



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

October 23, 2014

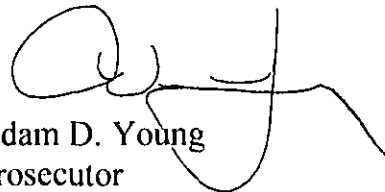
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Respond Power LLC
Docket No. C-2014-2438640; C-2014-2427659

Dear Secretary Chiavetta:

Enclosed for filing is an original copy of the Petition to Consolidate the Formal Complaints against Respond Power, LLC. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,



Adam D. Young
Prosecutor
PA Attorney ID No. 91822

Counsel for the Bureau of
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service
ALJ Cheskis
ALJ Barnes

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility
Commission, Bureau of
Investigation and Enforcement**

v.

Respond Power, LLC

And

**Commonwealth of Pennsylvania, by
Attorney General Kathleen G. Kane,
through the Bureau of Consumer
Protection, and Tanya J. McCloskey,
Acting Consumer Advocate**

v.

Respond Power, LLC

Docket No. C-2014-2438640

Docket No. C-2014-2427659

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SECRETARY'S BUREAU**

**MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO CONSOLIDATE FORMAL COMPLAINTS**

NOW COMES, the Bureau of Investigation and Enforcement (I&E or Complainant) of the Pennsylvania Public Utility Commission (Commission), Complainant in the above-docketed matter, by and through its prosecuting attorneys, and files this Motion to Consolidate the above-captioned Formal Complaints filed against Respond Power, LLC (Respond Power, Company or Respondent), pursuant to 52 Pa. Code § 5.81. In support thereof, I&E avers as follows:

I. INTRODUCTION

On June 20, 2014, the Attorney General Kathleen G. Kane through the Bureau of Consumer Protection and the Office of Consumer Advocate (collectively referred to as Joint Complainants) filed a Joint Complaint with the Public Utility Commission against Respond Power, LLC alleging violations of the Public Utility Code and its regulations, the Unfair Trade Practices and Consumer Protection Law, and the Telemarketer Registration Act at Docket No. C-2014-2427659.

On August 21, 2014, I&E filed a Formal Complaint against Respond Power, LLC at Docket No. C-2014-2438640, alleging that Respondent violated the Public Utility Code and its regulations, and Pennsylvania's Unfair Trade Practices and Consumer Protection Law.

II. CONSOLIDATION

1. The Commission's Regulation at 52 Pa Code § 5.81 states that the presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated.

2. Both the Joint Complaint and I&E's Formal Complaint are against the same Respondent, Respond Power, LLC., and both complaints raise similar questions of law and fact.

3. Specifically, the nine (9) counts in the Joint Complaint allege (1) misleading and deceptive claims of affiliation with electric distribution companies; (2) misleading and deceptive promises of savings; (3) failing to disclose material terms, (4)

deceptive and misleading welcome letters and inserts; (5) slamming; (6) lack of good faith handling of complaints; (7) failing to provide accurate pricing information; (8) prices nonconforming to disclosure statement; and (9) failure to comply with the Telemarketer Registration Act.

4. The six hundred thirty-nine (639) counts in I&E's Formal Complaint allege, generally, (1) Slamming; (2) Misleading and Deceptive claims of Affiliation with Electric Distribution Companies; (3) Misleading and Deceptive Promises of Savings; (4) Failure to Disclose Material Pricing Terms in Respond Power's Disclosure Agreement/Prices not Conforming to Disclosure Agreement; (5) Lack of Good Faith in Handling Customer Complaints/Cancellations; (6) Inaccurate/Incomplete/Fraudulent Sales Agreements; and (7) Incorrect Billing.

5. Both the Joint Complaint and I&E's Formal Complaint allege violations of the same provisions of the Public Utility Code and its regulations, namely Chapters 54, 56, and 111 of the Commission's Regulations. 52 Pa. Code Ch. 54.1 *et seq*, 56.1 *et seq*, and 111.1 *et seq*.

6. Both the Joint Complaint and I&E's Formal Complaint contain similar factual allegations including, but not limited to, deceptive and misleading sales tactics, failure to conform to the terms of the disclosure statement, failure to disclose material pricing terms, charging prices not conforming to the disclosure statement, misleading promises of savings, and slamming of customer accounts.

7. Both the Joint Complaint and I&E's Formal Complaint seek substantially similar remedies including, (1) imposition of a civil penalty upon Respondent; (2) rescind

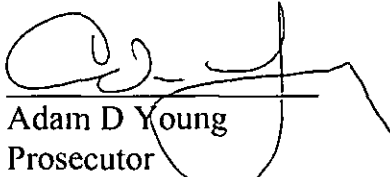
the authority of Respondent to do business as an electric generation supplier (EGS) in Pennsylvania; (3) direct Respondent to provide a refund to each customer consisting of the difference between the amount the customer was billed and the guaranteed discounted rate the customer was entitled to receive; and (4) order such other remedy as the Commission may deem to be appropriate.

8. Consolidating the Joint Complaint at Docket No. C-2014-2427659 with I&E's Formal Complaint at Docket No. C-2014-2438640 will expedite the administrative process, preserve judicial resources, prevent inconsistent outcomes/cumulative penalties against Respondent, and save Respondent from having to defend two similar complaints simultaneously.

9. I&E has contacted the Office of Consumer Advocate, the Office of the Attorney General, and Respondent prior to filing this Motion, and these parties have no objection to the consolidation of these actions.

WHEREFORE, for the reasons stated above, I&E respectfully requests that the Presiding Officers grant this Motion and consolidate these two pending actions.

Respectfully submitted,


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Michael L. Swindler
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Dated: October 23, 2014

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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).

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