



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

August 26, 2014

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

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
Docket No. C-2014-2427659

Dear Attorney Moury:

Enclosed for filing is an original copy of the Answers of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission to Respond Power LLC Interrogatories Set I in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the attached Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Swindler".

Michael L. Swindler
Prosecutor

Enclosure

cc: As per certificate of service
Secretary Chiavetta, w/o attachment
ALJ Cheskis w/o attachment
ALJ Barnes w/o attachment

actively investigating Respond Power LLC (Respond) as a result of customer complaints received by the Commission's Bureau of Consumer Services related to allegations similar to those alleged in the OAG/OCA Complaint. On August 6, 2014, Respond filed "Interrogatories of Respond Power Directed to the Bureau of Investigation and Enforcement – Set I." Respond's Interrogatories - Set I consist of 15 Interrogatories. Specifically, I&E objected to Respond Interrogatory Set I, No. 1, as set forth in a separate pleading. I&E provides Answers herein to Respond Interrogatories – Set I, Nos. 2-15.

II. ANSWERS

1. Please identify by (i) names; (ii) addresses; and (iii) telephone numbers each of the customers whose informal complaints referenced in Paragraph 9 of BIE's Notice of Intervention are the subject of an active BIE investigation. In addition, please provide the date on which each of these informal complaints was filed, identify the specific allegations contained in each informal complaint and describe the resolution of each informal complaint.

OBJECTION. Pleading filed separately.

2. Please indicate whether the Commission's Bureau of Consumer Services ("BCS") referred the customers referenced in Interrogatory No. 1 to the Attorney General ("AG") or the Office of Consumer Advocate ("OCA").

ANSWER: The Bureau of Investigation and Enforcement is an independent prosecutorial arm of the Commission and has no knowledge regarding whether the Commission's Bureau of Consumer Services referred customers to OAG or OCA.

3. Please indicate whether BCS provided copies of the informal complaints referenced in Interrogatory No. 1 to the AG or OCA.

ANSWER: See Answer to No. 2.

4. Please provide a description of what you would consider an adequate program for training and monitoring Respond Power's salespeople on the subject of the EDC's role if a customer switches to an electric generation supplier ("EGS"). Explain the basis for your description, with appropriate references to any Commission regulations or orders.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission

regulations and enforces those statutes and regulations. From the perspective of I&E, “adequate” would equate to something that is within the bounds of the law, in compliance with the relevant statutes and Commission regulations. I&E investigates each matter on its own merits. However, the allegations set forth in the OAG/OCA Complaint are so egregious that, if true, I&E would certainly consider Respond’s actions to be inadequate.

5. Please provide a description of what you would consider an adequate program for training and monitoring Respond Power’s salespeople to ensure that they properly address pricing in the sales pitch. Explain the basis for your description, with appropriate references to any Commission regulations or orders.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. From the perspective of I&E, “adequate” would equate to something that is within the bounds of the law, in compliance with the relevant statutes and Commission regulations. I&E investigates each matter on its own merits. However, the allegations set forth in the OAG/OCA Complaint are so egregious that, if true, I&E would certainly consider Respond’s actions to be inadequate.

6. Please provide a description of what you would consider an adequate program for training and monitoring Respond Power’s salespeople to ensure that they properly inform customers that they are signing up for a variable rate. Explain the basis for your description, with appropriate references to any Commission regulations or orders.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. From the perspective of I&E, “adequate” would equate to something that is within the bounds of the law, in compliance with the relevant statutes and Commission regulations. I&E investigates each matter on its own merits. However, the allegations set forth in the OAG/OCA Complaint are so egregious that, if true, I&E would certainly consider Respond’s actions to be inadequate.

7. Please provide references to Commission regulations and orders that require EGSs to answer telephone calls or electronic mail within a specified period of time. In addition, please provide references to Commission regulations and orders that establish procedures for EGSs to follow when customer disputes are filed.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission

regulations and enforces those statutes and regulations. From the perspective of I&E, “adequate” would equate to something that is within the bounds of the law, in compliance with the relevant statutes and Commission regulations. I&E investigates each matter on its own merits. However, the allegations set forth in the OAG/OCA Complaint are so egregious that, if true, I&E would certainly consider Respond’s actions to be inadequate.

8. Please set forth what you would view as constituting “adequate staffing” of an EGS call center, and provide the basis for that view, including appropriate references to Commission orders and regulations.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. From the perspective of I&E, “adequate” would equate to something that is within the bounds of the law, in compliance with the relevant statutes and Commission regulations. I&E investigates each matter on its own merits. However, the allegations set forth in the OAG/OCA Complaint are so egregious that, if true, I&E would certainly consider Respond’s actions to be inadequate.

9. Please describe what you believe is “reasonable access” to EGS representatives, and provide the basis for that view, including appropriate references to Commission orders and regulations.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. From the perspective of I&E, “adequate” would equate to something that is within the bounds of the law, in compliance with the relevant statutes and Commission regulations. I&E investigates each matter on its own merits. However, the allegations set forth in the OAG/OCA Complaint are so egregious that, if true, I&E would certainly consider Respond’s actions to be inadequate.

10. Please set forth in full and complete detail all consumer education efforts undertaken by BIE since January 1, 1999 to inform consumers about variable rates.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. It is not within the duties and responsibilities of I&E to otherwise educate consumers. I&E did not exist until 2011 when the Commission created the Bureau. *See Implementation of Act 129 of 2008, Organization of Bureaus and Offices*, Docket No. M-2008-2071852, pp. 3-5 (Order entered August 11, 2011).

11. After a reasonable search, please identify all actions BIE is aware of taking since January 1, 1999 to review the adequacy of disclosure statements used by EGSs.

ANSWER: I&E is not tasked with reviewing the adequacy of disclosure statements. I&E did not exist until 2011 when the Commission created the Bureau. *See Implementation of Act 129 of 2008, Organization of Bureaus and Offices*, Docket No. M-2008-2071852, pp. 3-5 (Order entered August 11, 2011).

12. Please forth [sic] in full and complete detail each of the elements of costs and profits that you believe can be included in an EGS's determination of a rate to be charged to a customer under a variable rate plan in compliance with Commission orders and regulations, and Pennsylvania law.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. I&E does not have a position regarding the rate elements of an EGS. However, it is I&E's position that whenever rate elements are included, the rates charged must be properly disclosed to customers and Respond must not charge a rate higher than represented to those customers.

13. Please set forth in full and complete detail all limitations to the rate that an EGS may charge a customer under a variable rate plan in compliance with Commission orders and regulations, and Pennsylvania law, and how such limitations are to be determined or calculated.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. I&E does not have a position regarding the rate limitations of an EGS. However, it is I&E's position that whenever rate limitations are included, the rates charged must be properly disclosed to customers and Respond must not charge a rate higher than represented to those customers.

14. After a reasonable search, please identify complaints, comments or other filings that BIE is aware of submitting with the Commission by BIE since January 1, 1999 alleging the inadequacy of disclosure statements being used by EGSs, particularly with respect to terms and conditions pertaining to variable rate contracts.

ANSWER: As the independent prosecutorial arm of the Commission, I&E investigates alleged violations of the Public Utility Code and Commission regulations and enforces those statutes and regulations. On July 24, 2014, I&E

filed a formal complaint against HIKO Energy, LLC at Docket No. C-2014-2431410. On August 21, 2014, I&E filed a formal complaint against Respond Power LLC at Docket No. C-2014-2438640. I&E did not exist until 2011 when the Commission created the Bureau. *See Implementation of Act 129 of 2008, Organization of Bureaus and Offices*, Docket No. M-2008-2071852, pp. 3-5 (Order entered August 11, 2011).

15. Please identify each person that you intend to call at the evidentiary hearing to establish or prove any part of your case or whose testimony you may introduce for any purposes in this proceeding. For each such person, identify the subject or subjects of the testimony that you believe they will give, and identify the person's employer; the person's title or business position; the nature of the person's involvement with any aspect of this proceeding; and the last known address and telephone number(s) of the person.

ANSWER: At this time, I&E does not intend to call a witness in the OAG/OCA proceeding. However, I&E reserves the right to call a witness or witnesses, should it be deemed necessary to protect its interest of that of the public, at which time the parties will be duly advised of the same.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, by	:	
Attorney General Public Utility Co	:	
Commonwealth of Pennsylvania, by	:	
Attorney General KATHLEEN G.	:	
KANE, Through the Bureau of	:	
Consumer Protection,	:	
	:	
And	:	
	:	
TANYA J. MCCLOSKEY, Acting	:	Docket No. C-2014-2427659
Consumer Advocate,	:	
	:	
Complainants	:	
	:	
v.	:	
	:	
RESPOND POWER LLC,	:	
	:	
Complainant	:	

VERIFICATION

I, Michael L. Swindler, hereby state that the facts above set forth 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

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Date

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

Service by Email and First Class Mail:

John M. Abel, Esq.
Nicole Beck, Esq.
Bureau of Consumer Protection
Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120

Candis A. Tunilo, Esq.
Kristine E. Robinson, Esq.
Office of Consumer Advocate
555 Walnut Street, 5th Floor Forum Place
Harrisburg, PA 17101-1923

Sharon E. Webb, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319
Bureau of Investigation and
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P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: 717-772-8839

Dated: August 26, 2014