

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

LORI SANBORN, IRON MAN LLC and
STEPHANIE SILVER, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

VIRIDIAN ENERGY, INC.,

Defendant.

No. 3:14-cv-01731 (SRU)

**CONSOLIDATED CLASS ACTION
COMPLAINT**

DAVID STEKETEE, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

VIRIDIAN ENERGY, INC.,

Defendant.

No. 3:15-cv-00585 (SRU)

SUSANNA MIRKIN AND BORIS
MIRKIN, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

VIRIDIAN ENERGY, INC.,

Defendant.

No. 3:15-cv-01057 (SRU)

1. Plaintiffs Lori Sanborn, Iron Man LLC, Stephanie Silver, David Steketee, Susanna Mirkin, and Boris Mirkin (“Plaintiffs”), on behalf of themselves and all persons similarly situated, by and through their attorneys, allege the following with knowledge as to their own acts, and upon information and belief as to all other acts.

INTRODUCTION

2. Plaintiffs bring this action on behalf of themselves and a class of all similarly situated customers in Connecticut, New Jersey, Massachusetts, and New York against Defendant Viridian Energy, Inc. (“Viridian”) arising out of Viridian’s unfair, deceptive, unconscionable and bad faith billing for “supplying” energy to residential consumers.

3. Viridian entices residential customers to sign up for its service by offering low initial rates for energy. When the “teaser rate” period expires, however, customers are rolled over into month-to-month variable rate plans with exorbitant rates.

4. Viridian represents that it offers “variable rate” energy plans to residential consumers that are tied to the market rate in the wholesale energy market. However, contrary to Viridian’s representations and contractual obligations, Viridian consistently and improperly charges an extraordinarily high premium rate for gas and electricity *regardless* of fluctuations in the underlying wholesale market price. Indeed, as set forth below, Viridian can charge its consumers *four, five and even six times* the underlying market rate, notwithstanding Viridian’s representations that its variable rates “reflect” monthly wholesale energy prices.

5. In particular, Viridian’s rates go *up* to match spikes in the underlying market price. However, when the market price goes *down*, Viridian’s rate remains at an inflated level higher than the market rate. Through this scheme, Viridian subjects consumers to consistent and unlawful “heads I win, tails you lose” pricing.

6. Viridian also markets itself as providing green energy at prices lower than conventional “brown” energy. Viridian describes this seeming “win, win” in the following ways in its marketing materials and on its website:

“With Viridian, the choice is simple – consumers are able to lower their energy bills and help the environment.”¹

“[C]ustomers make a difference in the environment and save money[.]”²

“How many . . . people would like to save money on their energy while helping the environment?”³

“[Y]ou’ll be doing your part to do something better for the environment while saving money on your energy costs at the same time.”⁴

“Choose Green Energy. Get Affordability Too.”⁵

“Our Mission: Viridian was built on the idea that customers should never have to choose between affordability and sustainability.”⁶

“Choosing a more responsible energy product shouldn’t hurt your budget.”⁷

“MAKING A DIFFERENCE JUST GOT REALLY EASY”⁸

“Making the right choice for the environment doesn’t have to cost more. In fact

¹ Viridian Power with Purpose Brochure, attached as Exhibit 1.

² *Id.*

³ *Id.*

⁴ October 16, 2013 Letter from Viridian Founder and CEO Michael Fallquist to the Mirkins, attached as Exhibit 2.

⁵ <https://web.archive.org/web/20150817070637/http://www.viridian.com/>.

⁶ Viridian 2012 Sustainability Brochure, attached as Exhibit 3.

⁷ http://www.viridian.com/comp-affordably-green.asp?CO_LA=US_EN.

⁸ Viridian Affordable Green Energy Brochure, attached as Exhibit 4.

the average Everyday Green customer saves money on energy costs over time.”⁹

“AFFORDABLE GREEN ENERGY”¹⁰

“Finally, AFFORDABLE GREEN ENERGY[.] It’s safe and easy to switch!”¹¹

“Ask us how to \$AVE MONEY on your ELECTRIC BILL.”¹²

7. In addition to marketing touting that customers will save money compared to what their traditional utility would have charged, Viridian’s customer contract promises that customers who switch will save money compared what their utility would have charged and that Viridian’s energy prices will be affordable.

8. The truth is, however, that Viridian’s energy prices are not lower than the price of conventional energy, they are not affordable, and its rates are not based on wholesale market conditions. Rather, Viridian charges much more than sellers of conventional energy, and its rates go up even when the wholesale market rate goes down.

9. This unfair and deceptive scheme of charging inflated electric and gas prices is intentionally designed to maximize revenue for Viridian.

10. Plaintiffs and other Viridian customers have been injured by Viridian’s unlawful practices. Accordingly, Plaintiffs, on behalf of themselves and the Class, seek damages, restitution and injunctive relief for Viridian’s violation of state consumer protection statutes, breach of contract and breach of the implied covenant of good faith and fair dealing.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Affordable Green Energy Flyer, attached as Exhibit 5.

¹² \$ave Money on Your Electric Bill Flyer, attached as Exhibit 6.

11. Only through a class action can the Company's customers remedy Viridian's ongoing wrongdoing. Because the monetary damages suffered by each customer are small compared to the much higher cost a single customer would incur in trying to challenge Viridian's unlawful practices, it makes no financial sense for an individual customer to bring his or her own lawsuit. Further, many customers don't realize they are victims of Viridian's deceptive conduct.

12. With this class action, Plaintiffs and the Class seek to level the playing field and make sure that companies like Viridian engage in fair and upright business practices.

PARTIES

13. Plaintiff Lori Sanborn is a resident of Stoughton, Massachusetts.

14. Plaintiff Iron Man LLC is a limited liability corporation with its principal place of business in Monroe, Connecticut.

15. Plaintiff Stephanie Silver is a resident of Enfield, Connecticut.

16. Plaintiff David Steketee is a resident of Madison, New Jersey.

17. Plaintiffs Susanna Mirkin and Boris Mirkin are married and reside in Brooklyn, New York.

18. Defendant Viridian Energy, Inc. is a corporation organized under the laws of Nevada whose principal place of business is located at 1055 Washington St., Stamford, CT 06901. Upon information and belief, Viridian does not have an office or keep assets in the state of Massachusetts.

JURISDICTION AND VENUE

19. This Court has jurisdiction over this civil action under 28 U.S.C. § 1332(d) because this is a class action filed under Rule 23 of the Federal Rules of Civil Procedure, the

amount in controversy exceeds \$5,000,000 and there are members of the Class who are citizens of a different state than Defendant Viridian.

20. This Court has personal jurisdiction over Viridian because Viridian maintains an office in Connecticut and because Viridian has tens of thousands of customers in Connecticut and thereby conducts business in this state.

21. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Viridian resides in Stamford, Connecticut.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

A. Energy Deregulation and the Role of Energy Suppliers like Viridian

22. In the late 90s and early 2000s, many states moved to deregulate at least part of the gas and electricity supply services then performed by large public utilities. Delivery of energy to a consumer requires both the production of energy and the transmission of that gas or electricity from the producer to the consumer. The typical pattern of deregulation was to require the public utilities to divest their energy generation assets such as coal, gas and nuclear power plants. But, the regulated utilities continued distributing energy from producers to consumers through transmission lines.

23. When deregulation occurred, the business of energy *supply* was opened to competition and consumers were allowed to select the companies from whom they would purchase their gas and electricity. However, states generally set a “standard offer” or “default rate,” available to all customers in each public utility’s service area. In some states, such as Connecticut, the standard offer is a single, flat rate which is fixed for a period of months, while other states such as Massachusetts have both a fixed rate standard offer and a standard offer rate that varies each month.

24. As a result of the deregulation of energy supply, several different parties are now involved in the supply of gas and electricity to residential consumers. Certain companies, such as Dominion, produce energy (“Generation Companies”). Other companies, such as Connecticut Light & Power (“CL&P”) in Connecticut, Jersey Central Power and Light (“JCP&L”) in New Jersey and the National Grid in Massachusetts and New York distribute gas and electricity from Generation Companies to the end user (“Distribution Companies”). Although some Generation Companies sell energy directly to consumers, including residential customers, most sell their energy on the wholesale market to companies that market to retail customers (“Energy Suppliers”).

25. The market for wholesale electricity in the New England states is under the administration of an independent, not-for-profit corporation formed in accordance with the recommendations of the Federal Energy Regulatory Commission, called ISO New England (an “Independent System Operator” or “ISO”). The market for wholesale electricity in New Jersey is under the administration of an independent, not-for-profit corporation formed in accordance with the recommendations of the Federal Energy Regulatory Commission, called PJM Interconnection LLC (“PJM”). The market for wholesale electricity in New York is under the administration of an independent, not-for-profit corporation formed in accordance with the recommendations of the Federal Energy Regulatory Commission, called New York Independent System Operator (“NYISO”).

26. ISO New England, PJM, and the NYISO coordinate and direct the generation and flow of electricity throughout their regions, ensuring that electric supply exactly meets demand throughout the network.

27. The wholesale markets managed by ISO New England, PJM, and the NYISO determine where and when electricity will be made by Generation Companies and the wholesale prices that will be paid for that electricity through competitive bids. These markets are robust. For example, for New England alone “[m]ore than 500 companies participate in these markets, buying and selling between \$6-\$14 billion of electric power and related products annually.” <http://www.iso-ne.com/about/what-we-do/three-roles/administering-markets>. The bid process determines the Generation Company that will make each unit of electricity and the wholesale price each Energy Supplier will pay to each Generator for each unit of energy delivered to specific locations throughout the region.

28. The markets for wholesale natural gas in New England, New Jersey, and New York are an amalgamation of a number of subsidiary markets. There is a physical market, in which natural gas is produced, transported, stored and consumed. There is also a financial market in which physical natural gas is bought and sold as a financial product derived from physical natural gas.

29. Energy Suppliers play a middleman role: they purchase energy directly or indirectly from Generation Companies and sell that energy to end-user consumers. However, Energy Suppliers do not *deliver* energy to consumers. Rather, Generation Companies deliver the energy to Distribution Companies, which in turn deliver it to the ultimate consumer. Energy Suppliers merely buy gas and electricity at the wholesale rate and then sell that energy to end-users with a mark-up. Thus, Energy Suppliers are essentially brokers and traders: they neither make nor deliver gas or electricity, but merely buy energy from the Generation Companies and re-sell it to consumers.

30. Like other Energy Suppliers, Viridian purchases energy on the wholesale market and sells it to consumers. For example, as Viridian admits in its “Disclosure Label,” the New England power grid receives power from a variety of power plants and transmits that power throughout New England as needed. Viridian buys and resells “System Power” pursuant to “system power contracts,” which is power purchased from the regional electricity market, not from specific power generation plants.

31. Viridian’s prices are not approved by states’ regulatory authorities. Rather, Viridian and other Energy Suppliers are free to set their own rates for supplying energy to consumers. And Viridian, like all other suppliers, relies upon the Distribution Companies to deliver the energy it purchases on the wholesale market to its customers. The Distribution Companies charge separately for their services, using rates that are reviewed and approved by the states’ regulatory agencies.

32. Energy Suppliers may contract with consumers to supply electricity and/or natural gas on either a “Fixed” or “Variable” rate basis. Under a Fixed contract, the Supplier agrees to supply energy at a set rate for a certain number of months.

33. Under a Variable rate contract, the Supplier may vary the rate it charges on a periodic basis (often monthly).

B. Viridian’s Excessive Rates

34. Viridian has offered various Fixed and Variable rate plans in at least 13 states and the District of Columbia, including contracts that charge a low promotional “teaser” rate which is fixed for a set number of months before automatically rolling into a Variable rate plan.

35. Viridian represents that its Variable rate plan is based upon the wholesale market rate. For example, Viridian's Massachusetts Disclosure Statement states that the variable rate "may fluctuate from month to month" based on applicable "wholesale market conditions."

36. Most importantly, Viridian's Variable rate "Terms of Service" make this express link between the variable rate charged by the company and the underlying wholesale market rate for gas and electricity.

37. Viridian's Massachusetts Terms of Service state that the variable rate "will vary based on several factors, including but not limited to, market conditions, operations costs, and other factors. . . ."

38. Viridian's Connecticut and New York Terms of Service state that the variable rate "may fluctuate each month based on the wholesale market conditions applicable" in the customer's area.

39. Viridian's New Jersey Terms of Service state that the variable rate will vary "based on several factors, including but not limited to market conditions, operations costs, and other factors and may include an introductory rate for such time as indicated in your Enrollment Documentation ("Variable Rate")."

40. Accordingly, a reasonable consumer would understand that Viridian's Variable rates would be reasonably related to and fluctuate in a manner correlated with the underlying wholesale market rate, and that, although prices would go up when wholesale prices rose, they would also go down when wholesale prices decreased, enabling consumers to take advantage of market lows.

41. Instead, and contrary to reasonable consumer expectation, Viridian used its Variable rates as a pure profit center that was not tied to underlying wholesale market rates.

Viridian increased the rates charged to Class members when wholesale prices rose, but kept them level, sometimes as much as *four, five or even six times* the wholesale market rates when the wholesale prices fell.

42. For example, the chart below sets forth (1) the average wholesale price (in dollars per kilowatt hour) of electricity delivered to Connecticut for each month during the period from November 2013 through March 2015, as reported by ISO-New England;¹³ (2) the highest non-promotional variable rates Viridian charged to consumers in Connecticut for those same months;¹⁴ (3) the resulting spread between Viridian's rates and the average wholesale price; and (4) the Viridian price compared to the average wholesale price, expressed as a percentage.

Month	Total Wholesale Rate for Connecticut (cents/kilowatt hour)	Viridian Price (cents/kilowatt hour)	Viridian's Spread (cents/kilowatt hour)	Viridian's Price as Percentage of Wholesale Rate
November 2013	5.344	14.49	9.146	271%
December 2014	10.588	15.49	4.902	146%
January 2014	18.615	16.49	-2.125	89%
February 2014	15.803	23.49	7.687	149%
March 2014	12.312	24.00	11.688	195%
April 2014	4.689	24.00	19.311	512%

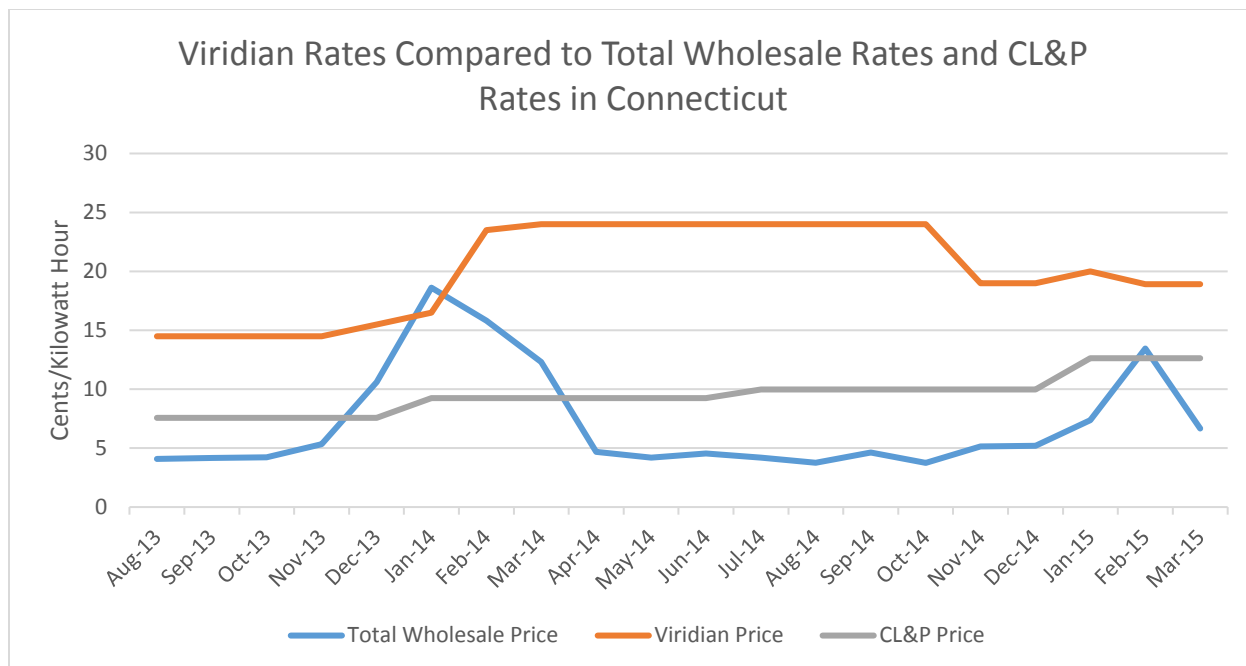
¹³ This is the "Total Wholesale Rate" paid by Suppliers, including not only the wholesale price of power but also all of ISO-New England's charges, such as its charges for capacity, Net Commitment Period Compensation (NCPC), Ancillary Markets, and Wholesale Market Services, as reported in ISO New England's monthly Wholesale Load Cost Reports.

¹⁴ The information for the period from March of 2014-March of 2015 comes from Viridian's website, where, pursuant to Connecticut law, it is now required to post its highest and lowest rates for the past 12 months. For months prior to March of 2014, the chart includes Viridian's rates for its 100% renewable power option, as reported in filings Viridian made to Connecticut's Public Utility Regulatory Authority, which appears to correspond to Viridian's highest rate charged. This is a more than fair point of comparison, since on information and belief the cost to Viridian of purchasing the necessary Renewable Energy Credits, or "RECs", to market its plan as 100% renewable, is negligible. For example, CL&P offers a "Sterling Energy" 100% renewable energy plan for only **\$0.01** more than its Standard rate.

Month	Total Wholesale Rate for Connecticut (cents/kilowatt hour)	Viridian Price (cents/kilowatt hour)	Viridian's Spread (cents/kilowatt hour)	Viridian's Price as Percentage of Wholesale Rate
May 2014	4.192	24.00	19.808	573%
June 2014	4.538	24.00	19.462	529%
July 2014	4.182	24.00	19.818	574%
August 2014	3.755	24.00	20.245	639%
September 2014	4.632	24.00	19.368	518%
October 2014	3.748	24.00	20.252	640%
November 2014	5.140	19.00	13.86	370%
December 2014	5.199	19.00	13.801	365%
January 2015	7.382	20.00	12.618	271%
February 2015	13.443	18.90	5.457	141%
March 2015	6.669	18.90	12.231	283%

43. There was, accordingly, a huge disparity between the wholesale rates Viridian paid for electricity¹⁵ and the variable rates that it charged its customers. There was also a huge disparity between the Viridian variable rate and the fixed, no risk, market based rate offered by CL&P which was not reasonable given how low wholesale rates were. This is graphically demonstrated by the following chart, which shows the total wholesale price paid by Viridian and the retail price it charged its Connecticut customers during the period from August of 2013 through March of 2015 (with CL&P's Standard Service Rate during the same period added for comparison):

¹⁵ The wholesale price for electricity in the three pricing zones ISO New England established in Massachusetts and the single pricing zone it established in Connecticut is not always identical, but it is always very close. For example, during period covered by the chart in Paragraph 42, the difference in the monthly average wholesale price in Connecticut and in Southeast Massachusetts where Plaintiff Sanborn resides was only higher than 4 percent during one month (September of 2014), when it was 5 percent, and during 14 of the months the difference was less than 2 percent.



44. Accordingly, Viridian routinely charges Class members a Variable electric rate that is as much as six times higher than the underlying market rate. Additionally, upon information and belief, none of Viridian's non-promotional variable rates have matched, much less beat, the standard offer fixed rates in over two years.

45. Viridian's Variable rate for consumers who did not purchase 100% renewable electricity was only slightly less egregious. For example, throughout the summer and fall of 2014, Viridian charged Connecticut customers 17.49 cents rather than 23.99 cents per kWh, which is still, outrageously, over *four times* the total wholesale rates during that period.¹⁶

46. The same is true in New Jersey. Defendant's variable rates were not based on market conditions. From March to September, 2014, the variable rates Defendant charged

¹⁶ Given that it does not cost Energy Suppliers that much more to offer plans that can be marketed as "100 percent renewable," Viridian's decision to charge its 100 percent renewable customers over *six cents more* per kilowatt hour flies in the face of the Company's claim that its "unique and inspiring value proposition" is to "[c]hange the way customers see green energy" and demonstrate "that green energy *doesn't have to cost more*" <http://www.viridian.com/Custom/Cust077/PersonalPages/AboutViridian.aspx> (emphasis added).

Plaintiff Steketee rose. During this same time period, wholesale electric rates fell over 50%, and Defendant's premium above the wholesale rate exploded, from 124% in March to 429% in August, 2014.

47. For example, the chart below sets forth (1) the average wholesale price (in dollars per kilowatt hour) of electricity delivered in PJM's market for each month during the period from March 2014 through October 2014, as reported by PJM; (2) the rates Viridian charged to Plaintiff Steketee for those same months; and (3) the resulting percentage premium that Viridian charged Steketee over the wholesale rate on an average per-month basis:¹⁷

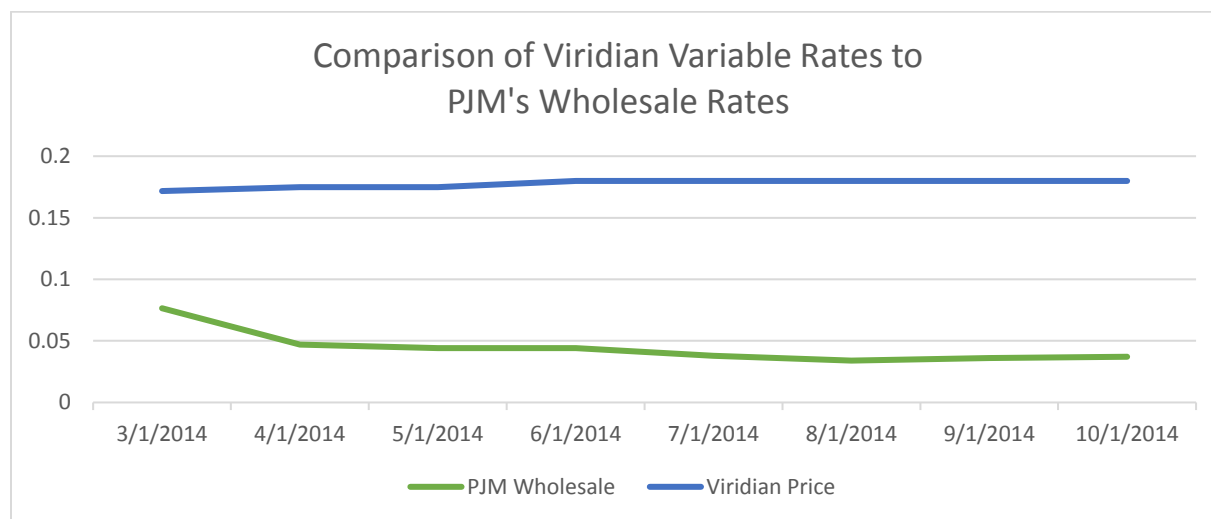
	<u>Mar -14</u>	<u>Apr-14</u>	<u>May 14</u>	<u>Jun-14</u>	<u>Jul 14</u>	<u>Aug-14</u>	<u>Sep-14</u>	<u>Oct-14</u>
Average Wholesale	\$0.0765	\$0.047	\$0.044	\$0.044	\$0.038	\$0.034	\$0.036	\$0.037
Viridian	0.1717	0.1749	\$0.1749	\$0.1799	\$0.1799	\$0.1799	\$0.1799	\$0.1799
Viridian Premium ABOVE Wholesale Price	124%	272%	298%	309%	373%	429%	399%	386%

48. There was, accordingly, a huge disparity between the wholesale rates Viridian paid for electricity and the variable rates that it charged its customers. By way of comparison, JCP&L's standard offer rates during the same period were 10.5403 cents per kilowatt hour during the winter months and, during the summer months, 9.5755 cents per hour for the first 600 kilowatts used, and 10.5012 cents per kilowatt hour thereafter. Unlike Viridian's variable rates,

¹⁷ Although Plaintiff does not yet have the PJM prices for the period November 2014 through February 2015, Viridian charged Steketee 17.99 cents per kilowatt hour for each of those months except November, 2014, when it charged 16.99 cents.

the JCP&L rates were fixed and certain—customers knew in advance what they would be, and bore no risk of price increases in the event of a sudden spike in wholesale energy costs. Under these circumstances, it would have been reasonable to expect that Viridian’s rates would have been at least competitive, if not lower, than JCP&L’s rates during those months when the wholesale price was at its lowest, such as the period from July to August of 2014. In fact, Viridian’s prices were *least* competitive during that period.

49. Not only were Viridian’s variable rates exceptionally high, they were also unaffected by declines in the wholesale price of power. During the period from March to August of 2014, for example, wholesale prices declined by more than 50 percent—at first sharply, and then more gradually—going from 7.65 cents per kilowatt hour to 3.4 cents per kilowatt hour. At the same time, Viridian’s variable rates actually *increased*. This is graphically shown by the following chart, which shows the wholesale price paid by Viridian and the retail price it charged Plaintiff Steketee during the period from March 2014 through October 2014:



50. New York consumers were also harmed by Viridian’s energy pricing practices. In or around the fall of 2013, Viridian, through one of its direct-marketing associates who used Viridian’s uniform marketing materials convinced the Mirkins that Viridian’s green energy was

less expensive than conventional energy and was competitively-priced. Based on these statements, the Mirkins became Viridian energy customers in or around October 2013. Plaintiffs believed that by signing up with Viridian, they would be charged less than what their traditional utility would have charged. Only Susanna Mirkin's name is listed on Plaintiffs' energy bills, but both Susanna Mirkin and Boris Mirkin participated in the decision to switch.

51. Upon information and belief, the direct-marketing associate that solicited the Mirkins showed Viridian's marketing material to the Mirkins. Upon information and belief the Viridian marketing material used by the associate was identical or substantially similar to the material attached as Exhibits 3 and 4.

52. On October 2, 2013 Viridian sent an email to Mr. Mirkin with the subject line "Thank you for enrolling with Viridian Energy!" The email states that Viridian's energy is "affordable" and that by signing up to Viridian the Mirkins will "save money" on their energy costs as compared to what their utility would have charged. The email also contains a link to Viridian's Terms and Conditions.

53. According to Viridian, on October 16, 2015 the Company then mailed the Mirkin Plaintiffs a copy Viridian's Terms and Conditions, a "welcome letter" congratulating them on selecting Viridian, and a copy of the Company's 2012 Sustainability Brochure. *See* Exhibit 2 (welcome letter); Exhibit 3 (Sustainability Brochure); Exhibit 7 (Terms and Conditions). Similar to the October 2, 2013 email, the welcome letter begins with the statement "Thank you for enrolling with Viridian Energy!" Exhibit 2. Like the email the welcome letter states that Defendant's energy is "affordable" and that by switching to Viridian the Mirkins will "save money" on their energy costs as compared to what they would have paid their utility. *Id.*

54. Viridian's Terms and Conditions state "[t]his Disclosure Statement/Terms and

Conditions, the Welcome Letter and the Enrollment Form create your agreement with Viridian (the ‘Agreement’)” Exhibit 7.¹⁸ The contract also states that Viridian’s variable energy rates “may fluctuate each month based on the wholesale market conditions applicable” in the customer’s area. *Id.*

55. For their first six months as Viridian customers, the Mirkins paid a fixed “teaser” rate of 8.99¢ per kWh for their electricity.

56. Starting on or about June 11, 2014, however, Viridian started charging the Mirkins a variable rate for their electricity. The Mirkins’ rates immediately shot up. Specifically, Plaintiffs’ teaser rate of 8.99¢ per kWh skyrocketed to 15.4889¢ per kWh for the billing period ending on July 10, 2014. In August 2014, Viridian increased the Mirkins’ rate yet again, this time to 16.49¢ per kWh, almost twice the rate of their expired teaser rate. And in September 2014, the last month the Mirkins were on Viridian’s variable rate plan, Viridian kept the rate at 16.49¢ per kWh.

57. During just three months that the Mirkins were on Viridian’s variable-rate plan, they paid \$60.28 more than they would have if they had switched to their local utility (Con Edison) upon the expiration of Viridian’s teaser rate.

58. Similar to other reasonable consumers who were harmed by Viridian’s conduct, the Mirkins had no choice but to pay Viridian’s inflated rates.

59. If Viridian had given the Mirkins adequate and legally compliant disclosures concerning its variable rates, they never would have signed up to Viridian, much less purchased

¹⁸ Upon information and belief, other Class members received welcome letters with the same or a substantially similar statement that by switching to Viridian they would be saving money on their utility bills. Upon information and belief, these Plaintiffs’ applicable Viridian customer contract incorporated the welcome letters’ statements in to the contract.

energy through Viridian's variable rate plan. In fact, instead of alerting consumers to the risks of its variable rates, Viridian's marketing is deceptive because it highlights that Viridian's energy is less expensive than traditional energy.

60. Yet Viridian's energy was not less expensive than the cost of conventional energy, because Viridian charged the Mirkins \$60.28 more than their traditional utility would have charged. As such, Viridian's representation to consumers that its green energy is less expensive than traditional energy is demonstrably false.

61. Viridian's prices are also not based on wholesale market rates. Rather, Viridian uses its variable rates as a pure profit center, charging well in excess of the wholesale market rate. From June through September 2014, when the Mirkins were enrolled in Viridian's variable rate plan, Viridian charged Plaintiffs rates that were well over the wholesale rate. Further, during July 2014 when market rates declined, Viridian's rates inexplicably *increased*. The chart below sets forth (1) the wholesale price of the electricity the Mirkins consumed (in cents per kilowatt hour);¹⁹ (2) the rates Viridian charged to Plaintiffs for those same months; and (3) the resulting percentage premium that Viridian charged the Mirkins over the wholesale rate for each bill.

Billing Period	6-11-14 to 7-11-14	7-11-14 to 8-11-14	8-11-14 to 9-10-14
Wholesale Price	11.58¢ per kWh	8.79¢ per kWh	9.17¢ per kWh
Viridian Rate	15.4889¢ per kWh	16.49¢ per kWh	16.49¢ per kWh
Viridian Premium ABOVE Wholesale Price	34%	88%	80%

¹⁹ This is the "Total Wholesale Rate" paid by Suppliers, including not only the wholesale price of electricity but also NYISO's charges, such as its charges for energy, capacity, ancillary services, uplift and NYISO Operations.

62. By way of comparison, charges set by the Mirkins' traditional utility during the same time period would have resulted in bills that were lower than Viridian's by \$11.86 (June), \$26.17 (July), and \$25.25 (August). Accordingly, Viridian routinely charges its variable rate customers a rate that is well in excess of the underlying wholesale market rate and bears no discernable relationship to market conditions, going up when the market rate is declining.

63. Notably, Viridian charges these exorbitant premiums without adding any value to the consumer whatsoever. As detailed above, Viridian does not either produce or transport energy. It has no role in running or maintaining energy generation or transport facilities; it does no hook-ups or emergency response. Indeed, Viridian does not even handle customer billing: that, too, is handled by the Distribution Company. Essentially, all that Viridian does is act as a trader in the transaction. Yet it charges much more than the Generation Companies receive for making energy and the Distribution Companies receive for transmitting gas and electricity, maintaining power and gas lines, and handling emergency services and customer billing and calls.²⁰

64. Moreover, Viridian's costs, other than its wholesale cost of energy, are relatively fixed and could not have justified the massive increases alleged above. For example, Viridian's ancillary and capacity charges and other regulatory costs did not fluctuate to any material extent and, in particular, did not fluctuate to a material extent in relation to wholesale energy prices (these additional costs are included in the "total wholesale rate" in the above charts). Viridian's

²⁰ For example, in May 2015 CL&P was charging 6.7 cents per kilowatt hour plus a flat charge of \$19.25 for distribution services, while Viridian's price for its services was 18.9 cents per kilowatt hour for customers on its 100 percent renewable plan. According to the U.S. Energy Information Administration, the average household in Connecticut uses 731 kilowatt hours per month. <http://www.eia.gov/tools/faqs/faq.cfm?id=97&t=3> Such an average household would pay CL&P about \$68 for electricity, but if they were with Viridian their energy supply charge would be \$138—more than twice as much.

other material costs were for operations, and included costs, for example, relating to rent, equipment, overhead, employees, etc. were also relatively fixed and could not justify the price variations alleged above.

65. Accordingly, Viridian's representation to consumers concerning its Variable pricing plan—that the Variable rate is “market-based”—is patently false. In particular, although Viridian may *increase* its Variable rate in response to *rising* wholesale prices (as illustrated above), Viridian fails to *decrease* its prices in response to a *falling* wholesale market price. For example, the average wholesale price in Connecticut dropped every month from January to May of 2014, ending the period at a price that was 77 percent lower than the January high. During the same period, Viridian's price actually *rose* by **42** percent from January to February, and *stayed* at the astronomical rate of 24 cents per kilowatt hour through September. At one point, Viridian's price premium was an incredible **640 percent** above the total wholesale price.

C. Plaintiffs Suffered Injury Due To Viridian's Improper Business Practices

66. Plaintiff Lori Sanborn has been on Viridian's Variable rate plan since January, 2014.

67. Plaintiff Sanborn paid Viridian's exorbitant Variable energy rates and thereby suffered monetary damages as a result of Viridian's conduct as set forth above. For example, from April through October, 2014, Plaintiff paid Viridian 17.49 cents per kWh for electricity, the same amount charged comparable customers in Connecticut, over **4 times** the total wholesale rate when she should have paid a substantially lower amount.²¹

²¹ As noted above, the total wholesale rates in southeastern Massachusetts vary slightly from the total wholesale rates in Connecticut. The variance was typically less than two percent and almost never more than 4 percent.

68. Plaintiff Sanborn suffered an ascertainable loss. Defendant's acts as alleged above were a reasonably foreseeable result of and a substantial factor in causing that loss.

69. Plaintiff Iron Man LLC was on Viridian's Variable rate plan from June 2013 to February, 2015.

70. Plaintiff Iron Man LLC paid Viridian's exorbitant Variable energy rates and thereby suffered monetary damages as a result of Viridian's conduct as set forth above. While its electricity rate in 2013 ranged from 11.99 to 13.99 cents per kWh, it skyrocketed from February 2014 to February 2015, where it ranged between 16.99 and 17.99 cents per kWh for each month during that period when it should have been a substantially lower amount.

71. Plaintiff Iron Man LLC suffered an ascertainable loss. Defendant's acts as alleged above were a reasonably foreseeable result of and a substantial factor in causing that loss.

72. Plaintiff Stephanie Silver was on Viridian's Variable rate plan from July, 2013 to January, 2014.

73. Plaintiff Silver paid Viridian's exorbitant Variable energy rates and thereby suffered monetary damages as a result of Viridian's conduct as set forth above. For example, from July through December, 2014, Plaintiff paid Viridian 12.99 cents per kWh for electricity, and paid 14.99 cents per kWh in December and January when she should have paid a substantially lower amount.

74. Plaintiff Silver suffered an ascertainable loss. Defendant's acts as alleged above were a reasonably foreseeable result of and a substantial factor in causing that loss.

75. Plaintiff David Steketee was on Viridian's Variable rate plan from March, 2014 to February, 2015.

76. Plaintiff Steketee paid Viridian's exorbitant Variable energy rates and thereby suffered an ascertainable loss as a result of Viridian's conduct as set forth above. As alleged above, Plaintiff paid Viridian between 17.17 and 17.99 cents per kWh for electricity during the period he was a variable rate customer which was far in excess of the amount he should have paid if Viridian's rates were based on market conditions.

77. Plaintiffs Susana and Boris Mirkin were on Viridian's Variable rate plan from June, 2014 to September, 2014.

78. The Mirkins paid Viridian's exorbitant Variable energy rates and thereby suffered an ascertainable loss as a result of Viridian's conduct as set forth above. As alleged above, the Mirkins paid Viridian between 15.49 and 16.49 cents per kWh for electricity during the period they were variable rate customers, which was far in excess of the amount they should have paid if Viridian's rates were based on market conditions. The amounts the Mirkins paid Viridian were also in excess of what they would have paid their local utility.

CLASS ACTION ALLEGATIONS

79. Plaintiffs bring this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure behalf of themselves and the following class of similarly situated persons:

All persons enrolled in a Viridian Energy, Inc., variable rate energy plan in connection with a property located within Connecticut, New Jersey, Massachusetts, and New York at any time within the applicable statutes of limitations preceding the filing of this action through and including the date of class certification (the "Class").

80. Plaintiffs reserve the right to modify or amend the definition of the proposed Class or to propose additional sub-classes as might be necessary or appropriate.

81. Excluded from the Class are Defendant, including any parent, subsidiary, affiliate or person controlled by Defendant; Defendant's officers, directors, agents or employees; the judicial officers assigned to this litigation; and members of their staffs and immediate families.

82. The proposed Class meets all requirements for class certification. The Class satisfies the numerosity standard. The Class is believed to number in the hundreds of thousands of persons. As a result, joinder of all Class members in a single action is impracticable. On information and belief, Class members can be identified by Viridian and Distribution Company records.

83. There are questions of fact and law common to the Class which predominate over any questions affecting only individual members. The questions of law and fact common to the Class arising from Viridian's actions include, without limitation, whether Viridian:

- a. committed unfair or deceptive trade practices by its Variable electric rate policies and practices;
- b. breached its contracts with Plaintiffs and the Class;
- c. breached its covenant of good faith and fair dealing with regard to its Variable rate contracts;
- d. and continues to commit wrongdoing through its Variable rate policies and practices.

84. The questions set forth above predominate over any questions affecting only individual persons, and a class action is superior with respect to considerations of consistency, economy, efficiency, fairness and equity to other available methods for the fair and efficient adjudication of this controversy.

85. Plaintiffs are adequate representatives of the Class because they are members of the Class and their interests do not conflict with the interests of the members of the Class they seeks to represent. The interests of the members of the Class will be fairly and adequately

protected by Plaintiffs and their undersigned counsel, who have extensive experience prosecuting complex class action litigation.

86. Plaintiffs' claims are typical of the claims of the Class because they arise out of the same conduct, policies, and practices of Viridian with respect to its Variable electric rate policies and practices. Plaintiffs have suffered the harm alleged and have no interests antagonistic to the interests of any other putative class member.

87. Maintenance of this action as a class action is a fair and efficient method for the adjudication of this controversy. It would be impracticable and undesirable for each class member who suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of all Class members.

88. Notice can be provided to Class members by using techniques and forms of notice similar to those customarily used in other class actions.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF CONNECTICUT UNFAIR TRADE PRACTICES ACT

89. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

90. Plaintiffs bring this count individually and as a class action pursuant to Fed. R. Civ. P. 23 on behalf of themselves and the Class.

91. Viridian is engaged in "trade" and "commerce" as it offers gas and electricity for sale to consumers.

92. Viridian's conduct as alleged above constitutes unfair practices:

- a. Viridian's contracts do not accurately describe the rates the customer will be paying or the circumstances under which the rates may change.
- b. Viridian's acts and practices with regard to its exorbitant Variable energy rates as alleged above are immoral, unethical, oppressive and unscrupulous.
- c. Viridian's conduct is substantially injurious to consumers. Such conduct has caused, and continues to cause, substantial injury to consumers because consumers would not have paid such a high price for energy but for Viridian's immoral, unethical, oppressive and unscrupulous practices and procedures. Consumers have thus overpaid for their energy and such injury is not outweighed by any countervailing benefits to consumers or competition. No benefit to consumers or competition results from Viridian's conduct, nor could consumers reasonably have avoided the injury.

93. Viridian's conduct as alleged above also constitutes a deceptive act or practice. Viridian's Variable energy rate representations as set forth above were and are likely to mislead consumers and Viridian intended that consumers rely upon those representations. Plaintiffs and other reasonable consumers reasonably interpreted Defendant's representations to mean that Viridian's Variable rates track the underlying wholesale energy rates (when in fact they do not). Viridian's representations were material to a reasonable consumer and likely to affect consumer decisions and conduct, including purchases of energy from Viridian pursuant to Variable rate contracts.

94. The foregoing unfair and deceptive practices directly, foreseeably and proximately caused Plaintiffs and the Class to suffer an ascertainable loss and substantial injury,

and were a substantial factor causing that injury, when Plaintiffs and Class members paid an exorbitant premium for energy over wholesale market rates.

95. The foregoing actions constitute unfair and deceptive practices in violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a *et seq*

96. Plaintiffs and the Class are entitled to recover damages and other appropriate relief, as alleged below.

COUNT II

VIOLATION OF MASSACHUSETTS UNFAIR TRADE PRACTICES ACT

97. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

98. Plaintiffs bring this count individually and as a class action pursuant to Fed. R. Civ. P. 23 on behalf of themselves and the Class.

99. Viridian is engaged in “trade” and “commerce” as it offers gas and electricity for sale to consumers.

100. Viridian’s conduct as alleged above constitutes unfair practices:

- a. Viridian’s contracts do not accurately describe the rates the customer will be paying or the circumstances under which the rates may change.
- b. Viridian’s acts and practices with regard to its exorbitant Variable energy rates as alleged above are immoral, unethical, oppressive and unscrupulous.
- c. Viridian’s conduct is substantially injurious to consumers. Such conduct has caused, and continues to cause, substantial injury to consumers because consumers would not have paid such a high price for energy but for Viridian’s immoral, unethical, oppressive and unscrupulous practices and procedures.

Consumers have thus overpaid for their energy and such injury is not outweighed by any countervailing benefits to consumers or competition. No benefit to consumers or competition results from Viridian's conduct, nor could consumers reasonably have avoided the injury.

101. Viridian's conduct as alleged above also constitutes a deceptive act or practice. Viridian's Variable energy rate representations as set forth above were and are likely to mislead consumers and Viridian intended that consumers rely upon those representations. Plaintiffs and other reasonable consumers reasonably interpreted Defendant's representations to mean that Viridian's Variable rates track the underlying wholesale energy rates (when in fact they do not). Viridian's representations were material to a reasonable consumer and likely to affect consumer decisions and conduct, including purchases of energy from Viridian pursuant to Variable rate contracts.

102. The foregoing unfair and deceptive practices directly, foreseeably and proximately caused Plaintiffs and the Class to suffer an ascertainable loss and substantial injury, and were a substantial factor causing that injury, when Plaintiffs and Class members paid an exorbitant premium for energy over wholesale market rates.

103. The foregoing actions constitute unfair and deceptive practices in violation of the Massachusetts Regulation of Business Practices for Consumers' Protection Act, Mass. Gen. Laws Ann. ch. 93A, § 1.²²

104. Plaintiffs and the Class are entitled to recover damages and other appropriate relief, as alleged below.

²² Although not required as alleged above, Plaintiff Sanborn has made demand under Mass. Gen. Laws Ann. ch. 93A.

COUNT III

VIOLATION OF NEW JERSEY CONSUMER FRAUD ACT

105. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

106. Plaintiffs bring this count individually and as a class action pursuant to Fed. R. Civ. P. 23 on behalf of themselves and the Class.

107. Viridian is engaged in “trade” and “commerce” as it offers gas and electricity for sale to consumers.

108. Viridian’s conduct as alleged above constitutes an unconscionable and unlawful commercial practice.

109. Viridian’s conduct as alleged above also constitutes a deceptive act or practice. Viridian’s Variable energy rate representations as set forth above were and are likely to mislead consumers and Viridian intended that consumers rely upon those representations. Viridian’s representations were material to a reasonable consumer and likely to affect consumer decisions and conduct, including purchases of energy from Viridian pursuant to Variable rate contracts.

110. The foregoing unlawful and deceptive practices directly, foreseeably and proximately caused Plaintiff and the Class to suffer an ascertainable loss and substantial injury when they paid an exorbitant premium for energy over wholesale market rates.

111. The foregoing actions constitute unlawful and deceptive practices in violation of N.J.S.A. 56:8-2.

112. Plaintiff and the Class are entitled to recover damages and other appropriate relief, as alleged below, under N.J.S.A. 56:8-19.

COUNT IV

NEW YORK GENERAL BUSINESS LAW § 349-d(3)

113. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

114. In 2011 New York enacted a special consumer protection statute targeting deceptive conduct by Energy Supply companies (“ESCOs”) like Viridian. *See* N.Y. G.B.L. §349-d. New York General Business Law §349-d(3) provides that “[n]o person who sells or offers for sale any energy services for, or on behalf of, an ESCO shall engage in any deceptive acts or practices in the marketing of energy services.”

115. Defendant offers for sale energy services for and on behalf of an ESCO.

116. Plaintiffs bring this claim under New York General Business Law §349-d(3) on their own behalf and on behalf of each member of the Class.

117. Defendant has engaged in, and continues to engage in, deceptive acts and practices in violation of N.Y. G.B.L. § 349-d(3) by marketing its green energy as less expensive than traditional energy. Viridian also fails to disclose to consumers that the actual rates that it charges on its variable-rate plans are more expensive than the cost of conventional energy.

118. The aforementioned acts are willful, unfair, unconscionable, deceptive, and contrary to the public policy of New York, which aims to protect consumers.

119. As a direct and proximate result of Defendant’s unlawful deceptive acts and practices, Plaintiffs and the Class have suffered injury and monetary damages in an amount to be determined at the trial of this action but not less than \$500 for each violation, such damages to be trebled, plus attorneys’ fees and expenses.

120. Plaintiffs and the other members of the Class further seek an order enjoining

Defendant from undertaking any further unlawful conduct. Pursuant to N.Y. G.B.L. § 349-d(10), this Court has the power to award such relief.

COUNT V

NEW YORK GENERAL BUSINESS LAW § 349

121. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

122. Plaintiffs bring this claim under N.Y. G.B.L. §349 on their own behalf and on behalf of each member of the Class.

123. Defendant has engaged in, and continues to engage in, deceptive acts and practices in violation of N.Y. G.B.L. § 349 by marketing its green energy as less expensive than traditional energy. Viridian also fails to disclose to consumers that the actual rates that it charges on its variable-rate plans are more expensive than the cost of conventional energy.

124. The aforementioned acts are willful, unfair, unconscionable, deceptive, and contrary to the public policy of New York, which aims to protect consumers.

125. As a direct and proximate result of Defendant's unlawful deceptive acts and practices, Plaintiffs and the Class have suffered injury and monetary damages in an amount to be determined at the trial of this action but not less than \$50 for each violation, such damages to be trebled, plus attorney's fees and expenses.

126. Plaintiffs and the other members of the Class further seek equitable relief against Defendant. Pursuant to N.Y. G.B.L. §349, this Court has the power to award such relief, including but not limited to, an order declaring Defendant's practices as alleged herein to be unlawful, an order enjoining Defendant from undertaking any further unlawful conduct, and an order directing Defendant to refund to Plaintiffs and the Class all amounts wrongfully assessed,

collected, or withheld.

COUNT VI

BREACH OF CONTRACT

127. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

128. Plaintiffs bring this claim on their own behalf and on behalf of each member of the Class.

129. In relevant part, Viridian's customer contracts state that Viridian's variable rates will be based on wholesale market conditions.

130. Defendant Viridian has breached its contract with Plaintiffs and the Class by charging exorbitant energy rates that are not based on wholesale market conditions.

131. Viridian's customer contract states that customers who switch will save money on their energy costs compared to what consumers' utilities would have charged.

132. Defendant Viridian has breached its contract with Plaintiffs and the Class by charging exorbitant energy rates that are higher than the rates the customers' existing utilities would have charged.

133. Viridian's customer contract states that Defendant's energy rates are affordable.

134. Defendant Viridian has breached its contract with Plaintiffs and the Class by charging exorbitant energy rates that are not affordable.

135. By reason of the foregoing, Plaintiffs and the Class have suffered injury and money damages in an amount to be determined at the trial of this action.

COUNT VII

BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING

136. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

137. All contracts contain an implied covenant of good faith and fair dealing, including Plaintiffs' and Class members' contracts with Viridian.

138. Viridian's customer contract gives Viridian discretion concerning the monthly rates charged under Variable rate contracts and any increases or decreases to the rate to reflect the changes in the wholesale energy market.

139. As alleged herein, Viridian has used its discretion to bill exorbitant rates that are not tied to the wholesale market. For example, Viridian has used its discretion to *increase* the monthly Variable rate when wholesale markets rise, but not to commensurately *decrease* the monthly Variable rate when wholesale markets fall. As a result, consumers are billed exorbitant energy rates.

140. Viridian's performance of its discretionary functions under the Terms of Service as alleged herein to maximize its revenue from Variable electric rates impedes the right of Plaintiffs and other Class members to receive benefits that they reasonably expected to receive under the contract.

141. On information and belief, Viridian's actions as alleged herein were performed in bad faith, in that the purpose behind the practices and policies alleged herein was to maximize Viridian's revenue at the expense of its customers and in contravention of their reasonable expectations as customers of Viridian.

142. Viridian has breached the covenant of good faith and fair dealing in the Terms of Service through its Variable electric rate policies and practices as alleged herein.

143. Plaintiffs and members of the putative Class have sustained damages as a result of Viridian's breaches as alleged herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the putative Class, request that this Court enter judgment against Defendant and in favor of Plaintiffs and award the following relief:

- (a) Certification of the proposed Class;
- (b) Injunctive relief enjoining Viridian from charging exorbitant Variable energy rates under their current policies and from engaging in the wrongful, deceptive, unfair, and unconscionable practices alleged herein;
- (c) A declaration that Defendant's actions as alleged herein are unlawful;
- (d) Damages in an amount to be determined at trial, including actual, statutory, and punitive damages;
- (e) Disgorgement and restitution of all exorbitant rates paid to Viridian by Plaintiff and the putative Class as a result of the wrongs alleged herein;
- (f) Pre- and post- judgment interest at the maximum rate permitted by applicable law;
- (g) Attorneys' fees, costs, and expenses as available under the law; and
- (h) Such other and additional relief as the Court may find just and equitable.

JURY DEMAND

Plaintiffs demand a trial by jury on all causes of action so triable.

DATED: February 10, 2017

PLAINTIFFS

\s\ Robert A. IZard

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***Attorneys for Plaintiffs Susanna Mirkin, Boris Mirkin,
and the Class***

CERTIFICATE OF SERVICE

The undersigned hereby certify that on this 10th day of February, 2017, a copy of the foregoing Consolidated Class Action Complaint was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

By: \s\ Seth R. Klein
Seth R. Klein

By: \s\ Steven L. Wittels
Steven L. Wittels

Exhibit 1

POWER

with Purpose

DECIDING TO START A VIRIDIAN BUSINESS IS SIMPLE.

The perfect time for A POWERFUL OPPORTUNITY

Retail energy is one of the largest industries ever to deregulate in America, opening a marketplace of millions of consumers who now have the right to choose their energy supplier. With Viridian, the choice is simple ... consumers are able to lower their energy bills and help the environment. We founded Viridian with the vision to empower our customers to "make a difference" in the environment and their personal lives simply by switching energy providers.

Now, *you* also have an opportunity.

The opportunity to be your own boss, set your own hours, earn great money, and improve the environment simply by helping people choose Viridian as their energy supplier.

Start by asking yourself these three questions:

- 1** Do I know people who use electricity in their homes or businesses?
- 2** How many of those people would like to save money on their energy while helping the environment?
- 3** Would I like to start a business that creates long-term residual income simply by referring people to Viridian?

Chances are, like thousands of others, *you answered yes* to those questions and are realizing that it really is a no-brainer to start your own Viridian business.

Viridian offers you an opportunity to start a business with no large initial investment, no inventory to purchase and no monthly overhead, with the benefits of unlimited earning potential. You set your own hours and you decide how big you want your business to be. Plus, you'll be a part of a fast-growing company that is making a tangible difference in the lives of its Associates.

here are some of the benefits of starting YOUR OWN VIRIDIAN BUSINESS

- Sell a product that sells itself.
- Earn instant cash bonuses for enrolling electricity customers.
- Be paid monthly residual income when your personal customers pay their electricity bills.
- Receive additional monthly compensation when the customers enrolled by Associates in your marketing organization pay their electricity bills.
- Gain access to an incredible collection of tools to help you succeed, including a back office, personal website, extensive training and marketing materials.
- Get support from a dedicated group of professionals who are committed to helping you succeed.
- Be associated with Viridian's Sustainability Initiative, which improves the environment in our local and global communities.

Now that you know about the Viridian opportunity – that it's affordable, green, easy to sell, and can lead to your financial freedom – there's just one last question: **Why not?** Go for it. Join the Viridian Network today. We can't wait to welcome you to our family of passionate Associates as we work toward our collective mission.



Name: Terrie Walker
Age: 56
Location: Winsted, CT

Viridian Associate



My purpose:

I make money and make a difference.

Up until I became a Viridian Associate, it seemed like I had two options for my career: make money or make a difference. Now I'm doing both. I make a difference when I help people reduce their environmental impact by switching to Viridian's greener electricity. At the same time, I'm growing a business that provides me with unlimited income potential as I bring Viridian to more and more people.

My power: *Viridian*



Viridian Energy is a socially responsible company providing greener electricity at an affordable price. When you become a Viridian Associate, you can help customers make a difference in the environment and save money, all while making a great living for yourself. Join Viridian and experience your own Power to Earn.

1-866-663-2508

www.VIRIDIAN.com

AN OPPORTUNITY with
PURPOSE

Start earning today
simply by helping others



Exhibit 2

October 16, 2013

Susanna Mirkin

Brooklyn, NY

Thank you for enrolling with Viridian Energy!

You are on your way to enjoying Viridian's affordable, green energy. If all the information you have provided during enrollment is accurate, then your service will be switched to Viridian in one to two billing cycles.

As a Viridian customer you are now part of our collective mission to do something better for the environment: The average Viridian Everyday Green customer avoids over 2,260 lbs in carbon emissions per year. That's the equivalent of emissions absorbed by 26 trees grown for 10 years or the emissions from over 115 gallons of gasoline consumed.

Your decision to choose a better energy supplier will have a positive environmental impact and directly contribute to a better energy solution for our nation. As a token of our appreciation for the environmental impact you're about to have, we've included a green power decal to show your support for responsible energy.

Once your Viridian service begins, you will still receive the bill from the utility and pay the utility, just like you always have. Except, from now on, you'll be doing your part to do something better for the environment while saving money on your energy costs at the same time.

Please also keep the enclosed Disclosure Statement/Terms and Conditions for your reference because they are part of your agreement with Viridian.

Last but not least, we've included our 2012 Sustainability Brochure to give you insight on Viridian's Sustainability Initiative and how your individual choice is part of a larger collective impact. To learn more about local sustainability events in your area, please visit www.liveviridian.com/sustainability.

We look forward to providing you power with purpose!

Sincerely,



Michael Fallquist, Founder and CEO

You have enrolled for the following rate plan:

- Everyday Green: 20% renewable energy
- 6-Month Fixed Rate Plan
- \$50 Early Termination Fee
- Your Utility: Con-Ed
- 8.99¢ per kWh - You will receive this rate for the length of your term. At the end of your term, your service will continue on a month-to-month basis on a variable rate.

Please visit www.viridian.com for more information regarding current electricity supply prices and updates.

Exhibit 3

GLOBAL VISION

We understand that the need for change goes beyond our own communities and backyards. That's why Viridian's Sustainability Initiative is committed to global action. Through our 7 Continents in 7 Years program, our leading Associates travel to a different continent each year to complete a service project with lasting social, economic and environmental impact.

YEAR
1
2011



BRAZIL: REFORESTATION

In the Amazon, Viridian replanted trees in areas of the rainforest that had been burned down and laid to waste.

YEAR
2
2012



GHANA: SOLAR POWER

Viridian installed renewable energy, bringing light and stable power to schools, a health clinic and local library in rural villages.



**7 CONTINENTS
in
7 YEARS**

WHO WE ARE

Viridian is a socially responsible retail energy company, providing greener electricity and natural gas to customers in select deregulated markets.

HOW TO GET INVOLVED

- Enroll for Viridian's affordable green energy.
- Earn income by telling others about Viridian.
- Participate in a local sustainability event in your community.

To learn more, contact your Viridian Independent Associate.

Viridian
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2012_Sustainability_Brochure_032212

Viridian

SUSTAINABILITY

WE ARE GENERATION

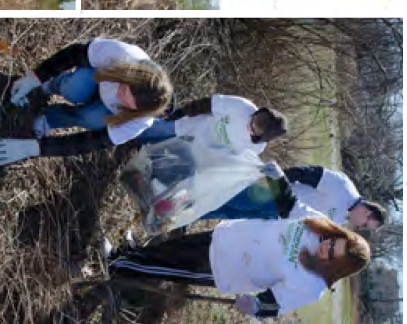


Welcome to Viridian — a different kind of energy company. Learn more about how our customers and Associates are working together to build a more sustainable future.

LOCAL CHANGE

While it's often difficult to see or feel the immediate benefits of using greener power, it's not difficult to see the results of good ol' fashioned hard work. Throughout the year, Viridian hosts monthly community service events for customers, Associates, neighbors and friends to get together and make a difference on a very local level.

Each year, our local efforts are intensified during our month-long celebration around Earth Day. Earth Month, formerly known as April, is 30 days jam-packed with activities to engage Associates, employees and community members in sustainable actions.



To learn about events in your area, visit www.liveviridian.com or contact the Associate who gave you this brochure.

OUR POWER

Viridian offers two locally sourced green electricity plans: 20% or 100% renewable. When you use Viridian's affordable green energy, every kilowatt-hour you use contributes to the collective impact we have on the environment and local economy.



Our green power is purchased from local generators in your community. Whether it's an elementary school with solar panels on the roof or wind turbines on a local farm, purchasing green power from your community means you are doing your part.

In 2011 alone, Viridian purchased 210,362 megawatt-hours of local green power. Here's the breakdown of renewable sources:



¹ BIOGASS INCLUDES: Biomass, Captured Methane, Landfill Gas, Municipal Solid Waste, Wood Waste Sales. Source: US Energy Information Administration definition of Biomass, released April 2008.

Individual Choice. Collective Impact

Viridian's customers make an impact simply by using greener energy everyday. Look at the impact of our voluntary green power purchasing in just one year.

TOTAL CARBON EMISSIONS AVOIDED THROUGH 2011 GREEN POWER PURCHASING:

208,285,376 LBS.

THAT'S THE EQUIVALENT OF



2.4 MILLION ²



18,525 ²



1.1 BILLION ²



PLANTED

REMOVED

RECYCLED

¹ Total pounds of carbon emissions avoided as calculated by the EPA Green Power Equivalency Calculator (updated May 2011).

² Equivalencies as calculated by the EPA Greenhouse Gas Equivalencies Calculator (updated May 2011).

VRIDIAN

OUR MISSION

Viridian was built on the idea that customers should never have to choose between affordability and sustainability. We offer our customers an easy way to make a difference every day.



To learn more about how you can have a positive impact simply by choosing greener energy contact the Associate who introduced you to Viridian.



Viridian's annual Sustainability Report details our green power and sustainability efforts, setting an industry benchmark for transparent reporting. Download your free copy at www.liveviridian.com/sustainability.

Exhibit 4

MAKING A DIFFERENCE JUST GOT REALLY EASY.

Viridian customers are making a significant and measurable impact on the environment and their local economy every day.

Consider this:

Simply by using Viridian's Everyday Green electricity plan, the average customer makes a tangible annual impact:

2,260 POUNDS

OF CARBON EMISSIONS AVOIDED

THAT'S THE EQUIVALENT OF



OR



OR



The best part?

Making the right choice for the environment doesn't have to cost more. In fact, the average Everyday Green customer saves money on energy costs over time.

Benefits for all:

- Cleaner air
- A stronger economy
- Greater stewardship of our resources

Sources: EPA Green Power Equivalency Calculator (May 2011), EPA Greenhouse Gas Equivalency Calculator (May 2011)

Viridian Energy is a socially responsible energy company providing clean energy choices at competitive prices. Viridian was founded with the vision to empower our customers to make a difference in the environment and their personal lives simply by switching energy providers.

1-866-663-2508
www.viridian.com



Switching to a competitive third-party supplier is not mandatory and you, the Customer, have the option of remaining with your utility for basic generation service. Viridian Energy is licensed in Connecticut (Docket # 09-04-15), Illinois (Case # 11-0348), Maryland (License Reference # IR-1840), Massachusetts (License # CS-076), New Jersey (License # ESI-0084, for Electricity Service and License # GSI-0108 for Gas Service), New York (ESCO Code VRID for Electricity Service and ESCO Code VRPA for Gas Service), and Pennsylvania (Docket # A-2099-2145794, for Electricity Service and Docket # A-2010-2205042 for Gas Service) to serve residential and commercial energy customers. Viridian may offer two rate plans, variable rates, which are subject to change based on market conditions and fixed rates which are fixed for an agreed upon number of billing cycles. Current rates should not be construed as a guarantee of future rates or savings.



As part of our commitment to the environment, this flyer is printed on Productolth Dull recycled paper, an FSC® certified paper made with 50% post consumer fiber.

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AFFORDABLE GREEN ENERGY



VIRIDIAN

YOUR POWER, YOUR CHOICE

You use energy every day. But have you ever thought about where all that power comes from? More importantly, do you realize that you can choose the source for that power?

Energy deregulation allows you to select an alternative supplier while staying with your current utility. Viridian Energy provides our customers competitive prices for smarter energy choices.

YOUR UTILITY, GREENER SUPPLY

Energy deregulation was designed with your interests in mind. This means the same utility company takes care of all your delivery, service and maintenance needs while you get the same simple bill. The only change will be Viridian's name and rate listed on the supply portion of your bill.



Affordable, green energy without changing your service and delivery. Why wouldn't you?

SIGNING UP IS FAST AND EASY

There are no fees to enroll and it only takes a few minutes. Have your utility bill handy and sign up one of three easy ways.



GIVE US
A CALL

OR



ENROLL
ONLINE

OR



FILL OUT
THE FORM

Making the right choice doesn't have to cost more. Plus, by being a Viridian customer you will:

- ✔ Support local businesses
- ✔ Contribute to a cleaner environment
- ✔ Receive the same reliable service from your utility

Check with your local Independent Associate for current rates.

YOUR OPTIONS WITH VIRIDIAN

Viridian offers a full range of energy products and rate plans. Both the Everyday Green and Pure Green electricity service plans are sourced locally so you are benefiting your local environment and economy.

ELECTRICITY

EVERYDAY GREEN

20% Renewable Energy

Our most popular electricity plan comes from 20% local, renewable resources. It's the most affordable solution for a customer who wants to save on energy costs over time and do something better for the environment.

PURE GREEN Energy

100% Local Wind • Green-e Energy Certified

For those wanting to do more for the environment, we offer our Green-e Energy certified 100% renewable Pure Green plan. Pure Green is sourced entirely from local wind, significantly benefiting the environment and local economy.

NATURAL GAS

Viridian now offers natural gas service as part of our suite of energy products.

Customers in select markets can now choose reliable natural gas from Viridian while staying with the local utility for delivery and service.



Exhibit 5

Finally...

AFFORDABLE GREEN ENERGY

It's safe and easy to switch!

- No enrollment fees
- Same reliable energy
- Receive only one bill

- Flexible product options
- 20% renewable energy
- Competitive rates



Exhibit 6

Ask us how to
\$AVE MONEY ON
your **ELECTRIC BILL.**



Exhibit 7

NEW YORK TERMS & CONDITIONS

Viridian Energy NY LLC ("Viridian NY"), a member of the Cirus family of brands, is the legal entity that supplies electricity to customers in the State of New York. **Viridian Energy, PA LLC** ("Viridian PA"), a member of the Cirus family of brands, is the legal entity that supplies natural gas to customers in the State of New York. Depending upon whether you have elected to purchase electricity, natural gas or both, your agreement with the above-mentioned Viridian entities (collectively, "Viridian") authorizes them to change your electric generation supplier or your natural gas supplier, or both, to the applicable Viridian entity, based upon your selection(s) identified in the Enrollment Form. Viridian NY is licensed by the New York Public Service Commission ("NYPSC") to offer and supply electricity ("Electric Service") as an Energy Services Company ("ESCO") and Viridian PA is licensed by the NYPSC to offer and supply natural gas ("Gas Service") as an ESCO (Electric Service and/or Gas Service, as applicable, will hereinafter be referred to individually or collectively as the "Service"). Viridian supplies the electricity or natural gas commodity to your Local Distribution Utility ("LDU") based on how much you consume. Your LDU will then distribute (deliver) the electricity and/or natural gas to your location.

This Disclosure Statement/Terms and Conditions, the Welcome Letter and the Enrollment Form create your agreement with Viridian (the "Agreement") and supersede any oral or written statements made in connection with the Agreement or the Service.

TERMS OF SERVICE:

Supplier	<ul style="list-style-type: none"> • Viridian Energy NY LLC ("Viridian NY") is the legal entity that provides Electric Service to customers in the State of New York. Viridian Energy, PA LLC ("Viridian PA") is the legal entity that supplies Gas Service to customers in the State of New York. References to "Viridian" in these Terms of Service and in the Terms and Conditions below mean solely Viridian NY with respect to Electric Service and solely Viridian PA with respect to Gas Service.
Term	<ul style="list-style-type: none"> • For fixed price Service, the "Initial Term" of your Agreement with respect to such Service is the number of billing cycles set forth at time of enrollment and confirmed in your Welcome Letter, after which time the Agreement will continue with respect to such Service month-to-month with a variable rate until terminated by you or Viridian in accordance with the terms of the Agreement. • For variable price Service, your Service with Viridian will continue month-to-month until terminated by you or Viridian in accordance with the terms of the Agreement.
Price	<ul style="list-style-type: none"> • During the Initial Term of fixed price Service, you will pay Viridian the fixed price per kWh or the fixed price per Ccf or Therm set forth at time of enrollment and confirmed in your Welcome Letter, after which time the Agreement will continue with respect to such Service month-to-month at a variable rate until terminated by you or Viridian in accordance with the terms of the Agreement. • For variable price Service, your rate for the first month of Service will be set forth at time of enrollment and confirmed in your Welcome Letter. After the first month, you will pay a variable rate for such Service, which can fluctuate on a month-to-month basis, as described in the Price section below.
Rescission	You have the right to cancel the Agreement, without fees or penalties of any kind, within three (3) business days of receiving the Agreement. You may rescind either by calling Viridian at 1-866-663-2508, or emailing customer-care@viridian.com and providing your name, address, phone number, account number and a statement that you are rescinding this Agreement under the terms of the three (3) business day right of rescission. If you are receiving both Electric Service and Natural Gas Service from Viridian, you are entitled to cancel one Service without canceling the other.
Early Cancellation Fee	<ul style="list-style-type: none"> • After the right of rescission period ends, cancellation fees in the total amount of \$50 will apply if you terminate this Agreement with respect to a fixed price Service prior to the end of the Initial Term. For any renewed term ("Renewal Term"), you will be charged the cancellation fees if you do not notify Viridian that you want to cancel the Agreement with respect to such Service within three (3) business days of receipt of the first billing statement under the Renewal Term. • If you terminate the Agreement with respect to a variable price Service, there are no termination fees.
Late Fees	Late Fees are charged in accordance with the LDU billing Policies and Procedures.
Fixed Price Renewal	After the Initial Term or any Renewal Term, you will receive a renewal notice in writing not less than thirty (30) days or more than sixty (60) days prior to your renewal date with the renewal terms and your option to agree to or reject the renewal terms. If you do not agree to the Renewal Term for the Service, such Service will continue month-to-month with Viridian without additional notice and you will pay the variable rate unless you cancel the Agreement with respect to such Service.
Guaranteed Savings	This Agreement offers no guaranteed savings.

Price:

- Fixed Price:** Under Viridian's fixed price Service, you will pay the fixed price set forth at time of enrollment and confirmed in your Welcome Letter for the Initial Term, after which your existing Agreement will continue month-to-month with a variable rate. The fixed price during the Initial Term will be calculated (i) for Everyday Green or Pure Green Electric Service, by multiplying the price of electricity per kilowatt hour (kWh) by the amount of electricity you use in the billing cycle plus any applicable fees, charges or taxes, and (ii) for Gas Service, by multiplying the price of natural gas per Ccf or Therm by the amount of natural gas you use in the billing cycle plus any applicable fees, charges or taxes.
- Variable Rate:** Under Viridian's Variable Price Everyday Green Plan or Pure Green Plan, your price may fluctuate from month-to-month based on wholesale market conditions applicable to the LDU's service territory. The variable price for Electric Service each month will be calculated by multiplying the variable price of electricity per kilowatt hour (kWh) that month by the amount of electricity you use in the billing cycle plus any applicable fees, charges or taxes. The variable price for Gas Service each month will be calculated by multiplying the variable price of natural gas per Ccf or Therm that month by the amount of natural gas you use in the billing cycle plus any applicable fees, charges or taxes.

Viridian's prices may be higher or lower than the LDU's rate in any given month.

Term: Viridian will begin supplying the Electric Service on a date set by the LDU. Viridian may begin supplying Gas Service after March 2012 on a date thereafter set by the LDU.

- The fixed price Initial Term will be for the number of billing cycles set forth at time of enrollment and confirmed in your Welcome Letter starting on the first meter read date after your Service is started with Viridian and continuing through the last meter read date in the end month. If you do not agree to a Renewal Term with respect to a Service, the Agreement with respect to such Service will continue month-to-month with a variable rate until terminated by you or Viridian in accordance with the terms of the Agreement.
- The variable price term will begin on the first meter read date after your Service is started with Viridian and will continue month-to-month until terminated by you or Viridian in accordance with the terms in the Agreement.

Rescission: You have the right to cancel the Agreement, without fees or penalties of any kind, within three (3) business days of receiving the Agreement. You may rescind either by calling Viridian at 1-866-663-2508, or emailing customer-care@viridian.com. Please provide your name, address, phone number, account number and a statement that you are rescinding this Agreement under the terms of the three (3) business day right of rescission.

Termination by Customer: If you elect to cancel or terminate this Agreement with respect to any fixed price Service after the rescission period and prior to the end of the Initial Term or any Renewal Term, you will pay a cancellation fee in the amount set forth above. For any Renewal Term, you will be charged the cancellation fee if you do not notify Viridian you want to cancel within three (3) business days of receipt of the first billing statement under the Renewal Term. In order to cancel, you must notify Viridian in advance by email at customer-care@viridian.com or in writing by mail at 1055 Washington Boulevard, 7th floor, Stamford, CT 06901 or by calling 1-866-663-2508. Termination becomes effective upon the processing of your cancellation request by your LDU, which will be your new supplier by default unless you select another ESCO. You shall be obligated to pay for the Service provided pursuant to this Agreement prior to the date that such cancellation becomes effective, including any applicable fees, charges or taxes.

Termination or Amendment by Viridian: Viridian may terminate the Agreement and discontinue Service upon fifteen (15) calendar days' notice. If for any reason performance of the Agreement becomes materially uneconomical to Viridian or if any change in law causes Viridian to no longer have the ability to serve you, Viridian may cancel the Agreement with respect to either Gas Service or Electric Service or both, as applicable, with fifteen (15) days' notice. The effective date of termination under this provision will occur on the next applicable meter read date. Upon termination with Viridian, you will be returned to the LDU's service and all unpaid balances will immediately become due. Without limiting the foregoing, upon fifteen (15) calendar days' written notice, Viridian may propose to amend the Agreement as a result of any regulatory, tariff or procedural change that may affect Viridian's ability to serve you under the Agreement. You will have fifteen (15) calendar days to accept or decline any proposed amendment hereunder.

Relocation: If you relocate, you will provide a 30-day notice to Viridian. A final meter read will be made at your old address, and your account will be finalized with both your LDU and Viridian. You shall be obligated to pay for the Service provided pursuant to the Agreement prior to the date that termination due to relocation becomes effective, including any applicable LDU late fees, fees or charges. If you relocate within your LDU's service territory, you may have the option of entering into a new electricity and/or natural gas supply agreement with Viridian.

Customer Initials: _____

Billing & Payment: With respect to Gas Service or Electric Service, you will receive a single consolidated bill from your LDU that includes the LDU's charges and Viridian's charges. The LDU will set your payment due date and payment address. Any bill not paid in full by its due date will incur a late payment fee on unpaid balances in accordance with the LDU billing Policies and Procedures. Viridian reserves the right to make adjustments at any time.

Renewal for Fixed Price Agreements: With respect to any fixed price Service, you will receive a renewal notice in writing not less than thirty (30) days or more than sixty (60) days prior to the end of the Initial Term or any Renewal Term with the renewal terms and your option to accept or reject the Renewal Term. After the Initial Term or any Renewal Term you will be charged cancellation fees as identified above if you do not notify Viridian you want to cancel within three (3) business days of receipt of the first billing statement under the Renewal Term. If you do not agree to a Renewal Term, such Service will continue month-to-month with Viridian without additional notice, and you will pay a variable rate with respect to such Service.

Dispute Resolution: In the event of a dispute or disagreement under this Agreement, the parties must use their best efforts to resolve the dispute. You may contact Viridian at 1-866-663-2508, or by mail at 1055 Washington Boulevard, 7th floor, Stamford, CT 06901 with any inquiries or complaints regarding your bill or Viridian's services. If you are not fully satisfied after discussing your complaint with Viridian, you may contact the New York State Department of Public Service ("DPS") directly by calling 1-800-342-3377 or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, NY 12223, or through its website at: <http://www.dps.state.ny.us>. You must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute.

Consumer Protections: The Services provided by Viridian to you are governed by the Agreement. The Agreement is governed by the Home Energy Fair Practices Act ("HEFPA"). Any payments made on a consolidated bill will be allocated in accordance with procedures adopted by the NYPSC and your LDU. You may obtain additional information by contacting Viridian at 1-866-663-2508 or the DPS ESCO Hotline at 1-888-697-7728, or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, NY 12223, or through its website at www.dps.state.ny.us. You should review New York's ESCO Consumer Bill of Rights found below.

Emergency: In the event of an emergency, such as a gas leak, power failure or downed power line, you should call your applicable LDU at one of the following numbers: Central Hudson Gas and Electric: 1-800-527-2714; Consolidated Edison of New York: 1-800-752-6633; National Grid: 1-800-892-2345; National Grid Long Island: 1-800-490-0045; National Grid Metro: 1-718-643-4050; New York State Electric and Gas ("NYSEG"): 1-800-572-1131; Orange and Rockland: 1-877-434-4100; or Rochester Gas and Electric: 1-800-743-1701, National Fuel Gas 1-800-444-3130

LIMITATIONS ON WARRANTY AND DAMAGES: THE COMMODITY PROVIDED UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARDS OF THE APPLICABLE LDU. YOU UNDERSTAND AND AGREE THAT THERE ARE NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, ASSOCIATED WITH THE SERVICE PROVIDED BY VIRIDIAN. VIRIDIAN HAS NO LIABILITY FOR SERVICE INTERRUPTIONS. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. VIRIDIAN WILL BEAR NO LIABILITY TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, PUNITIVE, INCIDENTAL, SPECIAL OR OTHER INDIRECT DAMAGES. VIRIDIAN IS NOT LIABLE FOR INTERRUPTIONS TO OR SHORTAGES OF ELECTRICITY OR NATURAL GAS SUPPLY NOR ANY ASSOCIATED LOSS OR DAMAGE RESULTING THEREFROM. VIRIDIAN NY IS NOT RESPONSIBLE FOR THE ACTS, OMISSIONS, LIABILITIES OR OBLIGATIONS OF VIRIDIAN PA, AND VIRIDIAN PA IS NOT RESPONSIBLE FOR THE ACTS, OMISSIONS, LIABILITIES OR OBLIGATIONS OF VIRIDIAN NY.

Force Majeure: The Service is firm subject to force majeure. Viridian will not be responsible for supplying Service to you in the event of circumstances beyond its control such as events of force majeure, as defined by the LDU, or any transmitting or transportation entity, which include but are not limited to acts of terrorism, sabotage or acts of God. If there is a change in any law, rule or pricing structure that results in Viridian being prevented, prohibited or frustrated from carrying out the terms of this Agreement, Viridian reserves the right to cancel the Agreement in accordance with the termination provisions in the Agreement.

Assignment: Viridian reserves the right to sell, transfer, pledge or assign the accounts, revenues or proceeds hereof in connection with any financial agreement. You authorize Viridian to assign this Agreement to another energy supplier, ESCO or other entity as authorized by the NYPSC. Viridian will provide you with a written notice no later than thirty (30) days prior to the assignment or transfer date. Such notice will be considered to have been made if mailed to the appropriate party.

Information Release Authorization: By entering into the Agreement, you authorize Viridian to obtain information from the LDU concerning your account that includes, but is not limited to: billing history, payment history, account number, historical and future electricity or natural gas usage, meter readings and characteristics of your electricity or natural gas service. Subject to the terms set forth herein, you may rescind this authorization at any time by contacting Viridian. Viridian will not release your confidential information without your express consent, except as required by legal authority.

Miscellaneous: You will promptly notify Viridian if there are any anticipated major changes in your electricity or natural gas consumption. During enrollment you will notify Viridian if your account is a cogeneration/net metered account. For purposes of accounting, both parties accept the quantity, quality and measurements determined by the LDU. There may be a delay before the LDU switches your electricity or natural gas supply to Viridian; Viridian is not responsible for any such delays. Except as provided by law, you will pay all taxes due and payable with respect to your obligations under the Agreement. Any changes to the Agreement must be made in writing. The Agreement is subject to any future legislation, orders, rules, regulations or LDU tariff or policy changes. Venue for any lawsuit brought to enforce any term or condition of this Agreement shall lie exclusively in the State of New York. This Agreement shall be construed under and shall be governed by the laws of the State of New York without regard to the application of its conflicts of law principles. You acknowledge that Viridian has provided you with New York's ESCO Consumer Bill of Rights prior to entering into this Agreement.

Parties Bound: This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

Viridian Energy NY LLC (Electric Service only)

Viridian Energy PA, LLC (Gas Service only)

1055 Washington Boulevard, 7th floor

Stamford, CT 06901

Toll-Free: 866-663-2508 Fax: 203-413-4434

Monday through Friday, 8:30 a.m. to 6:30 p.m. Eastern Time (After hours or during an emergency, please contact your LDU at the number provided in the Emergency section)

www.viridian.com

Central Hudson Gas and Electric: 1-800-527-2714

Consolidated Edison of New York, also known as Con-Ed or Con Edison: 1-800-752-6633

National Grid: 1-800-642-4272

National Grid Long Island, also known as Keyspan LI: 1-800-930-5003

National Grid Metro, also known as Keyspan Metro: 1-718-643-4050

New York State Electric and Gas ("NYSEG"): 1-800-572-1131

Orange and Rockland, also known as O&R: 1-877-434-4100

Rochester Gas and Electric: 1-800-743-1701

National Fuel Gas: 1-800-365-3234

Customer Initials: _____

NEW YORK TERMS & CONDITIONS**Your Rights as an Energy Services Company Consumer -- ESCO Consumers Bill of Rights**

Customers can purchase energy from an Energy Services Company (ESCO) or from a traditional utility. If you choose to purchase energy from an ESCO you are entitled to:

- A clear description of the services offered by the ESCO.
- Receive energy delivery and 24 hour emergency services from your utility company.
- Clear procedures for switching energy suppliers, including information about the enrollment process.
- Disclosure, in simple and clear language, of the terms and conditions of the agreement between you and the ESCO including:
 - o price and all variable charges or fees;
 - o length of the agreement;
 - o terms for renewal of the agreement;
 - o cancellation process and any early termination fees, which are limited by law; and,
 - o conditions, if any, under which the ESCO guarantees cost savings.
- Rescind an agreement with an ESCO within three days of receiving the agreement, if you are a residential customer.
- A description of how pre-payment agreements work, if offered.
- Notice from the ESCO, no less than thirty days prior to the contract renewal date, of the renewal terms and the options you have as a customer.
- A fair and timely complaint resolution process.
- Provision of any written documents (contracts, marketing materials, and this ESCO Consumer Bill of Rights), in the same language used to enroll you as a customer.

If you are a residential customer you are also entitled to the rights and protections of the Home Energy Fair Practices Act (HEFPA), which requires that all utility customers be treated fairly with regard to application for service, customer billing and complaint procedures. For more information go to <http://www.dps.state.ny.us/resright.html>.

ESCOs that do not assure these consumer rights could lose their eligibility to provide service in New York. Please report any complaints to the Department of Public Service at 1-800-342-3377 (8:30 am - 4:00 pm), by mail at Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223, or online at <http://www.dps.state.ny.us>.

You can find more information about your energy alternatives by visiting: www.askpsc.com.

Customer Initials: _____