

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 20, 2014

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

RE: Commonwealth of Pennsylvania, by Attorney General
KATHLEEN G. KANE, Through the Bureau of Consumer
Protection,
And
TANYA J. McCLOSKEY, Acting Consumer Advocate,
Complainants

v.

IDT Energy, Inc.

Respondent

Docket No. C-2014-_____

Secretary Chiavetta:

Enclosed please find the Joint Complaint of the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate and the Public Statement of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

Candis A. Tunilo

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. #89891

Enclosures

cc: Office of Administrative Law Judge
Office of Special Assistants
Certificate of Service

*185180

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--|---|--------------------|
| Commonwealth of Pennsylvania, by | : | |
| Attorney General KATHLEEN G. KANE, | : | |
| Through the Bureau of Consumer Protection, | : | |
| | : | |
| And | : | |
| | : | |
| TANYA J. McCLOSKEY, Acting Consumer | : | |
| Advocate, | : | |
| Complainants | : | |
| | : | Docket No. C-2014- |
| v. | : | |
| | : | |
| IDT ENERGY, INC., | : | |
| Respondent | : | |

JOINT COMPLAINT

AND NOW, comes the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane through the Bureau of Consumer Protection (Attorney General) and the Acting Consumer Advocate Tanya J. McCloskey (OCA) (collectively referred to as Joint Complainants), who bring this action pursuant to the Public Utility Code, 66 Pa. C.S. Ch. 28, the Pennsylvania Public Utility Commission's regulations, 52 Pa. Code Ch. 54, 56 and 111, the Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* (Consumer Protection Law) and the Telemarketer Registration Act, 73 P.S. § 2241, *et seq.*

PRELIMINARY STATEMENT

1. This Joint Complaint is brought in the public's interest to address multiple violations of Pennsylvania law and Pennsylvania Public Utility Commission (Commission) orders and regulations, whereby consumers were misled and deceived as to the price they would pay for their electricity, all to their harm and detriment.

PARTIES

2. Tanya J. McCloskey is the Acting Consumer Advocate. The Office of Consumer Advocate is the agency authorized by law to represent the interests of utility consumers before the Commission as provided in 71 P.S. § 309-1, *et seq.* The names and address of the OCA's attorneys are as follows:

Candis A. Tunilo
Assistant Consumer Advocate
Kristine E. Robinson
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923

3. The Attorney General is authorized by the Consumer Protection Law to bring an action in the name of the Commonwealth of Pennsylvania to restrain by temporary or permanent injunction unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce as provided in 73 P.S. § 201-4.

4. The Consumer Protection Law further authorizes the Attorney General to take such action when she has reason to believe that any person is using or is about to use a method, act, or practice unlawful under the Consumer Protection Law and when she determines that proceedings would be in the public interest as provided in 73 P.S. § 201-4.

5. The Attorney General, as the chief law officer of the Commonwealth of Pennsylvania pursuant to Article IV § 4.1 of the Pennsylvania Constitution, is further authorized to initiate and maintain this action, and does so, pursuant to the Commonwealth Attorneys Act, 71 Pa. Stat. § 732-204. The names and address of the Attorney General attorneys are as follows:

John M. Abel, Senior Deputy Attorney General
Margarita Tulman, Deputy Attorney General
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120

6. IDT, Energy Inc. (Respondent) is a Delaware corporation licensed to supply electric generation to residential and commercial customers throughout Pennsylvania by Order entered January 15, 2010 at Docket No. A-2009-2134623. See License Application of IDT Energy, Inc. for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power, Docket No. A-2009-2134623, Order (Jan. 15, 2010) (Licensing Order).

7. Respondent is a wholly owned subsidiary of IDT Capital, Inc., which is a wholly owned subsidiary of IDT Corporation, a member of the New York Stock Exchange, trading under the symbol “IDT.”

8. The Commission is responsible for regulating the service of electric generation suppliers, as it relates to their activities in the marketing and sale of electricity and electric services. See 66 Pa. C.S. § 2809(e).

9. Respondent provides electric generation supplier (EGS) services to residential customers, and as such, it must comply with applicable residential service regulations in Chapters 54 and 56 of the Commission’s regulations. See 52 Pa. Code Ch. 54 and 56. See also

Licensing Order at 2-3. Respondent must also comply with Chapter 111 of the Commission's regulations. See 52 Pa. Code § 111.1.

10. Additionally, Respondent must abide by all applicable federal and state laws and Commission regulations, procedures and orders and ensure that its employees, representatives, agents and independent contractors do so as well. See Licensing Order at 3.

11. Respondent offers variable rate electric generation service to residential customers throughout Pennsylvania.

12. Upon information and belief, Respondent uses a variety of marketing and advertising mediums to solicit residential customers for its variable rate plan including door-to-door, telephonic, internet, mass mail and print solicitations.

13. Respondent by advertising, marketing, and selling variable rate electric generation service is engaged in trade or commerce within the Commonwealth.

14. Among the consumers charged high variable prices by Respondent's actions are hundreds of citizens over the age of 60.

15. On or about February 10, 2014, the OCA began receiving a high volume of calls and written correspondence from residential consumers on variable rate plans with EGSs regarding the level of electric generation charges on the consumers' electric bills. The OCA has received approximately 3,000 contacts from consumers regarding variable rates.

16. As of May 5, 2014, the OCA had collected information from approximately 2,434 of its consumer contacts.

17. Of the referenced 2,434 contacts, approximately 539 or 22% were from customers of Respondent. Of the referenced 539 total contacts, written information was collected from approximately 23 customers.

18. From February 27, 2014 to June 4, 2014, the Attorney General received approximately 39,607 telephone calls and 7,503 consumer complaints related to variable rates charged by EGSs. Of the 7,503 consumer complaints, 1,917 or nearly 26% were against Respondent.

19. Upon information and belief, from January 1, 2014 to April 21, 2014, approximately 500 Formal Complaints were filed at the Commission by customers regarding variable rates charged by EGSs. Additionally, upon information and belief, approximately 6,500 informal complaints and nearly 10,000 inquiries were made by consumers to the Commission regarding variable rates charged by EGSs. Of the approximately 203 Formal Complaints reviewed by the OCA to date, approximately 47 or 23% were filed against Respondent.

COUNT I - MISLEADING AND DECEPTIVE PROMISES OF SAVINGS

20. The foregoing paragraphs are incorporated herein.

21. Of the referenced 1,917 consumer complaints against Respondent received by the Attorney General, 165 or nearly 9% of the complainants indicated that they understood that their rate would always be lower than or equal to the Price to Compare (PTC) or that Respondent would always save them money over the PTC. These complainants then received bills for generation service from Respondent that were at least two or three times more than the PTC.

22. Of the referenced 1,917 consumer complaints against Respondent received by the Attorney General, 78 complainants indicated that they believed that their rate would always remain competitive with the PTC. These complainants then received bills for generation service from Respondent that were at least two or three times more than the PTC.

23. Of the referenced 1,917 consumer complaints against Respondent received by the Attorney General, 31 complainants indicated that they believed that the Respondent would

provide them a guaranteed rate. These complainants then received bills for generation service from Respondent that were at least two or three times more than the PTC.

24. Of the referenced 23 customers from which written information was collected by the OCA, 7 or approximately 30% stated that Respondent's salespeople promised guaranteed savings over the PTC as inducement for complainants to switch to Respondent. These complainants then received bills for generation service from Respondent that were at least two or three times more than the PTC.

25. Of the referenced 23 consumers from which written information was collected by the OCA, 4 or approximately 17% stated that Respondent's salespeople represented to the consumers that they were required to switch from their Electric Distribution Companies (EDCs) to an alternative supplier and used this deception to induce the consumers to switch to Respondent.

26. Of the referenced 1,917 consumer complaints against Respondent received by the Attorney General, 35 complainants indicated that the Respondent's salespeople represented to the consumers that they were required to switch from their EDCs to an alternative supplier and used this deception to induce the consumers to switch to Respondent.

27. The Commission's regulations state that a licensed EGS is responsible for any fraudulent, deceptive or other unlawful marketing acts by its employees, agents and representatives. See 52 Pa. Code § 54.43(f).

28. The Commission's regulations require EGSs to train its agents on, *inter alia*:

- Responsible and ethical sales practices and
- The EGS's disclosure statement.

See 52 Pa. Code § 111.5(a).

29. The Commission's regulations require EGSs to monitor telephonic and door-to-door marketing activities to ensure that their agents are providing accurate and complete information and complying with applicable rules and regulations. See 52 Pa. Code § 111.5(e).

30. The Commission's regulations require compliance with the Unfair Trade Practices and Consumer Protection Law (Consumer Protection Law), 73 P.S. § 201-1 *et seq.* See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

31. The Consumer Protection Law defines "unfair or deceptive acts or practices" as, *inter alia*:

- Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
- Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he does not have;
- Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; and
- Engaging in any other fraudulent or deceptive conduct which creates likelihood of confusion or of misunderstanding.

See 73 P.S. § 201-2(4)(ii), (iii), (v), (xi) and (xxi).

32. It is averred, upon information and belief, that employees, agents and/or representatives of Respondent have engaged in and continue to engage in activities that are

fraudulent, deceptive and/or in violation of the Commission's regulations and orders and the Consumer Protection Law by:

- a. Salespeople promising savings that may not, and for many customers did not, materialize and
- b. Salespeople deceiving consumers by claiming that consumers must switch to an alternative supplier.

33. Additionally, upon information and belief, Respondent has failed to adequately train and monitor its agents, as required by the Commission's regulations. See 52 Pa. Code §§ 111.4 and 111.5.

COUNT II – MISLEADING AND DECEPTIVE WELCOME LETTER AND ADVERTISEMENTS

34. The foregoing paragraphs are incorporated herein.

35. In its Welcome Letters to customers and Advertising Documents, Respondent makes statements such as:

- “Our goal is simple – to reduce your annual energy expenses;”
- “We pass savings along to our customers by shopping for the best rates;”
- “Try our service RISK FREE;”
- “Take advantage of our special money-saving offer;”
- “We work in cooperation with your local utility company;”
- “NO contracts;” and
- “Take advantage of competitive rates now and continue to benefit when rates fall.”

See Respondent Welcome Letter and Advertising Documents attached hereto as Appendix A.

36. The Commission's regulations require compliance with the Consumer Protection Law. See 52 Pa. Code §§ 54.43(f) and 111.12(d)(1).

37. The Consumer Protection Law defines "unfair or deceptive acts or practices" as, *inter alia*:

- Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of good or services;
- Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
- Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he does not have;
- Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; and
- Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See 73 P.S. § 201-2(4)(ii), (iii), (v), (xi) and (xxi).

38. The Joint Complainants aver that the Respondent's claims in its Welcome Letters to customers and Advertising Documents represent benefits of its services that Respondent did not provide to its customers and EDC sponsorship that it does not have in violation of the Consumer Protection Law.

39. The Joint Complainants aver that the Respondent's claims in its Welcome Letters and Advertising Documents were and are deceptive, which created and continues to create a

likelihood of confusion and misunderstanding for the Respondent's customers in violation of the Consumer Protection Law.

COUNT III - SLAMMING

40. The foregoing paragraphs are incorporated herein.

41. Of the referenced 1,917 consumer complaints against Respondent received by the Attorney General, 147 or nearly 8% of the complainants indicated that they did not consent to switch to Respondent.

42. The Public Utility Code and the Commission's regulations prohibit switching a customer's generation supplier without the customer's consent (*i.e.* slamming). See 66 Pa. C.S. § 2807(d)(1); 52 Pa. Code § 54.42(a)(9).

43. The Commission's regulations require compliance with the Consumer Protection Law. See 52 Pa. Code § 54.43(f) and 111.12(d)(1).

44. The Consumer Protection Law prohibits fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding. See 73 P.S. § 201-2(4)(xxi).

45. It is averred, upon information and belief, that Respondent has violated and continues to violate the Commission's regulations and orders and the Consumer Protection Law by switching customers to Respondent without the customers' consent.

COUNT IV - LACK OF GOOD FAITH HANDLING OF COMPLAINTS

46. The foregoing paragraphs are incorporated herein.

47. Of the referenced 23 customers from which written information was collected by the OCA, 14 or approximately 61% stated that when they attempted to contact Respondent about the variable rate charges on their bills, they could not get through to the Respondent on the telephone and/or their messages left for the Respondent went unanswered.

48. Of the referenced 44 Formal Complaints filed at the Commission against Respondent reviewed by the OCA to date, at least 26 or 59% of the complainants averred that when they attempted to contact Respondent about the variable rate charges on their bills, they could not get through to the Respondent on the telephone and/or their messages left for the Respondent went unanswered.

49. The Commission's regulations require EGSs to utilize good faith, honesty and fair dealing with residential customers. See 52 Pa. Code § 56.1(a). See also Licensing Order at 2.

50. The Commission's regulations set forth the procedure for EGSs to use when they receive notice of a dispute, including a billing dispute, from a residential customer. Upon notice of such dispute, EGSs are required to investigate the matter, provide the customer with information necessary to make an informed judgment and issue a report to the customer within 30 days. See 52 Pa. Code §§ 56.141(a), 56.151 and 56.152.

51. It is averred, upon information and belief, that Respondent has violated and continues to violate the Commission's regulations and orders by failing to adequately staff its call center, failing to provide reasonable access to Respondent representatives for purposes of submitting complaints, failing to properly investigate customer disputes, failing to properly notify customers of the results of the Respondent's investigation into a dispute when such investigation was conducted, and failing to utilize good faith, honesty and fair dealing in its dealings with customers.

COUNT V – FAILING TO PROVIDE ACCURATE PRICING INFORMATION

52. The foregoing paragraphs are incorporated herein.

53. The Disclosure Statement of Respondent states as follows regarding variable pricing:

Basic Services Prices – Respondent offers a variable price for all electric generation sold under this Agreement. The price for electric generation sold is established on an approximately monthly basis based upon electric generation market pricing as furnished by PJM clearing house, transportation or transmission, and other market and business price related factors. This price may be higher or lower than the EDC’s price in any particular month. There is no ceiling price. Electric generation supply charges include estimated total state taxes. Respondent will comply with all required laws regarding sales tax and will include or exclude the appropriate sales taxes in each jurisdiction served, if any, as required by the Pennsylvania Department of Revenue for all Electric generation supply charges. Customers can call Respondent’s Customer Service Dept. at 877-887-6866 for current variable pricing rates.

The Disclosure Statement is attached hereto as Appendix B.

54. The Commission’s regulations require that variable pricing terms include the conditions of variability and the limits on price variability. See 52 Pa. Code § 54.5(c). The variable pricing terms of Respondent fail to adequately state the conditions of variability and identify appropriate limits on price variability in violation of the Commission’s regulation.

55. The Commission’s regulations require that EGSs “provide accurate information about their electric generation services using plain language and common terms in communications with consumers.” See 52 Pa. Code § 54.43(1). Additionally, EGSs must provide information to consumers “in a format that enables customers to compare the various electric generation services offered and the prices charged for each type of service.” Id.

56. The Commission’s regulations require compliance with the Consumer Protection Law. See 52 Pa. Code § 54.43(f) and 111.12(d)(1).

57. The Consumer Protection Law prohibits fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding. See 73 P.S. § 201-2(4)(xxi).

58. Upon information and belief, although Respondent’s Disclosure Statement states that customers may call the Respondent “for current variable pricing rates,” the Respondent will

not provide the rate that a customer will be charged on his next bill if he calls and requests such information.

59. It is believed and therefore, averred that Respondent has violated and continues to violate the Commission's regulations and the Consumer Protection Law by failing to provide pricing information requested by its customers in accordance with the Respondent's Disclosure Statement.

60. It is believed and therefore, averred that the Respondent has violated and continues to violate the Commission's regulations by failing to provide accurate pricing information in plain language and using common terms that consumers understand.

61. It is believed and therefore, averred that consumers could not determine from the Disclosure Statement the price that they would or could be charged by the Respondent or how the price would be calculated by Respondent.

62. It is believed and therefore, averred that Respondent violated and continues to violate the Commission's regulations by failing to provide information to its customers in a manner that would allow them to compare offers.

COUNT VI – PRICES NONCONFORMING TO DISCLOSURE STATEMENT

63. The foregoing paragraphs are incorporated herein.

64. Upon information and belief, Respondent charged its variable rate customers prices at least as high as \$0.34 per kWh for electricity.

65. It is averred, upon information and belief, that Respondent's prices charged to customers in early 2014 were not reflective of the cost to serve residential customers.

66. By way of example, the cost to serve the average residential heating customer in January 2014 should not have exceeded approximately \$0.23 per kWh. See Affidavit of Dr. Steven L. Estomin, attached hereto as Appendix C.

67. It is averred, upon information and belief, that the aforementioned prices do not conform to the variable rate pricing provision of the Respondent's Disclosure Statement.

**COUNT VII – FAILURE TO COMPLY WITH THE TELEMARKETER
REGISTRATION ACT**

68. The foregoing paragraphs are incorporated herein.

69. Of the referenced 1,917 consumer complaints against Respondent received by the Attorney General, at least 299 or approximately 16% of the complainants indicated that their service with Respondent was initiated by a telemarketing call from Respondent.

70. The Commission's regulations require EGSs to comply with the Telemarketer Registration Act, 73 P.S. § 2241 *et seq.* See 52 Pa. Code § 111.10(a)(1).

71. When Respondent sells its goods or services through the use of a telemarketing call, the Telemarketer Registration Act requires the Respondent to reduce any sale of goods or services made during such call to a written contract and obtain the consumer's signature on the written contract. See 73 P.S. § 2245(a)(7).

72. Additionally, the Telemarketer Registration Act requires the Respondent to provide consumers with a contract that contains, *inter alia*, the following:

- A detailed description of the consumer goods and services purchased which shall match the oral description given in the telemarketing solicitation;
- Any oral or written representations made during the telemarketing solicitation; and
- A statement that reads: "You are not obligated to pay any money unless you sign this contract and return it to the seller."

See 73 P.S. § 2245(c).

73. Respondent failed to provide consumers with a contract that contained all of the required information set forth in Sections 2245(a)(7) and 2245(c) of the Telemarketer Registration Act, 73 P.S. § 2245(a)(7) and (c), and has therefore, violated and continues to violate the Commission's regulations and orders and the Telemarketer Registration Act.

74. Under the Telemarketer Registration Act, any violation of 73 P.S. § 2241 *et seq.* is also a violation of the Consumer Protection Law. See 73 P.S. §2246(a).

75. The Commission's regulations require that EGSs comply with the Telemarketer Registration Act and the Consumer Protection Law. See 52 Pa. Code § 54.43(f) and 111.10(a).

76. The Consumer Protection Law prohibits fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding. See 73 P.S. § 201-2(4)(xxi).

77. By failing to provide a contract that complies with the Telemarketer Registration Act, Respondent has also violated and continues to violate the Consumer Protection Law.

RELIEF

78. The foregoing paragraphs are incorporated herein.

79. Pursuant to Section 54.42 of the Commission's regulations, 52 Pa. Code § 54.42, the Commission may suspend or revoke an EGS's license and impose civil penalties for the following EGS conduct:

- Failure to follow the principles in 52 Pa. Code § 54.43;
- Violation of applicable provisions of the Public Utility Code, Commission regulations and Commission orders;
- Violation of the consumer protection law; and
- The transfer of a consumer without the consumer's consent.

80. Under the Consumer Protection Law, it is appropriate to impose a permanent injunction to restrain and prevent violations of the Consumer Protection Law and restore to any person in interest any moneys or property that may have been acquired by means of any violation of the Consumer Protection Law. See 73 P.S. § 201-4.1.

81. As outlined above, Respondent violated and continues to violate the Public Utility Code, Commission regulations and orders, the Consumer Protection Law, the Telemarketer Registration Act and the Licensing Order.

WHEREFORE, Joint Complainants Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate, respectfully request that the Pennsylvania Public Utility Commission take the following actions:

A. Find that Respondent violated the Telemarketer Registration Act, the Consumer Protection Law, the Public Utility Code and the Commission's regulations and orders, as specified in the foregoing Joint Complaint, and revoke or suspend the Respondent's EGS license;

B. Find that Respondent violated the Telemarketer Registration Act, the Consumer Protection Law, the Public Utility Code and the Commission's regulations and orders, as specified in the foregoing Joint Complaint, and impose a civil penalty;

C. Order Respondent to provide appropriate restitution including without limitation refunding all charges to its customers that were over and above the Price To Compare in the customers' respective service territories from January 1, 2014 through the date of resolution of this matter, as well as any late, cancellation and/or termination fees and/or other such penalties charged to consumers as a result of the Respondent's charges and consumers' leaving Respondent to obtain generation service elsewhere;

D. Order Respondent to prohibit its salespeople from making pricing promises to consumers that are deceptive and inaccurate;

E. Order Respondent to cease and desist switching consumers to its generation service without their explicit consent;

F. Order Respondent to implement proper customer dispute procedures and adequately staff, train and monitor all employees and agents in such procedures;


G. Order Respondent to discontinue all other practices that violate the Consumer Protection Law and/or the Public Utility Code and/or Commission's regulations or orders;

H. Order that the Respondent, its agents and employees, be permanently enjoined from engaging in any practice that violates the Consumer Protection Law and the Telemarketer Registration Act;

I. Consolidate all similar pending formal complaints against Respondent with this Joint Complaint; and

J. Impose any other such relief that the Commission deems appropriate in this matter.

Respectfully submitted,




John M. Abel
Senior Deputy Attorney General
PA Attorney I.D. 47313

Margarita Tulman
Deputy Attorney General
PA Attorney I.D. 313514

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Counsel for:

Tanya J. McCloskey
Acting Consumer Advocate

DATE: 6-20-14

APPENDIX A



You have the power to choose and save!
Try IDT Energy Service RISK FREE!

Get **2 FREE MONTHS**
of ELECTRIC* when you sign up today!

Dear [REDACTED]

Positive changes in the energy market have made it possible for companies to compete for your energy business. IDT Energy can help you benefit by giving you the power to choose your home's electric and natural gas supplier. We work in cooperation with your local utility company to provide the safe, reliable energy you depend on.

Our goal is simple – to reduce your annual energy expenses.

When you enroll in IDT EnergySM Service, your utility will continue to deliver your electric and natural gas, read your meter, bill you, provide customer support and respond to service calls. IDT Energy takes care of the rest – we shop the wholesale energy market in an effort to reduce your annual energy expenses.

All it takes is a 5-minute phone call to get started.

Call 1-888-405-5505 (Monday – Friday from 8:30AM – 8:30PM)

or visit www.ClickIDTEnergy.com now!

In recent years, more than 1,000,000 of your neighbors in New York, New Jersey and Pennsylvania have enrolled with IDT Energy. Join today and start enjoying all the benefits of enrollment.

Try IDT EnergySM Service RISK FREE and enjoy the convenience of:

- No contracts or cancellation fees
- No upfront fees or deposits
- No interruptions to initiate service
- No special service calls to switch
- Plus, we proudly keep jobs in the US with customer care, sales and administrative teams located in the states we serve

If you are not completely satisfied, you may cancel at any time.

Get 2 FREE MONTHS of ELECTRIC* when you enroll!

Over the next 12 months, IDT Energy expects to issue over \$1,500,000 to our customers in the form of rebates for offers like this! **Call now at 1-888-405-5505, Monday – Friday from 8:30AM – 8:30PM or visit www.ClickIDTEnergy.com** to take advantage of our money-saving offer.

Sincerely,

Anne L. Wilson
Executive VP of Marketing, IDT Energy, Inc.

PS: Concerned about your environment? Ask about our affordable solutions for clean-renewable energy.

IDT Energy gives you the power to choose!

Please have your utility bill and account number ready.

Call 1-888-405-5505 (Monday – Friday from 8:30AM – 8:30PM)

or visit www.ClickIDTEnergy.com!

*Offer only available to customers switching their electric supply to IDT Energy for the first time. The first month free (not to exceed \$75) and twelfth month free (not to exceed \$75) will each be paid in the form of an automatic rebate. Actual rebate amount will vary based on your electric usage during the rebate term. First month free rebate paid after month three. Twelfth month rebate paid after month fifteen. Customer must remain active service in good standing at the time each rebate is paid.

Choose your home's electric and natural gas supplier, and save!

- **Our goal is simple — to reduce your annual energy expenses.**

Here's how we do it: Now, thanks to deregulation in the energy market, companies can compete for your energy business. Unlike some fixed rate suppliers, IDT Energy continues to shop the wholesale energy market throughout the year as energy prices rise and fall. We pass savings along to our customers by shopping for the best rates.

- **The difference between energy supply and delivery.**

Your energy service is broken up into two parts: supply and delivery. In the past, electric and natural gas prices were state-regulated, and the local utilities provided both supply and delivery. Now, thanks to deregulation of the energy markets, you have the freedom to choose your supplier, while retaining your current utility company to deliver your energy. This freedom of choice gives you the power to lower your energy bill by shopping for the best rates.

- **Switching is easy.**

Simply locate your current utility bill and account number, then call the toll-free number on the front or visit us online. It only takes a few minutes and there are no interruptions to initiate service.

- **We're concerned about our environment too.**

Our energy demands are impacting our environment, health and national security. Clean and renewable alternatives minimize that impact and encourage conservation and energy independence. We also offer affordable "green" solutions for your home that are derived from wind, running water and the sun — all sources that protect the environment in which we live.

Try our service RISK FREE!

There is no obligation. There are no contracts, no deposits, no sign up or early termination fees. **Take advantage of our special money-saving offer and if you are not completely satisfied, you may cancel at any time with no penalty.**

IDT Energy is licensed to supply electric and natural gas by the New York Public Service Commission (PSC), the New Jersey Board of Public Utilities (BPU) and the Pennsylvania Public Utility Commission (PUC).

IDT Energy, Inc is a division of publically traded Genie Energy, LLC (NYSE: GNE)



THIS INCREDIBLE OFFER HAS BEEN EXTENDED!
Guaranteed rates below the utility for 2 months



More than 1,000,000 of your neighbors in PA, NY and NJ have enrolled with IDT Energy.

Our goal is simple - to reduce your annual energy expenses.

Try us risk-free and get -

- Rates guaranteed below the utility for 2 months
- Month 3 FREE*
- Competitive variable rates thereafter
- An additional BONUS month FREE*

**PLUS,
GET TWO
FREE
MONTHS OF
ELECTRICITY!**

Please have your Met-Ed bill and Customer Number ready (it starts with "080").

Call 877.437.1144 (M-F 8:30am to 8:30pm) or visit www.MetEdSaves.com now!

*See other side for details

SWITCHING IS EASY – Try IDT Energy Service Today!

We are one of the largest independent energy suppliers in the Northeast. We offer:

- NO contracts or cancellation fees
- NO up-front fees or deposits
- NO interruptions to initiate service
- NO special service calls to switch
- PLUS we proudly keep jobs in the US with customer care, sales and administrative teams located in the states we serve!



Electric prices rise and fall. We shop the wholesale energy market in an effort to reduce your annual energy costs. Take advantage of competitive rates now and continue to benefit when rates fall.

We can serve your natural gas supply needs too!

Try us risk free. If you are not completely satisfied, you can cancel at any time with no penalty.

Please have your Met-Ed bill and Customer Number ready (it starts with "080").

Call 877.437.1144 (M-F 8:30am to 8:30pm) or visit www.MetEdSaves.com now!

*This exclusive offer is available to customers switching their electric supply to IDT Energy for the first time. Introductory rates are guaranteed below the utility rate for the first two months of active service. Then, the third month free (not to exceed \$75) and twelfth month free (not to exceed \$75) will each be paid in the form of an automatic rebate. Actual rebate amount will vary based on actual electric usage during the rebate term. Third month rebate to be paid in month six and twelfth month rebate to be paid in month fifteen. Customer must retain active service in good standing when the rebate is paid. To take advantage of this offer, you must enroll by 12/31/2012.

APPENDIX B



TERMS OF SERVICE - V.8

This is an agreement for electric generation services, between IDT Energy, Inc. ("IDT Energy," "us" or "we") and



IDT Energy is licensed by the Pennsylvania Public Utility Commission to offer and supply electric generation services in Pennsylvania. Our PUC license number is A-2009-2134623. Your generation prices and charges will be set by IDT Energy. The Public Utility Commission regulates distribution prices and services. The Federal Energy Regulatory Commission regulates transmission prices and services. You will continue to receive your bill from your Electric Distribution Company (EDC) for all supply and delivery charges, your EDC will continue to provide emergency repairs and services.

Right of Rescission - You may cancel this Agreement at any time before midnight of the fifth business day after receiving this disclosure.

Definitions - Generation Charge - Charge for production of electricity. Transmission Charge - Charge for moving high voltage electricity from a generation facility to the distribution lines of an electric distribution company.

Starting Price - The starting price per electric generation for customers starting on or about 9/4/2013 is 0.1237.

Basic Service Prices - IDT Energy offers a variable price for all electric generation sold under this Agreement. The price for electric generation sold is established on an approximately monthly basis based upon electric generation market pricing as furnished by PJM clearing house, transportation or transmission, and other market and business price related factors. This price may be higher or lower than the EDC's price in any particular month. There is no fixed price. Electric generation supply charges include estimated total state taxes. IDT Energy will comply with all required laws regarding sales tax and will include or exclude the appropriate sales taxes in each jurisdiction served, if any, as required by the Pennsylvania Department of Revenue for all Electric generation supply charges. Customers can call IDT Energy's Customer Service Dept. at 877-887-6866 for current variable pricing rates.

Renewable Energy Supply Option - "Renewable" energy refers to energy that is generated from renewable sources, such as solar, wind, water or biomass. If a customer chooses a renewable supply option, IDT Energy will ensure that 100% of the customer's electricity usage is matched with renewable energy certificates or renewable energy attributes. IDT Energy shall have up to 24 months from the end of each calendar year to address any deficiency that may have arisen in the renewable content of electricity sold under this Agreement during such calendar year. The price for renewable energy will be comprised of the IDT Energy variable price plus an amount that represents IDT Energy's cost in acquiring the renewable energy certificates or renewable energy attributes which shall not exceed three (3) cents per kwh.

Rebates and Introductory Price/Special Promotion Options - From time-to-time IDT Energy may offer rebates or special promotions. If a Customer participates in a rebate program, the Customer must remain in the program for the entire agreed upon term in order to qualify for the rebate. If a Customer enrolls at any time prior to the agreed upon term, the Customer shall forfeit all rights and claims to any and all rebate offers. All rebate amounts advertised and presented to customers are estimates based upon customer's prior electric and/or natural gas usages. Actual rebate amounts will be based on customer's actual usage over the term of this agreement, which may vary from any estimate. From time-to-time IDT Energy may offer eligible new customers an introductory price which will be in effect for the introductory price term. Upon expiration of the introductory price term the price shall revert to a standard variable price. IDT Energy will send any rebate or promotion payment to the customer address given to IDT Energy at the time of sign-up. It is the responsibility of the customer to notify IDT Energy of any changes to the customer's billing address either in writing to: 550 Broad Street, Newark, NJ 07102 or by calling IDT Energy's Customer Service Dept. at 877-887-6866. IDT Energy will send all rebates and promotional payments and notices via first class mail and is not responsible for invalid addresses or undelivered items.

Length of Agreement - You will buy your electric generation services for your use from IDT Energy beginning on a date set by your EDC and continuing on a month-to-month basis until either party provides at least fifteen (15) calendar days' notice of its intent to cancel and until EDC completes the termination in accordance with its rules.

Penalties, Fees and Exceptions - There are no fees or early cancellation penalties for canceling IDT Energy's variable rate plan.

Cancellation Provisions - A residential customer may cancel this Agreement at any time during the three (3) business days following receipt of this agreement by calling IDT Energy at 877-887-6866. After that time, this Agreement shall continue until either party provides the other with at least fifteen (15) calendar days' notice of its intent to cancel and until the EDC completes the cancellation in accordance with its rules.

Renewal Provision - This Agreement shall continue until either party provides at least fifteen (15) calendar days' notice of its intent to cancel and until EDC completes the cancellation in accordance with its rules.

Agreement Expiration/Change in Terms - If you have a fixed term agreement with us and it is approaching the expiration date or if we propose to change our terms of service, we will send you two advance written notices either in our bills or in separate mailings between 45 and 90 days before either the expiration date or the effective date of the changes. We will explain your options in these two advance notices.

Dispute Procedures - Contact us with any questions concerning our terms of service at 877-887-6866. If you are not satisfied after discussing your terms with us you may call or write the Public Utility Commission (PUC).

Public Utility Commission, PO Box 3265, Harrisburg, PA 17105-3265, 800-692-7380

Contact Information: Supplier: IDT Energy, 550 Broad Street, Newark, New Jersey 07102, 877-887-6866, www.idtenergy.com

Distribution Company Provider of Last Resort: Pennsylvania Power and Light, PPL Electric Utilities, 827 Hausman Road, Allentown, PA 18104-9392, 800-342-5775

Distribution Company Provider of Last Resort: Philadelphia Electric Company, PECO, 2301 Market Street, Philadelphia, PA 19103, 800-494-4000

Distribution Company Provider of Last Resort: Metropolitan Edison Company, Met-Ed, PO Box 3687, Akron, Ohio, 44309, 800-545-7741

Distribution Company Provider of Last Resort: Pennsylvania Electric Company, Penelec, PO Box 3687, Akron, Ohio, 44309, 800-545-7741

Distribution Company Provider of Last Resort: Duquesne Light, D.L.C. 411 Seventh Avenue, 6-1, Pittsburgh, PA 15219, 412-393-7100

Distribution Company Provider of Last Resort: West Penn Power, WPP, PO Box 3615 Akron, Ohio 44309, 800-686-0021

APPENDIX C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AFFIDAVIT
OF
STEVEN L. ESTOMIN, Ph.D.

JUNE 19, 2014

EXETER

ASSOCIATES, INC.
10480 Little Patuxent Parkway
Suite 300
Columbia, Maryland 21044

AFFIDAVIT

1. My name is Steven L. Estomin. I am a Senior Economist and Principal with Exeter Associates, Inc., an economics consulting firm. My business address is 10480 Little Patuxent Parkway, Suite 300, Columbia, Maryland 21044.

2. At the request of the Pennsylvania Office of Consumer Advocate (OCA), I performed an analysis addressing residential variable rate pricing in Pennsylvania during the winter of 2014. Specifically, I conducted an analysis regarding day-ahead and real-time market prices for electric energy during the winter of 2014.

3. Separate analyses were conducted for electric space heating and non-electric space heating residential customers.

4. Separate analyses were conducted for the residential customers in the following Electric Distribution Company (EDC) service territories:
 - Allegheny Power System (APS)
 - Duquesne Light Company (DLC)
 - Metropolitan Edison Company (Met-Ed)
 - PECO
 - Penelec
 - PPL Utilities (PPL)

5. The categories of generation costs included in the analyses are:
 - Energy cost (the cost of energy delivered to the relevant EDC zone) – both day-ahead and real-time prices were relied upon
 - Cost of Alternative Energy Portfolio Standard compliance

- Capacity cost
 - Cost of ancillary services, margin (i.e., profit) and risk.
6. Prices were calculated for four separate 4-week billing cycles:
 - January 1 through January 30
 - January 8 through February 6
 - January 15 through February 13
 - January 22 through February 20
 7. The APS and Duquesne zones exhibit the lowest total all-in, per-MWh generation costs, varying from approximately \$70 per MWh (based on real-time energy prices for the Duquesne zone over the January 8 through February 6 billing cycle) to approximately \$135 per MWh (based on day-ahead energy prices for the APS zone over the January 15 through February 13 billing cycle).
 8. Costs for the remaining four zones are similar to each other and range from a total cost of approximately \$129 per MWh (based on real-time energy prices for the Penelec zone for non-space heat customers over the January 8 through February 6 billing cycle) to approximately \$228 per MWh (based on day-ahead energy prices for the PECO zone for space heating customers over the January 1 through February 30 billing cycle).
 9. The results obtained from this analysis suggest that the cost to serve residential consumers covering any of the four billing cycles examined would be not more than \$0.23 per kWh in any of the six EDC zones examined, even under the assumption that all supply were procured on the PJM spot markets.

AFFIDAVIT

Steven L. Estomin, being first duly sworn, deposes and says that this affidavit was prepared by him; that he is familiar with the contents thereof; and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

Steven L. Estomin
Steven L. Estomin

Subscribed and sworn to before me on this 19 day of June 2014

Albrecht M Adams
Notary Public

My Commission Expires: 2/2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

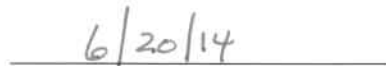
| | | |
|--|---|--------------------|
| Commonwealth of Pennsylvania, by | : | |
| Attorney General KATHLEEN G. KANE, | : | |
| Through the Bureau of Consumer Protection, | : | |
| | : | |
| And | : | |
| | : | |
| TANYA J. McCLOSKEY, Acting Consumer | : | |
| Advocate, | : | |
| Complainants | : | |
| | : | Docket No. C-2014- |
| v. | : | |
| | : | |
| IDT ENERGY, INC., | : | |
| Respondent | : | |

VERIFICATION

I, Tanya J. McCloskey, Acting Consumer Advocate, hereby state that the facts set forth above in this Joint Complaint are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).



Signature



Date

VERIFICATION

I, Heather M. Weaver, Consumer Protection Agent for the Office of Attorney General, Bureau of Consumer Protection, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that the Pennsylvania Office of Attorney General's Bureau of Consumer Protection expects to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 6-20-14



Heather M. Weaver
Consumer Protection Agent
Bureau of Consumer Protection
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120

**PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. § 309-4(e)**

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161 and for the following reasons, Acting Consumer Advocate Tanya J. McCloskey has determined to file a Joint Complaint with the Commonwealth of Pennsylvania by Attorney General Kathleen G. Kane through the Bureau of Consumer Protection (OAG) and participate in proceedings before the Commission involving IDT Energy, Inc. (IDT Energy). The Joint Complaint alleges violations of the Public Utility Code, Commission regulations and orders, the Unfair Trade Practices and Consumer Protection Law and the Telemarketer Registration Act.

IDT Energy is licensed by the Commission to supply electric generation to residential and commercial customers throughout Pennsylvania. Early in 2014, the OAG and the OCA received thousands of consumer complaints and contacts about supplier variable rate charges on their electric bills. The OCA joined in the filing of this Complaint to address multiple identified violations of the Commission's regulations and Pennsylvania law and to seek protections for consumers. The OCA will represent the interests of consumers before the Commission and ensure that IDT Energy follows the requirements of the law and Commission regulations and orders when it engages in marketing and sales of its electric supply in Pennsylvania.

CERTIFICATE OF SERVICE

| | | |
|--|---|--------------------|
| Commonwealth of Pennsylvania, by | : | |
| Attorney General KATHLEEN G. KANE, | : | |
| Through the Bureau of Consumer Protection, | : | |
| | : | |
| And | : | |
| | : | |
| TANYA J. McCLOSKEY, Acting Consumer | : | |
| Advocate, | : | |
| Complainants | : | Docket No. C-2014- |
| | : | |
| v. | : | |
| | : | |
| IDT ENERGY, INC., | : | |
| Respondent | : | |

I hereby certify that I have this day served a true copy of the foregoing Joint Complaint of the Commonwealth of Pennsylvania, by Attorney General Kathleen G. Kane, through the Bureau of Consumer Protection, and Tanya J. McCloskey, Acting Consumer Advocate and the Public Statement of the Office of Consumer Advocate, in the manner and upon the persons listed below:

Dated this 20th day of June 2014.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

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Michael Swindler, Esq.
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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Candis A Tunilo

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