**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, *et al.* :

 :

 v. : C-2014-2427659

 :

Respond Power LLC :

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement : C-2014-2438640

 :

 v. :

 :

Respond Power LLC :

**FURTHER PREHEARING CONFERENCE ORDER**

On June 20, 2014, the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection (OAG), and Tanya J. McCloskey, Acting Consumer Advocate (OCA) (collectively referred to as “the Joint Complainants”) filed with the Pennsylvania Public Utility Commission (Commission) a formal Complaint against Respond Power LLC (Respond or “the Company”), at Docket Number C-2014-2427659. The Joint Complainants averred that they had received numerous contacts and complaints from consumers related to variable rates charged by Respond, including approximately twenty formal complaints filed by consumers at the Commission. As a result, the Joint Complainants averred nine separate counts against Respond, including, but not limited to, making misleading and deceptive claims, making misleading and deceptive promises of savings, slamming and failing to provide accurate pricing information. The Joint Complainants made several requests for relief, including providing restitution and prohibiting deceptive practices in the future.

On August 21, 2014, the Commission’s Bureau of Investigation and Enforcement (I&E) filed a formal Complaint against Respond containing 639 counts of 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.

Subsequently, the procedural history of these complaints has been quite extensive. Various pleadings have been filed in these matters, including Answers with New Matter, Answers to the New Matter, Preliminary Objections and Answers to the Preliminary Objections. Orders granting in part and denying in part Preliminary Objections were issued. A Petition for Interlocutory Review of a Material Question was filed with the Commission. On October 28, 2014, an Order granting a Petition to Consolidate the formal Complaint filed by I&E against Respond with the formal Complaint filed against Respond by the Joint Complainants was granted.

Of note, on August 25, 2014, an Initial Prehearing Conference was convened in the case involving the OCA/OAG Complaint. Following the Initial Prehearing Conference, Procedural Order #2 was issued memorializing various procedural matters that had been agreed to. Also of note, on October 24, 2014, pursuant to Procedural Order #2, the Joint Complainants submitted written direct testimony of approximately two hundred (200) consumers, comprising more than 1100 pages of testimony and exhibits. On December 22, 2014, Respond filed a letter indicating that it intends to cross-examine all of the consumer witnesses that pre-served written direct testimony on October 24, 2014. Two Motions for Continuance of the evidentiary hearings have been made and granted, most recently by Order dated December 29, 2014 in which evidentiary hearings scheduled for January 26-30, 2015 were cancelled and rescheduled for March 9-13, 2015 and the Further Prehearing Conference scheduled for February 20, 2015 was cancelled and rescheduled for January 27, 2015.

The purpose of this Further Prehearing Conference Order is to confirm the establishment of the Further Prehearing Conference for Tuesday, January 27, 2015 at 10:00 and to advise the parties that, the remaining schedule for this proceeding will be established during this Further Prehearing Conference, including dates for the submission of pre-served written expert testimony, hearings for the admission of that pre-served expert testimony, subject to cross-examination and any timely motions, and the submission of Main and Reply Briefs. Additionally, a discussion will be held regarding the most efficient means for admitting the pre-served consumer testimony into the record, including entering into any Stipulations or waiving the need to cross-examine any witnesses and engaging in any other activity that will help expedite the evidentiary hearings now scheduled for March 9-13, 2015.

ORDER

THEREFORE,

IT IS ORDERED:

1. That a Further Prehearing Conference shall be held at 10:00 a.m. on Tuesday, January 27, 2015 in Hearing Room 4, Commonwealth Keystone Building, 400 North Street, Harrisburg, Pennsylvania.

2. That the remaining schedule for this proceeding will be established during this Further Prehearing Conference, including dates for the submission of pre-served written expert testimony, hearings for the admission of that pre-served expert testimony, subject to cross-examination and any timely motions, and the submission of Main and Reply Briefs.

3. That a discussion will be held regarding the most efficient means for admitting the pre-served consumer testimony into the record, including entering into any Stipulations or waiving the need to cross-examine any witnesses and engaging in any other activity that will help expedite the evidentiary hearings now scheduled for March 9-13, 2015.

4. That all other aspects of the Prehearing Conference Order issued August 8, 2014 remain in effect.

Date: January 9, 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Elizabeth H. Barnes

 Administrative Law Judge

 Joel H. Cheskis

 Administrative Law Judge

**C-2014-2427659 - ATTORNEY GENERAL PA & OFFICE OF CONSUMER ADVOCATE v. RESPOND POWER LLC**

***REVISED 11/18/14***

JOHN M ABEL ESQUIRENICOLE R BECK ESQUIRE

PA OFFICE OF ATTORNEY GENERALBUREAU OF CONSUMER PROTECTION15TH FL STRAWBERRY SQUAREHARRISBURG PA 17120CANDIS A TUNILO ESQUIRECHRISTY APPLEBY ESQUIRE\*

KRISTINE E ROBINSON ESQUIRE

OFFICE OF CONSUMER ADVOCATE5TH FLOOR FORUM PLACE555 WALNUT STREETHARRISBURG PA 17101-1923\* ***Accepts eService***

SHARON WEBB ESQUIREOFFICE OF SMALL BUSINESS ADVOCATESUITE 202300 NORTH SECOND STREETHARRISBURG PA 17101717-783-2525

ADAM YOUNG ESQUIRE

MICHAEL L SWINDLER ESQUIRE

WAYNE T SCOTT ESQUIRE

PA PUC I&E

PO BOX 3265

HARRISBURG PA 17105-3265

***Accepts eService***

KAREN MOURY ESQUIRE

BUCHANAN INGERSOLL ROONEY PC409 NORTH SECOND STREETSUITE 500HARRISBURG PA 17101

***Accepts eService***