

# Exhibit A

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO: 19 CV 1611

_____	)
WILLIAM MCDERMET	)
	)
Plaintiff	)
	)
v.	)
	)
NATIONAL GAS & ELECTRIC, LLC	)
PROVIDER POWER MASS, LLC	)
VERDE ENERGY USA MASSACHUSETTS, LLC)	)
DIRECT ENERGY, LLC	)
MEGA ENERGY OF MASSACHUSETTS, LLC	)
RENAISSANCE POWER & GAS, INC.	)
	)
Defendants	)
_____	)

FILED  
ESSEX SUPERIOR COURT  
2019 NOV 20 A 9 08

**COMPLAINT AND JURY DEMAND**

1. This is a civil action for damages based on the defendant's violations of: the Federal Telephone Consumer Protection Act (47 U.S. Code § 227); Massachusetts's Telemarketing Solicitation statute (M.G.L.c. 159C); and the Massachusetts Consumer Protection Act (M.G.L. c. 93A).

**THE PARTIES**

2. Plaintiff, WILLIAM MCDERMET, is a natural person residing currently and at all times relevant to this action in Ipswich, Essex County, Massachusetts.

3. Defendants National Gas & Electric, LLC, Provider Power Mass, LLC, and Verde Energy USA Massachusetts, LLC are all limited liability companies registered with the Massachusetts Secretary of State, organized under the laws of Texas or Delaware, and headquartered at 12140 Wickchester Lane, Suite 100, Houston, TX 77079.

4. Defendant Direct Energy, LLC is a corporation/limited liability company registered with the Massachusetts Secretary of State, organized under the laws of Delaware, and headquartered at 12 Greenway Plaza, Suite 250, Houston, TX 77046.

5. Defendant Mega Energy of Massachusetts, LLC is a limited liability company registered with the Massachusetts Secretary of State, organized under the laws of Texas, and headquartered at 2150 Town Square Place, Suite 711, Sugar Land, TX 77479.

6. Defendant Renaissance Power & Gas, Inc., is a corporation registered with the Massachusetts Secretary of State, organized under the laws of Nevada, and headquartered at 440 S. Eastern Avenue, Suite 320, Las Vegas, NV 89119.

**JURISDICTION AND VENUE**

7. This Court has jurisdiction over the causes of action alleged in this Verified Complaint because the defendant has had sufficient contact with Massachusetts in connection with the causes of action alleged in this Verified Complaint pursuant to G.L. c. 223A, § 3, and c. 93A.

8. The Plaintiff has been a Massachusetts resident at all times during the events enumerated in this Complaint.

9. Venue is appropriate because the violations complained of all occurred in Essex County, Massachusetts.

**STATEMENT OF FACTS**

10. Plaintiff registered his residential home telephone number (978-356-0256) and cellular telephone number (978-270-8669) with both the State and Federal Do-Not-Call Registries on August 16, 2003, and January 28, 2010, respectively, in accordance with G.L. c. 159C, 201 CR 12.05, 47 U.S. Code 227 (the Telephone Consumer Protection Act), and 16 C.F.R. § 310.4(b)(1)(iii)(B).

11. On eighty-eight occasions, Defendants, or their agent, telephoned Plaintiff on his cellular phone (978-270-8669).

Call Date	Call Time	Number Calling
7/12/16	17:39:46	617-993-0071
7/12/16	17:47:35	484-378-8082
10/4/16	16:34:25	978-525-9182
11/3/16	13:30:52	413-553-0444
11/25/16	16:05:50	508-210-5058
12/13/16	11:20:36	201-351-7058
1/16/17	15:16:54	888-704-1099
4/24/17	12:06:54	508-683-0399
6/23/17	10:19:36	508-683-0399
7/27/17	18:21:03	413-749-6209
7/28/17	11:59:04	413-749-6209
9/14/17	13:53:15	508-749-6209
10/5/17	13:36:53	508-749-6209
10/10/17	12:33:51	212-326-6080
10/12/17	11:21:22	815-345-4725

Call Date	Call Time	Number Calling
3/16/18	11:57:23	508-224-5542
3/23/18	17:37:41	646-688-5832
3/28/18	13:43:02	646-688-5832
3/28/18	17:25:06	646-688-5832
4/3/18	11:18:10	508-224-5542
4/26/18	12:54:50	508-440-5487
6/23/18	12:44:02	413-743-4494
7/10/18	17:39:30	516-425-1521
7/10/18	17:59:54	516-425-1521
7/12/18	16:21:55	781-216-0628
8/16/18	12:22:45	978-368-9030
8/25/18	18:07:36	508-991-4470
9/21/18	18:29:12	508-991-4470
9/21/18	18:45:11	1002
9/22/18	16:56:09	508-991-4470

Call Date	Call Time	Number Calling
9/25/18	14:31:02	978-801-2336
10/9/18	19:39:22	1000000000
10/15/18	18:01:56	800-322-3223
10/30/18	15:22:48	412-368-5529
11/5/18	17:59:40	800-344-3443
11/19/18	12:51:54	978-575-0594
12/3/18	12:10:08	978-341-7673
12/4/18	15:57:17	617-263-8191
12/4/18	17:21:54	978-918-0634
12/5/18	9:55:51	978-335-4125
1/10/19	13:24:38	978-270-2335
1/14/19	17:33:07	978-356-1444
1/16/19	12:08:28	888-356-1983
1/21/19	17:20:30	978-356-3146
1/21/19	17:42:52	978-270-1468
1/24/19	10:12:28	978-270-3363
1/24/19	15:37:33	978-270-1782
1/24/19	17:33:47	800-592-2000
1/28/19	11:59:50	978-270-2596
1/30/19	12:55:14	978-270-4725
1/30/19	16:37:08	978-270-3232
2/11/19	15:44:06	800-322-3223
2/20/19	16:01:05	978-261-6322
2/20/19	16:04:00	978-519-4382
2/20/19	16:32:01	978-807-4149
2/25/19	16:04:15	978-442-0619
3/4/19	16:13:36	978-270-3775
3/13/19	19:27:27	571-441-3048
4/8/19	14:49:28	1-197-827-7515

Call Date	Call Time	Number Calling
5/3/19	12:31:12	978-279-000
5/20/19	12:18:22	978-273-715
5/23/19	17:04:48	978-276-491
5/24/19	15:05:33	978-275-511
5/29/19	19:08:19	978-277-704
6/10/19	15:42:37	978-277-226
6/25/19	14:04:41	800-322-3223
7/19/19	16:33:39	978-352-679
7/30/19	12:02:27	413-273-4185
7/30/19	17:53:34	978-354-636
7/31/19	19:22:28	978-835-2038
8/8/19	14:23:19	888-642-6748
9/23/19	17:19:06	718-576-9114
9/23/19	17:28:13	978-516-2117
10/14/19	17:06:51	783-560-8575
10/17/19	16:20:59	877-659-6326
10/17/19	16:41:25	877-659-6326
10/17/19	16:47:02	877-659-6326
10/17/19	18:28:23	877-659-6326
10/17/19	18:30:05	877-659-6326
10/18/19	13:59:18	877-659-6326
10/18/19	17:53:55	976-189-6389
10/21/19	12:38:18	877-659-6326
10/21/19	12:44:01	877-659-6326
10/21/19	17:37:24	877-659-6326
10/21/19	17:38:07	877-659-6326
10/23/19	17:23:31	877-659-6326
10/24/19	11:44:06	877-659-6326
10/28/19	19:19:34	877-659-6326

12. On fifty-two occasions, Defendants, or their agent, telephoned Plaintiff on his residential landline (978-356-0256).

Call Date	Call Time	Number Calling
9/14/17	14:36:36	508-749-6209
10/31/17	12:34:49	815-315-4725
11/13/17	19:11:56	212-326-6080

Call Date	Call Time	Number Calling
11/27/17	15:38:12	815-315-4725
11/30/17	17:44:46	815-315-4725
11/30/17	17:58:22	815-315-4725

Call Date	Call Time	Number Calling
12/1/17	16:45:12	815-315-4725
2/27/18	15:11:34	978-312-6226
5/22/18	17:29:08	168215484324643
6/8/18	16:17:31	168215484324643
6/20/18	16:17:59	818-356-4115
6/20/19	19:40:55	818-356-4115
6/20/19	19:41:39	818-356-4115
7/4/18	17:37:07	781-216-0628
7/4/18	19:06:45	413-593-9799
7/5/18	12:50:53	508-861-8986
7/13/18	17:47:11	469-754-0625
7/17/18	11:38:14	781-261-0362
7/23/18	18:24:44	617-653-2964
7/24/18	16:33:22	617-508-3625
7/27/18	13:19:07	508-725-4553
7/31/18	17:02:04	469-754-0625
8/3/18	16:58:28	11006
8/3/18	16:58:32	11006
8/13/18	11:48:49	508-922-8013
8/15/18	13:53:10	781-289-3560
8/17/18	13:35:49	978-876-0670
9/3/18	15:32:05	610-871-1780
9/10/18	12:49:43	978-266-1966

Call Date	Call Time	Number Calling
10/12/18	11:54:27	798-979-9994
10/23/18	17:40:10	798-979-9994
10/28/18	14:28:27	798-979-9994
11/21/18	13:42:23	978-463-0586
11/26/18	16:09:13	978-312-6226
11/26/18	17:22:32	978-312-6226
11/26/18	17:23:18	978-312-6226
1/23/19	10:55:39	800-322-3223
1/24/19	13:13:07	978-356-4002
1/24/19	18:23:11	978-356-1932
1/28/19	17:45:37	978-356-2245
1/31/19	16:34:20	978-356-2891
2/1/19	13:19:48	469-510-8681
2/1/19	14:27:03	469-510-8681
2/4/19	18:22:10	978-356-2272
02/27/18	15:11:34	978-312-6226
3/9/19	12:51:33	978-770-2287
3/13/19	18:02:48	978-321-0593
3/20/19	19:46:47	978-457-7136
4/10/19	19:29:48	978-372-9528
4/10/19	19:34:19	978-393-3163
4/10/19	19:35:10	978-345-5825
6/12/19	11:49:02	978-271-206

13. Forty-six of these calls began with a mechanical or recorded voice, which stated that Plaintiff qualified for a discount on his electric bill.

14. During many of these calls, when Plaintiff spoke with a live person, those persons stated that they were with Eversource, or National Grid. Plaintiff informed these persons that the calls were violations of State and Federal Do-Not-Call laws.

15. On many of the above occasions when Plaintiff spoke with a live person, that person did not know Plaintiff's name.

16. Two of these calls were silent, although Plaintiff's caller ID showed the same number as other calls.

17. The numbers shown on Plaintiff's caller identification on all of these occasions either could not be redialed, or lead to Eversource Energy, Inc.

18. On twenty-eight of the above occasions, Plaintiff was forwarded to a 'verifier', who sought to verify that Plaintiff was switching his electrical service to National Gas & Electric.

19. On four of these occasions, Plaintiff asked the caller for the address of his company. On each occasion, the caller refused, or terminated the call.

20. During the call on January 14, 2019, Plaintiff asked the caller for the name and address of his company. The caller responded "Shut the fuck up you motherfucker."

21. During the call at 19:34 on April 10, 2019 (which was the same voice, but not the same caller ID number as the 19:29 call), Plaintiff informed the caller that both calls were violations of Do-Not-Call laws. The caller then offered his opinion that Plaintiff was a "piece of shit," then terminated the call. Less than one minute later, the same-voice (from a different number) called again.

22. On fifteen of the above occasions, Plaintiff was forwarded to a 'verifier', who sought to verify that Plaintiff was switching his electrical service to Provider Power Mass.

23. On two of the above occasions, Plaintiff was forwarded to a 'verifier', who sought to verify that Plaintiff was switching his electrical service to Verde Energy.

24. On five of the above occasions, Plaintiff was forwarded to a 'verifier', who sought to verify that Plaintiff was switching his electrical service to Direct Energy.

25. On eight of the above occasions, Plaintiff was forwarded to a 'verifier', who sought to verify that Plaintiff was switching his electrical service to Mega Energy.

26. On eight of the above occasions, Plaintiff was forwarded to a 'verifier', who sought to verify that Plaintiff was switching his electrical service to Renaissance Power.

27. At no time did Plaintiff give Defendant or their agent express written permission to call either of his telephone numbers.

28. On February 12, 2019, Plaintiff sent a letter to Defendant National Gas & Electric demanding that Defendant stop calling him, and that Defendant provide him with the name of a lead generator who had initiated any of these calls. Defendant received this letter via certified mail on February 18, 2018.

29. On February 12, 2019, Plaintiff sent a letter to Defendant Mega Energy demanding that Defendant stop calling him, and that Defendant provide him with the name of a lead generator who had initiated any of these calls. Defendant received this letter via certified mail on February 19, 2019.

30. On February 12, 2019, Plaintiff sent a letter to Defendant Provider Power Mass demanding that Defendant stop calling him, and that Defendant provide him with the name of a lead generator who had initiated any of these calls. Defendant received this letter via certified mail on February 18, 2019.

31. On February 12, 2019, Plaintiff sent a letter to Defendant Renaissance Power demanding that Defendant stop calling him, and that Defendant provide him with the name of a lead generator who had initiated any of these calls. Defendant received this letter via certified mail on February 19, 2019.



32. Forty-four of the above listed calls occurred after these demand letters were received.

33. Plaintiff has never learned the identity of the lead generator who initiated these calls.

### **COUNT I**

#### **VIOLATIONS OF FEDERAL DO-NOT-CALL LAWS**

34. Plaintiff incorporates by reference all other paragraphs of this Complaint numbered 1-17 as if fully set forth herein.

35. Defendants on eighty-eight occasions knowingly and intentionally violated 47 U.S. Code § 227(b)(1)(A)(iii) by calling Plaintiff's cellular telephone number, which was and is registered with the State and Federal Do-Not-Call Registries, those calls not being made to collect a debt, and without Plaintiff's express written permission.

36. Defendants on fifty-two occasions knowingly and intentionally violated 47 CFR § 64.1200(c)(2) – and therefore 47 U.S. Code § 227(b)(2) – by calling Plaintiff's residential telephone number, which was and is registered with the State and Federal Do-Not-Call Registries, and after being notified by Plaintiff that he did not wish to be called, those calls not being made to collect a debt, and without Plaintiff's express written permission.

37. Defendants on forty-five occasions violated 47 U.S. Code § 227(b)(B) and 47 CFR § 64.1200(a)(1)(iii), by initiating those calls using an artificial or prerecorded voice, without the prior consent of Plaintiff.

38. Defendants on the same forty-five occasions violated 47 U.S. Code §§ 227(b)(1)(A)(3) and 47 CFR § 64.1200(a)(2) by using an automatic telephone dialing system to initiate those calls.

## COUNT II

### **VIOLATIONS OF THE MASSACHUSETTS DO-NOT-CALL STATUTE M.G.L. c. 159C AND THE MASSACHUSETTS CONSUMER PROTECTION ACT**

39. Plaintiff incorporates by reference all other paragraphs of this Complaint numbered 1-20 as if fully set forth herein.

40. Defendants on eighty-eight occasions knowingly and intentionally violated M.G.L.c.159C§3(i) and 201 CMR 12.02(1) by calling Plaintiff's cellular telephone number, which was and is registered with the State and Federal Do-Not-Call Registries, those calls not being regarding a debt, and without Plaintiff's express written permission.

41. Defendants on fifty-six occasions knowingly and intentionally violated M.G.L.c.159C§3(iv) and 201 CMR 12.02(4) by using a recorded message.

42. Defendants on all 140 occasions knowingly and intentionally violated M.G.L.c.159C§4 and 201 CMR 12.02(5) by blocking Plaintiff's caller identification device, or by misrepresenting the caller's number.

43. Defendants on all 140 occasions knowingly and intentionally violated M.G.L.c.159C§5A(a), 201 CMR 12.02(7) by not disclosing the correct name of the telemarketing company or the name of the ultimate seller at the beginning of the call.

44. All of the above acts constituted a violation of the Massachusetts Consumer Protection Act, M.G.L.c.93A, being unfair and deceptive acts.

**WHEREFORE**, Plaintiff requests that this honorable Court:

- A. Enter judgment against Defendant on all counts;
- B. Award damages in the amount of \$115,000 for the 230 violations enumerated in Count I: \$500 for each as a violation of Federal law per 47 U.S. Code §§ 227(b)(3)(B) and 227(c)(5)(B), including violations of 47 CFR § 64.1200(c)(2);
- C. Award damages in the amount of \$700,000 for the 140 violations in Count II: \$5,000 for each as a violation of Massachusetts law per M.G.L.c.159C §5(b)(2);
- D. Award damages to Plaintiff for violations of M.G.L. c. 93A, as outlined in this Complaint;
- E. Award damages to Plaintiff and double or treble all such damages, as applicable and as the court deems appropriate, pursuant to the provisions of M.G.L. c. 93A §2, and 47 U.S. Code § 227;
- F. Award Plaintiff costs of suit; and
- G. Issue a Permanent Injunctive Order enjoining Defendant from ever contacting Plaintiff by telephone, at his home or cellular telephone numbers, as allowed by 47 U.S. Code §§ 227(c)(5)(A) and 227(b)(3)(A).

**PLAINTIFF DEMANDS A JURY TRIAL AS TO ALL CLAIMS SO TRIABLE**

By William McDermet, pro se

 11/20/19

William McDermet

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