, 3 or 15% of the complainants averred that they did not consent to switch to Respondent.

65. The Public Utility Code and the Commission's regulations prohibit switching a customer's generation supplier without the customer's consent (*i.e.* slamming). See 66 Pa. C.S. § 2807(d)(1); 52 Pa. Code § 54.42(a)(9).

66. It is averred, upon information and belief, that Respondent has violated and continues to violate the Public Utility Code and the Commission's regulations and orders by switching customers to Respondent without the customers' consent.

COUNT VI – LACK OF GOOD FAITH HANDLING OF COMPLAINTS

67. The foregoing paragraphs are incorporated herein.

68. Of the referenced 27 customers that provided written correspondence and information to the OCA, 16 or approximately 59% stated that when they attempted to contact Respondent about the variable rate charges on their bills, they could not get through to the Respondent on the telephone and/or their emails to the Respondent went unanswered.

69. Of the referenced 27 customers that provided written correspondence and information to the OCA, 4 or nearly 15% stated that when they spoke to a Respondent representative about the inexplicably high generation charges on their bills, the Respondent's representative stated that a refund would only be provided if the customers entered into a one-year fixed price agreement with Respondent. If the customer had already switched suppliers, the Respondent representative refused to inquire further into the customer's complaint.

70. Of the referenced 20 Formal Complaints filed at the Commission against Respondent reviewed by the OCA to date, at least 11 or 55% of the complainants averred that when they attempted to contact Respondent about the variable rate charges on their bills, they could not get through to the Respondent on the telephone and/or their emails to the Respondent went unanswered.

71. Of the referenced 520 consumer complaints against Respondent received by the Attorney General, at least 76 or nearly 15% of the complainants indicated that when they attempted to contact Respondent about the variable rate charges on their bills, they could not get through to the Respondent on the telephone and/or their emails to the Respondent went unanswered.

72. The Commission's regulations require EGSs to utilize good faith, honesty and fair dealing with residential customers. See 52 Pa. Code § 56.1(a). See also Licensing Order at 3.

73. The Commission's regulations set forth the procedure for EGSs to use when they receive notice of a dispute, including a billing dispute, from a residential customer. Upon notice of such dispute, EGSs are required to investigate the matter, provide the customer with information necessary to make an informed judgment and issue a report to the customer within 30 days. See 52 Pa. Code §§ 56.141(a), 56.151 and 56.152.

74. It is averred, upon information and belief, that Respondent has violated and continues to violate the Commission's regulations and orders by failing to adequately staff its call center, failing to provide reasonable access to Company representatives for purposes of submitting complaints, failing to properly investigate customer disputes, failing to properly notify customers of the results of the Company's investigation into a dispute when such investigation was conducted, and failing to utilize good faith, honesty and fair dealing in its dealings with customers.

COUNT VII – FAILING TO PROVIDE ACCURATE PRICING INFORMATION

75. The foregoing paragraphs are incorporated herein.

76. Respondent's Disclosure Statement states as follows regarding variable pricing:

Electric

Variable Rate. Your price may vary from month to month. This rate is set by Respond Power and reflects their Generation Charge as reflected by the PJM Day-Ahead Market, Installed capacity (the cost of reserve or standby power), electricity lost on the transmission system ("losses"), estimated state taxes, and any other costs that Respond Power incurs to deliver your electricity to your electric Utility's Transmission System (where they receive the electricity). For their services, Respond Power adds a profit margin to the electricity and Respond Power's goal each and every month is to deliver your power at a price that is less than what you would have paid had your [sic] purchased your power from your local utility company, however, due to market fluctuations and conditions, Respond Power cannot always guarantee that every month you will see savings.

Commodity charges exclude Pennsylvania sales tax, if applicable. You may contact Respond Power for our current Variable Rate.

Respondent's Disclosure Statement is attached hereto as Appendix B.

77. The Commission's regulations require that variable pricing terms include the conditions of variability and the limits on price variability. See 52 Pa. Code § 54.5(c).

78. The variable pricing terms of Respondent fail to adequately state the conditions of variability and the limits on price variability in violation of the Commission's regulation.

79. The Commission's regulations require that EGSs "provide accurate information about their electric generation services using plain language and common terms in communications with consumers." See 52 Pa. Code § 54.43(1).

80. Additionally, EGSs must provide information to consumers "in a format that enables customers to compare the various electric generation services offered and the prices charged for each type of service." Id.

81. The Commission's regulations require compliance with the Consumer Protection Law. See 52 Pa. Code § 54.43(f) and 111.12(d)(1).

82. The Consumer Protection Law prohibits fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding. See 73 P.S. § 201-2(4)(xxi).

83. It is believed and therefore, averred that the Respondent has violated and continues to violate the Commission's regulations and orders by failing to provide pricing information in plain language and using common terms that consumers understand.

84. Further, it is believed and therefore, averred that consumers could not determine from the Disclosure Statement the price that they would or could be charged by the Respondent or how the price would be calculated by Respondent.

85. It is believed and therefore, averred that Respondent violated and continues to violate the Commission's regulations and orders by failing to provide information to its customers in a manner that would allow them to compare offers.

COUNT VIII-PRICES NONCONFORMING TO DISCLOSURE STATEMENT

86. The foregoing paragraphs are incorporated herein.

87. Upon information and belief, Respondent charged its variable rate customers prices at least as high as \$0.40 per kWh for electricity.

88. It is averred, upon information and belief, that Respondent's prices charged to customers in early 2014 were not reflective of the cost to serve residential customers.

89. By way of example, the cost to serve the average residential heating customer in January 2014 should not have exceeded approximately \$0.23 per kWh. See Affidavit of Dr. Steven L. Estomin, attached hereto as Appendix C.

90. It is averred, upon information and belief, that the aforementioned prices do not conform to the variable rate pricing provision of Respondent's Disclosure Statement.

COUNT IX- FAILURE TO COMPLY WITH THE TELEMARKETER REGISTRATION

ACT

91. The foregoing paragraphs are incorporated herein.

92. Of the 520 consumer complaints against Respondent received by the Attorney General, at least 54 or approximately 10% of the complainants received a telemarketing call from the Respondent, which initiated the complainants' switch to Respondent.

93. The Commission's regulations require EGSs to comply with the Telemarketer Registration Act, 73 P.S. § 2241, *et seq.* See 52 Pa. Code § 111.10(a)(1).

94. When Respondent sells its goods or services through the use of a telemarketing call, the Telemarketer Registration Act requires the Respondent to reduce any sale of goods or services made during such call to a written contract and obtain the consumer's signature on the written contract. See 73 P.S. § 2245(a)(7).

95. Additionally, the Telemarketer Registration Act requires the Respondent to provide consumers with a contract that contains, *inter alia*, the following:

- A detailed description of the consumer goods and services purchased which shall match the oral description given in the telemarketing solicitation;
- Any oral or written representations made during the telemarketing solicitation; and
- A statement that reads: "You are not obligated to pay any money unless you sign this contract and return it to the seller."

See 73 P.S. § 2245(c).

96. Respondent failed to provide consumers with a contract that contained all of the required information set forth in Sections 2245(a)(7) and 2245(c) of the Telemarketer Registration Act, 73 P.S. § 2245(a)(7) and (c), and has therefore, violated and continues to violate the Commission's regulations and orders and the Telemarketer Registration Act.

97. Under the Telemarketer Registration Act, any violation of 73 P.S. § 2241, *et seq.* is also a violation of the Consumer Protection Law. See 73 P.S. § 2246(a).

98. The Commission's regulations require that EGSs comply with the Telemarketer Registration Act and the Consumer Protection Law. See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

99. By failing to provide a contract that complies with the Telemarketer Registration Act, Respondent has also violated and continues to violate the Consumer Protection Law.

RELIEF

100. The foregoing paragraphs are incorporated herein.

101. Pursuant to Section 54.42 of the Commission's regulations, 52 Pa. Code § 54.42, the Commission may suspend or revoke an EGS's license and impose civil penalties for the following EGS conduct:

- Failure to follow the principles in 52 Pa. Code § 54.43;
- Violation of applicable provisions of the Public Utility Code, Commission regulations and Commission orders;
- Violation of the consumer protection law; and
- The transfer of a consumer without the consumer's consent.

102. Under the Consumer Protection Law, it is appropriate to impose a permanent injunction to restrain and prevent violations of the Consumer Protection Law and restore to any person in interest any moneys or property that may have been acquired by means of any violation of the Consumer Protection Law. See 73 P.S. § 201-4.1.

103. As outlined above, Respondent violated and continues to violate the Public Utility Code, Commission regulations and orders, the Consumer Protection Law, the Telemarketer Registration Act and its Licensing Order.

WHEREFORE, Joint Complainants Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate, respectfully request that the Commission take the following actions:

A. Consolidate all similar pending formal complaints against Respondent with this Joint Complaint;

B. Find that Respondent violated the Telemarketing Registration Act, the Consumer Protection Law, the Public Utility Code, and the Commission's regulations and orders, as specified in the foregoing Joint Complaint, and revoke or suspend Respondent's EGS license;

C. Find that Respondent violated the Telemarketing Registration Act, the Consumer Protection Law, the Public Utility Code, and the Commission's regulations and orders, as specified in the foregoing Joint Complaint, and impose a civil penalty;

D. Order Respondent to provide appropriate restitution, including without limitation to, refunding all charges to its consumers that were over and above the Price To Compare in the customers' respective service territories from January 1, 2014 through the date of resolution of this matter, as well as any late, cancellation and/or termination fees and/or other such penalties charged to customers as a result of Respondent's charges and customers leaving Respondent to obtain generation service elsewhere;

E. Order Respondent to prohibit its salespeople from stating or otherwise insinuating that they are employed by or in any way affiliated with consumers' local distribution companies;

F. Order Respondent to prohibit its salespeople from deceiving consumers about their choices relating to electric generation;

G. Order Respondent to prohibit its salespeople from making price guarantees to consumers that are deceiving and inaccurate;

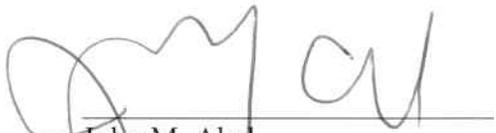
H. Order Respondent to cease and desist switching consumers to its generation service without their explicit consent;

I. Order Respondent to implement proper customer dispute procedures and adequately staff, train and monitor all employees and agents in such procedures;

J. Order Respondent to discontinue all other marketing practices that violate the Telemarketing Registration Act, the Consumer Protection Law, the Public Utility Code, and the Commission's regulations or orders; and

K. Impose any other such relief that the Commission deems appropriate in this matter.

Respectfully submitted,



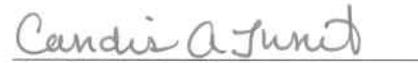
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Senior Deputy Attorney General
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Deputy Attorney General
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Counsel for:

Kathleen G. Kane, Attorney General
Bureau of Consumer Protection



Candis A. Tunilo
PA Attorney I.D. 89891

Christy M. Appleby
PA Attorney I.D. 85824
Assistant Consumer Advocates

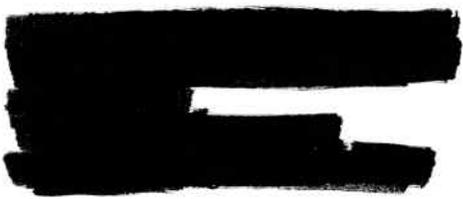
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
T: (717) 783-5048
F: (717) 783-7152
ctunilo@paoca.org
cappleby@paoca.org

Counsel for:

Tanya J. McCloskey
Acting Consumer Advocate

DATE: 6-20-14

APPENDIX A

Dear 

Welcome to Respond Power: The Official Energy Partner of Madison Square Garden and The New York Knicks.

We wanted to take a moment to let you know about some of the terrific benefits and advantages of being our customer. First and foremost, as the Official Energy Partner of Madison Square Garden and the New York Knicks, rest assured knowing that you are now with an industry leader when it comes to credibility and reliability in energy choice. Should another energy company knock on your door or reach you on the phone, proudly let them know that you are a Major Energy customer and to leave you alone. You'll be happy you did. Additionally, please keep in mind that you are not leaving your local utility company. They will still service and deliver your energy and continue to read your meter and send you bills. That will never change.

IMPROVEMENTS

- Competitive rates, historical annual savings
- Each customer supports our donation to the Alex's Lemonade Stand Foundation
- Earn \$25 for every referral
- Monthly sweepstakes, superior customer service, leaders in the energy industry

WHAT STAYS THE SAME

- Utility still delivers your energy safely
- Utility still maintains your lines
- Utility still responds to any emergencies
- Still only receive one bill

Enclosed is a diagram that clearly shows you what changes you can and can't expect to see on your next bill. So welcome again to the best of both worlds – competitive rates on your energy supply, incredible added-value benefits by being our customer and the security of knowing that – as the Official Energy Partner of Madison Square Garden and the New York Knicks – Major Energy is both credible and reliable.

If at any time you have any questions, please give us a call at 877-973-7763 or email us at service@respondpower.com and one of our Customer Service Specialists will be happy to assist you.

Thank you for your support and welcome!

Regards,



Christopher Johnson
Director of Customer Service and Quality Control
Respond Power



RESPOND   POWER



PLEASE SAVE THIS IMPORTANT INFO

Congratulations on registering with Respond Power! We hope you enjoy the savings on your future electric Bills. Be aware that **other supply companies may visit, call or mail you**. If they do, **please be aware of the following:**

1) **BEWARE** of **FIXED PRICE** offerings, also known as "Price Protection" plans. **IF** prices drop, as they often do, you may find yourself paying **MORE** than your neighbors because you are contractually **LOCKED** into a higher price.

- *For this reason Respond Power offers Variable Pricing that reflects true market conditions and provides potential savings of up to 10%.*

2) **BEWARE** of Contracts with Cancellation Fees

- *While Respond Power asks for a 12-month commitment, we have **NO Cancellation Fees**. We keep our customers by offering real savings **NOT** cancellation fees.*

3) **BEWARE** of "Special Gift" offerings such as Gift Cards. They are often tied to higher rates and contracts and high cancellation fees.

- *Respond Power offers **REAL** savings - **NOT GIMMICKS**.*

4) **MAKE SURE** that any supply company you consider is accredited by the Better Business Bureau. Look for the BBB logo on their order forms and ID badges.

- *Respond Power is an affiliate of Major Energy Services and is "**A Rated**" with the Better Business Bureau.*

5) **YOU WILL** receive a confirmation letter from PECO stating: "PECO may shut-off your service if you fail to pay either your EGS charges or your PECO delivery charges on time"

- ***Do Not let this letter concern you. The fact is that PECO may shut-off your service for non-payment REGARDLESS if you choose to save with Respond Power or not.***

Any Questions?

Please Call 877-973-7763

RESPOND ◀▶ POWER  majorenergy

IMPORTANT NOTICE!

Congratulations on registering with Respond Power and/or Major Energy!

YOU ARE NOT LEAVING YOUR LOCAL UTILITY.

Your Utility will ALWAYS maintain your lines, send your bill and respond to any emergencies. You are simply giving your local utility the "OK" to get your supply of energy from Respond Power and/or Major Energy, for a chance to save on the supply portion of your bill. There is NO COST to enroll. There are NO CANCELLATION Fees.

YOU WILL receive a standard confirmation letter from your local utility.

Don't let this standard letter concern you or keep you from your potential savings. Your Utility Company's main focus is to safely deliver your energy supply. Major Energy & Respond Power's main focus is to provide you with great customer service and access to historically proven savings on your energy bills.

KEEP IN MIND

that by supporting Respond Power and/or Major Energy you are also supporting the fight against childhood cancer. Thanks to our customers and company growth we now donate tens of thousands of dollars annually to Alex's Lemonade Stand (See Reverse).

Other supply companies may visit, call or mail you with offers.
Please be aware of the following:



Other supply companies' offers may include long term contracts and cancellation fees. Respond Power & Major Energy have NO long term contracts and NO Cancellation Fees. We work to keep our customers by offering competitive pricing and superior customer service.



Other supply companies may offer gimmicks such as Airline Miles or are designed as Pyramid "get rich quick" plans. Those offers are often tied to higher rates, long term contracts and high cancellation fees. At Major Energy & Respond Power we work to keep our customers by offering competitive pricing and superior customer service, NOT by offering gimmicks. Our savings expectations are based on historical annual savings.



MAKE SURE that any supply companies you consider are accredited by the Better Business Bureau. You should always be able to find the BBB logo on the applications of accredited companies.

Respond Power is an affiliate of Major Energy Services; an "A Rated" supply company with the Better Business Bureau. This is evidenced by the logo on our applications.



CUSTOMER SERVICE:

Respond Power: (877) 973-7763

Major Energy: (888) 625-6760



Major Energy & Respond Power Reaffirm Commitment To Battling Childhood Cancer, Announce Continued Support For Alex's Lemonade Stand Foundation

Philadelphia, PA (August 13, 2012) - **Major Energy** and **Respond Power** are proud to announce the extension of their partnership with **Alex's Lemonade Stand Foundation**, a nonprofit dedicated to finding cures for all childhood cancers. Major Energy and Respond Power, which serve residential and commercial customers in New York, Maryland and Pennsylvania markets, will continue their support of the battle against childhood cancer after a successful campaign in 2011.

Kicking off in June of 2011, Major Energy and Respond Power has been on an awareness mission to introduce their customers, current and future, to Alex's story and ways in which individuals can join them in supporting Alex's Lemonade Stand Foundation. The companies have been working to spread the word about the Foundation and their support through any means possible including in newsletters and sales materials, through social media channels and on their respective websites. Currently there are links on the Major Energy and Respond Power websites connecting visitors directly to **AlexsLemonade.org** to learn more, how to host their own lemonade stands or make a donation. The companies are also hoping to plan additional fundraising initiatives in the coming year to further their support.

"Having the opportunity over the course of the last year to support Alex's Lemonade Stand has been extremely humbling, particularly because they are in our backyard and touch so many of our neighbors, friends and family," explains Elliott Wolbrom, Director of Marketing for Major Energy and Respond Power. "It is with that in mind that we are proud to announce a five-fold increase in contributions to Alex's Lemonade Stand Foundation this year. Having access to millions of people through various channels, Major Energy and Respond Power will use this multi-channelled exposure to disseminate Alex's message from all angles."

ABOUT MAJOR ENERGY AND RESPOND POWER

Founded in 2005 by energy industry veterans, Major Energy and Respond Power serve residential and commercial customers in the deregulated natural gas and electric markets of New York, Pennsylvania and Maryland. Additionally, they are licensed and approved by the respective State Public Service or Public Utility Commissions AND by local utility's to supply natural gas and electricity.

New York based, Major Energy and Respond Power are affiliated companies familiar with the energy needs of their customers. Their management team has combined decades of experience in the energy retail marketplace with dedication and passion to help residential and business customers reduce their energy costs. Unlike other ESCOs, Major Energy and Respond Power not only deliver gas and electricity at the best available rates, but also give consumers the tools to manage and monitor your energy consumption and control your costs, such as the groundbreaking Respond Power Rewards program.

The management of Major Energy and Respond Power understand that energy should revolve around the lifestyle of their customers and not the other way around. They are proud of the record that's been built and they remain committed to the core principles on which the company was founded: Lowering customers' energy bills safely and reliably and providing superior customer service.

About Alex's Lemonade Stand Foundation

Alex's Lemonade Stand Foundation (ALSF) emerged from the front yard lemonade stand of cancer patient Alexandra "Alex" Scott (1996-2004). In 2000, 4-year-old Alex announced that she wanted to hold a lemonade stand to raise money to help find a cure for all children with cancer. Since Alex held that first stand, the Foundation bearing her name has evolved into a national fundraising movement, complete with thousands of supporters across the country carrying on her legacy of hope. To date, Alex's Lemonade Stand Foundation, a registered 501(c)3 charity, has raised more than \$55 million toward fulfilling Alex's dream of finding a cure, funding over 250 pediatric cancer research projects nationally. For more information on Alex's Lemonade Stand Foundation, visit **AlexsLemonade.org**.

RESPOND  **POWER**

 **majorenergy**

APPENDIX B

RESPOND POWER LLC AND MAJOR ENERGY SERVICES LLC, AFFILIATES DISCLOSURE STATEMENT

Background

Respond Power is licensed by the Pennsylvania Public Utility Commission to offer and supply electricity in Pennsylvania. Our PUC license number is A-2010-2163898

Major Energy is licensed by the Pennsylvania Public Utility Commission to offer and supply natural gas in Pennsylvania. Our PUC license number is A-2009-2118836

We set the commodity prices and charges that you pay. The Public Utility Commission regulates distribution prices and services.

Right of Rescission — You may cancel this agreement at any time before midnight of the third business day after receiving this disclosure by contacting: Respond Power for Electricity at 1-877-973-7763; Major Energy for Gas at 1-888-625-6760; or in writing at the address listed below.

Definitions

Basic Charges

Gas

Commodity Charges — The charges for the natural gas product which is sold either in cubic feet or dekatherms.

Distribution Charges — The charges for the delivery of natural gas from the city gate to the consumer.

Electric

Commodity Charges - The charges for the electricity which is sold which will be billed in Kilowatt Hours (kWh).

Generation Charge — Charge for production of electricity.

Transmission Charge — Charge for moving high voltage electricity from a generation facility to the distribution lines of an electric distribution company.

Terms of Service

1. Basic Service Prices. Itemize Basic Services you are billing for and their prices.

Gas

Variable Rate. Your price may vary from month to month. This rate is set by Major Energy and reflects their commodity cost of gas as reflected by the NYMEX last day settle or an average of the last 3 days prior to Settle, pipeline transportation from the production area (usually the Gulf of Mexico), natural gas lost on the interstate and local distribution pipelines ("losses"), estimated state taxes, and any other costs that Major Energy incurs to deliver your natural gas to your Natural Gas Utility's "City Gate" (where they receive the gas). For their services, Major Energy adds a profit margin to the gas and Major Energy's goal each and every month is to deliver your gas at a price that is less than what you would have paid had you purchased your gas from your local utility company, however, due to market fluctuations and conditions, Major Energy can not always guarantee that every month you will see savings. Commodity charges exclude Pennsylvania sales tax, if applicable. You may contact Major Energy for our current Variable Rate.

Fixed Rate. This is a rate that does not change over a fixed period of time. Major Energy offers various lengths of time for Fixed Rates. Typically, most terms are either for 6, 12 or 18 months Major Energy will bill you a unit price using the same units as your current Natural Gas Distribution Company (Mcf, Ccf or therms). The Fixed Rate includes estimated total state taxes but excludes Pennsylvania sales tax, if applicable.

Electric

Variable Rate. Your price may vary from month to month. This rate is set by Respond Power and reflects their Generation Charge as reflected by the PJM Day-Ahead Market, installed capacity (the cost of reserve or standby power), electricity lost on the transmission system ("losses"), estimated state taxes, and any other costs that Respond Power incurs to deliver your electricity to your electric Utility's Transmission System (where they receive the electricity). For their services, Respond Power adds a profit margin to the electricity and Respond Power's goal each and every month is to deliver your power at a price that is less than what you would have paid had you purchased your power from your local utility company, however, due to market fluctuations and conditions, Respond Power cannot always guarantee that every month you will see savings. Commodity charges exclude Pennsylvania sales tax, if applicable. You may contact Respond Power for our current Variable Rate.

Fixed Rate. This is a rate that does not change over a fixed period of time. Respond Power offers various lengths of time for Fixed Rates. Typically, most terms are either for 6, 12 or 18 months Respond Power will bill you a unit price using the same units as your current Electric Distribution Company (kWh). The Fixed Rate includes estimated total state taxes but excludes Pennsylvania sales tax, if applicable.

2. Length of Agreement and Renewal Terms. You will buy your electricity and/or gas for the above street address from Respond Power and/or Major Energy (collectively and/or individually as the case may be hereafter "Affiliates") beginning on a date set by your Local Distribution Company, (hereinafter "LDC") and will continue for 12 months (unless stated otherwise on a Fixed Price deal). If this Agreement is for a fixed rate and no new fixed rate is set, then this Agreement will re-new for successive 12 month periods under a Variable Rate unless it is cancelled pursuant to Section 4 below or customer notifies Respond Power and/or Major Energy by mail or phone at least 45 days prior to the 12 month anniversary of the contract date. If this Agreement is for a Variable Rate, then this Agreement will also re-new for successive 12 month periods under a Variable Rate unless it is cancelled pursuant to Section 4 below or customer notifies Respond Power and/or Major Energy by mail or phone at least 45 days prior to the 12 month anniversary of the contract date.

3. Penalties, Fees and Exceptions. If your agreement is for a Fixed Rate, you may not cancel during the duration of the Fixed Rate agreement. If customer cancels Fixed Rate agreement during the Fixed Rate term, then Respond Power will assess a penalty of 2¢ per kWh multiplied by the amount of kWh remaining for the duration under the Fixed Rate agreement and/or Major Energy will assess a penalty of 20¢ per therm multiplied by the amount of therms remaining for the duration under the Fixed Rate agreement. This Fee will be due 30 days after cancellation of contract.

4. Cancellation Provisions. If Customer cancels this agreement, then Customer is liable for all Respond Power electric or Major Energy gas charges until Customer returns to the LDC or goes to another supplier. There are no cancellation fees for Variable Rate customers.

If Customer's electric or gas service is terminated by the LDC for reasons of non-payment or for any other reason, this will automatically void the contract between Customer and Respond Power and/or Major Energy, and Respond Power and/or Major Energy will also cancel the contract. In this event, if customer was being served by Respond Power or Major Energy under a Fixed Rate plan, customer will still be liable for the Fixed Rate penalty as explained above in Number 3.

If, due to significant changes in the structure of the deregulated Pennsylvania electric or natural gas market or for any other reason relevant to Respond Power's ability to supply electricity or Major Energy's ability to supply natural gas in Pennsylvania, it becomes no longer feasible or practical for Respond Power to supply electricity or Major Energy to supply natural gas in Pennsylvania and must leave the market as an electric or natural gas supplier, then Respond Power and/or Major Energy will notify you of this fact in writing and will advise you of your available choices. No penalty under Number 3 above will be assessed in this event.

If customer moves from one location to another, even if the move is within your current local utility company's service territory, this agreement is cancelled and there are no penalties or early cancellation fees.

5. Agreement Expiration/Change in Terms. If you have a fixed term agreement with us and it is approaching the expiration date or whenever we propose to change our terms of service in any type of agreement, you will receive written notification from us in each of your last three bills for supply 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.

6. Dispute Procedures. Contact us with any questions concerning our terms of service. You may call the PUC if you are not satisfied after discussing your terms with us.

7. Assignment. Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of Respond Power and/or Major Energy. Affiliates may sell, transfer, pledge, or assign the accounts, revenues, or proceeds hereof, in connection with any financing agreement and may assign this Agreement to another energy supplier, energy services company or other entity as authorized by the Pennsylvania PUC.

8. Refund Policy. As the commodity supplied under this Agreement is immediately used and consumed by Customer upon delivery, it is not practical to return the product subject this Agreement, and therefore refunds with respect to the commodity are not provided.

9. Title. Customer and Respond Power and/or Major Energy agree that title to, control of, and risk of loss to the electricity and gas supplied by Affiliates under this Agreement will transfer from Affiliates to Customer at the Sales Point(s). Affiliates will indemnify and hold harmless Customer from all taxes, royalties, fees or other charges incurred before title passes with respect to the electricity provided hereunder.

10. Warranty. This Agreement, including any enrollment form and applicable attachments, as written makes up the entire Agreement between Customer and Respond Power and/or Major Energy. Affiliates make no representations or warranties other than those expressly set forth in this Agreement, and Affiliates expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

11. Force Majeure. Affiliates will make commercially reasonable efforts to provide electricity and natural gas hereunder but do not guarantee a continuous supply of electricity and natural gas to Customer. Certain causes and events out of the control of Affiliates ("Force Majeure Events") may result in interruptions in service. Affiliates will not be liable for any such interruptions caused by a Force Majeure Event, and Affiliates are not and shall not be liable for damages caused by Force Majeure Events. Force Majeure Events shall include acts of God, fire, flood, storm, terrorism, war, civil disturbance, acts of any governmental authority, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the Electric or Gas Distribution Company (including, but not limited to, a facility outage on its electric distribution lines), changes in laws, rules, or regulations of any governmental authority or any other cause beyond Respond Power's and/or Major Energy's control.

12. Liability. The remedy in any claim or suit by Customer against Respond Power and/or Major Energy will be solely limited to direct actual damages. All other remedies at law or in equity are hereby waived. In no event will either Respond Power or Major Energy or Customer be liable for consequential, incidental, indirect, special or punitive damages. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

13. Choice of Laws. Venue for any lawsuit brought to enforce any term or condition of this Agreement or to construe the terms hereof shall lie exclusively in the State of Pennsylvania. This Agreement shall be construed under and shall be governed by the laws of the State of Pennsylvania without regard to the application of its conflicts of law principles.

14. Regulatory Changes. If at some future date there is a change in any law, rule, regulation or pricing structure whereby Major is prevented, prohibited or frustrated from carrying out the terms of the Agreement, at its sole discretion Major shall have the right to cancel this Agreement on 15 days' notice to Customer.

15. Emergency Service. In the event of an electricity or natural gas emergency or service interruption, contact your local Electric Distribution Company ("EDC") or Natural Gas Distribution Company, ("NGDC") at one of the telephone numbers listed below. You should also contact your local emergency personnel. PECO Energy 1-800-841-4141, Columbia Gas of PA 1-800-460-4332, UGI Utilities 1-800-609-4944, National Fuel Gas of PA 1-800-444-3130, PPL 1-800-342-5775, Penelec/Met-Ed/WPP 1-888-544-4877, Duquesne Light 1-888-393-7000.

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

17. Billing and Payment. You will receive one bill from your utility, which will include our charges as well as your utility charges. The rules of the utility will apply to the billing and collection of monies owed. You must make payment directly to and to the order of your utility, for both utility transportation charges and our energy charges. Past-due charges may incur a late fee of 1.5% per month or the interest rate posited in your utility's tariff. If you fail to remit payment when due or if you breach any of the other terms and conditions of the Agreement, then, in addition to any other remedies we may have, we have the right to terminate the Agreement, in whole or with respect to any particular account(s) covered by the Agreement, upon 45 days' written notice, provided that you do not make payment or correct the problem that caused the termination within the 45-day period. The Utility may request a security deposit for amounts which include Supplier charges.

18. Email. Providing email address constitutes acceptance of Customer's enrollment in the monthly e-newsletter.

19. Contact Information.

Respond Power, LLC
100 Dutch Hill Rd., Suite 230
Orangeburg NY 10962
1-877-9-RESPND (1-877-973-7763)
www.respondpower.com

Major Energy, LLC
100 Dutch Hill Rd., Suite 230
Orangeburg NY 10962
1-888-MAJOR-60 (1-888-625-6760)
www.majorenergy.com

Electric Distribution Company (EDC) and
Provider of Last Resort
PECO ENERGY
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101
Phone: 1-800-494-4000

Duquesne Light
411 Seventh Avenue (6-1)
Pittsburgh, PA 15219
Phone: 1-412-393-7100

PPL Electric Utilities
827 Hausman Road
Allentown, PA 18104
Phone: 1-800-342-5775

Met-Ed/Penelec
P.O. Box 3687
Akron, OH 44309
Phone: 1-800-545-7741

West Penn Power
P.O. Box 3615
Akron, Ohio 44309
1-800-686-0021

Gas Distribution Company (GDC) and
Provider of Last Resort
PECO ENERGY
2301 Market Street
Philadelphia, PA 19101
Phone: 1-800-494-4000

Columbia Gas of Pennsylvania
501 Technology Drive
Canonsburg, PA 15317
Phone: 1-888-460-4332

UGI Gas
2525 North 12th Street
Suite 360
Reading, PA 19605
Phone: 1-800-609-4844

National Fuel Gas Distribution
6363 Main Street
Williamsville, NY 14221
Phone: 1-800-365-3234

Public Utility Commission (PUC)
P.O. Box 3265
Harrisburg, PA 17105-3265
Electric Competition Hotline Number:
1-800-692-7380

Universal Service Program: Your EDC has programs available to customers who are on a limited or fixed income to assist them with utility bills. Contact your EDC at the phone number listed above for your EDC.

APPENDIX C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AFFIDAVIT
OF
STEVEN L. ESTOMIN, Ph.D.

JUNE 19, 2014

EXETER

ASSOCIATES, INC.
10480 Little Patuxent Parkway
Suite 300
Columbia, Maryland 21044

AFFIDAVIT

1. My name is Steven L. Estomin. I am a Senior Economist and Principal with Exeter Associates, Inc., an economics consulting firm. My business address is 10480 Little Patuxent Parkway, Suite 300, Columbia, Maryland 21044.

2. At the request of the Pennsylvania Office of Consumer Advocate (OCA), I performed an analysis addressing residential variable rate pricing in Pennsylvania during the winter of 2014. Specifically, I conducted an analysis regarding day-ahead and real-time market prices for electric energy during the winter of 2014.

3. Separate analyses were conducted for electric space heating and non-electric space heating residential customers.

4. Separate analyses were conducted for the residential customers in the following Electric Distribution Company (EDC) service territories:
 - Allegheny Power System (APS)
 - Duquesne Light Company (DLC)
 - Metropolitan Edison Company (Met-Ed)
 - PECO
 - Penelec
 - PPL Utilities (PPL)

5. The categories of generation costs included in the analyses are:
 - Energy cost (the cost of energy delivered to the relevant EDC zone) – both day-ahead and real-time prices were relied upon
 - Cost of Alternative Energy Portfolio Standard compliance

- Capacity cost
 - Cost of ancillary services, margin (i.e., profit) and risk.
6. Prices were calculated for four separate 4-week billing cycles:
 - January 1 through January 30
 - January 8 through February 6
 - January 15 through February 13
 - January 22 through February 20
 7. The APS and Duquesne zones exhibit the lowest total all-in, per-MWh generation costs, varying from approximately \$70 per MWh (based on real-time energy prices for the Duquesne zone over the January 8 through February 6 billing cycle) to approximately \$135 per MWh (based on day-ahead energy prices for the APS zone over the January 15 through February 13 billing cycle).
 8. Costs for the remaining four zones are similar to each other and range from a total cost of approximately \$129 per MWh (based on real-time energy prices for the Penelec zone for non-space heat customers over the January 8 through February 6 billing cycle) to approximately \$228 per MWh (based on day-ahead energy prices for the PECO zone for space heating customers over the January 1 through February 30 billing cycle).
 9. The results obtained from this analysis suggest that the cost to serve residential consumers covering any of the four billing cycles examined would be not more than \$0.23 per kWh in any of the six EDC zones examined, even under the assumption that all supply were procured on the PJM spot markets.

AFFIDAVIT

Steven L. Estomin, being first duly sworn, deposes and says that this affidavit was prepared by him; that he is familiar with the contents thereof; and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

Steven Estomin
Steven L. Estomin

Subscribed and sworn to before me on this 19 day of June 2014

Robert M Adams
Notary Public

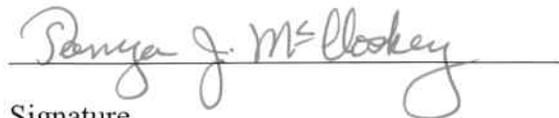
My Commission Expires: 2/2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

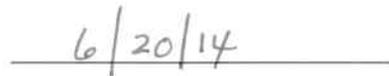
Commonwealth of Pennsylvania, by	:	
Attorney General KATHLEEN G. KANE,	:	
Through the Bureau of Consumer Protection,	:	
	:	
And	:	
	:	
TANYA J. McCLOSKEY, Acting Consumer	:	
Advocate,	:	
Complainants	:	
	:	Docket No. C-2014-
v.	:	
	:	
RESPOND POWER, LLC,	:	
Respondent	:	

VERIFICATION

I, Tanya J. McCloskey, Acting Consumer Advocate, hereby state that the facts set forth above in this Joint Complaint are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).



Signature

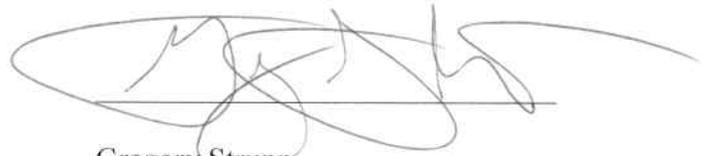


Date

VERIFICATION

I, Gregory Strupp, Consumer Protection Agent for the Office of Attorney General, Bureau of Consumer Protection, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that the Pennsylvania Office of Attorney General's Bureau of Consumer Protection expects to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 6/20/14

A handwritten signature in black ink, appearing to read 'Gregory Strupp', written over a horizontal line.

Gregory Strupp
Consumer Protection Agent
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120

**PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. § 309-4(e)**

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161 and for the following reasons, Acting Consumer Advocate Tanya J. McCloskey has determined to file a Joint Complaint with the Commonwealth of Pennsylvania by Attorney General Kathleen G. Kane through the Bureau of Consumer Protection (OAG) and participate in proceedings before the Commission involving Respond Power, LLC (Respond Power). The Joint Complaint alleges violations of the Public Utility Code, Commission regulations and orders, the Unfair Trade Practices and Consumer Protection Law and the Telemarketer Registration Act.

Respond Power is licensed by the Commission to supply electric generation to residential and commercial customers throughout Pennsylvania. Early in 2014, the OAG and the OCA received thousands of consumer complaints and contacts about supplier variable rate charges on their electric bills. The OCA joined in the filing of this Complaint to address multiple identified violations of the Commission's regulations and Pennsylvania law and to seek protections for consumers. The OCA will represent the interests of consumers before the Commission and ensure that Respond Power follows the requirements of the law and Commission regulations and orders when it engages in marketing and sales of its electric supply in Pennsylvania.

CERTIFICATE OF SERVICE

Commonwealth of Pennsylvania, by :
Attorney General KATHLEEN G. KANE, :
Through the Bureau of Consumer Protection, :
: :
And :
: :
TANYA J. McCLOSKEY, Acting Consumer :
Advocate, :
Complainants : Docket No. C-2014-
v. :
: :
RESPOND POWER, LLC, :
Respondent :

I hereby certify that I have this day served a true copy of the foregoing Joint Complaint of the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate and the Public Statement of the Office of Consumer Advocate, in the manner and upon the persons listed below:

Dated this 20th day of June 2014.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Johnnie Simms, Esq.
Michael Swindler, Esq.
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Adam Small, Esq.
General Counsel
Major Energy Services
100 Dutch Hill Road – Suite 310
Orangeburg, NY 10962

Karen O. Moury, Esq.
Buchanan Ingersoll & Rooney PC
409 N. Second Street
Harrisburg, PA 17101-1357

John R. Evans
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
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Candis A Tunilo

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