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March 28, 2016

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

On behalf of Respond Power, LLC, enclosed for electronic filing is Respond Power LLC's Unopposed Motion to Reopen the Record, for the above-captioned matters.

Copies have been served on all parties as indicated in the attached Certificate of Service.

Very truly yours,



Karen O. Moury

KOM/bb
Enclosures

cc: Certificate of Service
David P. Zambito, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judges
Elizabeth H. Barnes and Joel H. Cheskis

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

RESPOND POWER LLC’S UNOPPOSED MOTION TO REOPEN THE RECORD

Pursuant to Section 5.571 of the Pennsylvania Public Utility Commission’s regulations, 52 Pa. Code § 5.571, Respond Power LLC (“Respond Power” or “Company”), by and through its counsel, Karen O. Moury and John F. Povilaitis of Buchanan Ingersoll & Rooney PC and David P. Zambito and D. Troy Sellars of Cozen O’Connor, files this Unopposed Motion to Reopen the Record for the purpose of permitting the parties to file a Global Settlement, which would fully resolve all issues in this consolidated proceeding. In support of this Motion, Respond Power states as follows:

1. Following the conclusion of evidentiary hearings and the filing of Main Briefs and Reply Briefs, Administrative Law Judges (“ALJs”) Elizabeth H. Barnes and Joel H. Cheskis issued an Interim Order dated February 5, 2015, closing the record in this consolidated proceeding for decision-writing.

2. Under Section 5.571(a) of the Commission’s regulations, a party may file a petition to reopen the proceeding at any time after the record is closed and before a final decision is issued. 52 Pa. Code § 5.571(a).

3. Section 5.571(d)(1) permits the presiding officer to reopen the record if the presiding officer has not issued a decision or has not certified the record to the Commission. 52 Pa. Code § 5.571(d)(1).

4. Pursuant to Section 5.571(b) of the Commission’s regulations, the ground upon which Respond Power requests that the ALJs reopen the record is to allow the parties to file a Global Settlement, which would fully resolve all issues in this consolidated proceeding. 52 Pa. Code 5.571(b)

5. “It is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231.

6. The Commission has noted that the results achieved from a negotiated settlement are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

7. On September 18, 2015, Respond Power and the Bureau of Investigation and Enforcement (“I&E”) filed an Amended Petition for Approval of Settlement (“Settlement

Petition”), which resolved all issues raised by I&E’s Complaint filed on August 21, 2014 at Docket No. C-2014-2438640.¹

8. Thereafter, Respond Power, the Office of Attorney General (“OAG”) and the Office of Consumer Advocate (“OCA”) continued to engage in settlement negotiations. Upon reaching a settlement in principle to satisfy the Joint Complaint filed on June 20, 2014 at Docket No. C-2014-2427659, Respond Power, the OAG and the OCA engaged I&E and the Office of Small Business Advocate (“OSBA”) in discussions aimed at achieving a Global Settlement.

9. As of March 28, 2016, all parties have reached a Global Settlement in principle, which would fully resolve all issues raised by the I&E Complaint and the Joint Complaint in this consolidated proceeding. Upon filing, the Global Settlement would be controlling and would fully replace and supplant any prior Settlement Petition filed to date.

10. Reopening the record to permit the parties to file a Global Settlement would afford the ALJs and the Commission an opportunity to resolve this consolidated proceeding in a manner that provides certainty and is consistent with the public interest, while also permitting the benefits of the Global Settlement to be promptly delivered to consumers.

11. If approved by the ALJs and the Commission, the Global Settlement would, *inter alia*, result in the issuance of refunds to all Respond Power customers on a variable rate plan in January, February or March 2014 based upon usage, price charged and refunds already received directly from the Company; the payment of a civil penalty by Respond Power; contributions to electric distribution companies’ hardship funds; a two-year ban on variable price marketing; and extensive modifications to Respond Power’s sales, marketing and business practices, including

¹ The Settlement Petition amended a Petition for Approval of Settlement that was originally filed by Respond Power and I&E on August 25, 2015.

broad modifications to the Company's door-to-door sales training and compliance monitoring programs.

12. If the ALJs reopen the record to permit the parties to file a Global Settlement, Respond Power proposes that Supporting Statements and a Stipulation of Facts in Support of the Global Settlement be filed on or before April 22, 2016.

13. Respond Power has consulted with all parties and is authorized to represent that this Motion is unopposed.

WHEREFORE, Respond Power LLC respectfully requests that the Honorable Administrative Law Judges Elizabeth H. Barnes and Joel H. Cheskis grant this Unopposed Motion to Reopen the Record.

Respectfully submitted,

Dated: March 28, 2016



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Counsel for Respond Power LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

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

Via U.S. MAIL AND E-MAIL:

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Dated this 28th day of March, 2016.

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Karen O. Moury, Esq.