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**E-File**

December 8, 2021

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor North  
P.O. Box 3265  
Harrisburg, PA 17120-3265

**Re: Pennsylvania Public Utility Commission, Bureau of Investigation  
and Enforcement v. Discount Power, Inc.  
Docket No. M-2021-3022658**

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Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") please find PPL Electric's Comments in response to the Tentative Order and Opinion entered October 28, 2021 regarding the Joint Petition for Approval of Settlement in the above-captioned proceeding.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on December 8, 2021 which is the date it was filed electronically using the Commission's E-filing system.

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Shafer", is written over a light blue horizontal line.

Michael J. Shafer

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,       :  
Bureau of Investigation and Enforcement       :       Docket No. M-2021-3022658  
v.  
Discount Power, Inc.

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**COMMENTS OF  
PPL ELECTRIC UTILITIES CORPORATION**

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**I. INTRODUCTION & BACKGROUND**

On October 28, 2021, the Pennsylvania Public Utility Commission (“PUC”) issued a Tentative Opinion and Order at Docket No. M-2021-3022658 (“Tentative Order”). In the Tentative Order, the PUC provided a tentative ruling and sought comments from interested parties on the Joint Petition for Approval of Settlement (“Settlement”) between the PUC’s Bureau of Investigation and Enforcement (“I&E”) and Discount Power, Inc. (“DPI”) “with respect to an informal investigation conducted by I&E concerning possible violations of the Public Utility Code and specific consumer protections.”<sup>1</sup>

At issue in this proceeding are allegations that DPI and its agents implemented misleading and deceptive telemarketing practices, billed customers incorrect rates, failed to issue required renewal letters, implemented unauthorized customer enrollments, and failed to maintain records which hindered I&E’s investigation of the incidents of this case.<sup>2</sup> The I&E investigation originated from a referral memo issued by the Office of Competitive Market Oversight (“OCMO”) on

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<sup>1</sup> Tentative Opinion and Order (“Tentative Order”), Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Discount Power, Inc., Docket No. M-2021-3022658, p. 1.

<sup>2</sup> See Tentative Order, p. 2.

October 29, 2020. The referral memo detailed how the Director of OCMO, a PPL Electric Utilities customer, was personally contacted by agents of DPI, resulting in numerous misrepresentations, false assertions and rate offerings.<sup>3</sup> Further investigation by I&E uncovered multiple informal complaints raised by customers including “concerns of telemarketing misrepresentation, billing of incorrect rates, failure to issue renewal letters, and the enrollment of individuals without authorization or the capacity to enroll.”<sup>4</sup> The Tentative Order summarizes each complaint on pages 4-6.

I&E also found their investigation “hindered by Discount Power’s poor internal record keeping.”<sup>5</sup> I&E explained that DPI was not able to provide necessary customer communications or subsequent resolutions to the complaints and inquiries. “I&E identified fifty-three (53) customer complaints which did not include notes or a resolution to the complaint...”<sup>6</sup>

As a result of the I&E investigation, I&E and DPI have agreed to settle the matter completely without litigation. Per the terms of the Settlement, DPI would be required to:

- Pay a total civil penalty of \$42,250.00;
- Create and implement a robust customer complaint tracking system;
- Train its customer service agents on the new system; and
- Process, investigate, and be responsive to a customer inquiry, dispute, or complaint within a 6-month period.<sup>7</sup>

PPL Electric Utilities Corporation (“PPL Electric” or “Company”) believes it is critical to the success of the retail competitive generation market that customers are provided protections

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<sup>3</sup> See Tentative Order, pp. 3-4.

<sup>4</sup> See Tentative Order, p. 4.

<sup>5</sup> See Tentative Order, p. 6.

<sup>6</sup> See Tentative Order, p. 6.

<sup>7</sup> See Tentative Order, pp. 7-9.

against instances of poor Electric Generation Supplier (“EGS”) conduct and that EGSs are actively discouraged from utilizing deceptive sales tactics, misrepresentations, and other forms of inappropriate conduct to obtain customers. Use of unlawful sales tactics should result in appropriate repercussions to penalize EGS infractions and discourage their future use by all EGSs. The issues identified through the I&E investigation are of significant concern to PPL Electric and its customers. The allegations against DPI highlight areas of great risk in the competitive electric market in Pennsylvania which warrant further discussion. For these reasons, PPL Electric submits the following Comments.

## **II. COMMENTS**

### **A. General Comments on the PUC Investigation**

Central to this proceeding is I&E’s investigation into the harm caused to customers by DPI and their agents through misrepresentation, improper billing, and unauthorized customer enrollments. PPL Electric finds both the number of incidents and breadth of the incidents of great concern, warranting the penalties assessed on DPI in an effort to both pull back potential revenues gained by the alleged deceptive and malicious actions taken by DPI and to reduce the likelihood of such actions occurring in the future by DPI or another EGS.

PPL Electric has recent experience with deceptive EGS practices impacting its customers. *See* PUC Bureau of Investigation and Enforcement v. Verde Energy USA, Inc., Docket No. C-2020-3017229. The Verde Energy USA, Inc. (“Verde”) matter includes allegations of unauthorized enrollment (“slamming”), improper release of customer information, and unauthorized access to customer accounts. PPL Electric received customer complaints regarding Verde’s marketing practices and the Company conducted its own investigation into these customer

complaints. The results of PPL Electric's investigation were provided to I&E to assist in its investigation of Verde.

In addition to the Verde incidents, PPL Electric has also supported consumer protection policies for customers participating in PPL Electric's Customer Assistance Program ("CAP") and Standard Offer Program ("SOP"). In the Company's Default Service Plan IV ("DSP 4") filing<sup>8</sup>, the Company presented that over half of all CAP customers who were shopping with an EGS were paying a rate above the PPL Electric Price-to-Compare ("PTC"). In PPL Electric's Default Service Plan V ("DSP 5") filing<sup>9</sup>, the Company presented additional information on SOP customers paying rates significantly more than the PTC and their previous SOP rate after the 12-month contract term of the SOP concludes. The Company found that a majority of customers remained with their SOP supplier on a non-SOP rate after the 12-month contract term ended; however, this resulted in most customers paying a vastly more expensive rate than the PPL Electric PTC.

When an EGS employs deceptive and unlawful marketing and sales practices it has a significant negative impact on the Company's customers. PPL Electric encourages the PUC to continue to investigate customer retail shopping complaints, both formal and informal, to reduce the negative impact on customers, EDCs, and the competitive market as a whole. Deceptive marketing practices sow mistrust in the market and make it difficult for customers to have a good shopping experience. PPL Electric has reviewed the proposed Settlement between I&E and DPI and believes that the terms are appropriate in light of the allegations. The Company provides these additional suggestions that will strengthen oversight over DPI's marketing activities and make future allegations easier to investigate.

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<sup>8</sup> PPL Electric Default Service Plan IV, Docket No. P-2016-2526627.

<sup>9</sup> PPL Electric Default Service Plan V, Docket No. P-2020-3019356.

## **B. EGS Agent Training**

The I&E investigation also found that DPI agents were misleading customers and misrepresenting the programs at offer. I&E specifically found seven individual complaints of telemarketing despite being on the “Do Not Call” registry, eight instances of “misrepresentations or deceptive enrollments”, three incidents of improper enrollments of a customer as a “winback”, and four incidents of a customer who is unable or unauthorized to enroll in a rate being enrolled.<sup>10</sup> The investigation also found that DPI agents failed to identify themselves on calls with customers<sup>11</sup> and incorrectly asserted that customers must choose an EGS.<sup>12</sup>

To correct these issues, I&E and DPI agreed under the Settlement that DPI agents would go through additional training. However, the Settlement terms focus on training DPI agents on the new tracking system being put in place, and not on addressing the significant issues identified in the investigation. PPL Electric recommends that the PUC require DPI agents be trained on Pennsylvania’s retail competition rules and regulations, including proper communications and representations to customers. Individual DPI agents, whether employed directly by DPI or a third-party vendor, should complete this training prior to contacting and communicating with any customer and be required to refresh this training annually. DPI should be required to certify in writing that all of its agents, in-house and third-party, have met the necessary training requirements. This certification should be submitted to the PUC and retained by DPI for future reference.

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<sup>10</sup> See Tentative Order, pp. 4-5.

<sup>11</sup> See Tentative Order, p. 28.

<sup>12</sup> See Tentative Order, p. 28.

### **C. EGS Record Keeping and Documentation, and Response to Customer Inquiries and Complaints**

I&E also found that DPI failed to maintain proper records which directly hindered their investigation.<sup>13</sup> More specifically, I&E found fifty-nine customer complaints without notes or resolutions to the complaint<sup>14</sup>, and cited two instances where a customer was provided a refund after an allegation of misrepresentation, with I&E noting possible record tampering.<sup>15</sup> PPL Electric found this concerning that so many customer complaints may have gone unresolved, or that records may have in fact been tampered with. Confirming that DPI adequately addressed customer complaints is impossible without any documentation to prove the resolution was both timely and prudent.

To resolve this issue, I&E and DPI agreed upon Settlement that would require DPI to implement a robust tracking and record keeping system. Further, records would be maintained for six billing cycles. Finally, parties agreed that customer complaints must be responded to within six-months.

PPL Electric supports providing a firm timetable for both record retention and customer complaint response. However, the Company is concerned that the record retention timeline is very short, and the response timeline is overly long. Specifically, PPL Electric recommends that DPI be required to retain customer records, including customer inquiries, disputes or complaints, communications, and resolution for at least four years. Additionally, DPI should be required to record all telemarketing calls and retain those recordings for a period of four years. The Company

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<sup>13</sup> See Tentative Order, p. 29.

<sup>14</sup> See Tentative Order, p. 26.

<sup>15</sup> See Tentative Order, p. 4.

has found that robust record keeping is vital to investigations of alleged wrongdoing from its experience in investigating customer complaints around Verde and other EGSs.

Further, the Company recommends that customer inquiries be responded to within forty-eight hours. Given the language in the Settlement, DPI must only respond to the inquiry within six months, not necessarily resolve the incident, which currently has no timeline. The record retention requirements in this Settlement are limited to six billing cycles or roughly six to seven months, meaning it is likely that a future I&E investigation would continue to be hindered by a lack of records by DPI, even if the terms of the Settlement are upheld. Additionally, the Company believes this could result in extended harm for customers over the period of time in which DPI is allowed to respond under the Settlement. For this reason, PPL Electric's proposal should be considered to maximize the likelihood that information is available and customer concerns are quickly addressed.

Additionally, PPL Electric proposes requiring DPI to audit the sales activities of its vendors at regular intervals to determine compliance with the requirements outlined in Chapter 111. Records of the vendor audit should be maintained through the record tracking system for at least four years. If a vendor is found to be in violation of Chapter 111, DPI should be required to immediately take remedial actions with the vendor and report the incident(s) to the PUC. Enhanced penalties should be considered for suppliers who fail to adequately audit their vendors or fail to take timely action after discovering a violation.



### III. CONCLUSION

PPL Electric appreciates the opportunity to provide these Comments and respectfully requests that the Commission take these Comments into consideration when issuing its Final Order with respect to the proposed Settlement between I&E and DPI.

Respectfully submitted,



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