

FORMAL COMPLAINT BEFORE THE ALABAMA PUBLIC SERVICES COMMISSION.#33113

Alison K. Pilcher,individually and as next friend)
of others similarly affected, Complainant.)

v.)

Alabama Power Heating Products)
Financing Coordinator, and Alabama.)
Power Company, Defendant.)

Docket #33113



PLAINTIFFS REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

Pursuant to Rules 26 and 34 of the Alabama Rules of Civil Procedure ("FRCP") Complainant, requests the defendant to produce the documents specified below, within 30 days of service, to Allison Pilcher 208 N. Pine St., Wetumpka, AL 36092, or at other such time and place, or in such other manner, as may be mutually agreed-upon by the parties. Defendants production of documents shall be in accordance with the Instructions and Definitions set forth below and Ala. R. Civ. P. 34.

Instructions and Definitions

1. whenever reference is made to a person, it includes any and all of such persons principles, employees, agents, attorneys, consultants, and other representatives.
2. when production of any document in plaintiffs possession is requested, such request includes documents subject to the plaintiffs possession, custody, or control. In The event that Defendant is able to provide only part of the documents called for in any particular request for production, provide all documents that the defendants are able to provide and state the reason, if any, for the inability to provide the remainder.
3. "Documents " means all materials within the full scope of Fed. R.Civ. P. 34 including but not limited to: all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including but without limitation to, email and attachments, correspondence, memoranda, notes, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, telegrams, receipts, returns, summaries, pamphlets, books, inter-office and intra- office communications, offers, notations of any sort of conversations,working papers, applications, permits, file wrappers, indices, telephone calls, meetings or printouts, teletypes, telefax, invoices,worksheets, sheets, in all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural representations of any kind (including without limitation, photographs, charts, microfiche, micro film, videotape, recordings, Motion pictures, plans, drawings, surveys), and electronic, mechanical, magnetic, optical or electric records or representations of any

kind (including without limitation, computer files and programs, tapes, cassettes, discs, recordings), including meta-data.

4. If any document is withheld from production under a claim of privilege or other exemption from discovery, state the title and nature of the document, and furnish a list signed by the attorney of record giving the following information with respect to each document withheld:

(i) The name and title of the author and/ or sender and the name and title of the recipient;

(ii) The date of the documents origination;

(iii) The name of each person or persons (other than the stenographic or clerical assistants) participating in the preparation of the document;

(iv) The name and position, if any, of each person to whom the contents of the documents have been communicated by copy, exhibition, reading, or substantial summarization;

(v) A statement of the specific basis on which privilege is claimed and whether or not the subject matter of the contents of the document is limited to legal advice or information provided for the purpose of securing legal advice; and

(vi) The identity and position, if any, of the person or persons supplying the attorney signing the list with the information requested in sub paragraphs above.

(5) "Relates to" "related to" or "relating to" means to refer to, reflect, concern, or pertain to or in any other manner be connected with the matter discussed.

(6) Every Request for Production herein shall be deemed a continuing Request for Production, and Defendant is to supplement its answers promptly if and when Defendant obtains responsive documents which add to or are in any way inconsistent with Defendant's initial production.

(7) These Discovery requests are not intended to be duplicative. All requests should be responded to fully and to the extent not covered by other requests. If there are documents that are responsive to more than one request, please note and produce each document first in response to the request that is more specifically addressed to the subject matter of the particular document.

(8) Any word written in the singular herein shall be construed as plural or vice a versa when necessary to facilitate the response to any request.

9. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all responses which otherwise might be construed to be outside it's scope.

DOCUMENT REQUESTS

1) Produce and attach to your answers and responses to discovery a copy of each of the following regarding contract #4353929, giving rise to the controversy:

(a) complete records obtained from Southern Properties Services L.L.C. in the course of doing business with them, including, but not limited to: any application which they had to fill out to become a dealer, and receive financing from Alabama Power Smart Finance, any proof of a bond, or provision of HVAC license credentials, or proof of a EPA Freon Certification Card, or any other written representation made by them to qualify to work.

(b) any releases which they executed on your behalf to get paid, the list of collateral serial numbers, pictures of the installation, invoices submitted, including the fraudulent invoice for \$9,100, submitted to Tara Blackman, copies of the cancelled check paid to Southern Properties Services L.L.C. CJO# A33266, and any other documents that you have from the transaction.

(c) any phone logs of Calls to or from: Jason Warren, the disgraced former HVAC contractor at (334)306-0166, Howard Pettway, the foreman of Southern Properties Services L.L.C. (334)296-1158, or Derek Pysher, the president of Southern Properties Services, (802)353-1415 or from (334)593-1052, the main # for Southern Properties, from 6/2018 to the present, or,

(d) copies of any emails from, or about the named individuals in (c) above, or any other agent of Southern Properties Services L.L.C. to Alabama Power from 6/2020 to the present time.

(e) any investigation reports about the above named individuals done in response to the debtor complaint that the above (c) named individuals and company had committed fraud and refused to finish the installation of the mini splits systems, or any legal efforts to recover monies paid.

(f) any disclosures or additional documents which you say Ms. Pilcher received and signed concerning the contract, and any other documents which you intend to use in the future.

(g) any emails between Smart Financing agents to/from Chris Cano, and Cathy Lamanack, during 7/2020 to the present time, or any intra office communication about the fraud issue, using the search terms "Jason Warren", "Southern Properties Services LLC", or "Alison Pilcher" or any other company known way of identifying the parties to this disputed transaction.

(f) [A] a blank application form to apply to be qualified to do work on Alabama Power Smart financed HVAC systems in 6/2020-8/2020, and [B] a blank application form to do the same work after Alabama Power changed its policies to only allow contractors to be chosen from its own list, and [C] training materials for the sales personnel about HVAC licensing requirements, if any

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COMPLAINANT'S INTERROGATORIES

COMES now the Complainant And propounds the following interrogatories to the Defendant to be answered in writing and under oath within 30 days of the service hereof, (according to Rule 33(a) of the Alabama Rules of Civil Procedure).

1. State the name, address, title, and duties of the person answering these interrogatories and the place where these interrogatories are answered.
2. State of the name, address, and the job title of each person who was contacted in answering these interrogatories or who provided information relevant to the answering of the interrogatories and the proper designation of each book, document, or record which was searched in answering the interrogatories.
3. State the corporate history of Alabama Power engaging in consumer financing of heat pumps and cooling systems, from the date of incorporation, to the present, including the date you first were licensed by the State Banking Department of Alabama.
4. State the corporate history of Alabama Power engaging in consumer financing of appliances, from the date of incorporation, to the present, including the date you were first licensed by the State Banking Department of Alabama to engage in consumer credit transactions.

5. Has the contract for Alabama Power financing of heat pump systems always been the same as it was in 8/2018? Produce all previous versions of the contract throughout the corporate history of selling these systems.
6. Produce the contract used by Alabama Power for financing sales of appliances throughout the corporate history of consumer sales, including all versions of the contract.
7. Does Alabama Power have a complaint resolution process for [1] billing disputes, [2] wrongful shutoffs, [3] product defects, or [4] fraudulent transactions, Or [5] other disputes regarding performance, such as; [A] mediation, [B] a quality assurance team, [C] management that has the power to research and resolve complaints, [D] internal measures of customer satisfaction or [E] any other measures which would address issues which could arise, besides aggressive collections actions and litigation (such as a small claims case or filing a lien against real property)?
8. Does Alabama Power have any safety measures against shutoff to consumers who might be reliant on life support machines, frail, or elderly, or who otherwise might foreseeably suffer from heat stroke, or falls, without power for light and cooling?
9. How many customers per month (on the 28th day of each month, including all days of the prior month from the 29th on) have had their power disconnected? From the time period of 1/1/2019- 1/28/2019- to the present, or 3/1/2021-3/28/2021?
10. Are statistics on disconnection of electric power [A] compiled and transparently disclosed to the public or [B] incorporated as part of the customer satisfaction metrics reported to the Alabama Public Services Commission?
11. How much per year, has Alabama Power spent on all legal expenses for each year, beginning in 1978, until the present time?
12. Are these yearly legal expenses an allowable expenditure to be charged to the ratepayers in computation of the Rate RSE, or in any rate making proceedings?
13. For each year, (including suits active from prior years) [A] how many lawsuits was the company involved in? [B] How many were initiated against the Alabama Public Services Commission, and [C] how many were initiated against consumers as collections, and [D] how many were injury/death liability suits?
14. State whether or not there have been, or are now, lawsuits pending against this Defendant claiming injury or damage due to breach of contract, breach of fiduciary duty, fraudulent, wanton or intentional misrepresentation, unethical business practices, or any other negligent or wanton conduct involved in this defendant's consumer finance transactions that is similar to the occurrence that made the basis of this lawsuit. If so, for each lawsuit state: A. The date of filing of each lawsuit; B. The court in which such

lawsuit was filed; C. The action or docket number of each lawsuit; D. The name and address of all parties, including the Plaintiff and Defendant, to each such lawsuit; E. a full and complete statement of the substance of all claims and allegations of each suit; F. the jurisdiction in which each such action was filed; G. the jurisdiction in which each such action came or will come to trial if different from answer in paragraph F.; H. the disposition of each such lawsuit; I. the name of each person or entity having possession, control, or custody of any or all records relating to such legal action against this Defendant involving such a claim or similar claim.

15. Does the Smart Financing Department have anyone in their employment who has an HVAC license, or is available as a consultant, or is there anything in the training of the sales force for HVAC units, which would teach them about the legal requirements for a contractor to have a license to install HVAC units? Attach any training manuals.
16. State the names, titles, contact information, and job description/duties of each person known to this Defendant to have any knowledge whatsoever of matters pertinent to the transaction of 8/7/2018, which initiated the Complainant's cause of action. Also, the following known individuals. 1.)Cathy Lamanack. 2.) Christopher L. Cano, and 3.) Tara Blackman.
17. List each and every defense known to this Defendant at this time which this Defendant presently intends to assert.
18. Please attach a copy of any and all internal memorandums or recordings of writings of any type growing out of the handling of the Complainant's claim that the HVAC contractor was not licensed and the company refused to finish the installation and/or decision to deny her restitution and assistance to get her HVAC system running.
19. Please list all current and prior lawsuits against Alabama Power alleging breach of contract, fraud, bad faith, and/or wrongful termination of electric service. The list should include the name of the jurisdiction where the lawsuit was filed, the name of the Plaintiff, the date the lawsuit was filed, and the disposition, if completed.
20. Give the yearly amount spent on marketing expenses, including advertisements, printing, salaries, bonuses, healthcare and other benefits from 1978 to the present.

Respectfully submitted,



Ms. Alison K. Pilcher, Complainant, Pro Se
208 North Pine Street Wetumpka, AL 36092
(508)648-6747. pilcher.alison@gmail.com

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REQUEST FOR ADMISSIONS

TO:Alabama Power, Defendant

You are requested to admit for the purposes of this action only, the following within 30 days after service hereof.

1. Alabama Power Company was not licensed under Al Code ss 5-19-22 to make consumer loans before June 23, 1989, and it financed heat pumps and other merchandise without the statutory authority to collect interest, which it did, and was forced to refund to customers.
2. Alabama Power Company shutoff the electricity of Jeanette Hornsby Smith, and her family for 10 weeks, between July 23, 2003 and October 7,2009, at her home, without ever investigating whether it was correct in doing so.
3. Alabama Power Company does not have any investigative procedures in place to ensure the safety, and protect the rights of elderly, disabled, or vulnerable individuals who could be injured physically, and lose stored food. It also adds on a \$150 deposit and \$50 fee to resume service after a disconnection.
4. Alabama Power Company does not have a customer resolution process, policy, or team which investigates issues which may arise with a consumer credit transaction.
5. Alabama Power will not rescind a contract in case of fraud, and will resort to litigation instead of fulfilling the purpose of the contract.
6. HVAC systems are required to be installed by licensed HVAC contractors who must have a \$15,000 bond, to insure their performance.

7. Alabama Power never checked the credentials of its sellers Southern Properties Services to handle refrigeration chemicals, or its employee Jason Warren, to do an HVAC installation, before paying \$8,600, to do the work.
8. Alabama Power Company suspended shutoffs during 3/2020-9/29/2020, then resumed shutoffs during a global pandemic which has caused unemployment and deaths.
9. Alabama Power company does not disclose the statistics of its shutoff activities to the public.
10. Alabama Power does not disclose to the public, the amount of litigation that it pursues against consumers, and others, or the costs of the cases it pursues.
11. The genuineness of the following documents: Email from Chris L. Cano, and Proposal from Southern Properties Services (2 versions) and 3 page Application for Alabama Power Heat Pump Financing, Appendix 1, Pgs. 1-8, of Formal Complaint, #33113, annexed to this request and are copies of documents sent by Chris Cano, Manager of Smart Finance, with respect to the transaction at question.

This the 20th day of April, 2021.



Ms. Alison K. Pilcher, Complainant, Pro Se
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Wetumpka, AL 36092
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Certificate of Service

In the matter of Alison K Pilcher, Individually, and as Next Friend for others,, Complainant

vs.

Alabama Power Company, and Smart Financing Division, Defendant

Formal Complaint before the Alabama Public Services Commission

Docket number 33113

I, Alison K. Pilcher, of Wetumpka, Alabama, hereby certify that I have mailed a copy of the foregoing Requests for Documents and Things, Complainant's Interrogatories, and Request for Admissions, to Richard O. Hutto, of the Alabama Power Company at 1600 North 18th Street, Birmingham, Alabama 35291-0001, by priority mail, on this 20th Day of April, 2021. I have attached the receipt with the tracking number in proof thereof.

And I swear that this Certificate of Service is a true and faithful representation, under the pains and penalties of perjury.

Signed _____



Date _____

4/20/2021

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