

DOCKET NO. X03 HHD-CV14-6055537-S

HOLLY CHANDLER AND  
DEVON ANN CONOVER,

PLAINTIFFS,

VS.

DISCOUNT POWER, INC.

DEFENDANT

⋮  
SUPERIOR COURT

⋮  
COMPLEX LITIGATION DOCKET  
AT HARTFORD

⋮  
FEBRUARY 1, 2017

**AFFIDAVIT OF SETH R. KLEIN IN SUPPORT OF PLAINTIFFS' MOTION FOR  
CERTIFICATION OF SETTLEMENT CLASS AND FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND MOTION FOR AWARD OF ATTORNEYS' FEES &  
EXPENSES AND FOR CASE CONTRIBUTION AWARDS**

I, Seth R. Klein, hereby declare as follows:

1. I am an attorney with the law firm of Izard, Kindall & Raabe, LLP ("IKR"), and am competent to declare the matters stated herein.

2. IKR represents the named plaintiffs, Holly Chandler and Devon Ann Conover ("Plaintiffs"), as well as the provisionally-certified Settlement Class in this lawsuit against Discount Power, Inc. ("DPI" or "Defendant"). I submit this declaration in support of Plaintiffs' Motion for Certification of a Settlement Class and Final Approval of Class Action Settlement Agreement, as well as in support of Plaintiffs' Motion for Award of Attorneys' Fees & Expenses and Case Contribution Awards.

***The Investigation***

3. IKR began its investigation into DPI's pricing practices in October of 2014. IKR reviewed Plaintiffs' billing statements from Connecticut Light & Power and their correspondence with DPI, PURA and the Connecticut Attorney General's Office. IKR also reviewed materials filed in several relevant public dockets maintained by the Connecticut Public

Utility Regulatory Authority (PURA). The PURA dockets included information concerning Defendant's fixed and variable rates, general information about the competitive market for electricity supply, and consumer complaints, including complaints relating to variable rate pricing practices.

4. IKR also reviewed contracts, prices and public representations available on DPI's website, and obtained detailed information about wholesale electricity prices from the independent service operator that administers the electricity market in the northeast, ISO-New England.

5. IKR also hired an expert in the energy industry who had recently retired from a high-level position at ISO-New England to provide detailed background on the electric supply market as well as an in-depth review of the factual allegations counsel were developing for the Complaint.

6. After reviewing documents from all of these sources and discussing the case with Plaintiffs and with their consulting expert, IKR drafted a detailed complaint for Plaintiffs' review and approval. IKR also incorporated comments on the draft based on further discussions with the consulting expert.

### ***The Litigation***

7. Plaintiffs commenced this lawsuit two years ago by filing the summons and complaint (the "Complaint") with a Return Date of December 2, 2014 (Dkt. No. 100.31). Plaintiffs alleged that DPI, which is in the business of supplying electricity, charged customers who had variable rate plan contracts extraordinarily high amounts that bore no relationship to the underlying wholesale price of power. Plaintiffs alleged that these pricing practices violated the covenant of good faith and fair dealing as well as the Connecticut Unfair Trade Practices Act

(“CUTPA”), and resulted in unjust enrichment. The allegations in the Complaint were the result of months of research by Plaintiffs’ counsel, including detailed review of Public Utility Regulatory Authority (“PURA”) dockets and records and reports from the Independent Service Operator, ISO-New England.

8. Defendant filed an answer (the “Answer”), including eleven special defenses, on January 20, 2015 (Dkt. No. 101). Plaintiff filed a Reply to the Special Defenses on April 29, 2015 (Dkt. No. 106), together with a Certificate of Closed Pleadings and Claim for Trial (Dkt. No. 108). On May 18, Plaintiffs filed an unopposed Motion for Transfer to the Complex Litigation Docket, which was granted by Order dated June 5, 2015 (Dkt. Nos. 109, 109.86).

9. On June 22, 2015, the Parties jointly proposed a pretrial scheduling order based on a trial ready date of February 10, 2017 (Dkt. No. 112). The Court approved the schedule on June 22, 2016 (Dkt. No. 113).

10. Discovery commenced shortly after Defendant filed the Answer. Defendants served Requests for Production on Plaintiffs, while Plaintiffs served both Interrogatories and Requests for Production on Defendant. The Parties negotiated the terms of a stipulated protective order governing the exchange and treatment of confidential documents and information, which the Court approved on April 6, 2015 (Dkt. Nos. 104 and 104.86).

11. Plaintiffs produced their documents in response to Defendant’s discovery requests on June 23, 2015, including responsive documents from the Plaintiffs themselves as well as non-privileged, responsive documents from the investigation files of Plaintiffs’ counsel. Defendants produced documents in response to Plaintiffs’ discovery requests on a rolling basis beginning in June of 2015 and ending in March of 2016.

12. Plaintiffs also obtained additional documents and data through a third-party subpoena directed at ISO-New England.

13. On March 11, 2016, after reviewing hundreds of documents, spreadsheets and correspondence produced by Defendants, Plaintiffs conducted a “corporate representative” deposition of DPI’s Chief Operating Officer to gain further information concerning the Company’s pricing policies and procedures. Defendants deposed the Plaintiffs on February 25, 2016. Fact discovery ended March 15, 2016.

### ***The Settlement***

14. During the course of the litigation and discovery, the Parties discussed the possibility of resolving the case without trial. Counsel conducted lengthy negotiations, including several telephone conferences and rounds of correspondence, and an in-person negotiation on June 7, 2016, that included senior DPI management.

15. A key issue of dispute between the Parties was the extent of Defendant’s maximum exposure in the event that Plaintiffs prevailed at trial. Plaintiffs’ consulting expert had withdrawn after accepting the position of Chief Economist for PJM, which administers the market for electricity in the Mid-Atlantic region. IKR retained Seabron Adamson and Edo Macan of Charles River Associates to assess whether Defendant’s variable prices were correlated to its own costs for purchasing electricity on the wholesale market, and, if not, the amount by which the class as a whole was injured by Defendant’s practices. The team from Charles River Associates evaluated data obtained through discovery and created a damages model and a report that was provided to Defendant’s counsel. Defendant, in turn, critiqued the model and the conclusions in the report.

16. Another critical issue concerned Defendant's ability to pay a substantial judgment. To assess this issue, Plaintiffs retained an accounting expert to assess Defendant's finances. In consultation with that expert, Plaintiff requested that Defendant produce certain financial documents, which the expert then evaluated. Plaintiff's expert concluded that there was a substantial risk that litigating this matter to completion might exhaust whatever available resources Defendant had to pay towards a possible judgment (thus placing collectability of the judgment at serious risk). Defendant has no insurance coverage for the loss, and Defendant relies on internally generated operating cash flow to fund operations. Defendant's financial documents demonstrated that any significant settlement would need to be paid over multiple years in light of Defendant's cash flow situation.

17. After the Parties were able assess the strengths and weaknesses of the case, the damages model, and the risks to collecting a judgment, the Parties were able to reach an agreement in principle on the essential terms of a Settlement in August of 2016, including an agreement on the total amount that Defendant would pay to the Class (\$850,000) and a three-year payment schedule. Negotiation of the terms of the final agreement, including the Plan of Allocation and all necessary notices to the Settlement Class, required several additional months. IKR prepared the initial drafts of all of the Settlement papers and notices that served as the basis for negotiations on the final texts.

18. The Parties signed the proposed Settlement Agreement in November of 2016 and submitted it to the Court for Preliminary Approval on November 18, 2016 (Dkt. No. 126).

19. On November 21, 2016, the Court granted Plaintiffs' Motion for Preliminary Approval, preliminarily certified the Settlement Class, appointed the Plaintiffs as Class

Representatives and IKR as Class Counsel, and set the date for the Final Approval Hearing for March 27, 2017 (Dkt. No. 133).

20. DPI has provided considerable data which allowed us to form a realistic view of the overall value of the case. Although the data do not permit a precise calculation, we believe, based on the analysis of our damages experts, that the \$850,000 settlement represents 14% of the maximum damages the Class could realistically obtain at trial, a figure well within the ordinary range of class settlements. Moreover, Plaintiffs' analysis of DPI's inability to pay a greater judgment even if Plaintiffs were to prevail at trial was a significant driving factor behind the Plaintiffs' agreement to the Proposed Settlement.

21. Based on the wealth of information obtained during the initial investigation of the case, review of the documents obtained from Defendant and ISO-New England, the deposition of the Company's COO, the analyses performed by Plaintiffs' expert, and IKR's experience litigating other class actions, Class Counsel believes that this is an excellent settlement agreement that provides substantial benefits to the Settlement Class Members.

***Notice to the Settlement Class***

22. As part of the Preliminary Approval Order, the Court required Plaintiffs to provide notice to the Class of the Proposed Settlement. [Dkt. No. 133, at paragraph 10]. At Plaintiff's request, the Court appointed KCC Class Action Services, LLC ("KCC") as Notice and Claims Administrator. Plaintiffs' counsel selected KCC after soliciting bids from several reputable firms with excellent credentials, each of which had effectively and efficiently worked with Class Counsel on prior settlements.

23. In accordance with the Notice Plan approved by the Court, the Settlement Class was provided with detailed notice of the terms of the Settlement by e-mail or first-class mail on

December 27, 2016 and Plaintiff established an informational website concerning the settlement at [www.discountpowersettlement.com](http://www.discountpowersettlement.com). See Affidavit of Scott DiCarlo, Senior Project Manager (“DiCarlo Aff.”), attached hereto as Exhibit E, at ¶¶ 2, 5. The Court-Approved Notice informed Class Members of all of the key details about the terms of the Settlement, including the fact that Plaintiffs would request an award of attorneys’ fees of 25% plus expenses and case contribution awards. The Notice also informed class members of the procedures for opting out of the Settlement and for objecting to any provisions of the Settlement Agreement or petition for attorneys’ fees, expenses and case contribution awards.

24. The deadline for filing objections or opting out of the Settlement is February 27, 2017, almost four weeks from the date of this filing. The schedule was designed to ensure that Settlement Class Members would be able to review the papers filed in support of final approval and the Motion for Award of Attorneys’ Fees and Expenses and Case Contribution Awards before deciding whether to participate, object or opt out of the Settlement. As of this filing, neither counsel nor the Claims Administrator have received any objections or opt-out requests. See DiCarlo Aff., ¶¶ 7-8.

### ***The Plan of Allocation***

25. Based on DPI’s records, approximately 38,000 households and small business were subscribed to DPI’s variable electric services at some time during the Class Period. These customers constitute the proposed Settlement Class.

26. While all members of the Settlement Class paid variable rates, they did not all have the same damages. Class members purchased electricity at set rates per kilowatt hour. Defendant’s excessive rates, as alleged in the Complaint, had a greater impact on consumers who used more power.

27. Moreover, the damages analysis prepared by Plaintiffs' electricity market experts concludes that during a small number of months during the Class Period, wholesale prices had risen so high that DPI's variable rate customers saved (rather than lost) money during those months.

28. Plaintiffs' proposed plan of allocation is designed to adjust for these two factors, thus ensuring that the net settlement fund is allocated fairly, with greater amounts going to class members who had greater damages as a result of the conduct alleged in the Complaint.

Upon being fully funded, individual Discount Power customers who have filed a Claim Form ("claimants") will be eligible to receive a share of the Settlement Fund based upon the amount of variable rate electricity used by that claimant between June 1, 2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power's procurement cost for electricity exceeded the variable price at which it sold that electricity), as set forth in Discount Power's internal records. In the event that claims made exceed the value of the net Settlement Fund after deducting all Settlement Costs (including the costs of notice and administration of the settlement and attorneys' fees and costs incurred by Class Counsel and incentive awards for the Lead Plaintiffs as may be approved by the Court), each claimant would receive a *pro rata* share of the net Settlement Fund based on his or her calculated loss. Because each potential claimant used a different amount of electricity and because we do not know the number of eligible claimants who will file valid claims, we cannot estimate the per-person recovery. Claimants whose payment under this Plan of Allocation would fall below \$3.00 will not receive any payment

As set forth above, because Class Members did not suffer a monetary loss during the months in which DPI's procurement cost exceeded the variable price (as calculated by Plaintiffs' experts), Class Members' electricity usage during those months is not counted towards the allocation of the Settlement Fund. Accordingly, Class Members who were enrolled in DPI's variable rate electric services *only* during those "high procurement cost" months did not suffer *any* loss under Plaintiffs' model, and so will not receive an allocation from the Settlement Fund. Class



Members whose payment would be below \$3 also will not receive an allocation, as the transaction costs of processing and mailing checks to such customers would be disproportionate to the harm suffered, and the increased likelihood that checks for lower dollar amounts would not be cashed would increase the portion of the settlement that might need to be distributed through *cy pres*.<sup>1</sup>

29. Plaintiffs believe that this proposed Plan of Allocation reasonably compensates Class Members for the harm they suffered based directly upon their actual electricity usage. Moreover, the Plan excludes usage in months in which Class Members did *not* suffer a loss, thereby preventing unfair windfalls. The proposed Plan is also simple to administer and based upon data already produced by DPI, thereby minimizing administration costs.

#### ***Lead Plaintiffs' Prosecution of the Case***

30. Plaintiffs have actively prosecuted this case. Indeed, well before the litigation was filed, Plaintiff Devon Conover sent an initial complaint to PURA in February of 2014, and Plaintiff Holly Chandler complained to the Connecticut Attorney General in January of 2014. Plaintiffs cooperated with counsel in finalizing the Complaint, kept informed about the case as the litigation progressed, responded to Defendant's discovery requests and had their depositions taken. Both Plaintiffs approved the final settlement terms and recommend that the Court approve it. *See* Affidavit of Holly Chandler, attached as Exhibit C, and Affidavit of Devon Ann Conover, attached as Exhibit D. Each Plaintiff spent many hours of their own time working with

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<sup>1</sup> Proposed Settlement Class Counsel anticipate that the net Settlement Fund (after deducting all Settlement Costs) will be fully depleted by Class Member claims. However, in the event that money remains in the Settlement Fund after the payment of all valid Claims, Proposed Settlement Class Counsel will submit a *cy pres* proposal to the Court for distribution of remaining funds.

counsel on the case. Without their active participation, the lawsuit could not have been prosecuted at all.

***IKR's Time, Lodestar and Expenses***

31. Robert Izard and I were the partners primarily involved in the day-to-day management and oversight of this litigation. The firm's experience, as well those of the attorneys most closely involved in the litigation, are described in detail in the Firm Resume attached as Exhibit B.

32. IKR attorneys and staff have spent 433.75 hours prosecuting the case to date, including time devoted to investigating, drafting pleadings, engaging in discovery, reviewing documents, conducting and defending depositions, retaining and consulting experts, negotiating and finally settling this case. IKR's aggregate lodestar is \$294,521.25, broken down as follows:

<i>NAME</i>	<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Robert A. Izard	135.75	\$775	\$105,206.25
Seth R. Klein	221.75	\$650	\$144,137.50
Mark P. Kindall	54.00	\$700	\$37,800.00
Craig A. Raabe	2.00	\$700	\$1,400.00
Nicole A. Veno	5.25	\$350	\$1,837.50
Jennifer Decoteau Somers (contract attorney)	12.00	\$300	\$3,600.00
Eileen McGee (paralegal)	3.00	\$180	\$540.00
<b>TOTAL:</b>	<b>433.75</b>		<b>294,521.25</b>

33. The schedule shown in the preceding paragraph was prepared from contemporaneous daily time records regularly prepared and maintained by IKR, which are available at the request of the Court.

34. The hourly rates shown in paragraph 32 are the same as the regular current rates generally charged for services in non-contingent hourly rate billing matters. In addition, numerous courts throughout the country and in this state have accepted IKR's rates as the basis for lodestar calculations in other class actions in which we have served as counsel.

35. IKR has incurred a total of \$100,550.41 in unreimbursed expenses in connection with the prosecution of the Action as of January 31, 2017, broken down as follows:

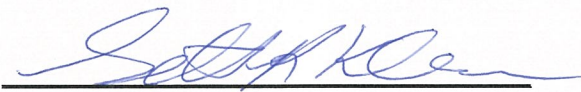
<i><b>EXPENSE CATEGORY</b></i>	<i><b>TOTAL</b></i>
Court Costs	689.85
Service of Process fees	129.75
Experts	96,987.67
PACER Expenses	8.20
Transcripts	1947.17
Travel Expenses (including client travel for deposition)	709.39
Postage & Delivery	78.38
<b>TOTAL:</b>	<b>\$100,550.41</b>

36. The expenses shown in the preceding paragraph were actually incurred and paid over the course of the litigation. They were all paid by the Firm, with no guarantee that they would ever be recovered except in the event that the litigation was successful and the Court approved the reimbursement. I have reviewed these expenses and believe that they were both necessary and appropriate for the prosecution of the case.

***Exhibits***

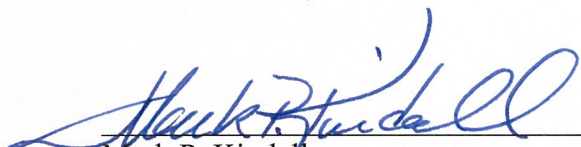
37. Attached hereto as Exh. A is a true and accurate copy of the Settlement Agreement.

38. Attached hereto as Exh. B is a copy of the firm resume IZARD KINDALL & RAABE LLP.
39. Attached hereto as Exh. C is a copy of the Affidavit of Holly Chandler.
40. Attached hereto as Exh. D is a copy of the Affidavit of Devon Ann Conover.
41. Attached hereto as Exh. E is a copy of the Affidavit of Scott DiCarlo, for Claims Administrator KCC.

  
Seth R. Klein

COUNTY OF HARTFORD )  
 ) ss. Hartford, Connecticut  
STATE OF CONNECTICUT )

Subscribed and sworn to before me this 1st day of February, 2017.

  
Mark P. Kindall  
Commissioner of the Superior Court

**CERTIFICATION**

Pursuant to Practice Book § 10-14, I hereby certify that a copy of the above was mailed or electronically delivered on February 1, 2017 to all counsel and pro se parties of record.

James T. Shearin  
David P. Atkins  
Pullman & Comley, LLC  
850 Main Street, P.O. Box 7006  
Bridgeport, CT 06601-7006

/s/ Seth R. Klein  
Seth R. Klein

*Chandler v. Discount Power, Inc.*, No. X03 HHD-CV14-6055537-S

Affidavit of Seth R. Klein

# EXHIBIT A

SETTLEMENT AGREEMENT

DOCKET NO. X03 HHD-CV14-6055537-S	:	SUPERIOR COURT
	:	
HOLLY CHANDLER AND DEVON ANN CONOVER,	:	COMPLEX LITIGATION DOCKET
	:	
PLAINTIFFS,	:	AT HARTFORD
	:	
VS.	:	
	:	
DISCOUNT POWER, INC.	:	
	:	
DEFENDANT	:	

**SETTLEMENT AGREEMENT**

**Definitions**

1. As used in this Settlement, the following terms have the meaning specified below:
  - a. "Action" means the action entitled Chandler v. Discount Power, Inc., Docket No. X03 HHD-CV14-6055537-S, pending in the Connecticut Superior Court, Complex Litigation Docket at Hartford.
  - b. "Class Member(s)" means all persons who are members of the Class as described in Paragraph 16 of this Settlement.
  - c. "Class Period" shall mean June 1, 2013, through July 31, 2016.
  - d. "Complaint" means the Class Action Complaint dated November 20, 2014, which has a Return Date of December 9, 2014.
  - e. "Court" means the Connecticut Superior Court, Complex Litigation Docket at Hartford.

- f. "Defendant's Counsel" means James T. Shearin and David P. Atkins of Pullman & Comley, LLC, 850 Main Street, P.O. Box 7006, Bridgeport, CT 06601-7006.
- g. "Defendant" or "DPI" means Discount Power, Inc.
- h. "Effective Date" of the Settlement shall mean the twenty-fifth (25th) day after the Court has entered final Judgment, if no appeal has been filed therefrom. If an appeal has been filed, the Effective Date shall be ten (10) days after the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmation is no longer subject to further appeal or review.
- i. "Escrow Account" means an interest bearing account established by Plaintiffs' Counsel in accordance with the terms and conditions set forth in Paragraphs 23-28 of this Settlement.
- j. "Final Fairness Hearing" means the hearing in the Action for the Court to consider final approval of this Settlement and the entry of Judgment.
- k. "Judgment" means the Final Judgment to be entered in the Action in connection with the Settlement after the Final Fairness Hearing.
- l. "Notice" means the Notice of Pendency of Proposed Settlement of Class Action, Settlement Hearing and Fee and Expense Application to be sent to Class Members, which will be sent to Class Members pursuant to the Preliminary Approval Order.



- m. "Plaintiffs" means Holly Chandler and Devon Ann Conover.
- n. "Preliminary Approval Order" means the Order Preliminarily Approving Settlement and Providing for Notice to the Class Members.
- o. "Proposed Class Counsel" means Robert A. Izard and Seth R. Klein, Izard, Kindall & Raabe, LLP, 29 S. Main St, Suite 305, West Hartford, CT 06107.
- p. "Released claims" means all claims and other matters released in and by Paragraphs 35-38 of this Settlement.
- q. "Released Parties" means DPI and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns and all of the present and former directors, officers, employees, agents, attorneys, and shareholders of DPI and each of its and their present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns.
- r. "Releasing Parties" means Plaintiffs and the Class Members who have not opted out of the Settlement and each of their respective spouses, executors, representatives, heirs, predecessors, successors, bankruptcy trustees, guardians, wards, joint tenants, tenants in common, tenants by the entirety, co-borrowers, agents, attorneys and assigns, and all those who claim through them or who assert claims on their behalf.

- s. "Settlement Administrator" means the entity retained by Plaintiffs to provide notice of the proposed settlement to Class Members and to administer the claims and settlement fund distribution process.
- t. "Settlement Fund" means the \$850,000 to be paid by DPI and placed in escrow in accordance with the terms of this Settlement.
- u. "Settling Parties" means Plaintiffs and Defendant.

### **RECITALS**

2. Plaintiffs, on behalf of themselves and all others similarly situated, commenced this Action on or about November 20, 2014, by filing the Complaint in the Superior Court for the Judicial District of Hartford.

3. The Complaint alleges that Plaintiffs entered into contracts with Defendant for electricity supply which permitted Defendant to charge a variable rate that fluctuated to reflect changes in wholesale power market. Plaintiffs further allege that the variable rates DPI in fact charged them – and other variable rate customers in Connecticut – were not, in fact, connected to the wholesale price for power. Instead, the rates went up to match spikes in the underlying market price but remained at the inflated rate even after the wholesale power price dropped, leading to premiums many times greater than the wholesale price itself. The Complaint alleges that these practices constituted a violation of the Connecticut Unfair Trade Practices Act and the covenant of good faith and fair dealing. Plaintiffs also alleged a cause of action for unjust enrichment.

4. On January 20, 2015, DPI filed an Answer denying most of the allegations of the Complaint and asserting eleven special defenses, to which Plaintiffs filed a reply

on April 28, 2015. Plaintiffs filed a certificate of closed pleadings and claimed the case to the jury list on April 29, 2015.

5. On May 15, 2015, Plaintiffs filed an unopposed application for transfer to the Complex Litigation Docket which was granted on June 5, 2015.

6. The Parties conducted discovery through interrogatories, requests for production and depositions. Discovery included extensive production of documents by DPI, depositions of both Plaintiffs, and a deposition by Defendant's corporate designee. In addition, Plaintiffs obtained additional data through a third-party subpoena served on ISO-New England.

7. On April 8, 2016, following preliminary discussions between counsel for the Parties, Plaintiffs filed a consent motion for stay of the deadlines in the scheduling order so that the Parties could attempt to negotiate a settlement.

8. The parties held a face-to-face settlement meeting and negotiated extensively by phone and email. As part of the settlement process, the parties exchanged a substantial number of documents, including analyses by Plaintiffs' experts.

9. Defendant no longer offers new residential customers the ability to purchase electricity at variable rates and has no present plan or intention of doing so in the future. Any current residential customers on a variable rate plan are, by law, given notice of the forthcoming variable rates two months in advance, and are permitted to switch to a fixed rate program, or change resellers altogether, before they are charged the disclosed variable rate. To the extent any commercial customers are on a variable rate pricing program it is as a result of an individualized negotiation.

10. DPI denies the allegations of the Complaint and believes that the claims in the Action are without merit. Nevertheless, for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate the Action, and for the purpose of putting to rest the controversies raised or which could have been raised in the Action, and without any admission of any liability or wrongdoing whatsoever, DPI desires to settle the Action and all claims asserted or which could have been asserted in or subsumed by the Action on the terms and conditions set forth in this Settlement.

11. Plaintiffs and Proposed Class Counsel believe that the claims asserted in the Action have merit. Plaintiffs and Proposed Class Counsel, however, recognize and acknowledge the risks, expense and length of continued proceedings necessary to prosecute the Action against DPI through motion practice, trial, and potential appeals. Proposed Class Counsel have also taken into account the uncertain outcome and the risks of further litigation, the difficulties and delays inherent in such litigation, and Defendant's ability to pay a judgment substantially in excess of the Settlement. Proposed Class Counsel believe that the Settlement confers substantial benefits upon the Settlement Class. Plaintiffs and Proposed Class Counsel have determined that the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

12. The Settling Parties, by and through their respective duly authorized counsel of record, hereby agree that the Action, and all matters and claims in the Complaint, and all matters and claims arising out of or related to the allegations or

subject matter of the Complaint and Action, shall be settled, compromised, and dismissed, on the merits and with prejudice, upon the below terms and conditions.

### **TERMS OF THE SETTLEMENT**

13. In consideration of the complete and final settlement of the Action, and under the terms and conditions herein, the Settling Parties agree as follows.

#### **Settlement Consideration**

14. Monetary Consideration: Subject to approval by the Court, the total monetary consideration to be provided by Defendant pursuant to the Settlement shall be eight hundred fifty thousand dollars (\$ 850,000), inclusive of all attorneys' fees, costs, and expenses, incentive payments and Third Party Notice and Claims Administration Costs. This amount shall be paid in accordance with the following schedule:

- a. DPI will pay Two-hundred fifty thousand dollars (\$250,000) within ten (10) business days of the entry of the Preliminary Approval Order.
- b. DPI will pay an additional three hundred thousand dollars (\$300,000) by no later than December 31, 2017;
- c. DPI will pay the final three hundred thousand dollars (\$300,000) by no later than December 31, 2018.

15. Non-Monetary Consideration:

The Parties agree to the releases and covenants set forth in paragraphs 35-38 below.

### **Certification of the Settlement Class**

16. For settlement purposes only, the Settling Parties agree to request that the Court certify a Settlement Class defined as follows:

All individual residential and small business consumers enrolled (either initially or through “rolling over” from a fixed rate plan) in a Discount Power, Inc., variable rate electric plan in connection with a property located within Connecticut at any time from June 1, 2013, through and including July 31, 2016 (the “Class”).

Specifically excluded from the Class are: the Defendant, the officers, directors and employees of Defendant; any entity in which Defendant has a controlling interest; any affiliate, legal representative of Defendant; the judge to whom this case is assigned and any member of the judge’s immediate family; and any heirs, assigns and successors of any of the above persons or organizations in their capacity as such.

### **Preliminary Approval & Notice to the Class**

17. The Parties shall file a motion for preliminary approval in the Action, which motion shall attach this Settlement. The Parties shall request that, after the Notice is given, the Court, in accordance with Section 9-9 of the Connecticut Rules of Court hold the Final Fairness Hearing and finally approve the Settlement and enter the Judgment. At or after the Final Fairness Hearing, Proposed Class Counsel will request that the Court approve the proposed Plan of Allocation, the Fee and Expense Application and the Lead Plaintiffs’ Incentive Award.

18. Plaintiffs shall retain a Settlement Administrator.

19. Within ten (10) business days of the entry of the Preliminary Approval Order, Defendant, to the extent not previously provided, shall provide Plaintiffs with the following information from its business records for each class member: (a) name; (b)

current, or most recent, address; (c) working email addresses, where DPI has them; and (d) the total number of kwh of power used by the customer for energy supply during the portion of the class period that the class member was a DPI customer.

20. Within thirty (30) days of the entry of the Preliminary Approval Order, the Settlement Administrator shall (a) post the Class Notice, substantially in the form shown as Exhibit A, on a dedicated Settlement Website; (b) send the email notice, substantially in the form shown in Exhibit B, to all Class Members for whom Defendant provided an email address pursuant to Paragraph 19 above; and (c) send a copy of the postcard notice, substantially in the form shown in Exhibit C, to all Class Members for whom Defendant did *not* provide an email address. To the extent that any email notice pursuant to clause (b) above is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall send postcard notice to such Class Member(s) within ten (10) days of the notification of non-delivery.

21. Within forty (40) days of the entry of the Preliminary Approval Order, the Settlement Administrator shall publish a copy of the Publication Notice, substantially in the form shown in Exhibit D, in the *Hartford Courant*.

22. It is expressly understood and agreed to by Settling Parties that neither Plaintiffs nor Proposed Class Counsel are responsible for payment of the fees, costs, or expenses associated with effectuation of notice. The Settlement Administrator shall be paid from the Settlement Fund Escrow Account.

### **Establishment of the Settlement Fund**

23. Within ten (10) business days of the entry of the Preliminary Approval Order, Plaintiffs shall establish an escrow account into which Plaintiffs shall deposit all payments made by Defendant under this Settlement.

24. Except as provided pursuant to paragraphs 29-30 below, funds in the escrow account shall be kept in a federally-insured account or invested in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof (the "Instruments"), and shall reinvest the proceeds of these Instruments as they mature in similar Instruments at their current market rates. Any fees to be paid to third parties in connection with the investment of the Settlement Fund as required by the terms of this Paragraph will be paid from the Settlement Fund.

25. No monies shall be disbursed from the Settlement Fund, except as provided in this Settlement, by an order of the Court, or by the joint written instructions of Defendants' Counsel and Proposed Class Counsel.

26. The Settlement Fund held in the Escrow Account shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the Court's jurisdiction, until such time as such funds shall be distributed pursuant to the Settlement or further order of the Court.

27. The Parties agree to treat the Settlement Fund at all times as a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1. All taxes (including any estimated taxes, interest or penalties) arising with respect to the



income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendant and Defendant's Counsel with respect to income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes ("Taxes") shall be paid out of the Settlement Fund. Defendants and Defendant's Counsel shall not have any liability or responsibility for the Taxes. The Settlement Fund shall indemnify and hold Defendants and Defendant's Counsel harmless for Taxes (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and expenses incurred in connection with the preparation of any tax returns or compliance with tax laws shall be treated as, and considered as, Third Party Notice and Claim Administration Costs and shall be timely paid out of the Settlement Fund without prior order from the Court. Defendant and its counsel are not responsible and shall not have any liability for the administration of the Settlement Fund. The Parties agree to cooperate with each other and with their respective tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section.

28. In the event that the Judgment is not entered or, if it is entered, it does not become final, or if the Settlement is voided pursuant to Paragraphs 31-32 and 34 hereof, the then-existing Settlement Fund (less amounts then due and owing for Third Party Notice and Claims Administration Costs) shall be returned and paid to Defendant free and clear of any further obligations pursuant to this Settlement.

### **Distribution From the Settlement Fund**

29. Prior to the Effective Date, Proposed Class Counsel may only direct the disbursement of money from the Settlement Fund for the following purposes:

- a. Payment of costs reasonably incurred by the Settlement Administrator for the purposes of providing Notice to the Class in accordance with the terms of this Settlement, on an as-incurred basis;
- b. For payment of taxes and expenses of the Settlement Fund.

30. After Effective Date, Proposed Class Counsel may direct the disbursement of money from the Settlement Fund for the following additional purposes:

- a. For payment of the costs reasonably incurred by the Settlement Administrator for purposes of notice and claims administration, on an as-incurred basis.
- b. As provided in paragraph 41, for the payment of any court-approved awards to class representatives;
- c. As provided in Paragraphs 40 and 42, for payment of any court-approved awards of attorneys' fees and/or expenses to Proposed Class Counsel, in accordance with the schedule set out in Paragraphs 40 and 42 below.
- d. After Defendant's final payment to the Settlement Fund pursuant to paragraph 14(c) above, for payment of shares of the Settlement Fund (net of all attorneys' fees and expenses) to Class Members who have submitted valid claims, based upon a Plan of Allocation derived from the amount of variable rate electricity used by that claimant between June 1,

2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power's procurement cost for electricity exceeded the variable price at which it sold that electricity), as set forth in Discount Power's internal records. In the event that claims made exceed the value of the net Settlement Fund after deducting all Settlement Costs (including the costs of notice and administration of the settlement and attorneys' fees and costs incurred by Class Counsel and incentive awards for the Lead Plaintiffs as may be approved by the Court), each claimant would receive a *pro rata* share of the net Settlement Fund based on his or her calculated loss. However, claimants whose calculated loss totals less than \$3 will not receive any payment.

- e. As provided in paragraph 44, for payment of any portion of the Settlement Fund remaining after all other obligations have been satisfied to a *cy pres* recipient.

### **Termination of Settlement**

31. If the Court does not certify the Settlement Class, or changes or alters the composition of the Settlement Class in any way not acceptable to Defendant or Plaintiffs, in their sole discretion, Defendant and Plaintiffs each shall have the right to terminate the Settlement by serving on the opposing Settling Party and filing with the

Court a notice of termination within ten (10) days of its receipt of notice of the Court's ruling.

32. Plaintiffs and Defendant shall cooperate to achieve approval of the Settlement. In the event that the Court does not approve the Settlement, and the Court's determination is upheld on appeal to the highest applicable judicial authority, the Settlement shall terminate and shall be void and of no further effect. Any certification of the Settlement Class by the Court will be vacated; and the Settling Parties will be returned to their positions quo ante with respect to all facets of the Action.

33. In the event of a termination, the balance of the Escrow Account shall be immediately refunded and remitted to Defendant. Defendant shall have no right to seek reimbursement from Plaintiffs or Proposed Class Counsel for any funds distributed from the Escrow Account or for money spent or costs incurred for Notice or Claims Administration.

34. If an aggregate number of persons who otherwise would be Class Members have submitted opt-out forms in a number equal or greater than the total number specified in a separate Supplemental Agreement between Plaintiffs and Defendant and dated as of the date of this Settlement Stipulation (the "Supplemental Agreement"), Defendant shall have, in its sole and absolute discretion, the option to terminate the Settlement Stipulation in accordance with the procedures set forth in the Supplemental Agreement. The Supplemental Agreement shall not be filed with the Court unless and until a dispute among the Parties concerning its interpretation or application rises or upon request by the Court and, in either event, the Parties shall

request the Court to permit it to be filed and maintained with the Court under seal. Copies of all opt-out forms received shall be delivered to counsel for Defendant no later than fourteen days before the Final Fairness Hearing.

### **Releases**

35. As of the Effective Date, the Releasing Parties, and each of them, shall be deemed to have fully released and forever discharged the Released Parties, and each of them, of and from any and all rights, claims, liabilities, action, causes of action, costs and attorneys' fees, demands, damages and remedies, known or unknown, liquidated or unliquidated, legal, statutory, declaratory or equitable, that Releasing Parties ever had, now have, or may have in the future, that result from, arise out of, are based upon, or relate to in any way the conduct, omissions, duties or matters alleged or that could have been alleged in the Complaint, concerning variable rates for electricity supply from June 1, 2013, until July 31, 2016.

36. Plaintiffs and other Class Members may hereafter discover facts other than or different from those that they know or believe to be true with respect to the subject matter of the claims released pursuant to the terms of this Paragraph, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he/she shall have waived and fully, finally, and forever settled and released any known or unknown, suspected or asserted or unasserted, liquidated or unliquidated, contingent or non-contingent claims with respect to all of the matters described in or subsumed by this Paragraph and Paragraph 35 of this Settlement. Further, each of those individuals agrees and acknowledges that

he/she shall be bound by this Settlement, including by the releases contained in this Paragraph and in Paragraph 35 of this Settlement, and that all of their claims in the Action shall be released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he/she never receives actual notice of the Settlement, never submits a Claim Form, or never receives a distribution of funds from the Settlement. The foregoing shall be construed to operate as a waiver and release of any and all provisions, rights and benefits conferred either by Section 1542 of the California Civil Code, or by any statute of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code.

37. Releasing Parties, and each of them, shall be enjoined from prosecuting any equitable or legal proceeding against any Released Party with respect to any of the Released Claims or any of the actions taken by a Released Party that are authorized or required by this Settlement Agreement or by the Judgment. The Court shall retain jurisdiction to enforce the judgment, releases, and bar to suits contemplated by this Settlement and by the Judgment.

38. Defendant, and successors in interest thereto, covenants and agrees (i) not to file or maintain against any Plaintiff(s), Plaintiffs' Counsel, or Class Counsel for any claim arising from or related to the prosecution or resolution of this Action and stipulate and agree that the covenants and agreements herein shall be a complete

defense to any such claims against any Plaintiff(s), Plaintiffs' Counsel, or Class Counsel.

**No Admission of Liability**

39. The Parties understand and agree that this Settlement Agreement embodies a compromise settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding of wrongdoing by any of the Released Parties, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding. This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Moreover, Defendant specifically denies any such liability or wrongdoing. Neither the fact nor the terms of this Settlement Agreement shall be offered or received in evidence, in any action or proceeding for any purpose, except (i) in an action or proceeding arising under this Settlement Agreement or arising out of or relating to the Preliminary Approval Order or the Final Order, or (ii) in an action or proceeding where the Releases or the Covenants Not to Sue provided pursuant to this Settlement Agreement may serve as a bar to the prosecution of such action or proceeding as well as to any recovery in such action or proceeding.

**Attorneys' Fees, Expenses and Case Contribution Awards**

40. Plaintiffs' Counsel shall petition the Court for reimbursement of reasonable costs and expenses and for an award of attorneys' fees, not to exceed one-third of the

Settlement Fund. Defendants will not take any position on any fee motion submitted by Class Counsel, provided that Class Counsel does not move for an award of attorneys' fees in excess of one-third of the Settlement Fund, and Defendants will not take any position on any motion for reimbursement of litigation expenses reasonably incurred in prosecuting the Action. At the sole election of Plaintiffs' Counsel, any award of Attorneys' fees and expenses shall be paid from the Escrow Account either (1) in its entirety within ten (10) days of Defendants' third payment into the Settlement Fund pursuant to Paragraph 14(c) above; or (2) in accordance with the following schedule:

- a. 30 percent of the total amount awarded for both attorneys' fees and expenses within ten (10) days of the Effective Date or the date the court approves an award of attorneys' fees and expenses, whichever is later;
- b. 35 percent of the total amount awarded for both attorneys' fees and expenses within ten (10) days of Defendants' second payment into the Settlement Fund pursuant to Paragraph 14(b) above;
- c. 35 percent of the total amount awarded for both attorneys' fees and expenses within ten (10) days of Defendants' third payment into the Settlement Fund pursuant to Paragraph 14(c) above.

41. Application for Case Contribution Awards. Class Counsel may apply to the Court for a Case Contribution Award for each Plaintiff payable from the Settlement Fund in an amount not to exceed \$2000, and each Plaintiff shall be entitled to receive such compensation from the Settlement Fund to the extent awarded by the Court (or as modified, if necessary, following any appeal). Defendants expressly agree to take no



position with respect to the Case Contribution Award(s). No Case Contribution Award may be paid to any Plaintiff before the Effective Date.

42. Post-Award Expenses. Class Counsel may make a supplemental application to the Court for an award of expenses with respect to post-Settlement proceedings and administration, and any such award shall be payable from the Settlement Fund.

43. In the event that the Court or any court with appellate jurisdiction over this Action fails to award attorneys' fees and expenses pursuant to Paragraph 40 hereof or to award Plaintiffs a Case Contribution Award pursuant to Paragraph 41 hereof, or fails to awards attorneys' fees and expenses in the amount sought by Class Counsel or to award Case Contribution Award in the amount sought by Plaintiffs, such decision shall not provide cause for Plaintiffs to withdraw, void or nullify this Settlement Agreement.

#### **Cy Pres Distribution**

44. If there are funds remaining in the Escrow Account after the distributions are completed pursuant to Paragraphs 29-30 of this Settlement, the Settlement Administrator shall distribute all such remaining funds through the cy pres distribution. All funds resulting from returned or un-cashed checks shall remain in an account maintained by the Settlement Administrator for six months, at which time the money will be distributed through the cy pres distribution. In the event that all funds remitted from Escrow Account to the Settlement Administrator are paid to Class Members, no cy pres distribution will be made.

45. The cy pres shall be distributed to a nonprofit organization or organizations agreed upon by counsel for Plaintiffs and Defendant, and approved by the Court. Should the parties be unable to agree on the recipient(s) they shall present their respective prospective recipients to the Court, with any supporting materials and argument, and the Court shall decide the recipient(s).

46. The cy pres distribution shall be paid as soon as is practicable following the distribution of funds to Class Members.

### **General Provisions**

47. This Settlement constitutes the entire agreement between and among the Settling Parties with respect to the settlement of the Action. This Settlement shall not be construed more strictly against one party than another merely because it may have been prepared by counsel for one of the Settling Parties, it being recognized that, because of the arm's length negotiations resulting in the Settlement, all Settling Parties hereto have contributed substantially and materially to the preparation of the Settlement. This Settlement supersedes all prior negotiations and agreements and may not be modified or amended except by a writing signed by the Settling Parties, Proposed Class Counsel, and Defendant's Counsel.

48. Each Settling Party to the Settlement warrants that they are acting on their independent judgment and upon the advice of his, her or its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other person, other than the warranties and representations expressly made in

the Settlement. All captions used in the Settlement are for reference and convenience only and shall not be used in interpreting the Settlement.

49. The Settling Parties, Proposed Class Counsel, and Defendant's Counsel shall not engage in any conduct or make any statements, directly or indirectly, (a) to encourage, promote, or solicit Class Members or their counsel to request exclusion from the Settlement Class or to object to the Settlement.

50. The Settlement shall be binding upon, and shall inure to the benefit of, the Settling Parties, the Class Members, the Releasees, and the respective heirs, administrators, successors, and assigns of each of them. Except as provided in the foregoing sentence, nothing in this Settlement is intended to create any legally enforceable rights in any other person or to make any other person, including, but without limitation, an agreed-upon recipient of cy pres funds pursuant to Paragraphs 44-46 of this Settlement, a beneficiary of this Settlement.

51. The Settling Parties, Proposed Class Counsel, and Defendant's Counsel: (i) acknowledge that it is their intent to consummate this agreement; (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement; and (iii) shall execute all documents and perform any additional acts necessary and proper to effectuate the terms of the Settlement.

52. This Settlement shall be construed, enforced and administered in accordance with the laws of the State of Connecticut without reference to its conflict of laws principles.

53. All Settling Parties and Class Members submit to the continuing jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

54. This Settlement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the Settling Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

PLAINTIFFS,  
HOLLY CHANDLER AND  
DEVON ANN CONOVER

By: /s/ 

Robert A. IZARD  
Seth R. Klein  
IZARD KINDALL & RAABLE LLP  
(Juris No. 410725)  
29 South Main Street, Suite 305  
West Hartford, CT 06107  
(860) 493-6292

DEFENDANT,  
DISCOUNT POWER, INC.

By: /s/ 

James T. Shearin  
David P. Atkins  
Pullman & Comley, LLC  
850 Main Street, P.O. Box 7006  
Bridgeport, CT 06601-7006  
Juris No. 47892  
Telephone 203-330-2000  
Facsimile 203-576-8888

# **EXHIBIT A**

Superior Court for the State of Connecticut  
Judicial District of Hartford

If you were a customer of Discount Power, Inc.’s variable rate electricity supply services between June 1, 2013, and July 31, 2016, you could receive a cash payment from a class action settlement.

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- A settlement has been reached with Discount Power, Inc. (“Discount Power” or “Defendant”) about the electricity supply rates charged by Discount Power to its **variable rate** customers between June 1, 2013 and July 31, 2016. The settlement offers payments to eligible people who were variable electric rate customers during that period.
- Your legal rights are affected whether you act, or do not act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
SUBMIT A CLAIM	Fill out a form to qualify for a payment.
EXCLUDE YOURSELF	Get no benefits from the settlement. This is the only option that allows you to start or remain part of any other lawsuit against Discount Power about the legal claims in this case.
OBJECT	Write to the Court about why you do not like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Give up your rights to sue Discount Power about the legal claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. If it does, and after any appeals are resolved, benefits will be distributed to those who qualify. Please be patient.

**BASIC INFORMATION ..... PAGE 3**

- 1. Why is this Notice being provided?
- 2. What is this lawsuit about?
- 3. Why is this a class action?
- 4. Why is there a settlement?

**WHO IS IN THE SETTLEMENT ..... PAGE 3**

- 5. How do I know if I am part of the settlement?
- 6. Are there exceptions to being included?
- 7. What if I am not sure whether I am included in the settlement?

**THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY ..... PAGE 4**

- 8. What does the settlement provide?
- 9. How will the claims be decided?

**HOW TO GET BENEFITS—SUBMITTING A CLAIM ..... PAGE 5**

- 10. How do I ask for a payment?
- 11. When will I get my payment?
- 12. What am I giving up to get a payment?

**EXCLUDING YOURSELF FROM THE SETTLEMENT ..... PAGE 6**

- 13. If I exclude myself, can I get anything from this settlement?
- 14. If I do not exclude myself, can I sue later?
- 15. How do I get out of the settlement?

**THE LAWYERS REPRESENTING YOU ..... PAGE 6**

- 16. Do I have a lawyer in the case?
- 17. How will the lawyers be paid?

**OBJECTING TO THE SETTLEMENT ..... PAGE 7**

- 18. How do I tell the Court if I do not like the settlement?
- 19. What is the difference between objecting and asking to be excluded?

**THE COURT’S FAIRNESS HEARING..... PAGE 8**

- 20. When and where will the Court decide whether to approve the settlement?
- 21. Do I have to come to the hearing?
- 22. May I speak at the hearing?

**IF YOU DO NOTHING ..... PAGE 8**

- 23. What happens if I do nothing?

**GETTING MORE INFORMATION ..... PAGE 8**

- 24. How do I get more information?

## BASIC INFORMATION

### 1. Why is this Notice being provided?

A Court authorized this Notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who may be eligible for those benefits, and how to get them.

Judge Ingrid Moll of the Complex Litigation Docket of the State of Connecticut Superior Court, Judicial District of Hartford, is overseeing this class action. The case is known as *Chandler and Conover v. Discount Power, Inc.*, Case No. HHD-CV-14-6055537-S, filed on November 20, 2014.

The people who sued are called “Plaintiffs,” and the company they sued, Discount Power, is called “Defendant.”

### 2. What is this lawsuit about?

The lawsuit alleges that Discount Power falsely claimed in its contracts with customers that its variable rate for electricity supply services would fluctuate based on changes in the “wholesale power market,” but in practice failed to decrease its variable rate when wholesale market rates went down. The lawsuit further alleges that Discount Power’s variable rate customers suffered monetary damages as a result of this alleged misconduct.

Discount Power denies all of Plaintiffs’ claims and says that it did nothing wrong. Discount Power specifically states that it followed all terms of its contract with customers, and that Plaintiffs’ claims are without factual or legal merit.

### 3. Why is this a class action?

In a class action, one or more people called “Settlement Class Representatives” (in this case Holly Chandler and Devon Ann Conover) sue on behalf of people who have similar claims. All of these people are a “Settlement Class” or “Settlement Class Members.” One court resolves the issues for all Class Members, except for those who timely exclude themselves from the Class.

### 4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to settle this case to avoid the cost and risk of a trial. The proposed settlement does not mean that any law was broken or that the Defendant did anything wrong. Defendant denies all legal claims in this case. Settlement Class Representatives and their lawyers think the proposed settlement is best for all Settlement Class Members.

## WHO IS IN THE SETTLEMENT

To see if you will be affected by the settlement or if you can get a payment from it, you first have to determine if you are a Settlement Class Member.



5. How do I know if I am part of the settlement?

The Court decided that the Settlement Class includes all individual residential and small business consumers enrolled (either initially or through “rolling over” from a fixed rate plan) in a Discount Power variable rate electric plan in connection with a property located within Connecticut at any time from June 1, 2013, through and including July 31, 2016. Discount Power no longer offers new residential customers the ability to purchase electricity at variable rates and has no present plan or intention of doing so in the future. Any current residential customers on a variable rate plan are, by law, given notice of the forthcoming variable rates two months in advance, and are permitted to switch to a fixed rate program, or change resellers altogether, before they are charged the disclosed variable rate.

6. Are there exceptions to being included?

Yes. The following are not included in the settlement: Discount Power, the officers, directors and employees of Discount Power; any entity in which Discount Power has a controlling interest; any affiliate or legal representative of Discount Power; the judge to whom this case is assigned and any member of the judge’s immediate family; any heirs, assigns and successors of any of the above persons or organizations in their capacity as such; and anyone who timely submits a valid request to be excluded from the Settlement Class (see “Excluding Yourself from the Settlement,” below).

7. What if I am not sure whether I am included in the settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the settlement, visit the settlement website at [www.WEBSITE.com](http://www.WEBSITE.com) or call the toll free number, 1-8NN-NNN-NNNN.

## THE SETTLEMENT BENEFITS — WHAT YOU GET IF YOU QUALIFY

If the settlement is approved and becomes final, it will provide benefits to Settlement Class Members.

8. What does the settlement provide?

Discount Power has agreed to pay a total of \$850,000 into a Settlement Fund in three installments, with the final installment payable no later than December 31, 2018. The Settlement Fund will pay cash awards to Class Members who have filed a valid claim, as well as (a) attorneys’ fees, costs, and expenses; (b) incentive payments to the lead plaintiffs; and (c) third party costs to provide notice and to administer the settlement. Details on all of the settlement benefits are in the Settlement Agreement, which is available at [www.WEBSITE.com](http://www.WEBSITE.com).

9. How will the claims be decided?

Upon being fully funded, individual Discount Power customers who have filed a Claim Form (“claimants”) will be eligible to receive a share of the Settlement Fund based upon the amount of variable rate electricity used by that claimant between June 1, 2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power’s procurement cost for electricity exceeded the variable price at which it sold that electricity), as set forth in Discount Power’s internal records. In the event that claims made exceed the value of the net Settlement Fund after deducting all Settlement Costs (including the costs of notice and administration of the settlement and

attorneys' fees and costs incurred by Class Counsel and incentive awards for the Lead Plaintiffs as may be approved by the Court), each claimant would receive a *pro rata* share of the net Settlement Fund based on his or her calculated loss. Because each potential claimant used a different amount of electricity and because we do not know the number of eligible claimants who will file valid claims, we cannot estimate the per-person recovery. However, claimants whose calculated loss totals less than \$3 will not receive any payment.

## HOW TO GET BENEFITS – SUBMITTING A CLAIM

### 10. How do I ask for a payment?

To ask for a payment you must complete and submit a Claim Form. You may visit [www.WEBSITE.com](http://www.WEBSITE.com) to fill out a Claim Form online or to download a Claim Form that you can print. You can also request that a Claim Form be mailed to you by calling 1-8NN-NNN-NNNN.

The deadline to file your claim online is **Month DD, 20YY**. If filing a paper claim, you must mail your Claim Form postmarked no later than **Month DD, 20YY** to:

**Chandler v. Discount Power Claims Administrator**  
P.O. Box xxxx  
City, ST xxxxx-xxxx

### 11. When will I get my payment?

Claimants who submit valid Claim Forms will receive payments by mail. Discount Power customers who do not submit Claim Forms will not receive a payment. Payments will only be made only if the Court grants “final approval” to the settlement and after any appeals are resolved (*see* “The Court’s Fairness Hearing,” below). It is uncertain when any appeals made will be resolved, and resolving them can take time.

Under the terms of the Settlement Agreement, Discount Power will deposit the \$850,000 Settlement Fund into an escrow account in three installments, with the final installment payable no later than December 31, 2018. Assuming the Court grants “final approval” to the settlement, payment will be made to claimants only after the escrow account is fully funded. Payment will be made at that point as soon as practicable. Please be patient.

### 12. What am I giving up to get a payment?

If the settlement becomes final, Settlement Class Members who submit Claim Forms or do nothing at all will be releasing Discount Power from all of the claims described and identified in paragraphs 35-38 of the Settlement Agreement. This means you will no longer be able to sue Discount Power regarding any of the claims described in the Settlement Agreement.

The Settlement Agreement is available at [www.WEBSITE.com](http://www.WEBSITE.com). The Settlement Agreement provides more detail regarding the release and describes the Released Claims and Released Parties with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firms representing the Settlement Class listed in the section “The Lawyers Representing You” for free or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Claims or what they mean.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to participate in this proposed settlement and you want to keep the right to sue Discount Power about the legal issues in this case, then you must take steps to get out of the settlement. This is called asking to be excluded from, or sometimes called “opting out” of, the Settlement Class.

13. If I exclude myself, can I get anything from this settlement?

No. If you exclude yourself, you may not apply for any benefits under the settlement and you cannot object to the proposed settlement. If you ask to be excluded, however, you may sue or be part of a different lawsuit against Discount Power in the future. You will not be bound by anything that happens in this lawsuit.

14. If I do not exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Discount Power for all of the claims that the proposed settlement resolves. You must exclude yourself from this Settlement Class to start your own lawsuit or be part of any different lawsuit relating to the claims in this case.

15. How do I get out of the settlement?

To exclude yourself from the proposed settlement, you must send a letter or other written document by mail saying that you want to be excluded from *Chandler v. Discount Power* and you must list your CL&P, Eversource or UI account number(s). In addition, your exclusion request must include, for each account listed:

- (1) The full names and current addresses of everyone whose name is on the account.
- (2) A statement that everyone whose name is on the account satisfies the criteria set forth above to be a Settlement Class Member (*see* “How do I know if I am part of the settlement?”).
- (3) A statement of intention to exclude everyone whose name is on the account from the Settlement Class.
- (4) The signature of everyone whose name is on the account.

Be sure to include your full name, address, signature, and date. You must mail your request for exclusion postmarked by **Month DD, 20YY** to:

***Chandler v. Discount Power Claims Administrator***  
P.O. Box xxxx  
City, ST xxxxx-xxxx

**You cannot ask to be excluded on the phone, by email, or at the website.**

## THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in the case?

The Court appointed IZARD KINDALL & RAABE LLP, West Hartford, CT, 860-493-6292 as “Settlement Class Counsel” to represent you and other Settlement Class Members. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

**17. How will the lawyers be paid?**

Settlement Class Counsel will ask the Court for attorney’s fees not to exceed 25%, along with payment of reasonable costs and expenses. Settlement Class Counsel will also request an incentive payment of \$2,000 to each Class Representative for their services on behalf of the Settlement Class. The Court will award amounts it deems appropriate. Payments approved by the Court will be made from the Settlement Fund.

Please visit [www.WEBSITE.com](http://www.WEBSITE.com) for additional detail on Settlement Class Counsel’s attorney’s fee request.

**OBJECTING TO THE SETTLEMENT**

**18. How do I tell the Court if I do not like the settlement?**

You can object to the settlement if you do not like some part of it. You must give reasons why you think the Court should not approve the settlement. To object, send a letter saying that you object to the proposed settlement in *Chandler v. Discount Power*, Case No. X03 HHD-CV14-6055537-S. You must include:

- (1) your full name, address, and telephone number;
- (2) all reasons for the objection;
- (3) the names of all attorneys representing you, if any;
- (4) the names of all attorneys representing you who will appear at the Fairness Hearing (see “The Court’s Fairness Hearing,” below), if any;
- (5) a list of all people you will call to testify at the Fairness Hearing, if any;
- (6) a statement saying whether you will appear and/or testify at the Fairness Hearing; and
- (7) your signature or the signature of your duly authorized attorney or other duly authorized representative (along with documentation of such representation).

Mail the objection to each of the following three addresses so that it is postmarked no later than **Month DD, 20YY**.

COURT	SETTLEMENT CLASS COUNSEL	DEFENDANT'S COUNSEL
Chief Clerk’s Office Hartford Judicial District State of Connecticut Superior Court 95 Washington Street Hartford, CT 06106	Seth R. Klein, Esq. Izard Kindall & Raabe LLP 29 South Main Street Suite 305 West Hartford, CT 06107	James Shearin, Esq. David Atkins, Esq. Pullman & Comley LLC 850 Main Street P.O. Box 7006 Bridgeport, CT 06601

**19. What is the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object to the settlement and you will not be eligible to apply for any benefits under the settlement because the case no longer affects you.

## THE COURT'S FAIRNESS HEARING

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at **:\_\_\_.m.** on **Month DD, 20YY**, at the Connecticut Superior Court, Judicial District of Hartford, Court Room No. **000**, 95 Washington Street, Hartford, CT 06106. At the Fairness Hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court may also consider Settlement Class Counsel's request for attorneys' fees, costs, and expenses, and incentive awards. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the proposed settlement and how much to award to Settlement Class Counsel as fees, costs, and expenses, and incentive awards.

The Fairness Hearing may be moved to a different date without additional notice, so it is recommended that you periodically check [www.WEBSITE.com](http://www.WEBSITE.com) for updated information.

21. Do I have to come to the hearing?

No. Settlement Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend the Fairness Hearing, but their attendance is not necessary.

22. May I speak at the hearing?

Yes. To speak at the Fairness Hearing, you must send a letter or other written document saying that it is your "Notice of Intent to Appear" in *Chandler v. Discount Power*, Case No. X03 HHD-CV14-6055537-S. Be sure to include your name, address, telephone number, and your signature. You also must include information about what you intend to say at the hearing. If you intend to have your attorney represent you at the hearing, please indicate this and provide the full name and contact information for your attorney. Also, please list anyone you or your attorney will call to testify at the hearing. Please send copies of your "Notice of Intent to Appear" to the Court, Settlement Class Counsel, and Defendant's Counsel as listed in Question 18 above. It must be postmarked no later than **Month DD, 20YY**. You cannot speak at the hearing if you exclude yourself from the settlement.

## IF YOU DO NOTHING

23. What happens if I do nothing

Unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Discount Power about the claims in this case, ever again.

## GETTING MORE INFORMATION

24. How do I get more information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.WEBSITE.com](http://www.WEBSITE.com). You also may call with questions or have a Claim Form mailed to you by calling 1-8NN-NNN-NNNN. In addition, you may direct questions to Settlement Class Counsel (Izard Kindall & Raabe LLP) at 860-493-6292.

# **EXHIBIT B**

From: *Chandler v. Discount Power* Claims Administrator  
To: «First1» «Last1»  
Subject: Notice of Class Action Lawsuit and Proposed Settlement

## NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT

THE COURT HAS AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.  
YOU MAY RECEIVE MONEY FROM A SETTLEMENT

- **If you were a customer of Discount Power, Inc. and paid a variable rate for electric supply services between June 1, 2013 and July 31, 2016, your rights may be affected by this class action settlement.**
- **Plaintiffs claim that the variable rates charged by Discount Power violate the terms of its contracts with its customers. The court has not decided who is right or wrong. Instead, the parties agreed to settle the case to avoid the risk and cost associated with further litigation.**
- **Eligible Class Members who submit a valid Claim Form will be eligible to receive a payment from the \$850,000 settlement fund.**
- **Go to [\[website\]](#) for more details.**

**What is this?** This is a Notice of a proposed settlement in a class action lawsuit. This Notice explains your legal rights.

**What is this lawsuit about?** This settlement would resolve the lawsuit captioned *Chandler and Conover v. Discount Power, Inc.*, Case No. HHD-CV-14-6055537-S, filed in the Superior Court of the State of Connecticut. The lawsuit alleges that Discount Power falsely claimed in its contracts with customers that its variable rate for electricity supply services would fluctuate based on changes in the “wholesale power market,” but in practice failed to decrease its variable rate when wholesale market rates went down. Discount Power denies all of Plaintiffs’ claims and says that it did nothing wrong. Discount Power specifically states that it followed all terms of its contract with customers, and that Plaintiffs’ claims are without factual or legal merit. The Court has not ruled on the merits of Plaintiffs’ claims or Discount Power’s defenses.

**Why am I getting this Notice?** You were identified as someone who was a variable electric rate customer of Discount Power with regard to a property located in Connecticut during the period covered by the proposed settlement (June 1, 2013 through July 31, 2016).

**What does the settlement provide?** Discount Power has agreed to pay a total of \$850,000 into a Settlement Fund in three installments, with the final installment payable no later than December 31, 2018. The Settlement Fund will pay cash awards to Class Members who have filed a valid claim, as well as (a) attorneys’ fees, costs, and expenses; (b) incentive payments to the lead plaintiffs; and (c) third party costs to provide notice and to administer the settlement. Upon being fully funded, individual Discount Power customers who have filed a Claim Form (“claimants”) will be eligible to receive a share of the Settlement Fund based upon the amount of variable rate electricity used by that claimant between June 1, 2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power’s procurement cost for electricity exceeded the variable price at which it sold that electricity). In the event that claims made exceed the value of the net Settlement Fund after deducting all Settlement Costs (including the costs of notice and administration of the settlement and attorneys’ fees and costs incurred by Class Counsel and incentive awards for the Lead Plaintiffs as may be approved by the Court), each claimant would receive a *pro rata* share of the net Settlement Fund based on his or her calculated loss. Claimants whose calculated loss totals less than \$3 will not receive any payment. The Lead Plaintiffs will request an incentive payment not to exceed \$2,000 each for their work in representing the Class, and Class Counsel will ask the Court to approve an award up to 25% of the Settlement Fund for attorneys’ fees, plus costs.



**How do I get a payment?** To ask for a payment you must complete and submit a Claim Form. You may visit [www.WEBSITE.com](http://www.WEBSITE.com) to fill out a Claim Form online or to download a Claim Form that you can print. You can also request that a Claim Form be mailed to you by calling 1-8NN-NNN-NNNN. The deadline to file your claim online is **Month DD, 20YY**. If filing a paper claim, you must mail your Claim Form postmarked no later than **Month DD, 20YY** to: *Chandler v. Discount Power* Claims Administrator, P.O. Box **xxxxx**, City **ST xxxxx-xxxx**.

**Do I have to be included in the settlement?** If you do not want to be part of the settlement and you want to keep the right to sue or continue to sue Discount Power on your own, then you must exclude yourself from the settlement. You will not get any money from this settlement if you exclude yourself. The Court will exclude any Class Member who properly requests exclusion by sending a letter or other written document by mail saying that you want to be excluded from *Chandler v. Discount Power*. Your exclusion request must also list your CL&P, Eversource or UI account number(s) and must include, for each account listed: (1) The full names and current addresses of everyone whose name is on the account; (2) A statement that everyone whose name is on the account satisfies the criteria set forth above to be a Settlement Class Member (as defined in the full Notice available at [www.WEBSITE.com](http://www.WEBSITE.com)); (3) A statement of intention to exclude everyone whose name is on the account from the Settlement Class; and (4) The signature of everyone whose name is on the account. Be sure to include your full name, address, signature, and date. You must mail your request for exclusion postmarked by **Month DD, 20YY** to: *Chandler v. Discount Power* Claims Administrator, P.O. Box **xxxxx**, City **ST xxxxx-xxxx**. You cannot ask to be excluded on the phone, by email, or at the website.

**If I don't like something about the settlement, how do I tell the Court?** If you don't exclude yourself from the settlement, you can object to any part of it. You must file your objection with the Court, and mail your written objection to Class Counsel and Discount Power's counsel by **[date]**. You may enter an appearance through an attorney if you so desire, but you do not have to do so. Complete details about how to object are set forth in the full Notice available on at [\[www.WEBSITE.com\]](http://www.WEBSITE.com).

**What if I do nothing?** If you do nothing, you will not be eligible for a payment. All Class Members that do not opt out will be bound by the settlement and the decisions of the Court, and will release Discount Power (and the other Released Parties defined in the Settlement Agreement available at [\[www.WEBSITE.com\]](http://www.WEBSITE.com)) from all Released Claims (as also defined in the Settlement Agreement).

**When is the Final Approval Hearing?** The Court will hold a hearing in this case to consider whether to approve the settlement at **\_:\_\_\_.m.** on **Month DD, 20YY**, at the Connecticut Superior Court, Judicial District of Hartford, Court Room No. **.000**, 95 Washington Street, Hartford, CT 06106. You may go to the hearing, but you do not have to.

**How do I get more information about the settlement?** This email Notice contains limited information about the settlement. For more information, to view additional settlement documents (including the Settlement Agreement and the full Notice), and to review additional information concerning your rights and/or the filing of a claim, visit [www.WEBSITE.com](http://www.WEBSITE.com) or call **1-XXX-XXX-XXXX**.

# **EXHIBIT C**

**NOTICE OF CLASS  
ACTION LAWSUIT  
AND PROPOSED  
SETTLEMENT**

THE COURT HAS  
AUTHORIZED  
THIS NOTICE

THIS IS NOT A  
SOLICITATION  
FROM A LAWYER

See important notice  
on the other side.

*Chandler v. Discount Power*  
**Claims Administrator**  
P.O. Box xxxxx  
City, ST xxxxxx-xxxx

«Barcode»

Postal Service: Please do not mark barcode

Claim#: DCX-«ClaimID»-«MailRec»

«First1» «Last1»

«CO»

«Addr2»

«Addr1»

«City», «St» «Zip»

«Country»

DCX

# **NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT**

**THE COURT HAS AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.**

**YOU MAY RECEIVE MONEY FROM A SETTLEMENT.**

- **If you were a customer of Discount Power, Inc. and paid a variable rate for electric supply services between June 1, 2013 and July 31, 2016, your rights may be affected by this class action settlement.**
- **Plaintiffs claim that the variable rates charged by Discount Power violate the terms of its contracts with its customers. The court has not decided who is right or wrong. Instead, the parties agreed to settle the case to avoid the risk and cost associated with further litigation.**
- **Eligible Class Members who submit a valid Claim Form will be eligible to receive a payment from the \$850,000 settlement fund.**
- **Go to [\[website\]](#) or call [1-8XX-XXX-XXXX](#) for more details.**

# **EXHIBIT D**

## Legal Notice

**If you were a customer of Discount Power, Inc.'s variable rate electricity supply services between June 1, 2013, and July 31, 2016, you could receive a cash payment from a class action settlement.**

A proposed settlement has been reached in a class action lawsuit captioned *Chandler and Conover v. Discount Power, Inc.*, Case No. HHD-CV14-6055537-S in the Superior Court of the State of Connecticut. The lawsuit alleges that Discount Power, Inc. ("Discount Power") falsely claimed in its contracts with customers that its variable rate for electricity supply services would fluctuate based on changes in the "wholesale power market," but in practice failed to decrease its variable rate when wholesale market rates went down. Discount Power denies all of Plaintiffs' claims and says that it did nothing wrong. The Court has not ruled on the merits of Plaintiffs' claims or Discount Power's defenses.

**Am I a Settlement Class Member?** You may be a Settlement Class Member if you were enrolled (either initially or through "rolling over" from a fixed rate plan) in a Discount Power variable rate electric plan in connection with a property located within Connecticut at any time from June 1, 2013, through and including July 31, 2016.

**What Does the Settlement Provide?** Discount Power has agreed to pay a total of \$850,000 into a Settlement Fund to pay cash awards to Settlement Class Members who file a valid claim, as well as (a) attorneys' fees (not to exceed one-third of the Settlement Fund), as well as costs and expenses; (b) incentive payments to the two lead plaintiffs (not to exceed \$2,000 each); and (c) third-party costs to provide notice and to administer the Settlement. If you are a Settlement Class Member, you may return a Claim Form to be eligible to receive a share of the Settlement Fund based upon the amount of variable rate electricity you used between June 1, 2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power's procurement cost for electricity exceeded the variable price at which it sold that electricity). Further details are available in the Settlement Agreement available at [www.WEBSITE.com](http://www.WEBSITE.com).

**What Are My Options?** To ask for a cash payment, you must submit a Claim Form by **Month DD, 20YY**. You may visit [www.WEBSITE.com](http://www.WEBSITE.com) to fill out a Claim Form online or to download a Claim Form that you can print and mail. You can also request that a Claim Form be mailed to you by calling 1-8NN-NNN-NNNN. If you wish to exclude yourself from the Class, you must do so by **Month DD, 20YY**. If you exclude yourself, you cannot get money from this Settlement, but you will keep your right to sue Discount Power for the same legal claims in this lawsuit. If you do not exclude yourself from the Class, you may object to the Settlement to the Settlement by **Month DD, 20YY**. If you do nothing, file a Claim Form or object to the Settlement, you will be bound by all of the Court's orders and judgments in this case and you will give up your right to sue Discount Power for the legal claims resolved by this Settlement and released by the Settlement Agreement. **Complete details about these options is available at [www.WEBSITE.com](http://www.WEBSITE.com).**

A Court authorized this notice. Before any money is paid, the Court will hold a hearing on **Month DD, 20YY** at the Connecticut Superior Court, Judicial District of Hartford, Court Room No. **000**, 95 Washington Street, Hartford, CT 06106 to decide whether to approve the Settlement and Settlement Class Counsel's request for fees and expenses. You may appear at the hearing, but you do not have to. You may also hire your own attorney, at your own expense, to appear to speak for you at the hearing.

**CLAIM FORMS MUST BE RETURNED BY **Month DD, 20YY**.**  
**QUESTIONS? VISIT [www.WEBSITE.com](http://www.WEBSITE.com) OR CALL **1-8NN-NNN-NNNN**.**

*Chandler v. Discount Power, Inc.*, No. X03 HHD-CV14-6055537-S

Affidavit of Seth R. Klein

# EXHIBIT B

IZARD, KINDALL & RAABE, LLP FIRM RESUME



## **FIRM RESUME**

Izard, Kindall & Raabe LLP ("IKR")<sup>1</sup> is one of the premier firms engaged in class action litigation on behalf of consumers, investors and employees. In the consumer area, the Firm has served or is serving as lead counsel in cases involving a variety of industries including banking, *Mathena v. Webster Bank, N.A.*, Civil Action No. 3:10-cv-01448-SRU (D. Conn), *Farb v. Peoples United Bank*, UWY-CV11-6009779-S (Conn Sup. Ct); *Forgione v. Webster Bank, N.A.*, No. X10-UWY-CV-12-6015956-S (Conn. Sup. Ct.); wholesale milk pricing, *Ice Cream Liquidation, Inc. v. Land O'Lakes, Inc.*, No. 02-cv-0377 (D. Conn.); book printing and distribution, *Booklocker.com, Inc. v. Amazon.com*, 08-cv-00160-JAW (D. Me); gasoline distribution, *Wyatt Energy v. Motiva Enterprises, LLC*, X01 cv 02-0174090-S (Conn. Super Ct); and electricity supply contracts, *Richards v. Direct Energy Services, LLC*, No. 3:14-cv-01724 (D. Conn.), *Chandler v. Discount Power*, No. X03-HHD-CV14-6055537 (Conn. Super. Ct.), *Edwards v. North American Power & Gas, LLC*, No. 3:14-cv-1714 (D. Conn.), *Gruber v. Starion Energy, Inc.*, No. 3:14-cv-01828 (D. Conn.), *Jurich v. Verde Energy, USA, Inc.*, No. HHD-cv-156060160 (Conn. Super. Ct.), *Sanborn v. Viridian Energy, Inc.*, No. 3:14-cv-01731 (D. Conn.), and *Steketee v. Viridian Energy, Inc.*, No. 3:15-cv-00585.

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<sup>1</sup> Formerly known as Izard Nobel LLP, Schatz Nobel Izard, P.C., and Schatz & Nobel, P.C.



IKR is also representing consumers of ramen noodles in an antitrust action (*In re Korean Ramen Antitrust Litig.*, No. C-13-04115 (N.D. Cal.), and purchasers of a variety of consumer products in unfair trade practice cases, including *Langan v. Johnson & Johnson Consumer Companies, Inc.*, Nos. 13-cv-01470 & 13-cv-01471 (D. Conn.), *Fagan v. Neutrogena Corp.*, No. EDCV 13-01316 (C.D. Cal.), *Morales v. Conopco Inc., d/b/a Unilever*, No. 2:13-cv-2213 (ED Cal.), and *Balser v. The Hain Celestial Group, Inc.*, No. 13-cv-5604 (C.D. Cal.).

The Firm's successful consumer practice is informed by our lawyers' work prior to joining IKR. Robert Izard represented an insurer in price-fixing litigation in various state courts and one federal court around the United States, while Seth Klein worked for the consumer protection department of the Connecticut Attorney General's Office. Our practice is also built upon the Firm's decades of experience in class action litigation where we have frequently served as lead or co-lead counsel, including:

- ) *Papanikolaou v. Value-Added Communications*, No. 3-95CV0346-H (N.D. Tex.);
- ) *Gorga v. Uniroyal Chemical Corp.*, No. CV-96-0132014-S (Conn. Super.);
- ) *David v. Simware, Inc.*, No. 96/602143 (N.Y. Sup.);
- ) *Butler v. Northstar Health Services, Inc.*, No. 96-701 (W.D. Pa.);
- ) *Allen v. Johansson*, No. 397CV02172 (RNC) (D. Conn.);
- ) *Feiner v. SS&C Techs.*, No. 397CV0656 (D. Conn.);
- ) *Berti v. Videolan Techs, Inc.*, No.3:97CV296H (W.D. Ky.);
- ) *Ganino v. Citizens Utilities Co.*, No. 398CV00480 (JBA) (D. Conn.);
- ) *Bunting v. HealthCor Holdings, Inc.*, No. 398CV0744-D (N.D. Tex.);

- ) *Hirsch v. PSS World Medical, Inc.*, No. 98 502 Civ. J20A (M.D. Fla.);
- ) *Kenneth Blau v. Douglas Murphy*, No. H 99 0535 (S.D. Tex.);
- ) *Angres v. Smallworldwide plc*, No. 99-K-1254 (D. Colo.);
- ) *In re Complete Mgmt., Inc. Sec. Litig.*, No. 99 Civ. 1454 (S.D.N.Y.);
- ) *Allain Roy v. dELiA's, Inc.*, No. 99 Civ. 3951 (JES) (S.D.N.Y.);
- ) *Russo v. KTI, Inc.*, No. 99-1780 (JAG) (D.N.J.);
- ) *Laborers Local 1298 Pension Fund v. Campbell Soup Co.*, No. 00-152 (JEL) (D.N.J.);
- ) *Hart v. Intern, the Wire*, No. 00 Civ. 6571 (S.D.N.Y.);
- ) *Ottmann v. Hanger Orthopedic Group, Inc.*, No. AW 00CV3508 (D. Md.);
- ) *In re PolyMedica Corp. Sec. Litig.*, No. 00-12426-REK (D. Mass.);
- ) *Karl L. Kapps v. Torch Offshore, Inc.*, No. 02-CV-0582 (E.D. La);
- ) *In re Cable and Wireless, PLC, Sec. Litig.*, No. 02-1860 (E.D. Va);
- ) *In re Alloy, Inc. Sec. Litig.*, Case No. 03-CV-1597 (S.D.N.Y.);
- ) *In re Surebeam Corporation Sec. Litig.*, No. 03-CV-1721 (S.D. Cal.);
- ) *In re Primus Telecoms. Group, Inc. Sec. Litig.*, Master Case No. 04-970-A (E.D. Va.);
- ) *In re Netopia Sec. Litig.*, Case No. C 04-3364 (N.D. Cal);
- ) *Malasky v. IAC/InterActive Corp.*, Case No. 04-CV-7447 (S.D.N.Y.);
- ) *In re Supportsoft, Inc. Sec. Litig.*, No. C 04-5222 SI (N.D. Cal.);
- ) *Berson v. Applied Signal Tech. Inc.*, No. 4:05-cv-01027-SBA (N.D. Cal.);
- ) *The Cornelia I. Crowell GST Trust v. Pemstar, Inc.*, No. 05-CV-1182 (D. MN);
- ) *UFCW Local 880 Retail Food Employers Joint Pension Fund v. Newmont Mining Corp.*, No. 05-CV-01046 (D. Colo.);
- ) *Aviva Partners v. Exide Techs.*, No. 3:05-CV-03098 (D. NJ);
- ) *In re Veritas Software Corp. Sec. Litig.*, No. 04-831 (D. Del.);

- ) *In re Ionatron, Inc. Sec. Litig.*, No. 06-354 (D. AZ);
- ) *In re FX Energy, Inc. Sec. Litig.*, No. 2:07-CV-00874 (D. UT);
- ) *In re First Virtual Communications, Inc. Sec. Litig.*, No. C-04-3585MJJ (N.D. Cal.);
- ) *Melms v. Home Solutions of America*, No. 3:07-CV-1961-N (N.D. Tex.);
- ) *In re: McDermott Int'l, Inc. Sec. Litig.*, No. 1:08-cv-09943-DC (S.D.N.Y. 2008);
- ) *Desai v. Bucksbaum*, No. 09-CV-487 (N.D. IL.);
- ) *Bauer v. Prudential, Inc.*, No. 09-cv-1120 (JLL) (D.NJ); and
- ) *Klugmann v. American Capital Ltd.*, No. 09-CV-0005 (D. Md.).
- ) *Overby v. Tyco Int'l, Ltd.*, No. 02-CV-1357-B (D.N.H.);
- ) *In re Reliant Energy ERISA Litig.*, No. H-02-2051 (S.D. Tex.);
- ) *In re AOL Time Warner, Inc. Sec. and ERISA Litig.*, MDL Docket No. 1500 (S.D.N.Y.);
- ) *Furstenau v. AT&T*, Case No. 02 CV 8853 (D.N.J.);
- ) *In re AEP ERISA Litig.*, Case No. C2-03-67 (S.D. Ohio);
- ) *In re JDS Uniphase Corp. ERISA Litig.*, Civil Action No. 03-4743-CW (N.D. Cal.);
- ) *In re Sprint Corporation ERISA Litig.*, Master File No. 2:03-CV-02202-JWL (D. Kan.);
- ) *In re Cardinal Health, Inc. ERISA Litig.*, Case No. C 2-04-642 (S.D. Ohio);
- ) *Spears v. Hartford Fin. Svcs Group. Inc.*, No. 04-1790 (D. Conn.);
- ) *In re Merck & Co., Inc. Sec., Derivative and ERISA Litig.*, MDL No. 1658 (D.N.J.);
- ) *In re Diebold ERISA Litig.* No. 5:06-CV- 0170 (N.D. Ohio);
- ) *In re Bausch & Lomb, Inc. ERISA Litig.*, Master File No. 06-CV-6297-MAT-MWP (W.D.N.Y.);
- ) *In re Dell, Inc. ERISA Litig.*, Case No. 06-CA-758-SS (W.D. Tex.);

- ) *In re First American Corp. ERISA Litig.*, SA-CV07-1357 (C.D. Cal.);
- ) *In re Hartford Fin. Svcs Group. Inc. ERISA Litig.*, No. 08-1708 (D. Conn.);
- ) *In re Merck & Co., Inc. Vytorin ERISA Litig.*, MDL No. 1938, 05-CV-1974 (D.N.J.);
- ) *Mayer v. Administrative Committee of Smurfit Stone Container Corp.*, 09-CV-2984 (N.D. IL.);
- ) *In re YRC Worldwide ERISA Litig.*, Case No. 09-CV-02593 (D. Kan);
- ) *Board of Trustees v. JP Morgan Chase Bank*, Case No. 09-cv-9333 (S.D.N.Y.);
- ) *White v. Marshall & Ilsley Corp.*, No. 10-CV-00311 (E.D. Wis.);
- ) *Griffin v. Flagstar Bancorp, Inc.*, No. 2:10-CV-10610 (E.D. Mich.);
- ) *In re Eastman Kodak ERISA Litig.*, Master File No. 6:12-cv-06051-DGL (W.D.N.Y.);
- ) *Kemp-DeLisser v. Saint Francis Hospital and Medical Center*, Civil Action No. 3:15-cv-01113-VAB;
- ) *Tucker v. Baptist Health System, Inc.*, Case No. 2:15-cv-00382-SLB (N.D.AL.);
- ) *Malone v. TIAA*, No. 1:15-cv-8038 (PKC)(S.D.N.Y.);
- ) *Wood v. Prudential Retirement Insurance and Annuity Company*, No. 3:15-cv-1785 (VLB) (D.Conn.);
- ) *Lau v. Metropolitan Life Insurance Company*, No. 1:15-cv-9469 (SAS) (S.D.N.Y.);
- ) *Bishop-Bristol v. Massachusetts Mutual Life Insurance Company*, No. 3:16-cv-139(SRU) (D. Conn.);
- ) *Matthews v. Reliance Trust Company*, No. 1:16-cv-04773 (N.D. Ill.);
- ) *In re Disney ERISA Litig.*, Master File No. 2:16-CV-2251-PA (JCx) (C.D. Cal.);
- ) *Brace v. Methodist Le Bonheur Healthcare*, No. 16-cv-2412-SHL-tmp (W.D. Tenn.);

- ) *Nicholson v. Franciscan Missionaries of our Lady Health Systems*, No. 16-CV-258-SDD-EWD (M.D. LA);
- ) *In re Mercy Health ERISA Litig.*, No. a:16-cv-441 (S.D. Ohio); and
- ) *Negron v. Cigna Corp.*, No. 3:16-cv-01702 (D. Conn.).

Our notable successes include settlements against Saint Francis Hospital & Medical Center (\$107 million), AOL Time Warner (\$100 million); Tyco International (\$70.5 million); Merck (\$49.5 million); Cardinal Health (\$40 million); and AT&T (\$29 million). Moreover, IKR was on the Executive Committee in *In re Enron Corporation Securities and ERISA Litig.*, No. 02-13624 (S.D. Tex.), which resulted in a recovery in excess of \$250 million.

IKR's successful prosecution of class actions has been recognized and commended by judges in numerous judicial districts. In the *Tyco ERISA* litigation, Judge Barbadoro commented:

I have absolutely no doubt here that the settlement is fair, reasonable and adequate. I think, frankly, it's an extraordinary settlement given the circumstances of the case and the knowledge that I have about the risks that the plaintiff class faced in pursuing this matter to verdict . . . . [I]t was a very, very hard fight and they made you work for everything you obtained on behalf of the Class here....

I have a high regard for you. I know you to be a highly experienced ERISA class action lawyer. You've represented your clients aggressively, appropriately and effectively in this litigation, and I have a high degree of confidence in you so I don't think there's any question that the quality of counsel here is a factor that favor's the Court's endorsement of the proposed settlement. . . .

I have enjoyed working with you in this case. You've always been helpful. You've been a gentleman. You've been patient when I've been working on other matters. .

*In re Tyco Int'l Ltd. Sec. Litig.*, Case No. 02-1335 (D.N.H. Nov. 18, 2009). Similarly, in approving the Sprint ERISA settlement, Judge Lungstrum found, "[t]he high quality of [IKR's] work culminated in the successful resolution of this complex case" and that "the results obtained by virtue of the settlement are extraordinary. . . ." *In re Sprint Corp. ERISA Litig.*, No. 03-2202 (D. Kan. Aug. 3, 2006). A Special Master appointed in the AOL Time Warner ERISA case commented that obtaining an additional \$30 million for the class stood out as "some of the hardest work and most outstanding results" obtained by IKR and its co-counsel. *In re AOL Time Warner, Inc. Sec. and ERISA Litig.*, No. 02-CV-1500 (S.D.N.Y), Report & Recommendation of Special Master dated August 7, 2007. The District Court's decision approving the settlement negotiated by IKR in the St. Francis litigation similarly found the result to be "an extremely favorable one for the class," noting that the recovery achieved by the settlement represented over 76 percent of the amount by which the retirement plan was alleged to be underfunded. *Kemp-DeLisser v. Saint Francis Hosp. & Med. Ctr.*, No. 15-CV-1113 (VAB), 2016 WL 6542707, at \*10 (D. Conn. Nov. 3, 2016). The Court also noted that IKR's time and efforts "resulted in an extremely efficient and favorable resolution of the case." *Id.* at \*5.

## **ATTORNEYS**

**Robert A. Izard** heads the firm's ERISA team and is lead or co-lead counsel in many of the nation's most significant ERISA class actions, including cases against Merck, Tyco International, Time Warner, AT&T and Sprint among others. Mr. Izard has substantial experience in other types of complex class action and commercial

litigation matters. For example, he represented a class of milk purchasers in a price fixing case. He also represented a large gasoline terminal in a gasoline distribution monopolization lawsuit.

As part of his twenty plus years litigating complex commercial cases, Mr. Izard has substantial jury and nonjury trial experience, including a seven-month jury trial in federal district court. He is also experienced in various forms of alternative dispute resolution, including mediation and arbitration, and is a Distinguished Neutral for the CPR Institute for Dispute Resolution.

Mr. Izard is the author of *Lawyers and Lawsuits: A Guide to Litigation* published by Simon and Schuster and a contributing author to the *Mediation Practice Guide*. He is the former chair of the Commercial and Business Litigation Committee of the Litigation Section of the American Bar Association.

Mr. Izard received his B.A. from Yale University and his J.D., with honors, from Emory University, where he was elected to the Order of the Coif and was an editor of the *Emory Law Journal*.

**Mark P. Kindall** joined the firm in 2005. Since joining the firm, he has represented clients in many significant class action cases, including ERISA litigation against AOL Time Warner, Kodak and Cardinal Health, consumer fraud cases against Johnson & Johnson, Unilever and Neutrogena, securities fraud litigation against SupportSoft, American Capital and Nuvelo, and bank overdraft fee litigation against Webster Bank and People's United Bank. Mr. Kindall successfully argued the 2008 appeal of *Berson v. Applied Signal Tech. Inc.*, 527 F.3d 982 (9th Cir. 2008), and the 2015 appeal of *Balser v. The Hain Celestial Group*, No. 14-55074,

2016 WL 696507 (9th Cir. 2016), which clarified standards for victims of securities and consumer fraud, respectively.

Mr. Kindall was a lawyer at Covington & Burling in Washington, D.C. from 1988 until 1990. In 1990 he joined the United States Environmental Protection Agency as an Attorney Advisor. He represented the U.S. government in international negotiations at the United Nations, the Organization for Economic Cooperation and Development and the predecessor of the World Trade Organization, and was a member of the U.S. Delegation to the United Nations Conference on Environment and Development (the "Earth Summit") in Rio de Janeiro in 1992. From 1994 until 2005, Mr. Kindall was an Assistant Attorney General for the State of Connecticut, serving as lead counsel in numerous cases in federal and state court and arguing appeals before the Connecticut Supreme Court and the United States Court of Appeals for the Second Circuit.

Mr. Kindall has taught courses in appellate advocacy, administrative law and international environmental law at the University of Connecticut School of Law. He is admitted to practice in Connecticut, California, and the District of Columbia. He is also a member of the bar of the United States Supreme Court, the U.S. Courts of Appeals for the Second, Ninth, and D.C. Circuits, and the United States District Courts for Connecticut, the District of Columbia, the Eastern District of Wisconsin, the Central District of Illinois, and all District Courts in New York and California.

Mr. Kindall is a 1988 graduate of Boalt Hall School of Law at the University of California at Berkeley, where he served as Book Review Editor of the California Law Review and was elected to the Order of the Coif. He has a bachelor's degree in



history with highest honors from the University of California at Riverside, and he also studied history at the University of St. Andrews in Scotland.

**Craig A. Raabe** joined the partnership in 2016 from a large, regional law firm, where he previously served as the chair of the litigation department. Mr. Raabe has tried many complex civil and criminal cases. He is a Fellow in the American College of Trial Lawyers. He has been listed in The Best Lawyers in America© in the areas of Commercial Litigation and Criminal Defense since 2006 (Copyright 2014 by Woodward/White, Inc., Aiken, SC). Mr. Raabe's commercial trial experience is broad and includes areas such as antitrust, government contracting, fraud, intellectual property, and unfair trade practices. He also has tried many serious felony criminal cases in state and federal court and is active in the criminal defense trial bar. In addition to his trial practice, Mr. Raabe counsels clients on compliance issues and the resolution of regulatory enforcement actions by government agencies.

By appointment of the chief judge of the Second Circuit, Mr. Raabe has served on the Reappointment Committee for Connecticut's federal defender, and the chief judge of the Connecticut district court appointed him to chair the United States Magistrate Reappointment Committee in Connecticut. In 2012, the Connecticut district court judges selected Mr. Raabe for the district's Pro Bono Award for his service to indigent clients. In addition, he is listed as one of the Top 50 Lawyers in Connecticut by Super Lawyers® 2012 (Super Lawyers is a registered trademark of Key Professional Media, Inc.).

Mr. Raabe is admitted to practice in the U.S. Supreme Court, the Courts of Appeals for the First, Second, and D.C. Circuits, the U.S. District Courts for Connecticut and the Eastern and Southern Districts of New York, the U.S. Tax Court and the state of Connecticut. He is an honors graduate of Valparaiso University and Western New England College of Law, where he served as Editor-in-Chief of the Law Review. Following graduation, Mr. Raabe served as the law clerk for the Honorable Arthur H. Healey of the Connecticut Supreme Court.

Mr. Raabe is a commercial, instrument-rated pilot and is active in general aviation. He serves as a volunteer pilot for Angel Flight Northeast, which provides free air transportation to people requiring serious medical care.

**Seth R. Klein** graduated *cum laude* from both Yale University and, in 1996, from the University of Michigan Law School, where he was a member of the Michigan Law Review and the Moot Court Board and where he was elected to the Order of the Coif. After clerking for the Hon. David M. Borden of the Connecticut Supreme Court, Mr. Klein served as an Assistant Attorney General for the State of Connecticut, where he specialized in consumer protection matters and was a founding member of the office's electronic commerce unit. Mr. Klein thereafter joined the reinsurance litigation group at Cadwalader, Wickersham & Taft LLP in New York, where he focused on complex business disputes routinely involving hundreds of millions of dollars. At IKR, Mr. Klein's practice continues to focus on consumer protection matters as well as on complex securities and antitrust litigation.

**Douglas P. Needham** received his Bachelor of Science degree from Cornell University in 2004 and his Juris Doctorate from Boston University School of Law in 2007. At Boston University, Mr. Needham was the recipient of a merit scholarship for academic achievement and a member of the school's Moot Court Team. Mr. Needham practiced law for six years in Syracuse, New York, devoting his practice to trial and appellate litigation in state and federal court. He moved to Connecticut in May of 2013 to join LeClair Ryan, A Professional Corporation, and became a partner at that firm in 2014. At LeClair Ryan, Mr. Needham prosecuted and defended a variety of business tort claims, including many for breach of fiduciary duty and fraud, in Connecticut, New York and Massachusetts.

Mr. Needham joined IKR in 2016. His practice focuses on fiduciary litigation under ERISA as well as consumer protection and fraudulent business practices.

**Christopher M. Barrett** has been an integral member of litigation teams responsible for securing monetary recoveries on behalf of plaintiffs that collectively exceed \$150 million. In 2015, he was selected by Super Lawyers magazine as a Rising Star. Super Lawyers Rising Stars recognizes top up-and-coming attorneys who are 40 years old or younger, or who have been practicing for 10 years or less.

Prior to joining the Firm, Mr. Barrett was associated with Robbins Geller Rudman & Dowd, where his practice focused on prosecuting class actions on behalf of plaintiffs, and Mayer Brown, where his practice focused on complex commercial litigation.

Mr. Barrett received his J.D., magna cum laude, from Fordham University School of Law where he served as a member of the Fordham Law Review, and was

inducted into the Order of the Coif and the honor society Alpha Sigma Nu. For his work in the law school's law clinic, he was awarded the Archibald R. Murray Public Service Award. He earned his B.S. in Finance from Long Island University. During law school, Mr. Barrett served as a judicial intern to two United States District Judges (S.D.N.Y. and E.D.N.Y.) and a New York Supreme Court Justice.

*Chandler v. Discount Power, Inc.*, No. X03 HHD-CV14-6055537-S

Affidavit of Seth R. Klein

# EXHIBIT C

AFFIDAVIT OF HOLLY CHANDLER



I, Holly Chandler, allege and swear as follows:

1. I am the named Plaintiff in this action and a resident of the State of Connecticut. I am submitting this Declaration in support of Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Case Contribution Awards.

2. In August of 2013 I received a telephone solicitation from Discount Power which led me to switch my electricity supply contract from CL&P to Discount. I agreed to a variable rate contract, with the rate for the first month being 6.99 cents per kilowatt hour. I cancelled my contract with Discount in January of 2014 because their variable rates skyrocketed during the time that I was enrolled with them.

3. After cancelling my Discount Power contract, I filed a complaint with the Connecticut Attorney General's Office because I believed that Discount's pricing was unfair and I hoped that someone would look into it. I did not hear back from the Attorney General's Office.

4. In November of 2014, I hired Robert Izard and Seth Klein to file a lawsuit on behalf of me and all of the other consumers who were injured by Discount Power's pricing practices. I agreed to bring the case on behalf of a class of consumers, and understood that I would have an obligation to do what was best for the class, to keep on top of what was going on in the lawsuit, provide information about my own situation, have my deposition taken and testify at trial if necessary, and discuss any settlement offers with my lawyers.

5. Mr. Izard and Mr. Klein talked with me about my experience with Discount Power and reviewed the rates that I had been charged. They drafted a complaint for my review and filed it in court after I had approved it.

6. During the course of the litigation, I kept in touch with Mr. Izard and Mr. Klein





*Chandler v. Discount Power, Inc.*, No. X03 HHD-CV14-6055537-S

Affidavit of Seth R. Klein

# EXHIBIT D

AFFIDAVIT OF DEVON ANN CONOVER



I, Devon Conover, allege and swear as follows:

1. I am a named Plaintiff in this action and a resident of the State of Connecticut. I am submitting this Declaration in support of Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Case Contribution Awards.

2. My husband and I were customers of Discount Power in late 2013 and early 2014. I was very upset with the variable rate that I was charged, and complained to both the Public Utilities Regulatory Authority and to my State Representative about it. I was interviewed by a local reporter concerning my experiences with Discount Power in 2014.

3. In November of 2014, I spoke with Robert IZARD from IZARD Nobel LLP about participating in a class action lawsuit over Discount Power's pricing practices. After talking with him about the roll of a class representative, I agreed to participate and signed a retainer agreement. I understood that I would have a duty to represent the interests of all of Discount Power's customers who were affected by the pricing practices. I knew that I would need to stay informed about what was going on in the lawsuit, provide information concerning my experience with Discount Power, sit for a deposition, testify at trial if necessary, and discuss any settlement offers with my lawyers.

4. I reviewed the draft complaint that the lawyers set to me for review and authorized them to file it.

5. I stayed in contact with Mr. IZARD and the attorneys at his office, especially Seth Klein, during the whole time that the case was going forward. I searched for documents that Discount Power had requested and provided what I had to my lawyers. I met with Mr. Klein to prepare for my deposition, and I was deposed by an attorney for Discount Power in February of



*Chandler v. Discount Power, Inc.*, No. X03 HHD-CV14-6055537-S

Affidavit of Seth R. Klein

# EXHIBIT E

AFFIDAVIT OF SCOTT DECARLO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

DOCKET NO. X03 HHD-CV14-6055537-S

HOLLY CHANDLER AND  
DEVON ANN CONOVER,

Plaintiff,

v.

DISCOUNT POWER, INC.

Defendant.

SUPERIOR COURT

COMPLEX LITIGATION DOCKET

AT HARTFORD

**AFFIDAVIT ON BEHALF OF SETTLEMENT ADMINISTRATOR**  
**IN SUPPORT OF MOTION FOR FINAL APPROVAL**

I, SCOTT DICARLO, declare:

1. I am employed as a senior project manager of the Class Action Group at Kurtzman Carson Consultants (“KCC”). KCC (along with Rosenthal & Company, which was acquired by KCC in 2010, and Gilardi & Co. LLC acquired by KCC in 2015) has been retained to administer more than 5,000 actions and has distributed more than \$22 billion in assets. As part of these actions, KCC has provided noticing solutions in cases with class members that range in numbers from 22 to over 22 million, and has distributed settlement payments totaling well over two billion dollars in the aggregate.

2. On December 27 2016, KCC commenced the Notice Plan. The Notice Plan consisted of initial email notice to 18,483 email addresses and postcard notice to 19,849 postal addresses. A total of 16,078 emailed notices (86.99%) were delivered successfully, and KCC mailed 2,405 additional postcards on January 6, 2017 to those records where emailed notices were not confirmed as delivered.

3. To date, KCC has received a total of 1,066 mailed notices returned as undeliverable. The undeliverable notices were put through the Accurint address search service to identify updated addresses. Of these 1,066 records, 637 records were updated with new addresses and 429 records remain undeliverable. The current percentage of deliverable postal addresses is 98.07%.

4. Accordingly, the estimated percentage of the class who received a personal notice is 98.88% based on the current total of notices returned as undeliverable via post and email. To ensure maximum notice to potential class members, KCC also on January 11, 2017, caused the Publication Notice to be published in the *Harford Courant* in accordance with the Notice Plan. A true and correct copy of the Publication Notice is attached hereto as Exhibit A.

5. On December 27, 2016, when notice commenced, KCC established the Settlement Website for this case, at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com). On the Settlement Website, Class Members were able to view and print copies of the Notice, Postcard Notice, Email Notice, Claim Form, Order Granting Preliminary Approval, Settlement Agreement, Complaint, Answer, and consult answers to Frequently Asked Questions. The mailing address for administration of this case was also posted on the Settlement Website through a "Contact Us" link along with a toll free telephone number and email address established and maintained by the administrator. Class Members were also able to file a claim on the Settlement Website through an online web interface.

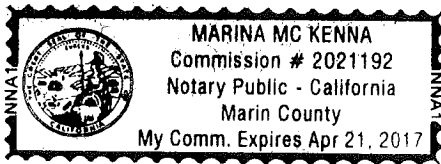
6. A true and correct copy of the Notice, Postcard Notice, Email Notice, and Claim Form are available on the Settlement Website and are also attached hereto as Exhibit B, Exhibit C, Exhibit D, and Exhibit E, respectively. The Court-approved Notice provided to the Settlement Class informed them of, among other things: (1) information about the Action, the

Settlement, and the release; (2) deadlines for Settlement Class Members to opt out of the Settlement, or object to the Settlement; (3) the date and location of the Fairness Hearing; and (4) Settlement Class Members were informed that they needed to file a claim in order to receive a settlement payment as part of the Settlement Agreement.

7. The postmark deadline for submitting a Request for Exclusion is February 27, 2017. To date, KCC has received no Requests for Exclusion.

8. The postmark deadline for submitting an Objection to the Settlement is February 27, 2017. To date, KCC has received no Objections.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 30th day of January, 2017 at San Rafael, California.



  
SCOTT DICARLO

State of California

County of Marin

On January 30, 2017 before me, Marina McKenna Notary Public, personally appeared Scott DiCarlo who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the state of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

A handwritten signature in black ink, consisting of a large, stylized initial 'V' followed by a cursive 'er', written over a horizontal line.

# **EXHIBIT A**

# CTshopsHere

Buy. Sell. Save.

## Stuff

### Antiques/Collectibles

**NASCAR ART LIMITED EDITION PRINTS** Earnhardt, Johnson, Gordon, Bodine, others, \$450/each. Lou 860-623-9570

### Auctions

**B&S AUCTION SERVICE**  
Est. 1946. ANTIQUES & ESTATES BOUGHT OR SOLD ON COMM.  
No lot too large or too small  
Tel. 860-342-2540  
Thomas Barrows & Sons  
350 Main Street Portland, CT

## Stuff

**6 FT TOBAGGAN** Padded toboggan 6 ftx12 (860)828-5258

**BLACK-METAL** Quad-Cane \$15.00 cash 860-573-9537

**BLACK-METAL** Quad-Cane \$15.00 cash 860-573-9537

**CANE** Only \$ 7.00 cash 860-573-9537

**CUB CADET SNOWBLOWER** 12hp. 28" cut. P/S. like new condition. \$1,875. 860-872-3569

**FIREWOOD/HARDWOOD** 1 cord - \$225 delivered. 1/2 cord - \$125 delivered. 860-633-6612

**FOREVER STAMPS** U.S.P.S booklets of 20, \$8/booklet. Cash only. 860-521-7254, lv msg.

**HANDCRAFTED DOLL HOUSE** Large doll house \$100 (860)828-5258

**JAZZ RECORDS WANTED** by collector. Will pay cash. Mike 860-345-2003

**LEATHER RECLINER** Good cond. \$50. 860-643-0292

**MEN'S BOOTS 2 PAIR SZ 9.5** Men's work boots \$12 ea (860)828-5258

**SHED** Built on site, base prep incl. ctshedsbuiltonsite.com 860-228-2003

**STANLEY STEEL DOOR** 36 in steel door \$25 (860)828-5258

**SUEDE RECLINER** good cond. \$50. 860-643-0292

**TREE WORK** Take down, climbing, stump removal, saw mill service. Free written est. 860-633-6612

**WHITE PLASTIC** showerbench \$35.00 cash as is 860-573-9537

**XMAS TREE** Macy's 7 ft prelit Xmas tree \$25 (860) 828-5258

## Wanted To Buy

• Tree Removal  
• Chipping  
• Debris Removal  
• Saw Milling  
• Mulch  
• Stump Grinding  
• Land Clearing  
• Site Preparation  
• Dredging  
• Excavation  
• Foundation Repair  
• Foundation Underpinning  
• Foundation Walling  
• Foundation Retention  
• Foundation Anchoring  
• Foundation Bracing  
• Foundation Strengthening  
• Foundation Waterproofing  
• Foundation Insulation  
• Foundation Sealing  
• Foundation Cracking  
• Foundation Settlement  
• Foundation Tilting  
• Foundation Rot  
• Foundation Spalling  
• Foundation Delamination  
• Foundation Reinforcement  
• Foundation Repair  
• Foundation Replacement  
• Foundation Removal  
• Foundation Installation  
• Foundation Construction  
• Foundation Maintenance  
• Foundation Inspection  
• Foundation Testing  
• Foundation Monitoring  
• Foundation Protection  
• Foundation Preservation  
• Foundation Restoration  
• Foundation Rehabilitation  
• Foundation Renovation  
• Foundation Refinishing  
• Foundation Refurbishing  
• Foundation Refitting  
• Foundation Refabricating  
• Foundation Reframing  
• Foundation Refinishing  
• Foundation Refurbishing  
• Foundation Refitting  
• Foundation Refabricating  
• Foundation Reframing

**1 BUY VINTAGE ELECTRONICS**  
OLD TOYS, MILITARY JEWELRY, ADVERTISING WATCHES, SPORTS MEMORABILIA, OLD STUFF, ANTIQUES, GUITARS, AMPS, TUBE HI-FI, RECORDERS, AUDIO EQ, RADIOS, HAM, CB, SAXOPHONES & MANY OTHER OLD ITEMS!  
CALL 860-707-9350

**BUYING** Toys · Baseball & Political Memorabilia · Antiques · Postcards · Jewelry · oil,gas,beer cans,sigs · Comic Books · License Plates · Trains · Attic?? · 860-817-4350

**BUYING COLT MFG. CO. HARTFORD**  
Related Items. Call 860-874-8396

**BUYING MACHINIST TOOLBOXES**  
tools & tooling, contents of machine shops, carbide inserts and small lathes. Call anytime 860-985-5760

## CITY RECYCLING

Will buy your scrap steel, copper, aluminum, cars and trucks. 30 Fishry St., Hartford. Call 860-522-9273

**PRATT & WHITNEY ITEMS WANTED**  
Hamilton Standard, Sikorsky, Kaman UTC. Anything related. 860-874-8396

**WANTED TO BUY** Old toys, trains, & games for my collection. Please call Ken at: 860-834-2168

## Announcements

## Lost/Found

**IMPOUND** - Impounded 01/04/2017 White dog Bloomfield Animal Control 860-242-5501 x 5450

**LOST RINGS IN MANCHESTER**  
Plaza Parking lot. 3 old silver ring w/ small diamonds & 1 thin silver band ring w/ cutouts. Reward. 860-558-5877

## Real Estate

### Rentals

**EAST GRANBY** 1 & 2 BR apartments available. Call 860-677-1381

**HARTFORD** Studio \$585, 1BR \$700, 2BR \$875. Well-kept, elev building, ht/hw included, parking available. No Pets. 860-549-3181

**HARTFORD**  
Large 4BR apt with 2 full baths, private entry, yard, full bsmt with washer/dryer hookup. Rent based on income. Also, 2BR with full bsmt, yard, and w/d hookup \$900/mo. 860-728-0073. EHO

**NEW BRITAIN**  
1 bedrooms \$825.00 incl heat, h water, cooking gas, 24 hr emergency maint, 24 hr laundry facility on site. Holiday special. \$500.00 off 1 month. 860-223-8866

**SIMSBURY** 1 & 2 BR apts, Twnshes, flats, some w/ garages. Call 860-677-1381

## Office Space / Retail

**WETHERSFIELD** Prime office space available 300 sq. ft. to 2,500 sq. ft. \$15 /sq. ft. gross. 1 year lease, 3 months free. Call (860) 529-5158

## Auto & SUV's

**ACURA MDX ADVANCE PACKAGE AWD 2016** - \$34,995 4dr SUV, new cond. AT/AC 4k. 860-299-5153

**CHEVROLET AVEO 2005** - \$4400 Auto. 47k mil. 4dr. 860-325-2021

**CHEVROLET CAVALIER 4DR 2004** - \$1,995, runs great. 860-978-9644

**CHEVROLET NOVA 1972** - \$17000 CASH, FIRM, 2dr sedan, Med. met. blue, new paint, uphol. & sus. 860-944-5681 860-583-1484

**CHRYSLER 300 touring 2007** - \$9995 Mint 51k White exterior light Greystone leather interior. 3.5l v6 remote keyless entry, heated front seats 8604902524 leave message

**FORD FOCUS ZX3 2006** - \$3500 2 dr hatchback, AT/AC, power, alloys, sunroof. 45k. 860-299-5153

**FORD FOCUS WAGON 2002** - \$2450 112k mi. AT, AC, PW 860-559-6449

**FORD MUSTANG 1995** - \$4300 OBO, Convertible, black, runs very good. 860-289-7680

**FORD THUNDERBIRD Convertible Deluxe 2003** - \$12,500 Excellent condition, black ext./int. 69,000 miles, automatic, Work 860-404-5095 or Cell: 860-462-1502

**HONDA CIVIC LX 2014** - \$10995 2dr coupe, AT/AC, black w/ grey int., 5k. Like new cond. 860-299-5153

**HONDA CIVIC EX 2012** \$8,900 Auto, 4 cyl, 63k mi. 860-890-8449

**HONDA CIVIC LX 2012** - \$8995 4dr Excellent condition, sedan, at/ac, power, 60k miles. 860-299-5153

**HYUNDAI ACCENT 2009** - \$3800 86000 mi. 860-817-7158

**JEEP GRAND CHEROKEE Limited 1999** - \$1500 As is! Gray 200k+ miles. Runs. 860-828-1029

**LEXUS ES 300 2001** - \$3400 obo. Runs very good, auto, new tires/brakes/struts, 155k, remote starter. 860-202-6272 or 860-805-5621

**MERCEDES-BENZ SL-CLASS 560 1988** \$12,000 88k mi. Black ext., burgundy/leather int., sun roof, automatic, alarm system, fully equipped, garage kept, One owner. Beautiful. Well kept! 860-915-2427

**MERCURY SABLE LS 2003** - \$5300 OBO Silver 4dr. 78k miles. 860-938-3773

**NISSAN MAXIMA GLE 2002** - \$6000 Negotiable Exc cond., leather int, heated seats/steering, all power, moon roof, many extras, 110k mi, 860-875-5277

**NISSAN MAXIMA 2002** - \$1,850 OBO.Silver. New alt., brakes, muffler, tune-up, Runs great. 182k mi. 860-573-1154

**NISSAN VERSA SV 2012** - \$7995 4DR, sedan, excellent condition, at/ac, power, 20k mi., 860-299-5153

**SUBARU IMPREZA OUTBACK SPORT AWD 2015** - \$15495 4dr hatch, AT/AC, 2k, A/c, power, 860-299-5153

**SUBARU LEGACY 2009** - \$7,400 AWD, Auto, 95K/mi 860-518-3031

**TOYOTA CAMRY ZX3 1998** - \$1000 2.4L, 4cyl, 4dr sedan, AT/AC, 200k, runs & drives. 860-299-5153

**TOYOTA COROLLA 2005** - \$4700 Auto. 76,000miles 860-890-8494

**TOYOTA COROLLA VE 1998** - \$1000 1.8L, 4 cyl, 4dr sed, AT/AC, 240k, Runs & drives 860-299-5153

**TOYOTA RAV4 LT 2015** - \$21495 SUV AT/AC, All power, Exc. cond. 8k 860-299-5153

**VOLVO S60 2004** - \$4795 4dr sedan, leather, wood trim, at/ac, all power, 80k miles, 860-299-5153

## Antiques/Classics

**CHEVROLET IMPALA 2 DR H.T. 1964** - \$16,000 350HP Restored. Must See. Lou 860-623-9570

## AT YOUR SERVICE

**AT Your Service**  
HCR Heating, Cooling & Electrical  
Call Glen  
860-961-1335

**EAST COAST ESTATE LIQUIDATORS:**  
Jon 860-201-0059

**HOME & ESTATE** Cleanouts. Great rates. Call 860-234-7817. Fully insured.

**WWW.GCCLCCOM.COM** Home and Office cleaning, 860-299-5153

To advertise, call 860-525-2525 or placeanad.courant.com

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**SUBARU LEGACY 2009** - \$7,400 AWD, Auto, 95K/mi 860-518-3031

**TOYOTA CAMRY ZX3 1998** - \$1000 2.4L, 4cyl, 4dr sedan, AT/AC, 200k, runs & drives. 860-299-5153

**TOYOTA COROLLA 2005** - \$4700 Auto. 76,000miles 860-890-8494

**TOYOTA COROLLA VE 1998** - \$1000 1.8L, 4 cyl, 4dr sed, AT/AC, 240k, Runs & drives 860-299-5153

**TOYOTA RAV4 LT 2015** - \$21495 SUV AT/AC, All power, Exc. cond. 8k 860-299-5153

**VOLVO S60 2004** - \$4795 4r sedan, leather, wood trim, at/ac, all power, 80k miles, 860-299-5153

## Auto / Truck Wanted

**CITY RECYCLING**  
Will buy your scrap steel, copper, aluminum, cars and trucks. 30 Fishry St., Hartford. Call 860-522-9273

## PUBLIC NOTICES

### Connecticut

Request For Proposals  
RFP #02-1701

The State of Connecticut Judicial Branch invites experienced property management firms to submit quotations to provide 24 hour facility management, operation and maintenance services for Region 3 - Middletown, Meriden and New Haven Judicial District properties.

A Mandatory Pre-Bid Conference will be held on **Friday, February 3, 2017**. Further details are available in the RFP document.

Sealed proposals must be received by **Friday, February 24, 2017** no later than 2:30 p.m. Immediately thereafter all proposals will be publicly opened. Late proposals will **NOT** be accepted.

VENDORS CURRENTLY REGISTERED UNDER THE STATE'S SMALL BUSINESS SET-ASIDE PROGRAM ARE ENCOURAGED TO BID.

Proposal package may be obtained at Judicial Purchasing Services at: 90 Washington Street, 4th Floor, Hartford, CT or call (860) 706-5200 to request by mail, or access the web site below.

www.jud.ct.gov/external/news/busopp/Default.htm

### JUDICIAL BRANCH MATERIALS MANAGEMENT UNIT PURCHASING SERVICES 90 WASHINGTON STREET HARTFORD, CT 06106

An Equal Opportunity/Affirmative Action Employer

### SOLICITATION OF SBE/MBE/WBE CONNECTICUT CONTRACTORS

KBE Building Corporation is seeking local Connecticut SBE/MBE/WBE contractors to quote on all trades for the following project:

Southington Senior Center, Project #14D2432, Southington, CT

Scope of work includes new construction of the Southington Senior Center located at 388 Pleasant Street, Southington, CT.

Bid Date for this Project is 2/1/17 at 2PM.

For additional information please contact:

Erica Millard emillard@kbebuilding.com

KBE is an Affirmative Action/Equal Opportunity Employer. Minority / Women's business Enterprises are encouraged to apply.

Request for Quotation #02-1609

The State of Connecticut Judicial Branch invites qualified contractors to submit quotations to provide Roof Replacement and associated work at Superior Court, 95 Washington Street, Hartford, CT.

A Mandatory Pre-Bid Conference will be held on **Wednesday, January 25, 2017** at 1:00 p.m. Additional information is available in the bid document.

Contractors must be pre-qualified under the DAS Pre-qualification Program under the classification of Historical Building Restoration (Roofing and Masonry) AND Roofing in order to bid on this project.

Sealed quotations must be received by **11:30 a.m. on Tuesday, February 21, 2017**. Immediately thereafter all quotations will be publicly opened and prices read aloud.

VENDORS CURRENTLY REGISTERED UNDER THE STATE'S SMALL BUSINESS SET-ASIDE PROGRAM ARE ENCOURAGED TO BID.

Bid package may be picked-up at Judicial Purchasing Services, 90 Washington Street, 4th Floor, Hartford, CT or call 860-706-5200 to request by mail, or access the web site below.

PLEASE CHECK THE JUDICIAL WEB SITE AT:  
www.jud.ct.gov/external/news/busopp/

### JUDICIAL BRANCH PURCHASING SERVICES 90 WASHINGTON STREET HARTFORD, CT 06106

An Equal Opportunity/Affirmative Action Employer

## PUBLIC NOTICES

### Connecticut

#### PUBLIC NOTICE

Meeting of the Connecticut State Technical Committee, as required by the 2014 USDA Farm Bill.

The meeting has been scheduled for Wednesday, January 18, 2017, at the NRCS State Office, 344 Merrow Road, Tolland, CT, from 9:30 AM to 12:30 PM.

For more information, contact Joyce Purcell, Assistant State Conservationist-Programs, (860) 871-4028.

#### Notice of Opportunity for Public Comment

**Public Involvement Policy:** The Capitol Region Council of Government (CRCOG) has prepared for public review a DRAFT of its updated Public Participation Plan. This DRAFT plan outlines CRCOG's procedures to actively involve the public in its transportation planning programs. The Public Participation Plan was last updated in 2007, and this new plan incorporates current practices and federal requirements.

Opportunities for public comment on this DRAFT will be provided at CRCOG Transportation Committee meetings on February 13, March 20, and April 24 as well as at CRCOG Policy Board meetings on February 22, March 22, and April 26. The Transportation Committee meeting on March 22 will also include a presentation on the DRAFT plan. These meetings will take place at 12 noon at MIRA (Materials Innovation & Recycling Authority), 211 Murphy Road, Hartford. In addition, CRCOG will hold two public meetings as listed below for the public to discuss and provide feedback on the DRAFT plan.

1. New Britain Public Library (Community Room), 27 West Main Street, New Britain Tuesday, January 24, 2017, 4:30 PM - 6:30 PM (presentation at 5:30 PM)  
(Snow date: Thursday, February 2, 2017, 4:30 PM - 6:30 PM)

2. Hartford Public Library (Center for Contemporary Culture), 500 Main Street, Hartford Thursday, January 26, 2017, 4:30 PM - 6:30 PM (presentation at 5:30 PM)  
(Snow date: Wednesday, February 1, 2017, 4:30 PM

# **EXHIBIT B**

Superior Court for the State of Connecticut  
Judicial District of Hartford

If you were a customer of Discount Power, Inc.'s variable rate electricity supply services between June 1, 2013, and July 31, 2016, you could receive a cash payment from a class action settlement.

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- A settlement has been reached with Discount Power, Inc. (“Discount Power” or “Defendant”) about the electricity supply rates charged by Discount Power to its **variable rate** customers between June 1, 2013 and July 31, 2016. The settlement offers payments to eligible people who were variable electric rate customers during that period.
- Your legal rights are affected whether you act, or do not act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
SUBMIT A CLAIM	Fill out a form to qualify for a payment.
EXCLUDE YOURSELF	Get no benefits from the settlement. This is the only option that allows you to start or remain part of any other lawsuit against Discount Power about the legal claims in this case.
OBJECT	Write to the Court about why you do not like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Give up your rights to sue Discount Power about the legal claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. If it does, and after any appeals are resolved, benefits will be distributed to those who qualify. Please be patient.

**WHAT THIS NOTICE CONTAINS**

<b>BASIC INFORMATION</b> .....	<b>PAGE 2</b>
1. Why is this Notice being provided?	
2. What is this lawsuit about?	
3. Why is this a class action?	
4. Why is there a settlement?	
<b>WHO IS IN THE SETTLEMENT</b> .....	<b>PAGE 2</b>
5. How do I know if I am part of the settlement?	
6. Are there exceptions to being included?	
7. What if I am not sure whether I am included in the settlement?	
<b>THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY</b> .....	<b>PAGE 3</b>
8. What does the settlement provide?	
9. How will the claims be decided?	
<b>HOW TO GET BENEFITS—SUBMITTING A CLAIM</b> .....	<b>PAGE 3</b>
10. How do I ask for a payment?	
11. When will I get my payment?	
12. What am I giving up to get a payment?	
<b>EXCLUDING YOURSELF FROM THE SETTLEMENT</b> .....	<b>PAGE 4</b>
13. If I exclude myself, can I get anything from this settlement?	
14. If I do not exclude myself, can I sue later?	
15. How do I get out of the settlement?	
<b>THE LAWYERS REPRESENTING YOU</b> .....	<b>PAGE 5</b>
16. Do I have a lawyer in the case?	
17. How will the lawyers be paid?	

<b>OBJECTING TO THE SETTLEMENT</b> .....	<b>PAGE 5</b>
18. How do I tell the Court if I do not like the settlement?	
19. What is the difference between objecting and asking to be excluded?	
<b>THE COURT’S FAIRNESS HEARING</b> .....	<b>PAGE 5</b>
20. When and where will the Court decide whether to approve the settlement?	
21. Do I have to come to the hearing?	
22. May I speak at the hearing?	
<b>IF YOU DO NOTHING</b> .....	<b>PAGE 6</b>
23. What happens if I do nothing?	
<b>GETTING MORE INFORMATION</b> .....	<b>PAGE 6</b>
24. How do I get more information?	

**BASIC INFORMATION**

**1. Why is this Notice being provided?**

A Court authorized this Notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who may be eligible for those benefits, and how to get them.

Judge Ingrid Moll of the Complex Litigation Docket of the State of Connecticut Superior Court, Judicial District of Hartford, is overseeing this class action. The case is known as *Chandler and Conover v. Discount Power, Inc.*, Case No. HHD-CV-14-6055537-S, filed on November 20, 2014.

The people who sued are called “Plaintiffs,” and the company they sued, Discount Power, is called “Defendant.”

**2. What is this lawsuit about?**

The lawsuit alleges that Discount Power falsely claimed in its contracts with customers that its variable rate for electricity supply services would fluctuate based on changes in the “wholesale power market,” but in practice failed to decrease its variable rate when wholesale market rates went down. The lawsuit further alleges that Discount Power’s variable rate customers suffered monetary damages as a result of this alleged misconduct.

Discount Power denies all of Plaintiffs’ claims and says that it did nothing wrong. Discount Power specifically states that it followed all terms of its contract with customers, and that Plaintiffs’ claims are without factual or legal merit.

**3. Why is this a class action?**

In a class action, one or more people called “Settlement Class Representatives” (in this case Holly Chandler and Devon Ann Conover) sue on behalf of people who have similar claims. All of these people are a “Settlement Class” or “Settlement Class Members.” One court resolves the issues for all Class Members, except for those who timely exclude themselves from the Class.

**4. Why is there a settlement?**

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to settle this case to avoid the cost and risk of a trial. The proposed settlement does not mean that any law was broken or that the Defendant did anything wrong. Defendant denies all legal claims in this case. Settlement Class Representatives and their lawyers think the proposed settlement is best for all Settlement Class Members.

**WHO IS IN THE SETTLEMENT**

To see if you will be affected by the settlement or if you can get a payment from it, you first have to determine if you are a Settlement Class Member.

**5. How do I know if I am part of the settlement?**

The Court decided that the Settlement Class includes all individual residential and small business consumers enrolled (either initially or through “rolling over” from a fixed rate plan) in a Discount Power variable rate electric plan in connection with a property located within Connecticut at any time from June 1, 2013, through and including July 31, 2016. Discount Power no longer offers new residential customers the ability to purchase electricity at variable rates and has no present plan or intention of doing so in the future. Any current residential customers on a variable rate

plan are, by law, given notice of the forthcoming variable rates two months in advance, and are permitted to switch to a fixed rate program, or change resellers altogether, before they are charged the disclosed variable rate.

**6. Are there exceptions to being included?**

Yes. The following are not included in the settlement: Discount Power, the officers, directors and employees of Discount Power; any entity in which Discount Power has a controlling interest; any affiliate or legal representative of Discount Power; the judge to whom this case is assigned and any member of the judge's immediate family; any heirs, assigns and successors of any of the above persons or organizations in their capacity as such; and anyone who timely submits a valid request to be excluded from the Settlement Class (*see* "Excluding Yourself from the Settlement," below).

**7. What if I am not sure whether I am included in the settlement?**

If you are not sure whether you are in the Settlement Class, or have any other questions about the settlement, visit the settlement website at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) or call the toll free number, 1-877-435-2043.

**THE SETTLEMENT BENEFITS — WHAT YOU GET IF YOU QUALIFY**

If the settlement is approved and becomes final, it will provide benefits to Settlement Class Members.

**8. What does the settlement provide?**

Discount Power has agreed to pay a total of \$850,000 into a Settlement Fund in three installments, with the final installment payable no later than December 31, 2018. The Settlement Fund will pay cash awards to Class Members who have filed a valid claim, as well as (a) attorneys' fees, costs, and expenses; (b) incentive payments to the lead plaintiffs; and (c) third party costs to provide notice and to administer the settlement. Details on all of the settlement benefits are in the Settlement Agreement, which is available at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com).

**9. How will the claims be decided?**

Upon being fully funded, individual Discount Power customers who have filed a Claim Form ("claimants") will be eligible to receive a share of the Settlement Fund based upon the amount of variable rate electricity used by that claimant between June 1, 2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power's procurement cost for electricity exceeded the variable price at which it sold that electricity), as set forth in Discount Power's internal records. In the event that claims made exceed the value of the net Settlement Fund after deducting all Settlement Costs (including the costs of notice and administration of the settlement and attorneys' fees and costs incurred by Class Counsel and incentive awards for the Lead Plaintiffs as may be approved by the Court), each claimant would receive a *pro rata* share of the net Settlement Fund based on his or her calculated loss. Because each potential claimant used a different amount of electricity and because we do not know the number of eligible claimants who will file valid claims, we cannot estimate the per-person recovery. However, claimants whose calculated loss totals less than \$3 will not receive any payment.

**HOW TO GET BENEFITS – SUBMITTING A CLAIM**

**10. How do I ask for a payment?**

To ask for a payment you must complete and submit a Claim Form. You may visit [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) to fill out a Claim Form online or to download a Claim Form that you can print. You can also request that a Claim Form be mailed to you by calling 1-877-435-2043.

The deadline to file your claim online is **March 10, 2017**. If filing a paper claim, you must mail your Claim Form postmarked no later than **March 10, 2017** to:

***Chandler v. Discount Power Claims Administrator***  
P.O. Box 43034  
Providence, RI 02940-3034

**11. When will I get my payment?**

Claimants who submit valid Claim Forms will receive payments by mail. Discount Power customers who do not submit Claim Forms will not receive a payment. Payments will only be made only if the Court grants "final approval" to the settlement and after any appeals are resolved (*see* "The Court's Fairness Hearing," below). It is uncertain when any appeals made will be resolved, and resolving them can take time.

QUESTIONS? CALL 1-877-435-2043 OR VISIT [WWW.DISCOUNTPOWERSETTLEMENT.COM](http://WWW.DISCOUNTPOWERSETTLEMENT.COM)

Under the terms of the Settlement Agreement, Discount Power will deposit the \$850,000 Settlement Fund into an escrow account in three installments, with the final installment payable no later than December 31, 2018. Assuming the Court grants “final approval” to the settlement, payment will be made to claimants only after the escrow account is fully funded. Payment will be made at that point as soon as practicable. Please be patient.

**12. What am I giving up to get a payment?**

If the settlement becomes final, Settlement Class Members who submit Claim Forms or do nothing at all will be releasing Discount Power from all of the claims described and identified in paragraphs 35-38 of the Settlement Agreement. This means you will no longer be able to sue Discount Power regarding any of the claims described in the Settlement Agreement.

The Settlement Agreement is available at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com). The Settlement Agreement provides more detail regarding the release and describes the Released Claims and Released Parties with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firms representing the Settlement Class listed in the section “The Lawyers Representing You” for free or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Claims or what they mean.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want to participate in this proposed settlement and you want to keep the right to sue Discount Power about the legal issues in this case, then you must take steps to get out of the settlement. This is called asking to be excluded from, or sometimes called “opting out” of, the Settlement Class.

**13. If I exclude myself, can I get anything from this settlement?**

No. If you exclude yourself, you may not apply for any benefits under the settlement and you cannot object to the proposed settlement. If you ask to be excluded, however, you may sue or be part of a different lawsuit against Discount Power in the future. You will not be bound by anything that happens in this lawsuit.

**14. If I do not exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Discount Power for all of the claims that the proposed settlement resolves. You must exclude yourself from this Settlement Class to start your own lawsuit or be part of any different lawsuit relating to the claims in this case.

**15. How do I get out of the settlement?**

To exclude yourself from the proposed settlement, you must send a letter or other written document by mail saying that you want to be excluded from *Chandler v. Discount Power* and you must list your CL&P, Eversource or UI account number(s). In addition, your exclusion request must include, for each account listed:

- (1) The full names and current addresses of everyone whose name is on the account.
- (2) A statement that everyone whose name is on the account satisfies the criteria set forth above to be a Settlement Class Member (*see* “How do I know if I am part of the settlement?”).
- (3) A statement of intention to exclude everyone whose name is on the account from the Settlement Class.
- (4) The signature of everyone whose name is on the account.

Be sure to include your full name, address, signature, and date. You must mail your request for exclusion postmarked by **February 27, 2017** to:

***Chandler v. Discount Power Claims Administrator***  
P.O. Box 43034  
Providence, RI 02940-3034

You cannot ask to be excluded on the phone, by email, or at the website.



## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in the case?

The Court appointed Izard Kindall & Raabe LLP, West Hartford, CT, 860-493-6292 as “Settlement Class Counsel” to represent you and other Settlement Class Members. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

### 17. How will the lawyers be paid?

Settlement Class Counsel will ask the Court for attorney’s fees not to exceed 25%, along with payment of reasonable costs and expenses. Settlement Class Counsel will also request an incentive payment of \$2,000 to each Class Representative for their services on behalf of the Settlement Class. The Court will award amounts it deems appropriate. Payments approved by the Court will be made from the Settlement Fund.

Please visit [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) for additional detail on Settlement Class Counsel’s attorney’s fee request.

## OBJECTING TO THE SETTLEMENT

### 18. How do I tell the Court if I do not like the settlement?

You can object to the settlement if you do not like some part of it. You must give reasons why you think the Court should not approve the settlement. To object, send a letter saying that you object to the proposed settlement in *Chandler v. Discount Power*, Case No. X03 HHD-CV14-6055537-S. You must include:

- (1) your full name, address, and telephone number;
- (2) all reasons for the objection;
- (3) the names of all attorneys representing you, if any;
- (4) the names of all attorneys representing you who will appear at the Fairness Hearing (*see* “The Court’s Fairness Hearing,” below), if any;
- (5) a list of all people you will call to testify at the Fairness Hearing, if any;
- (6) a statement saying whether you will appear and/or testify at the Fairness Hearing; and
- (7) your signature or the signature of your duly authorized attorney or other duly authorized representative (along with documentation of such representation).

Mail the objection to each of the following three addresses so that it is postmarked no later than **February 27, 2017**.

COURT	SETTLEMENT CLASS COUNSEL	DEFENDANT'S COUNSEL
Chief Clerk’s Office Hartford Judicial District State of Connecticut Superior Court 95 Washington Street Hartford, CT 06106	Seth R. Klein, Esq. Izard Kindall & Raabe LLP 29 South Main Street Suite 305 West Hartford, CT 06107	James Shearin, Esq. David Atkins, Esq. Pullman & Comley LLC 850 Main Street P.O. Box 7006 Bridgeport, CT 06601

### 19. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object to the settlement and you will not be eligible to apply for any benefits under the settlement because the case no longer affects you.

## THE COURT’S FAIRNESS HEARING

### 20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at 10:00 a.m. on **March 27, 2017**, at the Connecticut Superior Court, Judicial District of Hartford, Court Room No. 400, 95 Washington Street, Hartford, CT 06106. At the Fairness Hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court may also consider

Settlement Class Counsel's request for attorneys' fees, costs, and expenses, and incentive awards. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the proposed settlement and how much to award to Settlement Class Counsel as fees, costs, and expenses, and incentive awards.

The Fairness Hearing may be moved to a different date without additional notice, so it is recommended that you periodically check [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) for updated information.

21. Do I have to come to the hearing?

No. Settlement Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend the Fairness Hearing, but their attendance is not necessary.

22. May I speak at the hearing?

Yes. To speak at the Fairness Hearing, you must send a letter or other written document saying that it is your "Notice of Intent to Appear" in *Chandler v. Discount Power*, Case No. X03 HHD-CV14-6055537-S. Be sure to include your name, address, telephone number, and your signature. You also must include information about what you intend to say at the hearing. If you intend to have your attorney represent you at the hearing, please indicate this and provide the full name and contact information for your attorney. Also, please list anyone you or your attorney will call to testify at the hearing. Please send copies of your "Notice of Intent to Appear" to the Court, Settlement Class Counsel, and Defendant's Counsel as listed in Question 18 above. It must be postmarked no later than **February 27, 2017**. You cannot speak at the hearing if you exclude yourself from the settlement.

**IF YOU DO NOTHING**

23. What happens if I do nothing

Unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Discount Power about the claims in this case, ever again.

**GETTING MORE INFORMATION**

24. How do I get more information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com). You also may call with questions or have a Claim Form mailed to you by calling 1-877-435-2043. In addition, you may direct questions to Settlement Class Counsel (Izard Kindall & Raabe LLP) at 860-493-6292.

# **EXHIBIT C**

*Chandler v. Discount Power*  
Settlement Administrator  
P.O. Box 43034  
Providence, RI 02940-3034

2D

Presorted  
First-Class Mail  
US Postage  
**PAID**  
Permit #219  
Petaluma, CA

**NOTICE OF CLASS  
ACTION LAWSUIT  
AND PROPOSED  
SETTLEMENT**

THE COURT HAS  
AUTHORIZED  
THIS NOTICE

THIS IS NOT A  
SOLICITATION  
FROM A LAWYER

See important notice  
on the other side.



Postal Service: Please Do Not Mark Barcode

DOP--

ClaimID:

Access Code:

,

**DOP**

## **NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT**

**THE COURT HAS AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.**

**YOU MAY RECEIVE MONEY FROM A SETTLEMENT.**

- If you were a customer of Discount Power, Inc. and paid a variable rate for electric supply services between June 1, 2013 and July 31, 2016, your rights may be affected by this class action settlement.**
- Plaintiffs claim that the variable rates charged by Discount Power violate the terms of its contracts with its customers. The court has not decided who is right or wrong. Instead, the parties agreed to settle the case to avoid the risk and cost associated with further litigation.**
- Eligible Class Members who submit a valid Claim Form will be eligible to receive a payment from the \$850,000 settlement fund.**
- Go to [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) or call 1-877-435-2043 for more details.**

# **EXHIBIT D**

From: *Chandler v. Discount Power Claims Administrator*  
To: «First1» «Last1»  
ClaimID: <<Claim8>>  
Access Code: <<PinCode>>  
Subject: Notice of Class Action Lawsuit and Proposed Settlement

## NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT

THE COURT HAS AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.  
YOU MAY RECEIVE MONEY FROM A SETTLEMENT

- **If you were a customer of Discount Power, Inc. and paid a variable rate for electric supply services between June 1, 2013 and July 31, 2016, your rights may be affected by this class action settlement.**
- **Plaintiffs claim that the variable rates charged by Discount Power violate the terms of its contracts with its customers. The court has not decided who is right or wrong. Instead, the parties agreed to settle the case to avoid the risk and cost associated with further litigation.**
- **Eligible Class Members who submit a valid Claim Form will be eligible to receive a payment from the \$850,000 settlement fund.**
- **Go to [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) for more details.**

**What is this?** This is a Notice of a proposed settlement in a class action lawsuit. This Notice explains your legal rights.

**What is this lawsuit about?** This settlement would resolve the lawsuit captioned *Chandler and Conover v. Discount Power, Inc.*, Case No. HHD-CV-14-6055537-S, filed in the Superior Court of the State of Connecticut. The lawsuit alleges that Discount Power falsely claimed in its contracts with customers that its variable rate for electricity supply services would fluctuate based on changes in the “wholesale power market,” but in practice failed to decrease its variable rate when wholesale market rates went down. Discount Power denies all of Plaintiffs’ claims and says that it did nothing wrong. Discount Power specifically states that it followed all terms of its contract with customers, and that Plaintiffs’ claims are without factual or legal merit. The Court has not ruled on the merits of Plaintiffs’ claims or Discount Power’s defenses.

**Why am I getting this Notice?** You were identified as someone who was a variable electric rate customer of Discount Power with regard to a property located in Connecticut during the period covered by the proposed settlement (June 1, 2013 through July 31, 2016).

**What does the settlement provide?** Discount Power has agreed to pay a total of \$850,000 into a Settlement Fund in three installments, with the final installment payable no later than December 31, 2018. The Settlement Fund will pay cash awards to Class Members who have filed a valid claim, as well as (a) attorneys’ fees, costs, and expenses; (b) incentive payments to the lead plaintiffs; and (c) third party costs to provide notice and to administer the settlement. Upon being fully funded, individual Discount Power customers who have filed a Claim Form (“claimants”) will be eligible to receive a share of the Settlement Fund based upon the amount of variable rate electricity used by that claimant between June 1, 2013, and July 31, 2016 as a percentage of the total amount of variable rate electricity used by all claimants during that same period (excluding periods in which Discount Power’s procurement cost for electricity exceeded the variable price at which it sold that electricity). In the event that claims made exceed the value of the net Settlement Fund after deducting all Settlement Costs (including the costs of notice and administration of the settlement and attorneys’ fees and costs incurred by Class Counsel and incentive awards for the Lead Plaintiffs as may be approved by the Court), each claimant would receive a *pro rata* share of the net Settlement Fund based on his or her calculated loss. Claimants whose calculated loss totals less than \$3 will not receive any payment. The Lead Plaintiffs will

request an incentive payment not to exceed \$2,000 each for their work in representing the Class, and Class Counsel will ask the Court to approve an award up to 25% of the Settlement Fund for attorneys' fees, plus costs.

**How do I get a payment?** To ask for a payment you must complete and submit a Claim Form. You may visit [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) to fill out a Claim Form online or to download a Claim Form that you can print. You can also request that a Claim Form be mailed to you by calling 1-877-435-2043. The deadline to file your claim online is **March 10, 2017**. If filing a paper claim, you must mail your Claim Form postmarked no later than **March 10, 2017** to: *Chandler v. Discount Power* Claims Administrator, P.O. Box 43034, Providence RI 02940-3034.

**Do I have to be included in the settlement?** If you do not want to be part of the settlement and you want to keep the right to sue or continue to sue Discount Power on your own, then you must exclude yourself from the settlement. You will not get any money from this settlement if you exclude yourself. The Court will exclude any Class Member who properly requests exclusion by sending a letter or other written document by mail saying that you want to be excluded from *Chandler v. Discount Power*. Your exclusion request must also list your CL&P, Eversource or UI account number(s) and must include, for each account listed: (1) The full names and current addresses of everyone whose name is on the account; (2) A statement that everyone whose name is on the account satisfies the criteria set forth above to be a Settlement Class Member (as defined in the full Notice available at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com)); (3) A statement of intention to exclude everyone whose name is on the account from the Settlement Class; and (4) The signature of everyone whose name is on the account. Be sure to include your full name, address, signature, and date. You must mail your request for exclusion postmarked by **February 27, 2017** to: *Chandler v. Discount Power* Claims Administrator, P.O. Box 43034, Providence RI 02940-3034. You cannot ask to be excluded on the phone, by email, or at the website.

**If I don't like something about the settlement, how do I tell the Court?** If you don't exclude yourself from the settlement, you can object to any part of it. You must file your objection with the Court, and mail your written objection to Class Counsel and Discount Power's counsel by **February 27, 2017**. You may enter an appearance through an attorney if you so desire, but you do not have to do so. Complete details about how to object are set forth in the full Notice available on at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com).

**What if I do nothing?** If you do nothing, you will not be eligible for a payment. All Class Members that do not opt out will be bound by the settlement and the decisions of the Court, and will release Discount Power (and the other Released Parties defined in the Settlement Agreement available at [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com)) from all Released Claims (as also defined in the Settlement Agreement).

**When is the Final Approval Hearing?** The Court will hold a hearing in this case to consider whether to approve the settlement at 10:00 a.m. on **March 27, 2017**, at the Connecticut Superior Court, Judicial District of Hartford, Court Room No. 400 , 95 Washington Street, Hartford, CT 06106. You may go to the hearing, but you do not have to.

**How do I get more information about the settlement?** This email Notice contains limited information about the settlement. For more information, to view additional settlement documents (including the Settlement Agreement and the full Notice), and to review additional information concerning your rights and/or the filing of a claim, visit [www.DiscountPowerSettlement.com](http://www.DiscountPowerSettlement.com) or call 1-877-435-2043.



# **EXHIBIT E**

