

A-2017-2594613

DISCOUNTPOWER

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May 12, 2017

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

MAY 25 2017

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Amendment to Discount Power, Inc ("DPI") Application to serve as a Natural Gas Supplier ("NGS")

Dear Ms. Chiavetta:

Pursuant to 52 Pa Code §62.105(a), Discount Power, Inc ("DPI") hereby amends its NGS application response to question 5 entitled "Compliance".

2. Katz v Discount Power, Inc-Trial Court of Massachusetts, Milford District, Civil Civil Action No. 1666CV159. Plaintiff alleged violation of Telephone Consumer Act ("TCPA") seeking \$96,000.00 damages. The Plaintiff alleged thirty phone calls from third party telemarketer working on behalf of DPI from 10/2015 to 4/2016 to his cell phone, which was on National Do Not Call Registry and MA Do Not Call Registry. DPI had no telemarketers working on its behalf in Massachusetts until 2/2016, which eliminated half of the plaintiff calls, and further review could verify only two calls to the Plaintiff's number but to a person who was not the Plaintiff, but a previous owner of the number. However, Plaintiff pretended to be the person DPI telemarketers sought. After spending over \$7000.00 on motions and discovery, counsel advised settling because protracted litigation costs would exceed \$20,000 without any guarantee of success, TCPA legislation heavily favors the Plaintiff in these types of cases and this particular plaintiff was a "serial" plaintiff; he makes a living using this legislation having brought actions against several other electric supply companies. DPI agreed to settle for \$12,500.00 with no admission of culpability on 4/27/2017.

3. Lucas v Desilva Automotive Services, LLC, et al-U.S. District Court, Southern District of Ohio, Civil Action No. 1:16-CV-790-MRB-SKB, Plaintiff alleged violation of the Telephone Consumer Protection Act ("TCPA") seeking \$36,000.00 damages. Complaint joined sixteen unrelated Defendant's, including DPI for the alleged violation of the Act. Specifically, Plaintiff alleged eight calls from DPI over a several week period in summer 2016. The Plaintiff had been a customer of DPI's within the previous twelve months and was called by a third party telemarketer contracted by DPI to contact people who had been DPI customers within the past twelve months. Plaintiff claimed DPI did not have his express written permission to contact him. Since the "business relationship exception" to the TCPA had recently been gutted, since Plaintiff was a "serial" plaintiff who had successfully settled actions against numerous companies with facts similar, if not identical to the DPI facts and since outside counsel advised that litigation added to the amount

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already spent would exceed \$20,000.00 with no guarantee of success, DPI agreed to settle for \$9,990.00 and no admission of culpability on 4/27/2017.

Please contact me if you have any questions or need more information.

Regards,



Kenneth Flood
Regulatory and Licensing Administrator
Discount Power, Inc.
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Shelton, CT 06484
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