

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS
rel. KWAME RAOUL, Attorney General
State of Illinois,

Plaintiff,

No. 2025CH04091

v.

DIRECT ENERGY SERVICES, LLC, a
Delaware limited liability company,

Hearing Date: 6/10/2025 9:30 AM
Location: Court Room 2402
Judge: Price Walker, Allen

Defendant.

**VERIFIED COMPLAINT FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF**

Plaintiff, the People of the State of Illinois, by and through Kwame Raoul, Attorney General of the State of Illinois, brings this action against Defendant, Direct Energy Services, LLC (“Direct Energy”), for violations of the Illinois Consumer Fraud and Deceptive Business Practices Act (“Consumer Fraud Act” or “CFA”), 815 ILCS 505/1 *et seq.*, and the Illinois Telephone Solicitations Act (“Telephone Solicitations Act” or “TSA”), 815 ILCS 413/1 *et seq.*, relating to the sale and marketing of electricity.

INTRODUCTION

1. Direct Energy is an alternative retail electric supplier (“ARES”) that has deceived thousands of Illinois residents into paying tens of millions of dollars more for electricity than they would have if they had remained enrolled with their default public utility provider.

2. To lure consumers away from their public utility provider (such as ComEd or Ameren), Direct Energy uses an aggressive telemarketing campaign wherein its agents solicit

Illinois consumers by telling them that they will receive “savings” and “price protection” on their electric bills if they enroll in one of Direct Energy’s “State” programs. This is untrue.

3. Notwithstanding its promises of savings, Direct Energy’s electricity rates are much higher than the default utility rate, meaning that consumers who switch to Direct Energy pay more—not less—for their electricity and are not “protected” from, but instead are subjected to, higher electricity bills. To make matters worse, the “State” program in which Direct Energy claims to enroll consumers does not even exist.

4. The timing of Direct Energy’s ever-increasing rates could not have been worse. Direct Energy’s electricity rates during the first six months of 2020 were, on average, approximately twice those of the comparable public utility. By continuing its conduct throughout the COVID-19 pandemic, Direct Energy continued to demonstrate a pattern of unlawful and irresponsible behavior, as well as a willful disregard for its Illinois customers.

5. The State brings this action to stop Direct Energy’s illegal conduct with respect to electricity, disgorge the millions of dollars Illinois consumers have lost to Direct Energy’s fraud, obtain civil penalties of \$50,000 for each violation of the Consumer Fraud Act, enjoin future unlawful conduct, and for other relief as alleged herein.

PARTIES

6. Plaintiff, the People of the State of Illinois, by Kwame Raoul, the Attorney General of the State of Illinois, is authorized to enforce the Consumer Fraud Act and the Telephone Solicitations Act.

7. Defendant, Direct Energy, is a Delaware limited liability company with its principal place of business in Houston, Texas, and is an ARES certified by the Illinois

Commerce Commission (“ICC”) to engage in the sale of electricity to residential retail customers in the service area of the Illinois public electric utilities.

8. For purposes of this Complaint, any references to the acts and practices of Direct Energy shall mean such acts and practices by and through the acts of Direct Energy’s officers, owners, members, directors, employees, representatives and/or other agents, including third-party vendors who market electric supply on Direct Energy’s behalf, with respect to the sale and marketing of electricity.

PUBLIC INTEREST

9. The Illinois Attorney General believes this action to be in the public interest of the citizens of the State of Illinois and brings this lawsuit pursuant to the Illinois Consumer Fraud Act and the Illinois Telephone Solicitations Act.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to the Court’s general jurisdiction and pursuant to 815 ILCS §505/1 *et seq.* and 815 ILCS 413/1 *et seq.*, as the cause of action arises from actions taken by Direct Energy in Illinois.

11. This Court has personal jurisdiction over Direct Energy because it transacts business in Illinois, including in Cook County.

12. Venue for this action is proper in Cook County pursuant to Section 2-101 and Section 2-101(a) of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, 101(a), because Direct Energy is doing business in Cook County and some of the transactions out of which this action arose occurred in Cook County.

TRADE AND COMMERCE

13. Subsection 1(f) of the Consumer Fraud Act, 815 ILCS 505/1(f), defines “trade” and “commerce” as:

The terms ‘trade’ and ‘commerce’ mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

14. At all times relevant to this Complaint, Direct Energy was engaged in trade and commerce in the State of Illinois by marketing, selling, and promoting electric supply to Illinois residents.

RETAIL ELECTRIC SUPPLY INDUSTRY

15. Each public electric utility in Illinois has a defined service territory and serves all retail (*i.e.*, residential and small business) customers in that territory. Traditionally, electric utilities have provided electric supply and the distribution service that delivers the electricity to consumers.

16. The ICC reviews the prices public electric utilities are permitted to charge eligible residential customers for electric supply. This default price reflects the utility’s cost for purchasing the electricity.

17. Public electric utilities, like ComEd and Ameren, are the default suppliers of electricity to consumers in Illinois. However, under the Illinois Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 5/16-101 *et seq.*, consumers may choose to purchase their electric supply from an ARES rather than their public utility. If a consumer decides to switch to an ARES, the consumer continues to pay the public utility for delivery service but pays

the ARES for the electricity itself. Regardless of which entity the consumer selects as their supplier, the public utility continues to deliver electricity to the consumer's home.

18. Even if a consumer chooses an ARES for electric supply, the public utility continues to bill and collect from the customer the total of the supply charge (as set by the ARES) plus the delivery charge (the rate approved by the ICC) and other incidental fees and taxes. The ARES does not send a separate bill to the consumer.

19. Because the consumer continues to receive one bill from their default public utility, and their bill looks virtually the same even if they are enrolled with an ARES, consumers are often confused and may not discover right away that an ARES has enrolled them without their consent. Consumers often discover that they have been enrolled in an ARES after receiving high utility bills. Because ARES rates are not regulated by the ICC like public utility rates, ARES rates can be, and almost always are, set much higher than the public utility rates. These higher rates impact Illinois consumers beyond those enrolled in ARES services: when ARES enroll consumers who participate in state programs that provide financial utility assistance for low-income individuals, like the Low Income Home Energy Assistance Program ("LIHEAP") or the Percentage of Income Payment Plan ("PIPP"), the higher ARES rates deplete the finite LIHEAP and PIPP funds at a quicker rate, resulting in fewer Illinois consumers served by these critical programs.

DIRECT ENERGY'S ELECTRIC SUPPLY BUSINESS PRACTICES

20. In December 2005, Direct Energy received a Certificate of Service Authority from the ICC to operate as an ARES in Illinois. Under the certificate, Direct Energy may sell electricity to eligible residential and nonresidential retail customers in the ComEd and Ameren service areas, and has a continuing statutory obligation to comply with all enumerated

requirements for certification and “all other applicable laws and regulations,” pursuant to 220 ILCS 5/16-115(d)(11) and 220 ILCS 5/16-115A(a)(ii).

21. Since at least 2013, Direct Energy has engaged in the marketing and sale of electricity to Illinois residential customers in the ComEd and Ameren service territories.

22. Direct Energy charges each of its customers based on how much electricity (measured in kilowatt hours) the customer uses each month. Direct Energy offers different rates (price per kilowatt hour), rate types (fixed rates and variable rates), and lengths of contract.

23. Direct Energy typically enrolls customers in a fixed rate product, usually for a term ranging from 12 to 36 months. During the term, Direct Energy charges customers the same rate each month for their electric supply. This rate is, and since mid-2013 has been, virtually always higher than the rate available from ComEd or Ameren, known as the default utility rate.

24. Near the end of the initial contract term, Direct Energy typically contacts the customer offering to enter the customer into a new fixed rate or variable rate plan. If the customer does not respond to the notice or chooses not to enter into a new fixed rate or variable rate with Direct Energy by the time the initial fixed rate contract expires, Direct Energy automatically renews the customer’s account without any affirmative act by the customer and enrolls the customer in a new rate.

25. Direct Energy’s variable rates can dramatically increase at any time without prior notice to the customer and are almost always higher than the default utility rate. The only time this rate is regularly disclosed to customers is at the end of the month when they receive their monthly bill, after they have already used and been billed for their electric supply at that rate. Public utilities, unlike Direct Energy, publicly disclose their rates in advance—often several months in advance.

26. Since 2013, regardless of the rate plan, the rates Direct Energy has charged its customers have virtually always been higher than the default rate customers would have paid to their public utility. In fact, during the period from June 2018 through August 2020, which included the peak of the COVID-19 pandemic, Direct Energy's rates were higher than the default utility rate over 99% of the time.

27. Direct Energy's rates are not only *consistently* higher than the default utility rate, they are also *considerably* higher. Direct Energy has charged customers rates as high as 15.75 cents per kilowatt hour—over 230% more than the default utility's then-current rate of 6.792 cents.

28. The ICC and the Attorney General's office have received numerous complaints from consumers about Direct Energy's business practices.

Direct Energy Directed and Controlled Vendors Who Served as its Sales Agents

29. Direct Energy has conducted marketing activities in Illinois in the form of in-person solicitations and telephone solicitations ("telemarketing"). Direct Energy also has sought to recruit new customers through advertisements on its website.

30. Direct Energy has hired and utilized third-party sales representatives to market its electricity in person and over the phone to Illinois consumers.

31. When enrolling a new customer either by telephone or in person, Direct Energy uses a two-step process. First, a sales representative attempts to convince the consumer to enroll with Direct Energy. Second, if a consumer agrees to enroll, Direct Energy confirms the enrollment using a statutorily-required third-party verification ("TPV") system or letter of agency.

32. Direct Energy trained, directed, and controlled how its sales agents marketed and controlled its products. Direct Energy directs its sales representatives to identify themselves on solicitation calls and during in-person solicitations as representatives of Direct Energy, and these agents routinely do identify themselves on solicitation calls and during in-person solicitations as representatives of Direct Energy.

33. Direct Energy has provided scripts to its sales representatives. The scripts instruct the sales representatives on how to interact with customers by telephone and in person and how to market Direct Energy's products and services. Direct Energy prohibits sales representatives from using any scripts that Direct Energy does not approve.

34. Direct Energy was responsible for overseeing its sales agents' statutory obligations and compliance with the law.

35. Illinois law prohibits sales representatives from performing the enrollment verification, and the verifier must be independent from both the electric supplier and its marketing agent.

36. Direct Energy is responsible for selecting and contracting with third parties to perform verifications.

37. The purpose of a third-party verification is to ensure that the consumer fully understands the terms and conditions of the service being offered, has the legal authority to effect a change on the account, and authorizes the change in electric suppliers.

38. In order to keep the sales solicitation separate from the enrollment verification, Illinois law requires that during the third-party verification of the consumer's enrollment, sales representatives must drop off the call once the consumer is connected with the verification system.

39. Once a sale is completed and the enrollment is verified, the vendor sends the consumer's information to Direct Energy to complete the enrollment.

40. Direct Energy was responsible for reviewing consumer enrollments.

Direct Energy's Misrepresentations, Omissions, and Other Fraudulent Conduct

41. Direct Energy and its sales representatives have engaged in unfair or deceptive acts or practices, including but not limited to the use of deception, fraud, false pretense, false promise, and misrepresentations, as well as the concealment, suppression, and omissions of material fact, and similar conduct that creates a likelihood of confusion and misunderstanding, with the intent that consumers rely on those misrepresentations, omissions, and other unfair or deceptive acts or practices. Direct Energy has engaged in such unfair or deceptive acts or practices, including those described herein, with the intent to defraud.

Misrepresentations Regarding Affiliation with Public Utility

42. Consumers are generally wary of door-to-door salespeople and telemarketers. To combat this, Direct Energy's sales representatives have misrepresented an association with ComEd or Ameren because they are brand name utility companies that consumers know and depend upon to deliver their electricity and respond to emergencies.

43. Direct Energy sales representatives begin solicitations by asking to speak with the person who handles the "electric bill." Sometimes they even explicitly reference the utility by name, saying, for example, they are calling "about your electric bill, ComEd." This initial reference to a consumer's electric bill—not to mention explicit references to the public utility by name—is likely to mislead consumers to believe the public utility, rather than a private supplier, is contacting them about their utility bill.

44. Similarly, Direct Energy sales representatives tell consumers, at the beginning of the sales pitch, they are entitled to receive “price protection on your bill.” This language is likely to mislead consumers to believe they have earned this price protection benefit on their utility bill, perhaps because of their record as valuable ComEd or Ameren customers. The qualifying questions Direct Energy sales representatives ask consumers further perpetuate this confusion. One of the questions is whether the consumer is current on her payments. Implying that being current on payments *to the public utility* (since payments always go to the utility, no matter the supplier) has qualified a consumer for “price protection” misleads consumers into believing the agents are calling on behalf of or in connection with the utility to apply a “price protection” benefit on the ComEd or Ameren electric bill, rather than calling to switch consumers to a new electric supplier.

45. Direct Energy also tells consumers at the outset of the sales pitch that the purpose of the solicitation is to “apply the benefits into your account.” In order to “apply” these “benefits,” Direct Energy often asks consumers to “verify” the utility account information. This language is likely to mislead consumers to believe the agent is a representative of the public utility and has access to information within the utility’s system, including consumers’ utility account numbers. These misrepresentations are intended to mislead consumers into revealing their unique utility account numbers, which the Direct Energy sales agent can then use to switch a consumer’s electric supplier.

46. By using this language, sales representatives misrepresent the enrollment process as a clerical step, performed by the public utility, allowing consumers to claim “price protection benefits” on their utility accounts. In reality, Direct Energy is switching consumers’ electric supplier and, nearly every time, locking in an extended rate increase.

47. Direct Energy has also lied to consumers about its knowledge of consumers' account information. Direct Energy misrepresents that it has access to details of consumers' accounts, such as the name of a consumer's electric supplier or the consumer's utility account number. For example, Direct Energy asks consumers to "verify" their utility account number. This suggests to consumers that the sales agent already has the utility account number and the consumer is merely "verifying" or confirming that number. By pretending to know information that a representative from the public utility would know (but that Direct Energy does not know), Direct Energy intends for consumers to believe that its agents are contacting them on behalf of the public utility.

Telemarketing Without Consent

48. Consumers are also wary of unsolicited sales phone pitches. To combat well-known frustrations and fraud committed through telephone solicitations, the Telephone Solicitations Act, 815 ILCS 413/15, prohibits telemarketers from soliciting without first asking the person called whether he or she consents to the solicitation.

49. This provision serves two functions. First, it forces telemarketers to state the purpose of the call. By asking if a consumer consents to a solicitation, telemarketers necessarily announce that they are, in fact, solicitors.

50. Second, the provision allows consumers an early opportunity to end the call. If the person called does not consent, the telemarketer must end the call.

51. Direct Energy's telemarketing sales agents have solicited consumers without stating the true purpose of the call (to switch the customer to Direct Energy) or inquiring at the beginning of the call whether the person called consents to the solicitation.

52. This failure to state the true purpose of the call or obtain consent is intentional and part of Direct Energy's strategy to trick consumers into enrolling in the product.

Misrepresentations Regarding Savings

53. Whether done through door-to door or telemarketing solicitations, Direct Energy's sales representatives have routinely told consumers they will save money on their electric bill if they enroll with Direct Energy. For every consumer, this representation is false.

54. Direct Energy has made savings claims and omitted information about the cost of its service in order to convince consumers to switch suppliers. Direct Energy has made these savings claims with the intent that consumers rely on them when they choose Direct Energy as their electric supplier.

55. Direct Energy routinely has portrayed its rates as a discount on the rates that consumers are paying on their electricity bills. For example, Direct Energy has promised consumers:

- "lower rates";
- "peak savings";
- a rate that is "a lot lower";
- a "dual discount";
- to bring your rate "down"; and
- to "save money."

56. Direct Energy has intended for consumers to rely on the above false savings claims.

57. But Direct Energy's rates are consistently, and often considerably, higher than the comparable default utility rate. During the seven (7) year period from June 2013 until August

2020, ComEd's rate ranged from 5.0 to 8.82 cents per kilowatt hour; Ameren's rate ranged between 2.7 and 6.6 cents per kilowatt hour.¹ Over that same period, Direct Energy's rates climbed as high as 15.75 cents per kilowatt hour.

58. During the period from June 2013 through August 2020, the average rate Direct Energy charged its customers was 9.07 cents per kilowatt hour, whereas the average default utility rate was 5.88 cents per kilowatt-hour. Direct Energy customers on average paid a 54% premium for the electricity during this seven-year period. In fact, during June, July, and August 2020, Direct Energy customers were paying on average *twice* the rates charged by the public utilities.

59. Moreover, during the period from June 2018 to August 2020, Direct Energy's rates were higher than the default public utility's rate more than 99% of the time.

60. Since June 2013, Direct Energy has charged its customers tens of millions of dollars more for electric supply than they would have been charged had they purchased supply from their default public utility.

61. Direct Energy's consistently exorbitant rates break the promises made during Direct Energy's solicitations. To promise Illinois consumers benefits such as "lower" rates and "to save money" on electricity bills, but then to charge tens of millions of dollars more for that same electricity, is fraud.

Misrepresentations Regarding "Price Protection"

62. Direct Energy also has directed its sales representatives through sales scripts to offer consumers so-called "price protection." Under this "price protection," Direct Energy's customers pay a fixed rate, typically for a period ranging from 12 to 36 months. That fixed rate

¹ The public utilities' rates from June 2011 to the present are publicly available at <https://www.icc.illinois.gov/downloads/public/pluginillinois/HistoricalPriceToCompare.pdf>.

stays constant throughout the term and is purported to “protect” against the public utilities’ alleged volatility and rate spikes.

63. For example, during July 2019, Direct Energy offered to “price protect” Ameren consumers at 6.29 cents per kilowatt hour for a 36-month term. And in May 2019, Direct Energy offered to “price protect” ComEd consumers at 8.29 cents per kilowatt hour for a 24-month term.

64. But these “protected” rates inflict precisely the harm Direct Energy claims they are meant to protect against. Ameren’s default rate in July 2019 was only 4.453 cents per kilowatt hour. By enrolling in Direct Energy’s “price protection” plan, consumers locked in a rate that was 41% higher than the Ameren rate. And that rate has barely budged. In the first 24 months of the 36-month plan, the Ameren rate never exceeded 4.93 cents per kilowatt hour.

65. Similarly, ComEd’s rate in May 2019 was only 6.719 cents per kilowatt hour. By enrolling in Direct Energy’s “price protection” plan at 8.29 cents per kilowatt hour, consumers locked in a 23% price increase over the ComEd rate. For the entirety of Direct Energy’s 24-month plan, the ComEd default rate never exceeded 7.572 cents per kilowatt hour.

66. Consumers who switch to Direct Energy’s rate nearly always lock in an extended price increase. Direct Energy offers “protection” from a risk (utility rates rising above Direct Energy’s rates) that is illusory and not real.

67. In order to convince consumers that they need this sort of “protection,” Direct Energy has made the following misrepresentations.

68. First, Direct Energy has told consumers, either explicitly or implicitly, that they are on a variable rate. But Direct Energy does not (and cannot) know the type of rate a consumer is on (variable or fixed) without consulting the consumer’s bill (which it doesn’t have). Moreover, Direct Energy does not (and cannot) know, without the consumer disclosing such

information, whether a consumer is receiving electric supply from the utility (ComEd or Ameren) or another ARES.

69. Second, Direct Energy has misled consumers regarding the variability of their current rate. For example, Direct Energy has told consumers that the default utility rate changes “every month,” “is never the same,” and keeps “increasing” and “fluctuating.” But the default utility rate is *not* subject to change every month, is often the same from month-to-month, and is considerably more stable than Direct Energy represents. If a consumer is currently receiving electric supply from the public utility, their rate is determined and publicly available months in advance and will change, at most, once every three months, excluding a small monthly purchased electricity adjustment (PEA) that is capped at one half of one cent. It can, and often does, remain the same for five months at a time. For example, in 2020, both ComEd and Ameren had essentially² the same default rate from January through May, and a second (and lower) default rate from June through September, and a third default rate from October through December. If a consumer is currently with another ARES, they may be on a fixed rate for a year or more, or they may be on a variable rate that changes every month. But one thing is clear: Direct Energy has no way of knowing, as it purports to know, how frequently a consumer’s rate will change—or even *if* it will change.

70. Third, Direct Energy has misrepresented the public utility’s rate in order to make “price protection” seem appealing. On one call, for example, Direct Energy listed what a reasonable consumer would believe to be Ameren’s rates for the past four months. The rates listed—“6.72, 5.5, 6.72, 4.5”—suggested that Ameren’s rates were volatile and high, and therefore enrolling with Direct Energy at a fixed rate of 6.29 cents per kilowatt hour would

² This does not include the PEA, which is capped at one half of one cent.

protect against the likelihood that the Ameren rate would again rise above 6.29, as Direct Energy’s representative suggested it had done twice in just the past four months. In fact, the rates Direct Energy listed did not accurately reflect Ameren’s rates from the prior four months. The actual rates—4.722, 4.698, 4.902, and 4.432—were both more stable and considerably lower than Direct Energy’s “price protected” rate of 6.29 cents per kilowatt hour.

71. Direct Energy has made these above misrepresentations to deceive consumers into enrolling in its “price protection” plan.

Misrepresentations Regarding a State or Public Utility “Program”

72. Another tactic used by Direct Energy’s sales representatives is to intentionally mislead consumers by claiming they are eligible for savings and entitled to “price protection benefits” on their electric bills through a “program” run by (depending on the sales representative) the State of Illinois, the public utility, or the “public utility commission.”

73. Direct Energy tells consumers they are eligible for savings through a state-sponsored utility choice program, and that Direct is contacting them to enroll in such a program, by using terms including but not limited to the “energy choice program,” or “state choice program.”

74. Direct Energy tells consumers they are enrolling them in this “program,” and that consumers will save money and receive “price protection benefits” as a direct result of enrollment in this “program.”

75. In reality, there is no such program.

76. Nothing in Illinois law entitles consumers to reductions on their electricity bills or “price protection benefits.” The Illinois Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 16-101 *et seq.*, deregulated the market. But importantly, it does not create a

“program” for consumers to join or the state or the public utility to run. In fact, the deregulation law precludes the ICC from regulating the prices charged by alternative retail electric suppliers like Direct Energy. It is simply a statute that allows consumers to voluntarily decide whether to stay with their public utility or select a retail electric supplier to provide their electric supply.

77. By referring to a state or utility “program,” and telling consumers they are “entitled” to savings and “price protection benefits,” Direct Energy intends to associate its product with various benefit programs, like low-income payment assistance and budget billing, available to utility consumers in Illinois.

78. Direct Energy incorporates references to a “program” in its marketing scripts, and its sales representatives make repeated and relentless appeals to this “program” in their customer solicitations, with the intent that consumers believe they are enrolling in something akin to one of the public utilities’ benefit programs.

79. Direct Energy pushes this misleading narrative—that consumers are enrolling in a state or public utility benefit program designed to offer them benefits on their utility account—in order to mislead them into switching their electric supplier.

Failure to Disclose New Rate

80. Direct Energy sales representatives have routinely failed to disclose the new rate customers will be paying. Direct Energy elicits consumers’ utility account numbers, completes the solicitation portion of the call, and rushes them through to the third-party verification without disclosing their new rate.

Failure to Disclose New Term

81. Direct Energy sales representatives also have failed to disclose the length of consumers’ new fixed rate term. Direct Energy elicits consumers’ utility account numbers,

completes the solicitation portion of the call, and rushes them through to the third-party verification without disclosing their new term.

Enrolling Consumers without their Consent

82. Direct Energy has violated the Consumer Fraud Act's enrollment requirements by "slamming" consumers, meaning it has enrolled consumers in Direct Energy's electric supply services without the consumers' knowledge or consent. *See* 815 ILCS 505/2EE(a)(iv) (ARES must obtain the consumer's "express agreement to accept the offer" after disclosing all material terms).

83. Numerous Illinois consumers have filed complaints with the ICC alleging that Direct Energy enrolled them in electric supply services without their consent.

84. These consumers often complained to the ICC that they became aware of the unauthorized enrollment only after reviewing subsequent utility bills, often with significantly higher rates than they previously had been paying.

85. In one egregious example, a door-to-door vendor for Direct Energy told a husband and wife, both of whom were disabled, that he needed to see their Ameren bill in order to address alleged past-due charges on their account and asked for \$200 to rectify those alleged charges. The consumers refused to make this payment but subsequently learned that they had been switched to Direct Energy when they began receiving much higher bills than usual. When they tried to cancel the Direct Energy account they were told they could not do so without paying an early termination fee, which they could not afford.

86. Such conduct violates a number of Consumer Fraud Act provisions and illustrates Direct Energy's pattern of slamming consumers, enrolling them without their consent, and impeding their ability to cancel the service.

COUNT ONE

**VIOLATIONS OF SECTION 2 OF THE CONSUMER
FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

87. Plaintiff realleges and incorporates by reference the allegations in Paragraphs 1 to 86.

88. Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, prohibits “unfair or deceptive acts or practices...in the conduct of any trade or commerce.”

89. Unfair or deceptive acts or practices prohibited by the Consumer Fraud Act include, but are not limited to, “the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression, or omission of such material fact.” 815 ILCS 505/2. In addition, Section 2 of the Consumer Fraud Act prohibits “the use or employment of any practice described in Section 2 of the ‘Uniform Deceptive Trade Practices Act,’” *id.*, which in turn provides that “[a] person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, the person . . . engages in any other conduct which similarly creates a likelihood of confusion or misunderstanding.” 815 ILCS 510/2(a)(12). Unfair or deceptive acts or practices are unlawful under the Consumer Fraud Act “whether any person has in fact been misled, deceived or damaged thereby.” 815 ILCS 505/2.

90. While engaged in trade or commerce, Direct Energy has committed unfair and deceptive acts or practices declared unlawful under Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, by engaging in the following acts and practices:

Misrepresentations Regarding Savings

91. Through the means described in Paragraphs 53-61, Direct Energy has misrepresented, directly or indirectly, expressly or by implication, with the intent that consumers

rely on these misrepresentations and omissions that consumers will save money on their electric bill if they enroll with Direct Energy.

92. In truth and fact, where Direct Energy has made the misrepresentations set forth in Paragraph 91 of this Complaint, consumers did not and do not save money by enrolling with Direct Energy, but rather nearly always paid more than they would have if they had purchased electricity directly from their public utility.

Misrepresentations Regarding “Price Protection”

93. Through the means described in Paragraphs 62-71, Direct Energy has misrepresented, directly or indirectly, expressly or by implication, with the intent that consumers rely on these misrepresentations and omissions that:

- (a) Consumers are currently on a variable rate;
- (b) The default utility rate is highly volatile—including claiming the rate changes “every month,” “is never the same,” and keeps “increasing” and “fluctuating”;
- (c) The default utility rate was recently higher than Direct Energy’s “price protected” fixed rate; and
- (d) “Price protection” benefits consumers.

94. In truth and fact, where Direct Energy has made the misrepresentations set forth in Paragraph 93 of this Complaint:

- (a) Direct Energy representatives have no way of knowing whether consumers are on a variable rate;

- (b) The default utility rate is relatively stable and often remains the same (save for the PEA) for at least three, and sometimes as many as eight, months at a time;
- (c) “Price protection” provides consumers no real benefit, since it locks consumers into a new, fixed rate considerably higher than the default utility rate—effectively guaranteeing consumers will pay more for their electric supply.

Misrepresentations Regarding Affiliation with Public Utility

95. Through the means described in Paragraphs 42-47, Direct Energy has misrepresented, directly or indirectly, expressly or by implication, with the intent that consumers rely on these misrepresentations and omissions that its sales representative is affiliated with the utility by, for example:

- (a) asking to speak with the person who handles the “electric bill,” since the public utility companies (not ARES) issue electric bills in Illinois;
- (b) telling the consumer that they are entitled to receive “price protection” on their utility bill and suggesting they have earned this “price protection benefit” because of their record as a valuable ComEd or Ameren customer;
- (c) telling the consumer the purpose of the call is to “apply benefits” to the “account”; and
- (d) asking to “verify” the consumer’s ComEd or Ameren account number, implying that the sales representative already has access to this

confidential utility account information and is merely verifying or confirming it.

96. In truth and fact, where Direct Energy has made the misrepresentations set forth in Paragraph 95 of this Complaint:

- (a) The sales representative is not affiliated with the public utility but is instead attempting to switch the consumer's electric supplier.
- (b) The sales representative is not affiliated with the public utility.
- (c) The sales representative is not affiliated with the public utility, and the purpose of the solicitation is to switch the consumer's electric supplier—not to “apply” benefits to the consumer's ComEd or Ameren account.
- (d) The sales representative is not affiliated with the public utility, and the sales representative cannot “verify” the consumer's utility account number because the sales representatives does not have access to this information. In fact, the sales representative is attempting to switch the consumer's electric supplier to Direct Energy.

Misrepresentations Regarding a State or Utility “Program”

97. Through the means described in Paragraphs 72-79, Direct Energy has misrepresented, directly or indirectly, expressly or by implication, with the intent that consumers rely on these misrepresentations and omissions that:

- (a) There exists a state-sponsored or state-sanctioned “program” that offers consumers savings, “price protection,” and similar benefits upon enrolling with Direct Energy; and

- (b) The Direct Energy sales representative is contacting the consumer to enroll the consumer in a state-sponsored or state-sanctioned “program.”

98. In truth and fact, where Direct Energy has made the misrepresentations set forth in Paragraph 97 of this Complaint:

- (a) There does not exist a state-sponsored or state-sanctioned “program” that offers consumers savings, “price protection,” and similar benefits upon enrolling with an ARES.
- (b) The Direct Energy sales representative is contacting the consumer to switch the consumer’s electric supplier—not to enroll the consumer in a fictitious state-sponsored or state-sanctioned “program.”

Failure to Disclose New Rate

99. Through the means described in Paragraph 80, Direct Energy, with the intent that consumers rely on these omissions has failed to disclose the new rate during the solicitation portion of telemarketing calls.

Failure to Disclose New Term

100. Through the means described in Paragraph 81, Direct Energy, with the intent that consumers rely on these omissions has failed to disclose the new term during the solicitation portion of telemarketing calls.

101. Wherefore, the Plaintiff prays that this honorable Court:

- (a) Find that Direct Energy has violated Section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, by engaging in the unlawful acts and practices alleged herein;
- (b) Preliminarily and permanently enjoin Direct Energy from engaging in the

- deceptive and unfair practices alleged herein;
- (c) Declare that all contracts entered into between Direct Energy and Illinois consumers by the use of methods and practices declared unlawful are rescinded and require that full restitution be made to said consumers;
 - (d) Revoke Defendant's Certificate of Service Authority to operate as an alternative retail electric supplier in the State of Illinois;
 - (e) Assess a civil penalty as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7, of up to \$50,000 for each method, act, or practice declared unlawful by the Act and for each method, act, or practice found to have been entered into with the intent to defraud, an additional amount of \$50,000 per violation;
 - (f) Assess a civil penalty as provided in Section 2FF of the Consumer Fraud Act, 815 ILCS 505/2FF, of \$50,000 for each violation against an elderly consumer, defined as a person 60 years of age or older;
 - (g) Assess a civil penalty as provided in Section 2FF of the Consumer Fraud Act, 815 ILCS 505/2FF, of \$50,000 for each violation against a person with disability;
 - (h) Require Defendant to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and
 - (i) Provide such other and further equitable relief as justice and equity may require.

COUNT TWO

**VIOLATIONS OF SECTION 2EE OF THE CONSUMER
FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

102. Plaintiff realleges and incorporates by reference the allegations in Paragraphs 1 to 86.

103. Section 2EE of the Consumer Fraud Act, 815 ILCS 505/2EE, specifically addresses fraud by electricity providers, such as Direct Energy.

Enrolling Consumers Without their Knowledge or Consent

104. Under Section 2EE of the Consumer Fraud Act, an ARES “shall not submit or execute a change in a consumer’s selection of a provider of electric service unless and until ...the [ARES] has obtained the consumer’s express agreement to accept the offer after disclosure of all material terms and conditions of the offer.” 815 ILCS 505/2EE(a)(iv).

105. Through the means described in Paragraphs 82-86, Direct Energy has “slammed” consumers and enrolled them without their knowledge or consent.

Misrepresentations Regarding Affiliation with Public Utility

106. Under Section 2EE of the Consumer Fraud Act, “[a]n alternative retail electric supplier shall not utilize the name of a public utility in any manner that is deceptive or misleading, including, but not limited to implying or otherwise leading a consumer to believe that an alternative retail electric supplier is soliciting on behalf of or is an agent of a utility.” 815 ILCS 505/2EE(b)(1).

107. Through the means described in Paragraphs 42-47, Direct Energy has misrepresented, directly or indirectly, expressly or by implication, with the intent that consumers rely on these misrepresentations and omissions that its sales representative is affiliated with the public utility.

108. Each misrepresentation as described in Paragraph 107 constitutes a deceptive or misleading use of the name of the public utility in violation of Section 2EE of the Consumer Fraud Act, 815 ILCS 505/2EE.

109. Wherefore, the Plaintiff prays that this honorable Court:

- (a) Find that Direct Energy has violated Section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, by engaging in the unlawful acts and practices alleged herein;
- (b) Preliminarily and permanently enjoin Direct Energy from engaging in the deceptive and unfair practices alleged herein;
- (c) Declare that all contracts entered into between Direct Energy and Illinois consumers by the use of methods and practices declared unlawful are rescinded and require that full restitution be made to said consumers;
- (d) Revoke Defendant's Certificate of Service Authority to operate as an alternative retail electric supplier in the State of Illinois;
- (e) Assess a civil penalty as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7, of up to \$50,000 for each method, act, or practice declared unlawful by the Act and for each method, act, or practice found to have been entered into with the intent to defraud, an additional amount of \$50,000 per violation;
- (f) Assess a civil penalty as provided in Section 2FF of the Consumer Fraud Act, 815 ILCS 505/2FF, of \$50,000 for each violation against an elderly consumer, defined as a person 60 years of age or older;
- (g) Assess a civil penalty as provided in Section 2FF of the Consumer Fraud

Act, 815 ILCS 505/2FF, of \$50,000 for each violation against a person with disability;

- (h) Require Defendant to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and
- (i) Provide such other and further equitable relief as justice and equity may require.

COUNT THREE

VIOLATIONS OF THE TELEPHONE SOLICITATIONS ACT

110. Plaintiff realleges and incorporates by reference the allegations in Paragraphs 1 to 86.

111. Defendant has initiated, or caused its agents to initiate, “[t]elephone solicitation[s]” to Illinois consumers, as that term is defined in the Telephone Solicitations Act, 815 ILCS 413/5.

112. A knowing violation of the Telephone Solicitations Act is an unlawful practice under Section 2Z of the Consumer Fraud Act, 815 ILCS 413/25(e) and 815 ILCS 505/2Z.

113. Section 15 of the Telephone Solicitations Act, 815 ILCS 413/15, requires telemarketers to immediately state, among other things, the “purpose of the call.” 815 ILCS 413/15(b)(1).

114. Through the means described in Paragraphs 48-52, Direct Energy has knowingly solicited customers without inquiring at the beginning of the call whether the person called consents to the solicitation.

115. Section 15 of the Telephone Solicitations Act, 815 ILCS 413/15, requires a telesales agent to “inquire at the beginning of the call whether the person called consents to the solicitation.”

116. Through the means described in Paragraphs 48-52, Direct Energy has knowingly solicited customers without inquiring at the beginning of the call whether the person called consents to the solicitation.

117. Direct Energy’s practices as described in Paragraphs 114 and 116 constitute violations of Section 15 of the Telephone Solicitations Act, 815 ILCS 413/15, as well as Section 2Z of the Consumer Fraud Act, 815 ILCS 505/2Z.

118. Wherefore, the Plaintiff prays that this honorable Court:

- (a) Find that Direct Energy has violated Section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, by engaging in the unlawful acts and practices alleged herein;
- (b) Preliminarily and permanently enjoin Direct Energy from engaging in the deceptive and unfair practices alleged herein;
- (c) Declare that all contracts entered into between Direct Energy and Illinois consumers by the use of methods and practices declared unlawful are rescinded and require that full restitution be made to said consumers;
- (d) Revoke Defendant’s Certificate of Service Authority to operate as an alternative retail electric supplier in the State of Illinois;
- (e) Assess a civil penalty as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7, of up to \$50,000 for each method, act, or practice declared unlawful by the Act and for each method, act, or practice found


to have been entered into with the intent to defraud, an additional amount of \$50,000 per violation;

- (f) Assess a civil penalty as provided in Section 2FF of the Consumer Fraud Act, 815 ILCS 505/2FF, of \$50,000 for each violation against an elderly consumer, defined as a person 60 years of age or older;
- (g) Assess a civil penalty as provided in Section 2FF of the Consumer Fraud Act, 815 ILCS 505/2FF, of \$50,000 for each violation against a person with a disability;
- (h) Require Defendant to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and
- (i) Provide such other and further equitable relief as justice and equity may require.

Respectfully submitted,

THE PEOPLE OF THE STATE OF
ILLINOIS, BY KWAME RAOUL,
Attorney General of the State of Illinois

Dated: April 10, 2025

By: 
Susan N. Ellis
One of the Attorneys for Plaintiff

Susan N. Ellis
Chief, Consumer Protection Division
Thomas J. Verticchio
Assistant Chief Deputy Attorney General
Darren Kinhead
Public Interest Counsel
115 South LaSalle Street
Chicago, IL 60603
(312) 814-3000
susan.ellis@ilag.gov

thomas.verticchio@ilag.gov
darren.kinhead@ilag.gov
Atty. No: 99000

<p>Benjamin Blustein Robert S. Libman Matthew Owens Paul S. Balik Bernardo Lopez Allison Lee Special Asst. Attorneys General Miner, Barnhill & Galland, P.C. 325 N. LaSalle, Ste. 350 Chicago, IL 60654 Phone: (312) 751-1170 bblustein@lawmbg.com rlibman@lawmbg.com mowens@lawmbg.com blopez@lawmbg.com Attorney No. 44720</p>	<p>Christopher J. Wilmes Tory Tilton Special Asst. Attorneys General Hughes Socol Piers Resnick & Dym, Ltd. 70 W. Madison St., Ste. 4000 Chicago, IL 60602 Phone: (312) 580-0100 cwilmes@hsplegal.com ttilton@hsplegal.com Attorney No. 45667</p>	<p>Jay Edelson Ari Scharg Jimmy Rock Shantel Chapple Knowlton Michael Ovca Special Asst. Attorneys General Edelson PC 350 N. LaSalle St., 14th Fl. Chicago, IL 60654 Phone: (312) 589-6370 ascharg@edelson.com jrock@edelson.com scknowlton@edelson.com movca@edelson.com Attorney No. 62075</p>
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