

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NCP Group LLC,	:	
Complainant	:	
	:	Docket No. C-2024-3045836
v.	:	
	:	
Inspire Energy Holdings, LLC	:	
Respondent	:	

**NPC GROUP, LLC’S RESPONSE TO ANSWER AND NEW MATTER
FILED BY INSPIRE ENERGY HOLDINGS, LLC AS TO NPC GROUP, LLC’S COMPLAINT**

NPC Group, LLC, by and through its counsel, Eugene P. Tempesta, Esquire, hereby submits this response to the New Matter submitted by Inspire Energy Holdings, LLC, as follows:

Procedural History:

- The Complainant is NPC Group, LLC (“NPC”); its Complaint was filed on Jan. 28, 2024.
- The Respondent is Inspire Energy Holdings, LLC (“Inspire”).
- Inspire is an electric generation supplier.
- NCP is a customer of Inspire.
- Inspire filed Preliminary Objections, and a separate Answer and New Matter
- NCP electronically filed its Responses to Inspire’s Preliminary Objections on April 11, 2024.

Factual Background:

NCP entered into a 12 month agreement with Inspire in December 2021. In December 2022, this contract renewed for an additional 12 month term, which provided electricity at a fixed rate of \$104.99 per month for the period ending December 2023.

In June 2023, Inspire, sent NCP a notice, which informed NCP of a contract renewal, which was out of cycle per the contract between NCP and Inspire, and the notice did not indicate any noticeable change to the contract.

Starting in October 2023, Inspire billed/invoiced NCP through FirstEnergy on a per kilowatt hour basis rather than the contractually obligated fix rate of \$104.99 per month; this led to a billing of an unreasonably high \$0.128 per kilowatt hour. This rate change was not permitted under the agreement as we were in a contract for a specified period of time that had not expired. Further, this conduct by Inspire

was disallowed as Inspire failed to properly notify NCP of Inspire's intent to change the rates upon contract expiration.

NCP requested billing corrections to reflect the contractual rate. Further, NCP alleges intentional inappropriate practices.

NCP never received any information from Inspire or from anyone regarding what the Inspire rate change would be, if any. It was not until after the rate change was in effect for multiple weeks, that NCP became aware of the new rate(s). Accordingly, NCP never received any appropriate Notice, despite numerous requests of Inspire from NCP to obtain a copy of the proper Notice that showed the rate change.

RESPONSE TO NEW MATTER ¶¶ 12 - 51

Response to New Matter - ¶¶ 12-32 – NCP's Receipt of Service from Inspire

12. **Admitted in part, Denied in part** - NCP Group enrolled with Inspire *as a commercial customer*. Please see Inspire's New Matter ¶¶33, 34, 35, where Inspire admits that NCP was NOT enrolled as a residential customer. See also, attached PUC Letter to NCP of Jan. 26, 2024 stating that Penn Power confirmed that NCP is non-residential customer and confirmed that Inspire confirmed lack of timely Notice.

13. **Admitted in part, Denied in part** - NCP Group enrolled as a commercial customer via the Inspire Website. NCP Group did not enroll under any promotion and, at that time, NCP input the service address, further verified by the customer number, to receive a rate quote from Inspire, which NCP accepted at that time.

14. **Admitted in part, Denied in part - Denied** NCP did not enroll as a **residential** customer. **Admitted**, NCP admits that it enrolled as a commercial customer at a flat monthly rate of \$104.99/mo.

15. **Admitted in part, Denied in part - Admitted** - NCP did receive a "Welcome Kit" (please see Inspire's Answer and New Matter Attachment A). **Denied** - that "Welcome Kit" does not state anywhere that NCP is a "residential" customer. Further, the "Welcome Kit" welcomes "NCP Group LLC". So, Inspire knew that this customer, NCP is a limited liability company and not a residential customer; Inspire addressed the "Welcome Kit" to NCP Group, LLC.

16. **Denied** – NCP is with Penn Power not West Penn Power.

17. **Admitted**. NCP always believed it was enrolled as a commercial customer. See ¶15 above.

18. **Denied**. To obtain its rate quote, NCP provided Inspire a valid commercial customer number online at www.inspirecleanenergy.com.

19. **Admitted in part, Denied in part** - In good faith, NCP understood that this agreement would renew unless cancelled. Inspire states, in its New Matter ¶19, that the Contract does not include renewal terms but Inspire neglects to address why Inspire failed to comply with Title 52 Pa. Code § 54.10. Because the Agreement between the parties and 52 Pa. Code § 54.10 (2) state that specific changes with new pricing must be disclosed in the Options Notice (the Second Notice due to customer 30 days prior to changes) and NCP never received such Second Notice required by 52 Pa. Code § 54.10 (2), Inspire did NOT fulfill its requirements.

20. **Admitted in part, Denied in part** – any comparison price is irrelevant because Inspire offered a rate and NCP accepted that rate. If NCP was aware of contract termination, NCP would have shopped for a much lower rate, as NCP has recently done, because of Inspire’s attempted, unexpected, and surprising exorbitant price hike.

21. After reasonable investigation, **NCP lacks sufficient information or knowledge sufficient to form a belief as to this averment, and this item is therefore Denied.** NCP requests more specificity and detail. Further, under the American legal system, it is not normal for a vendor to offer and agree to pricing after customer’s disclosure and compliance, then the vendor completely disregard its offer and customer’s acceptance.

22. After reasonable investigation, **NCP lacks sufficient information or knowledge sufficient to form a belief as to this averment, and this item is therefore Denied.** NCP requests more specificity and detail as to Inspire’s statement in this Section regarding Inspire’s admitted “lack of notice” to NCP. Because Inspire failed to Notice NCP twice as required by the “Welcome Kit” (¶¶ 6 & 11), and as outlined in 52 Pa. Code §§ 54.5, 54.10, NCP proceeded under ¶11 of that Welcome Kit, in good faith.

23. **Admitted in part, Denied in part** – As stated in ¶22 *supra*, NCP believed that this contract renewed for an additional 12 month term. Further, NCP was enrolled as a commercial customer. Please see ¶¶19, 22 *supra* & 44 *infra*.

24. **Admitted in part, Denied in part** - any comparison price is irrelevant because Inspire offered a rate and NCP accepted that rate. If NCP was aware of contract termination, NCP would have shopped for a much lower rate, as NCP has recently done, because of Inspire’s attempted, unexpected, and surprising exorbitant price hike.

25. After reasonable investigation, **NCP lacks sufficient information or knowledge sufficient to form a belief as to this averment, and this item is therefore Denied.** NCP requests more specificity and detail. Please see ¶¶19, 22, 24 *supra*.

26. **Denied.**

27. **Admitted.** NCP did receive the June 29, 2023 Notice but did not receive the second notice as required by the contract between the parties. Please see ¶11 of Attachment A to Inspire's Answer and New Matter.

28. **Denied.** NCP never received this July 24, 2023 Notice or ANY Second Notice as required by the contract between the parties. Please see ¶11 of Attachment A to Inspire's Answer and New Matter.

29. **Admitted in part, Denied in part – Denied** - NCP did not receive the July 24, 2023 Notice or ANY Second Notice. **Admitted** - NCP did not take action because there was no Second Notice as required. Please see ¶11 of Attachment A to Inspire's Answer and New Matter.

30. **Admitted in part, Denied in part** - NCP contacted Inspire to provide Inspire the opportunity to correct Inspire's erroneous billing, and inform Inspire that NCP are and Inspire are under contract for 12 months and a rate change without two notices was not allowed.

31. After reasonable investigation, **NCP lacks sufficient information or knowledge sufficient to form a belief as to this averment, and this item is therefore Denied.** NCP requests more specificity and detail. **Denied** as to West Penn Power. Further, NCP did not receive required Second Notice of contract change.

32. **Denied** - Inspire failed to properly send Second Notice to NCP and did not send any timely Notice as determined by the PUC investigator assigned to the informal complaint in this matter. (per telephone call between NCP COO D. Romanowski and PUC Investigator Heather Troutman on January 26, 2024 and follow-up email from Ms. Troutman to Mr. Romanowski confirming that Inspire confirmed lack of timely Notice. Also, please see attached Letter from the PUC Investigator, Ms. Troutman to NCP dated Jan 26, 2024.)

Response to New Matter- ¶¶ 33-43

NCP is a Commercial Customer & must be represented by an Attorney

33. **Admitted in part and denied in part.** Admitted the NCP has a non-residential account. Denied that it is with West Penn Power; rather, it is with Penn Power. Please see Inspire's New Matter ¶¶33, 34, 35, where Inspire admits that NCP was NOT enrolled as a residential customer. See also, attached PUC Letter to NCP of Jan. 26, 2024 stating the Penn Power confirmed that NCP is non-residential customer.

34. **Admitted.**

35. **Admitted.**

36. **Admitted.**

37. **Admitted.** However, NCP is represented by Counsel filing this Response, Eugene P. Tempesta, Esq. (PA Atty ID#82046). Please see Entry or Appearance in this Matter.

38. **Admitted in part, Denied in part** – NCP is represented by Counsel filing this Response, Eugene P. Tempesta, Esq. (PA Atty ID#82046). Please see Entry or Appearance in this Matter.

39. **No response necessary.** Nevertheless, NCP is represented by Counsel filing this Response, Eugene P. Tempesta, Esq. (PA Atty ID#82046). Entry of Appearance has been properly filed in this Matter.

40. **No response necessary.** See Paragraphs 38 - 39 immediately above.

41. **No response necessary.** See Paragraphs 38 - 40 immediately above.

42. **No response necessary.** See Paragraphs 38 - 41 immediately above.

43. **No response necessary.** See Paragraphs 38 - 42 immediately above.

Response to New Matter- ¶¶ 44-51

Commission lacks jurisdiction over alleged Breach of Contract Disputes and Supplier Rates

44. **Denied.** Pursuant to the very caselaw cited by Inspire in its Preliminary Objections and answered by NCP (please see NCP's Response to Inspire's POs, ¶6), the PUC does indeed have jurisdiction and authority to determine whether a registered utility violated PUC regulations by charging a customer in contradiction to a written disclosure. *Blue Pilot Energy, LLC. v. Pennsylvania Public Utilities Commission*, 241 A.3d 1254, 1261 (Pa. Cmwlth. 2020) (stating "While the PUC has no obvious authority to vindicate private contractual rights in this area, it has unquestionable authority to ensure that Blue Pilot meets its obligation to comply with PUC regulations.") Paragraph 11 of Attachment A of Inspire's Answer and New Matter requires two Notices. NCP received only one Notice.

Inspire would like the PUC to believe that Inspire can have a 12-month agreement that converts month-to-month at expiration of said 12-months, and then at any time after that expiration Inspire can secure another 12 month agreement, during a renewed agreement for a like period, **but without the knowledge of NCP Group; as there was NO Second Notice** received by NCP. It seems that Inspire possibly did not wish to disclose new pricing until after the pricing went into effect.

45. **Denied.** NCP is not asking the PUC to decide rates. NCP is simply asking the PUC to render a determination that Inspire failed to properly comply and provide required notice, specifically the Notice mentioned in ¶28 above and in Inspire's New Matter, which NCP did not receive. As such, NCP states that due to lack of proper notice from Inspire, which is required, NCP is respectfully asking the PUC to order Inspire to honor the rules and laws of the PUC and the Commonwealth and to observe good faith. Further, please note that the PUC Complaint Form states that the PUC has jurisdiction and authority to determine whether a registered utility

engaged in violations, such as overcharging customers and the PUC can order billing refunds. Please see PUC Complaint Form, Section 5, Page 3.

46. **Denied.** Pursuant to caselaw cited by Inspire in its Preliminary Objections and answered by NCP (please see NCP's Response to Inspire's POs, ¶6), the PUC does indeed have jurisdiction and authority to determine whether a registered utility violated PUC regulations by charging a customer in contradiction to a written disclosure. *Blue Pilot Energy, LLC v. Pennsylvania Public Utilities Commission*, 241 A.3d 1254, 1261 (Pa. Cmwlth. 2020) (stating "While the PUC has no obvious authority to vindicate private contractual rights in this area, it has unquestionable authority to ensure that Blue Pilot meets its obligation to comply with PUC regulations.")

47. **Denied.** NCP did not send proper notice as required. Please see ¶11 of Attachment A to Inspire's answer and New Matter.

48. After reasonable investigation, **NCP lacks sufficient information or knowledge sufficient to form a belief as to this averment, and this item is therefore Denied.**

49. **Denied.** As stated several times above, NCP never received the Second alleged Notice, See attached PUC Letter to NCP of Jan. 26, 2024 confirming that Inspire confirmed lack of timely Notice.

50. **Denied.** As stated several times above, NCP never received the Second alleged Notice, See attached PUC Letter to NCP of Jan. 26, 2024 confirming that Inspire confirmed lack of timely Notice.

51. **Denied.** NCP states facts that Inspire acted in a way that warrants the PUC ruling in favor of NCP, because: 1) *Blue Pilot Energy, LLC* permits it; and 2) because the PUC Complaint Form states that the PUC has jurisdiction and authority to determine whether a registered utility engaged in violations, such as overcharging customers and the PUC can order billing refunds. Please see PUC Complaint Form, Section 5, Page 3. Clearly, Inspire engaged in violations, failed to provide required Notice and, therefore overcharged.

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Conclusion

Because, the PUC has appropriate authority and jurisdiction to grant relief, including correcting matters and granting refunds, the Lack of Jurisdiction should be overruled.

Inspire's statements throughout fail to be specific, Inspire has acted in bad faith under the PUC Rules, and Inspire was inappropriately and excessively charging/billing/invoicing NCP. Please see PUC Complaint Form, Section 5, Page 3. See also, caselaw cited by Inspire in its Preliminary Objections and answered by NCP (see NCP's Response to Inspire's POs, ¶6), the PUC does indeed have jurisdiction and authority to determine whether a registered utility violated PUC regulations by charging a customer in contradiction to a written disclosure. ***Blue Pilot Energy, LLC. v. Pennsylvania Public Utilities Commission***, 241 A.3d 1254, 1261 (Pa. Cmwlth. 2020) (stating "While the PUC has no obvious authority to vindicate private contractual rights in this area, it has unquestionable authority to ensure that Blue Pilot meets its obligation to comply with PUC regulations.") Further, there was NO Price Change disclosure as required by 52 Pa. Code §54.10(2).

Finally, NCP is represented by an Attorney; so, the allegation of failure to be adequately represented should be overruled.

Respectfully Submitted,

/s/ Eugene P. Tempesta

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Counsel for NCP Group, LLC

Date: April 22, 2024

Verification

I, Daniel Romanowski, am the Chief Operating Officer for NCP Group, LLC, and I hereby state that the facts set forth in the foregoing Answer to the New Matter are true and correct to the best of my knowledge, information and belief and that we expect Inspire to show the same in any hearing, filing or proceeding in this matter. I understand that the statements herein are made subject to penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

April 22, 2024

By: /s/ ***Daniel Romanowski***

Daniel Romanowski, COO
NCP Group LLC