

April 26, 2021

**VIA ELECTRONIC FILING**

Public Utilities Commission of Ohio  
Acting Secretary Donielle Hunter  
180 East Broad St.  
Columbus, OH 43215

**Re:** *Som R. Soni d.b.a. AdTech Systems Research, Inc. v. Eligo Energy OH, LLC*  
*Complaint Docket No: 21-0341-EL-CSS*

Dear Acting Secretary Hunter,

This correspondence is in response to your April 6, 2021 letter regarding Complaint Docket No. F-2020-3020024 ("Complaint") filed against Eligo Energy OH, LLC ("Eligo" or "Eligo Energy") by Som R. Soni d.b.a AdTech Systems Research, Inc. ("Complainant").

Below please find Eligo Energy's Answer to the aforementioned Complaint. In accordance with Section 4901-9-01 of the Ohio Administrative Code ("OAC"), Eligo Energy is treating each main section of the Complaint as a "paragraph" and provides responses set forth in paragraphs numbered to correspond with the Complaint.

1. Customer (Complainant) Information: **Admitted.**
2. Name of Utility Company (Respondent): **Admitted.** Note, Eligo Energy OH, LLC ("Eligo Energy") is the proper entity name and the Complainant's supplier.
3. Type of Utility Service – Certified Retail Electric Supplier: **Admitted.**
4. Reason for Complaint – **Denied.** Please see Eligo Energy's full response below.

Som Soni on behalf of AdTech Systems Research, Inc., a commercial account, initially authorized the switch of their electric supply service on 07/07/2017 via e-sign. During the enrollment, the Complainant agreed to a price of \$0.04835 per kWh for a 36-month fixed rate term with an early termination fee equal to the estimated remaining kWh in the agreement multiplied by \$0.02 per kWh, then a market variable rate for any service periods thereafter. The person who authorized the switch stated that they were a person authorized to make changes to the account. We do not believe the enrollment process misrepresents the products offered or Eligo Energy specifically. In addition, Eligo Energy records show that a Welcome Packet, containing all the terms and conditions, was successfully mailed to the Complainant on 07/08/2017. The Welcome Packet is also attached for your convenience.

The variable rate is specifically addressed as a "market variable rate" in the TPV and Terms and Conditions Agreement. A market variable rate may change monthly without limit and may be based on market and wholesale factors, weather, and pricing strategies.



Per OAC 4901:1-21-11(G), "the CRES provider shall furnish written notice to residential and small commercial customers of pending contract expiration between forty-five and ninety calendar days before the contract expires. Such notice shall be made by separate mailing (envelope or postcard), or by **conspicuously placed bill message** or bill insert."

Here, the Complainant's fixed-rate contract started on 09/22/2017 and was set to expire on 08/22/2020. Eligo timely notified the Complainant of their fixed-rate contract expiration via bill message on their bill dated 03/23/2020, 05/20/2020, and 06/24/2020 which covered the service periods of 02/20/2020 to 03/23/2020, 03/23/2020 to 05/20/2020, and 05/20/2020 to 06/22/2020. For your convenience, I have attached a screenshot of the bill message that was displayed on their bills for the respective accounts enrolled. Eligo Energy has no record of the Complainant calling to re-enroll on another fixed-rate contract or to cancel his account after his contracted term expired.

On 2/03/2021, the Complainant called Eligo Energy requesting a re-rate due to the high bill and stated he did not receive the bill message reminders due to being out of town. On that same day, our billing team and our supervisor offered the Complainant a \$500.00 refund, but the Complainant declined and stated they were filing a complaint to the Commission.

Som Soni re-authorized the switch of their electric supply service on 02/04/2021 via e-sign. During the enrollment, the Complainant agreed to a price of \$0.04773 per kWh for a 36-month fixed rate term with an early termination fee equal to the estimated remaining kWh in the agreement multiplied by \$0.02 per kWh, then a market variable rate for any service periods thereafter. The person who authorized the switch stated that they were a person authorized to make changes to the account. We do not believe the enrollment process misrepresents the products offered or Eligo Energy specifically.

On 2/11/2021, the Complainant requested that Eligo Energy process the cancellation for accounts 2408006283, 2062279477, and 3686643130 and our customer service department promptly submitted a drop request to DPL. The cancellation was processed immediately, and we received the service end date of 03/23/2021 for all 3 accounts from DPL.

After the Commission determined the Complainant had no merit during the informal complaint process, see Case No. 00665332, Eligo Energy reached out to the Complainant as a courtesy to negotiate a reasonable settlement. Unfortunately, the Complainant refused to accept the \$500 offered to him again as courtesy.

5. Requested Relief – **Denied**. Please see Eligo Energy's response to Paragraph 4, above and additional information below.

While we respectfully disagree with the Complainant's allegations, in the spirit of cooperation and as a customer service gesture, Eligo Energy was willing to work with the Complainant on several occasions, within reason, to resolve this matter. Unfortunately, the Complainant was unwilling to accept a fair settlement offer of \$500 and further stated he would rather accept zero refund than his demand amount -- emphasizing that he did not need the money and refused to accept a handout. As such, we respectfully chose to reserve our company's courtesy refund budget to those that are in need of such financial assistance during these uncertain times.

We would also like to suggest to the Complainant to enroll in paperless billing with his utility so that he need not rely on paper copies of his electric bill being mailed to his business during times



of absence -- which would ultimately resolve the Complainant overlooking expiration notices sent by his supplier, as well.

While we still emphasize with the Complainant, the originally offered courtesy refund of \$500 was taken off the table after many chances to accept it and will no longer be offered, especially after I myself was verbally harassed by the Complainant on multiple occasions over the phone in efforts to find a mutual acceptable resolution. Eligo Energy will not be offering or issuing the Complainant a refund as the Complainant was timely notified of their fixed rate contract expiring and the Complainant failed to cancel or renew his contract with Eligo Energy. The Complainant's requested relief is therefore denied.

6. Affirmative Defenses – Motion to Dismiss for failure to set forth reasonable grounds for complaint per Section 4901-9-01(C)(3) of the OAC.

Sincerely,

Sara Erfani  
Corporate & Compliance Counsel  
Eligo Energy OH, LLC  
201 W Lake St., Ste 151  
Chicago, IL 60606  
[complaints@eligoenergy.com](mailto:complaints@eligoenergy.com)  
312-216-0968

Enclosures

CC: Som R. Soni, d.b.a. AdTech Systems Research, Inc.



**VERIFICATION STATEMENT**

*Som R. Soni d.b.a. AdTech Systems Research, Inc. v. Eligo Energy OH, LLC*  
*Complaint Docket No: 21-0341-EL-CSS*

Eligo Energy OH, LLC ("Eligo"), by and through its Corporate & Compliance Counsel, Sara Erfani, herein verifies that, to the best of the undersigned's knowledge and belief, the information provided in response to the above-captioned complaint is true and accurate.

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Sara Erfani  
Corporate & Compliance Counsel  
Eligo Energy OH, LLC  
201 W Lake St., Ste 151  
Chicago, IL 60606  
[complaints@eligoenergy.com](mailto:complaints@eligoenergy.com)  
312-216-0968



## EXPIRATION NOTICES

### Bill dated 03/23/2020, which covered the service periods of 02/20/2020 to 03/23/2020.

AdTech Systems Research Inc Bill Message Feb 20 to March 23 2020 acct no 3686643130.JPG

10|TS810|3|0016|20200325|12401224:15622811||202003242050116233033686643130|ME|00|LDC|DUAL||N/A||5811473686643130|3686643130|Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|158.59  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|16|EL|ACCOUNT|20200220|20200323  
25|01|  
26|C|D140|EU|GEN004|158.59||0.048350|KH|3280||01|Electric Supply Charge

AdTech Systems Research Inc Bill Message Feb 20 to March 23 2020 acct no 2408006283.JPG

10|TS810|3|0017|20200325|12401279:15622931||202003242110124373832408006283|ME|00|LDC|DUAL||N/A||5811472408006283|2408006283|Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|328.78  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|17|EL|ACCOUNT|20200220|20200323  
25|01|  
26|C|D140|EU|GEN004|328.78||0.048350|KH|6800||01|Electric Supply Charge

AdTech Systems Research Inc Bill Message Feb 20 to March 23 2020 acct no 2062279477.JPG

10|TS810|3|0018|20200325|12401236:15622887||202003242104274157672062279477|ME|00|LDC|DUAL||N/A||58114720622794Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|522.18  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|18|EL|ACCOUNT|20200220|20200323  
25|01|  
26|C|D140|EU|GEN004|522.18||0.048350|KH|10800||01|Electric Supply Charge

### Bill dated 05/20/2020, which covered the service periods of 03/23/2020 to 05/20/2020.

AdTech Systems Research Inc Bill Message March 23 to May 20 acct no 3686643130.JPG

10|TS810|3|0009|20200523|12668491:16196231||20200522205828032813686643130|ME|00|LDC|DUAL||N/A||5811473686643130|3686643130|Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|205.00  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|9|EL|ACCOUNT|20200323|20200520  
25|01|  
26|C|D140|EU|GEN004|205.00||0.048350|KH|4240||01|Electric Supply Charge

AdTech Systems Research Inc Bill Message March 23 to May 20 acct no 2408006283.JPG

10|TS810|3|0010|20200523|12668457:16196188||202005222119215514982408006283|ME|00|LDC|DUAL||N/A||5811472408006283|Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|340.38  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|10|EL|ACCOUNT|20200323|20200520  
25|01|  
26|C|D140|EU|GEN004|340.38||0.048350|KH|7040||01|Electric Supply Charge

AdTech Systems Research Inc Bill Message March 23 to May 20 2020 acct no 2062279477.JPG

10|TS810|3|0011|20200523|12668469:16196209||202005222113237839252062279477|ME|00|LDC|DUAL||N/A||5811472062279477|2062279477|Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|555.06  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|11|EL|ACCOUNT|20200323|20200520  
25|01|  
26|C|D140|EU|GEN004|555.06||0.048350|KH|11480||01|Electric Supply Charge



## Bill dated 06/24/2020, which covered the service periods of 05/20/2020 to 06/22/2020.

AdTech Systems Research Inc Bill Message May 20 to June 22 2020 acct no 2062279477.JPG

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10|TS810|3|0017|20200624|12796222:16486616||202006232106449179332062279477|ME|00|LDC|DUAL||N/A||5811472062279-  
Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|||164.39  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|17|EL|ACCOUNT|||20200520|20200622  
25|01|  
26|C|D140|EU|GEN004|164.39||0.048350|KH|3400||01|Electric Supply Charge

AdTech Systems Research Inc Bill Message May 20 to June 22 2020 acct no 2408006283.JPG

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10|TS810|3|0016|20200624|12796220:16486611||202006232112241895612408006283|ME|00|LDC|DUAL||N/A||581147240-  
Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|||30.94  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|16|EL|ACCOUNT|||20200520|20200622  
25|01|  
26|C|D140|EU|GEN004|30.94||0.048350|KH|640||01|Electric Supply Charge

AdTech Systems Research Inc Bill Message May 20 to June 22 2020 acct no 3686643130.JPG

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10|TS810|3|0015|20200624|12796182:16486536||202006232052026469363686643130|ME|00|LDC|DUAL||N/A||5811473686643130|3686643130|  
Light|1|147212336|Eligo Energy OH, LLC|1|078646976|AdTech Systems Research Inc|||23.21  
12|Fixed Rate Expiration Date: 08/22/20. Absent renewal, you may pay  
12|variable prices, subject to change monthly without limit.  
20|15|EL|ACCOUNT|||20200520|20200622  
25|01|  
26|C|D140|EU|GEN004|23.21||0.048350|KH|480||01|Electric Supply Charge





Dear Som Soni,

Welcome to Eligo Energy! This welcome packet will give you additional details as you join the many who have taken a smarter approach to energy.

**Next steps include:**

1. Eligo Energy has counter-signed the agreement and is including a copy for your records.
2. Energy Supply Service has or will begin shortly after the start date as indicated in your agreement.
3. DPL will send a monthly bill with their charges for delivery and Eligo Energy's charges for supply.

As your local utility, DPL will still read your meter, handle any power outages or emergency services, and continue to send you your bill, just like they always have. DPL will also be sending you a letter to confirm your switch to Eligo Energy.

Enclosed for your records is a copy of the terms and conditions of your agreement with Eligo Energy. For your convenience we have summarized key details of your agreement below:

<b>Customer Name</b>	AdTech Systems Research Inc
Effective Rate:	\$0.04835/kwh
Length of Contract	36 months
Customer Service Phone	888-327-1210
Customer Service Email	commercialsales@eligoenergy.com

If you have any questions regarding your energy bill or contract, please contact customer service at the information listed above.

## Pricing Quote

Contact Information	
Sales Rep	Online
Customer	AdTech Systems Research Inc
Contact Name	Som Soni
Contact Phone	9379027654
Contact Email	somrsoni@gmail.com
Utility	Dayton Power and Light
Mailing/Billing/Service Address	1342 N Fairfield Rd Beavercreek OH 45432

Custom Product Types			
Choose One	Initial Term	Price	Product
<input checked="" type="radio"/>	36 months	\$0.04835 / kWh	Fixed - All Inclusive

Utility Account Numbers
3686643130; 2408006283; 2062279477;

Additional Info	
ICAP	13.33 kW
NITS	11.04 kW
Estimated Annual Usage	120.0 MWh

Historical Usage		
End of Billing Period	Days in Billing Period	Total kWh Usage
Jul 16	31	5263
Aug 16	31	5181
Sep 16	30	4978
Oct 16	31	4939
Nov 16	30	11853
Dec 16	31	20689
Jan 17	31	20949
Feb 17	28	16012
Mar 17	31	14228
Apr 17	30	5929
May 17	31	5117
Jun 17	21	3577

For each location, term shall start after the first applicable meter read cycle after **August 22, 2017**.



**Electric Service Agreement**  
**Commercial and Industrial Customer**  
**General Terms and Conditions**

This Electric Service Agreement (this "Agreement") is dated July 6, 2017 and made between Eligo Energy, LLC or its subsidiaries ("Eligo") of 201 W. Lake St., Ste 151, Chicago, IL 60606 and AdTech Systems Research Inc (Customer Name) of 1342 N Fairfield Rd Beavercreek OH 45432 (ADDRESS) ("Customer") (each referred to individually as a "Party" and collectively as the "Parties").

**I. ENERGY SERVICES**

As stated in the executed Commercial Pricing Quote ("Attachment 1" or "Pricing Quote", incorporated herein by reference), Eligo shall, from the relevant Enrollment Start Date (with the next available meter reading) and during the relevant Term, supply and deliver to Customer the retail energy requirements ("Retail Energy") of Customer's service location(s) (each, a "Point of Service Location"). The Retail Energy is delivered to the distribution system's interconnection point (each, a "Delivery Point") of the relevant electricity distribution company ("Utility" or "EDU"), and the relevant Utility is responsible for delivery of the Retail Energy to Customer's meter at and from that point. Customer designates Eligo as an authorized recipient of Customer's account, billing and usage information. Customer consents to the disclosure by each Utility to Eligo of certain basic information about Customer including: account number, meter number, meter read data, rate class, billing and payment information, account name, service address, billing address, and telephone number. The energy price in the Pricing Quote is based upon Customer's historical load data and applies to all Retail Energy covered under the Pricing Quote and Agreement and includes charges for the energy supply rate and scheduling and load forecasting associated with the delivery of the Retail Energy. Customer's specific energy cost depends upon the product selected in the Pricing Quote and the applicable product description.

**Fixed All Inclusive Price ("Price"):** The Price per kWh for the Fixed All Inclusive Product shall be set forth on the Pricing Quote and includes applicable costs for energy procured; distribution losses; all applicable costs for ancillary services; capacity costs (as mandated or modified by PJM or applicable ISO and approved by FERC); renewable compliance charges; miscellaneous charges (i.e., RMR cost, congestion, customer service). The Fixed All Inclusive Price does not include additional charges, which are the responsibility of Customer, including, but not limited to the Network Integrated Transmission Service ("NITS") costs and Regional Transmission Expansion Planning ("RTEP"), which are passed through and may be charged by the Utility; charges for services under Utility's applicable delivery service tariffs and riders; facilities charges; taxes (either billed for by the Utility or customer self-assessed) and other Utility charges, including but not limited to fuel, environmental, or decommissioning charges, as may be applicable from time to time, as well as any other charges, not specifically mentioned herein or created after the Effective Date of this Agreement.

**II. BILLING AND PAYMENT**

- General Billing and Payment Terms:** Eligo shall provide monthly invoices, either through utility consolidated billing ("UCB"), supplier consolidated billing ("SCB") or a Dual Billing Option ("DBO") at its discretion. Eligo may estimate bills in cases where actual billing determinants are unavailable, and estimated bills shall be adjusted as soon as reasonably practicable. Customer shall pay all amounts owing within terms specified in Attachment 1. Late payments shall incur interest charges at a rate of interest equal to a per annum rate of eighteen percent (18%) or the maximum allowed under applicable law, whichever is less. In any instance where a payment to Eligo is declined by the issuing institution, Customer shall be assessed a charge of \$45 or the maximum allowed under applicable law (whichever is less) per declined payment. Customer shall be liable for all costs incurred by Eligo, including attorneys' fees, for collections on accounts greater than thirty (30) calendar days past due.
- Disputes and Adjustments of Invoices:** Customer may dispute, in good faith and in writing, the correctness of any invoice. In the event that an invoice or portion thereof is disputed, payment of the undisputed portion of the invoice shall be made within normal terms, with notice of the dispute given to Eligo in writing and stating the amount and basis for the dispute. Upon resolution of the dispute, any required payment shall be made within five (5) business days of such resolution.
- Paperless Invoicing:** Eligo's paperless invoicing system is the default method by which Customer receives applicable monthly invoices. If Customer desires to receive a paper invoice in lieu of e-mail, then Customer shall notify Eligo of their decision. Unless otherwise specified by Customer, Customer will receive their monthly invoice via electronic mail ("e-mail") rather than in paper format. If Customer selected monthly invoice delivery via email, Customer is hereby notified that receiving monthly invoices via e-mail does not automatically withdraw money from Customer's bank account in order to satisfy the amount due to Eligo.
- Payments:** Although the default method of payment shall be through the Automated Clearing House ("ACH") Recurring Payment Authorization attached herein or provided separately at Customer's request, Customer may also pay invoices by check. No processing fee shall be assessed by Eligo when using ACH recurring payments. For credit card payments, Eligo shall assess a processing fee of three percent (3%) of the invoiced amount or the maximum allowed under applicable law, whichever is less.

**III. EXTENSION / RENEWAL OF AGREEMENT**

Not less than six (6) months after the start of the then current Term, Customer may inquire into the possibility of extending the Agreement past the original Term at the same or lower rate than in the present Agreement. To the extent possible, Eligo, at its sole discretion and based on then existing market conditions, may provide Customer with an opportunity to blend-and-extend the present Agreement.

Between 45 and 90 calendar days prior to the anticipated expiration date of the then current relevant Term, Eligo may provide an expiration notice electronically or otherwise in writing containing proposed terms and conditions. If, following termination or expiration of this Agreement and Customer's failure to accept proposed agreement terms, any of Customer's accounts remain designated by any Utility as being served by Eligo, then Eligo may either (a) continue to serve such account(s) on a month-to-month holdover basis (each, a "Holdover Term") or (b) move such account(s) to the then applicable tariff service, whether default service or otherwise, or to another authorized provider of electricity required to serve as the "provider of last resort" (any of the foregoing is an "Alternative Service"). The price payable during any Holdover Term shall be based on a variable rate, and may change monthly due to current and predicted weather patterns, retail competition, wholesale commodity energy costs, fluctuations in energy supply and demand, industry regulations, pricing strategies, costs to serve customers, among many factors. Unlike a fixed price, there is no limit on how much a variable price may change from one billing cycle to the next billing cycle. Variable rate agreements will automatically renew on a month-to-month basis and can be cancelled at any time by either party without any early termination fee. This Agreement shall continue to govern the provision of service during any Holdover Term. During a Holdover Term, Eligo may at any time move any account(s) to an Alternative Service without penalty or prejudice.

**IV. CREDIT**

All electric service offers are subject to credit approval and shall not become a final offer until Eligo has approved the creditworthiness of Customer. Customer represents that there is no bankruptcy, insolvency, reorganization, receivership, administration or other similar proceeding pending or being contemplated by it or, to its knowledge, threatened against it. Customer agrees to provide commercially reasonable credit information upon request. Should the creditworthiness or financial responsibility of Customer become unsatisfactory to Eligo at any time during the Term, as determined by Eligo in its commercially reasonable discretion, Eligo may request additional financial statements in accordance with the previous sentence, and in addition thereto, require satisfactory security, including, but not limited to, a parental guaranty, escrow account, bond, deposit, prepayment, or letter of credit, be provided by Customer. Upon receipt of such request from Eligo, Customer shall have five (5) business days to provide the requested adequate security to Eligo. For the avoidance of doubt, Eligo shall in no circumstances be required to provide security or any other form of adequate assurance to Customer. Eligo is prohibited from disclosing the Customer's social security number or account number.

**V. POINT OF SERVICE LOCATION CLOSURE**

Customer shall provide Eligo at least sixty (60) calendar days prior written notice prior to removing any Point of Service Location from service hereunder as a result of ceasing operations, including, but not limited to, closing any Point of Service Location or the sale of any Point of Service Location to an unrelated third party, at such Point of Service Location. Customer shall also provide at least thirty (30) calendar days prior written notice if they foresee a 10% or more change in usage. Eligo, in its sole discretion, may reevaluate the terms of this Agreement and/or may terminate the Agreement if the change in monthly usage is greater than 10% from historical usage. Customer shall be responsible for payment of any actual damages incurred by Eligo, if any, relating to or arising from any such removal. Customer has a right to terminate this Agreement without penalty if the customer moves outside Eligo's service area or into an area where Eligo charges a different price. If Customer switches back to the Utility, Customer may not be served under the same rates, terms, and conditions.

**VI. CONFIDENTIALITY**

Both Parties agree that the terms and conditions of this Agreement shall remain confidential, except for any required disclosure to any regulatory body, governmental entity or agency having jurisdiction, or disclosure to accountants, attorneys, or other professionals acting on behalf of the disclosing Party.

**VII. NOTICES**

Attachment 1 / Pricing Quote contains the contact information for Eligo and Customer that will be used to provide any and all notices arising from this Agreement. Eligo may be reached at 888-744-8125 between 8 AM and 5 PM CST.

**VIII. EVENTS OF DEFAULT**

A. Definition: An "Event of Default" shall mean, with respect to the Customer to whom the following applies (the "Defaulting Party"), the occurrence of any of the following: (a) the failure of such Defaulting Party to make, when due, any payment required pursuant to this Agreement, if such failure is not remedied within 21 days after written notice and demand of payment (21 calendar days after the postmark date on the notice / demand for payment); (b) any representation or warranty made by such Defaulting Party herein being false or misleading in any material respect when made or ceases to remain true during any Term; (c) the failure of such Defaulting Party to perform any material covenant or obligation set forth in this Agreement and such failure is not remedied within five (5) business days after written notice; (d) Customer (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or

cause of action under any bankruptcy, insolvency, reorganization, receivership, administration or other similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), or (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets as part of bankruptcy proceeding or reorganization for the benefit of creditors; (e) the failure of Customer to provide security or otherwise satisfy the creditworthiness requirements under the "Credit" section of this Agreement; (f) Customer consolidates or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of Customer under this Agreement; or (g) Customer's failure to cooperate with Eligo as reasonably required in order for Eligo to perform its obligations under this Agreement.

**B. Suspension; Early Termination; Liquidated Damages:** If an Event of Default occurs, Eligo (the "Non-Defaulting Party") may, at its option and in its sole discretion, take any one or more of the following actions: (1) suspend its performance under this Agreement, and Customer shall pay to Eligo an Early Termination Fee in the amount stated below; (2) terminate this Agreement by sending written notice to the Defaulting Party providing the termination date for this Agreement (the "Early Termination Notice"), and Customer shall pay to Eligo an Early Termination Fee in the amount stated below; or (3) the Defaulting Party shall pay to the Non-Defaulting Party as liquidated damages a settlement amount (the "Settlement Amount") as follows: The Settlement Amount shall equal the greater of (i) Retail Margin, plus Supply Termination Costs, plus Enforcement Costs; or (2) an early termination fee that is equal to the remaining Agreement kWh multiplied by \$0.02/kWh; or (3) maximum allowed by law (capped at \$150 for "small commercial retail customers" in Illinois). As used herein, the following terms shall have the following meanings: "Enforcement Costs" means any attorneys' fees, expenses, and costs incurred by the Non-Defaulting Party in connection with enforcing its rights under this Agreement. "Remaining Performance" means the remaining performance, including kWhs, under this Agreement for the remainder of the relevant Term had it not been terminated early, based on historical usage. "Retail Margin" means the amount of Eligo's forecasted retail margin under this Agreement, determined based on the differential between wholesale and retail market prices at the time of this Agreement or any extension hereof, allocable to the Remaining Performance. "Supply Termination Costs" means any loss or cost that Eligo would incur in terminating or liquidating the portion of any supply contracts, hedges, or related trading positions or arrangements held by Eligo allocable to the Remaining Performance, whether or not such action is taken. Eligo shall calculate the Settlement Amount in its commercially reasonable discretion, including where applicable Eligo estimates of market prices and forward market prices. Such calculation shall be included in any Early Termination Notice provided by Eligo or, if the termination date selected by Eligo is after the date of the Early Termination Notice or Customer delivers the Early Termination Notice, Eligo shall provide such calculation to Customer within a reasonable period following the termination date. The Settlement Amount shall be paid by the Customer that owes it within twenty one (21) calendar days after the postmark date on the notice. The Parties acknowledge and agree that the Settlement Amount constitutes a reasonable approximation of harm or loss, and is not a penalty or punitive in any respect. Each Party agrees that it has a duty to mitigate damages and to use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

## **IX. FORCE MAJEURE**

"Force Majeure" shall mean an event which prevents the claiming party (the "Claiming Party") from performing its obligations and is not within the reasonable control of, or the result of the negligence of, the Claiming Party, such as, but not limited to, acts of God; fire; flood; terrorism; breach by the Utility; electric grid interruption; earthquake; war; riot; or requirements, actions or failure to act on the part of governmental authorities. The non-Claiming Party shall not be required to perform its obligations to the Claiming Party for the period of the Force Majeure. If the Force Majeure continues for a period in excess of thirty (30) calendar days (an "Extended Force Majeure Event"), the performing Party may terminate this Agreement by providing the other Party written notice of the early termination, without the termination for an Extended Force Majeure Event constituting an Event of Default.

## **X. RESCISSION**

Once Customer has been enrolled to receive electric Generation Service from Eligo, Customer will receive a confirmation notice from Customer's EDU. A Small Commercial Customer has the right to rescind Customer's enrollment without penalty within seven calendar days following the postmark date of the confirmation letter by contacting Customer's EDU and following the instructions in the confirmation notice. Customer's right to rescind only applies when Customer initially switches to Eligo, not upon any renewal of this Agreement.

## **XI. GOVERNING LAW AND WAIVER OF JURY TRIAL**

Small commercial customers have the right to make formal or informal complaints to the Public Utility Commission of Ohio ("PUCO"). This Agreement shall be interpreted under Ohio law.

## **XII. RELATIONSHIP OF PARTIES**

Eligo is an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. Eligo is not acting as Customer's consultant or advisor, and Customer shall not rely on Eligo in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices or any other matter.

## **XIII. CHANGES IN LAW OR REGULATION**

In the event that any change in any statute, rule, regulation, order or other law, or procedure, tariff, rate class or other process or charge, promulgated by any governmental authority or Utility, Independent Service Operator ("ISO"), Regional Transmission Operator ("RTO") or other regulated service provider, alters to the detriment of Eligo its costs to perform or its economic returns under this Agreement (a "Negative Change in Regulation"), Eligo may revise the pricing under this Agreement to eliminate the impact of such Negative Change in Regulation. Before any such price revision, Eligo shall provide 30 days written notice to Customer of the Negative Change in Regulation, the resulting price revisions, and the date upon which such revised pricing shall be effective. Customer may either agree to the proposed change and/or revised price described in such notice by giving affirmative consent, request to be placed on Utility default service, or request to have its service transferred to another energy supplier. Upon acceptance of the revised terms or price by Customer, all other terms and conditions of this Agreement shall remain in full force and effect.

## **XIV. SEVERABILITY**

The various provisions of this Agreement are severable. Any provision or section of this Agreement declared or rendered void, unlawful, or otherwise unenforceable shall not otherwise affect the, residual, lawful obligations that arise under this Agreement.

## **XV. INDEMNITY**

Eligo shall defend, indemnify, and hold Customer harmless against all claims and liabilities resulting from Eligo's negligence or breach of this Agreement and arising prior to the delivery of the Retail Energy to the relevant Delivery Point, except to the extent such claims and liabilities arise out of Customer's negligence or breach of this Agreement. Customer shall assume full responsibility for any damages or losses relating to the delivery of the Retail Energy at and after its delivery to the relevant Delivery Point and shall defend, indemnify, and hold Eligo harmless against all claims and liabilities arising at and after the delivery of the Retail Energy to the relevant Delivery Point, except to the extent such claims and liabilities arise out of Eligo's negligence or breach of this Agreement.

## **XVI. ASSIGNMENT**

Customer may not assign this Agreement without Supplier's written consent. Customer hereby acknowledges and consents to Supplier's pledge and contingent assignment or subrogation of any and all rights and obligations hereunder. This Agreement is binding upon Customer and Supplier, and each party's heirs, successors and permitted assigns. Any required notice of assignment will be considered complete when it is mailed to the Customer's address on file with the Supplier. There are no third-party beneficiaries to this Agreement.

## **XVII. WARRANTY, DISCLAIMER AND LIMITATION OF LIABILITY**

Eligo warrants title to all Retail Energy delivered hereunder and sells such Retail Energy to Customer free from liens and adverse claims. THIS IS ELIGO'S ONLY WARRANTY CONCERNING THE SERVICES PROVIDED HEREUNDER AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR OTHERWISE. EXCEPT AS PART OF ANY PAYMENT OF THE SETTLEMENT AMOUNT IN ACCORDANCE WITH THE TERMS HEREOF, NEITHER PARTY SHALL BE RESPONSIBLE UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, INCIDENTAL, INDIRECT, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES. IN ADDITION, ELIGO'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL OF THE FIRST TWO ELIGO INVOICES REFLECTING THE ENERGY COST SPECIFIC TO CUSTOMER'S METER READS AS THE SOLE AND EXCLUSIVE REMEDY. TO THE MAXIMUM EXTENT POSSIBLE UNDER LAW, ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO THE RETAIL ENERGY SOLD HEREUNDER.

## **XVIII. ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof and may only be amended by a written instrument executed by both Parties. Any attachment, exhibit, or addendum executed pursuant to this Agreement by the Parties after the date hereof shall become a part of this Agreement as of the effective date of such attachment, exhibit, or addendum. In the event of a conflict between the terms of the General Terms and Conditions and any attachment, exhibit, or addendum, the terms of any Attachment shall govern. This Agreement is effective only upon Customer's execution and Eligo's subsequent execution or performance of this Agreement.

## **XIX. COUNTERPARTS**

This Agreement may be executed in one or more counterparts and each executed counterpart shall be considered an original.

**State Disclosure(s):** Customer has the right to request from Eligo twice within a twelve-month period up to twenty-four months of Customer's payment history without charge; Customer may be charged switching fees by the Utility. If your complaint is not resolved after you have called your electric supplier and/or your electric utility, or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-

800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at [\[http://www.puco.ohio.gov\]](http://www.puco.ohio.gov)[\[http://www.puco.ohio.gov\]](http://www.puco.ohio.gov). Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service). The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at [\[http://www.pickocc.org\]](http://www.pickocc.org)[\[http://www.pickocc.org\]](http://www.pickocc.org).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective July 6, 2017.

As to Customer

**Customer:** AdTech Systems Research Inc

**Signature:** SomRSONi  
SomRSONi (Jul 7, 2017)

**Name:** SomRSONi

**Title:** President

**Date:** Jul 7, 2017

As to Supplier

**Supplier:** Eligo Energy OH, LLC

**Signature:** Mark Friedgan  
Mark Friedgan (Jul 10, 2017)

**Name:** Mark Friedgan

**Title:** COO

**Date:** Jul 10, 2017

Quote expires July 7 2:59 PM CDT

Contract ID: 19 04 59

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/27/2021 2:11:18 PM**

**in**

**Case No(s). 21-0341-EL-CSS**

Summary: Answer Eligo Energy OH, LLC's Answer to Formal Complaint filed by Som Soni of AdTech Research Systems, Inc. electronically filed by Mr. Alexander Rozenblat on behalf of Eligo Energy OH, LLC