

# 2021-10004 / Court: 133

CAUSE NO. \_\_\_\_\_

<b>LISA KHOURY, Individually and on</b>	§	<b>IN THE DISTRICT COURT OF</b>
<b>Behalf of all Others Similarly Situated,</b>	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
vs.	§	<b>HARRIS COUNTY, TEXAS</b>
	§	
<b>GRIDDY ENERGY LLC</b>	§	
	§	
<i>Defendant.</i>	§	_____ <b>JUDICIAL DISTRICT</b>

## PLAINTIFFS' ORIGINAL CLASS ACTION PETITION

Plaintiffs Lisa Khoury, Individually and on Behalf of all Others Similarly Situated, by and through the undersigned counsel, bring this class action against Defendant Griddy Energy LLC (“Griddy”). Plaintiffs make the following allegations pursuant to the investigation of counsel and based upon information and belief, except as to the allegations specifically pertaining to Khoury, which are based on personal knowledge.

### INTRODUCTION

1. This is a class action on behalf of all Griddy customers who were charged excessive electricity prices during and because of Winter Storm Uri of February 2021. Griddy provides electricity to Texas and charged customers what has been described as “massive,” “catastrophic,” and “eye watering” electrical bills, even when those customers experienced power outages and other hardships during the storm.

2. Griddy has caused substantial harm to Khoury and the proposed class by charging excessive electricity prices during and because of a disaster.

## **PARTIES**

3. Plaintiff Lisa Khoury is an individual and citizen of the United States residing in Mont Belvieu, Chambers County, Texas.

4. Defendant Griddy Energy LLC is a Delaware limited liability company with its principal place of business located at 11811 North Freeway, Suite 500, Houston, Texas 77060.

5. Griddy maintains a registered agent in Texas, CT Corporation System, who can be served at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

## **DISCOVERY LEVEL**

6. Khoury and Class Members intend to conduct discovery under Level 3 pursuant to Rule 190.4 of the Texas Rules of Procedure.

## **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this controversy because the damages are within the jurisdictional limits of this Court. Khoury and Class Members are seeking monetary relief of over \$1 billion.

8. This Court has personal jurisdiction over Griddy because its principal place of business is in Harris County, Texas. At all relevant times, Griddy has purposefully availed itself of the benefits and protections of Texas by continuously and systematically conducting business so substantial as to render it at home in Texas. Griddy publicizes its company as a “Texas Energy Company” that brought “wholesale electricity to Texas.” Griddy markets and sells electricity and transacts business in and directed towards Texas. Griddy maintains a headquarters in Texas and is registered in Texas.

9. Pursuant to Section 15 of the Texas Civil Practice and Remedies Code, venue is proper because a substantial part of the events or omissions giving rise to the alleged claims

occurred or originated in Texas and this District. Additionally, Griddy is located at 11811 North Freeway, Suite 500, Houston, Harris County, Texas 77060.

### **FACTUAL BACKGROUND**

10. Winter Storm Uri wreaked havoc in Texas and other states for one week in February 2021. The storm brought cold weather, including sub-freezing temperatures, snow, and ice, to a region ill-equipped to handle such conditions.<sup>1</sup> With surges in electricity usage to heat homes, the power grid was overtaxed resulting in people left without electricity for days, and it snowballed into other problems: no internet and cell services, contaminated water, and food shortages. At the time of filing, the extent of damage and the death toll are unknown.<sup>2</sup>

#### ***The Disaster Unfolds in Texas***

11. On Thursday, February 11, 2021, the Texas Weather Service issued its first winter storm watches. By Sunday, February 14, 2021, the entire state of Texas was placed under a winter storm warning.<sup>3</sup> Weather forecasters predicted the inclement weather as early as February 5, 2021, giving power grid operators, energy companies, and state officials ample time to prepare.<sup>4</sup>

12. On Friday, February 12, 2021, Governor Greg Abbott declared a state of disaster in all Texas counties due to the winter weather. Ex. A, Proclamation.<sup>5</sup> Texans were warned to minimize electricity consumption to prevent further havoc on the power grid.<sup>6</sup> President Joseph R. Biden, Jr. approved an emergency declaration over the weekend.<sup>7</sup>

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<sup>1</sup> <https://www.texastribune.org/2021/02/19/texas-winter-legislature-electricity/>

<sup>2</sup> <https://www.texastribune.org/2021/02/19/texas-power-outage-winter-storm-deaths/>

<sup>3</sup> <https://www.washingtonpost.com/weather/2021/02/19/texas-cold-early-warning/>

<sup>4</sup> *Id.*

<sup>5</sup> <https://www.texastribune.org/2021/02/12/texas-winter-weather/>

<sup>6</sup> *Id.*

<sup>7</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/14/president-joseph-r-biden-jr-approves-texas-emergency-declaration/>

13. On Sunday, February 14, 2021, the Electric Reliability Council of Texas (“ERCOT”) announced that rolling outages would be imposed for the next two days to avoid a complete system breakdown.<sup>8</sup> Rolling blackouts were last carried out in Texas a decade ago.<sup>9</sup> Texas has failed to address any of the winter weatherization issues that last took place in 2011.<sup>10</sup>

14. Texas purchases electricity from companies, cities, and others, while ERCOT works with utility providers to manage the power grid and flow to 90% of the state.<sup>11</sup> ERCOT blamed the outages on generator failures with natural gas providers.<sup>12</sup>

15. On Monday, February 15, 2021, 2 million Texas households were left without power. Throughout the United States, 5 million people experienced power outages.<sup>13</sup> The outages were expected to last 45 minutes per area, but instead, some Texans went days without power.<sup>14</sup>

16. Many Texans felt blind-sided and alone as they dealt with the crisis, especially when it remained unclear how long the outages would continue for.<sup>15</sup>

17. On Wednesday, February 17, 2021, 2.7 million Texas households were still without power and nearly 12 million Texans experienced low water pressure and water quality issues.<sup>16</sup> Governor Abbott still had no timeline as to when power and water would be restored.<sup>17</sup>

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<sup>8</sup> <https://www.texastribune.org/2021/02/14/texas-rolling-blackouts/>

<sup>9</sup> <https://time.com/5939633/texas-power-outage-blackouts/#:~:text=5%20Million%20Americans%20Have%20Lost,on%20Feb.%2015%2C%202021.>

<sup>10</sup> <https://www.texastribune.org/2021/02/17/texas-power-grid-failures/>

<sup>11</sup> <https://www.texastribune.org/2021/02/14/texas-rolling-blackouts/>;

<https://www.texastribune.org/2021/02/16/natural-gas-power-storm/>

<sup>12</sup> *Id.*

<sup>13</sup> <https://time.com/5939633/texas-power-outage-blackouts/#:~:text=5%20Million%20Americans%20Have%20Lost,on%20Feb.%2015%2C%202021.>

<sup>14</sup> <https://www.texastribune.org/2021/02/14/texas-rolling-blackouts/>

<sup>15</sup> <https://www.texastribune.org/2021/02/16/texas-ercot-power-outage/>;

<https://www.texastribune.org/2021/02/16/texas-power-outage-warnings/>

<sup>16</sup> <https://www.texastribune.org/2021/02/17/texas-winter-storm-power-outage-ercot/>

<sup>17</sup> <https://www.texastribune.org/2021/02/17/greg-abbott-winter-storm/>

18. By Thursday, February 18, 2021, the power outages were no longer necessary.<sup>18</sup> Yet, due to storm damage or other reasons, thousands of Texans remained without power.<sup>19</sup> The power grid returned to functionality by Friday, February 19, 2021.<sup>20</sup>

19. On February 19, 2021, President Biden signed an emergency declaration.<sup>21</sup>

***Griddy's Outrageous Electricity Bills during the Disaster***

20. Khoury enrolled with Griddy to start electricity services to her home on June 19, 2019. Ex. **B**, Enrollment Email (06.03.2019).

21. Griddy is a Texas wholesale electricity provider. Griddy customers pay \$9.99 for a monthly fee and the cost of spot power trades on Texas's power grid based on the time of day they use power.<sup>22</sup>

22. Khoury typically kept a \$150 balance in her Griddy account to pay for her electricity bills. Her monthly electricity bills averaged around \$200 to \$250. Ex. **C**, Griddy Previous Statements.

23. After the winter storm hit her area, Griddy automatically withdrew from Khoury's bank account each time her electricity bill hit the recharge amount of \$150. From February 13 to 18, 2021, Griddy withdrew eight times from Khoury's bank account, \$150 each time. By Friday, February 19, 2021, Griddy withdrew a total of \$1,200 from Khoury's bank account. Ex. **D**, Griddy Statements; Ex. **E**, Bank Statement.

24. Khoury expressed concern over Griddy's withdrawals and bouncing checks but never heard back. She placed a stop payment on her bank account on Thursday, February 18, 2021.

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<sup>18</sup> <https://www.texastribune.org/2021/02/18/texas-power-grid-operator-ercot-outage/>

<sup>19</sup> *Id.*

<sup>20</sup> <https://www.texastribune.org/series/winter-storm-power-outage/?page=1>

<sup>21</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/20/president-joseph-r-biden-jr-approves-texas-disaster-declaration/>

<sup>22</sup> <https://www.griddy.com/texas/learn-more>

Khoury still owed Griddy an additional \$8,235. Ex. D. That is, her entire Griddy bill was \$9,546 from February 1 to 19, 2021. *Id.* Some customers received bills as high as \$17,000.<sup>23</sup>

25. Khoury’s electricity bills fluctuated as follows (Ex. C; Ex. D):

Date of Bill	Griddy Bill Amount
02/13/2021	\$207.70
	+ \$963.65
02/16/2021	\$1,171.35
	+ \$4,901.51
02/18/2021	\$6,072.86
	+ \$3,473.98
02/19/2021	\$9,546.84

26. Griddy charged Khoury in the middle of a disaster. She and her husband mostly were without power in their home from Wednesday, February 17, 2021 to Thursday, February 18, 2021. At the same time, Khoury hosted her parents and in laws, who are in their 80s, during the storm. Even then, she continued to minimize any power usage because of the high prices.

27. The outrageous bills added to Khoury’s stress and financial burden, especially as a retiree. She describes herself as going into “survival mode.” Many Texans complained the crisis drained “the mental reserves they had left” from the COVID-19 pandemic.<sup>24</sup>

28. Griddy customers first experienced drastic bill increases due to weather-related power changes in the summer heat of August 2019.<sup>25</sup> But, Winter Storm Uri proved to be unprecedented for Griddy’s customers. Spot electricity prices soared to \$9,000 per megawatt hour from the pre-storm rate of \$50 per megawatt hour.<sup>26</sup>

<sup>23</sup> <https://www.independent.co.uk/news/world/americas/texas-griddy-electric-bills-winter-storm-b1805357.html>

<sup>24</sup> <https://www.texastribune.org/2021/02/16/texans-weather-power-outage/>

<sup>25</sup> <https://www.khou.com/article/money/business/why-are-griddy-customers-getting-charged-so-much-to-power-their-homes-right-now/285-dccd90e-e3d1-41d7-8b03-e445a41b5cb7>

<sup>26</sup> <https://www.independent.co.uk/news/world/americas/texas-griddy-electric-bills-winter-storm-b1805357.html>

29. On Sunday, February 14, 2021, Griddy emailed 29,000 customers to suggest they switch to another provider with a fixed rate.<sup>27</sup> The next day, Griddy posted a letter on its website about the winter storm and electricity prices.<sup>28</sup> On Thursday, February 18, 2021, Griddy posted an additional update on high bills, claiming it was seeking relief from utility regulators.<sup>29</sup>

30. Customers could not switch providers because other providers were not accepting new customers due to the storm.<sup>30</sup> Khoury attempted to change providers on Tuesday, February 16, 2021 and was initially told service could only start in a week. Persistent under pressure, Khoury was able to change providers on Friday, February 19, 2021.

31. In light of the energy crisis, high electricity bills, and Griddy's outrageous billing, consumer advocacy groups stated, "Clearly we need to change our regulatory focus to protect the people, not profits."<sup>31</sup>

### ***Government Investigations related to the Disaster***

32. Griddy customers were shocked and outraged when they received massive electricity bills, while also facing power outages and other disaster-related hardships.

33. On Monday, February 15, 2021, government officials, later joined by the Texas Attorney General, began to call for an investigation into the power outages and lack of timely and credible information.<sup>32</sup>

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<sup>27</sup> <https://www.houstonchronicle.com/business/energy/article/Texas-power-retailers-to-customers-in-face-of-15953843.php>

<sup>28</sup> <https://www.griddy.com/post/letter-from-griddy-about-the-storm-and-prices>

<sup>29</sup> <https://www.griddy.com/post/griddy-update-why-energy-prices-were-sky-high-this-week>

<sup>30</sup> <https://abc13.com/griddy-power-retailer-electricity-prices-texas-price-protection-grid/10350120/>

<sup>31</sup> <https://www.texastribune.org/2021/02/17/texas-power-grid-failures/>

<sup>32</sup> <https://www.texastribune.org/2021/02/14/texas-rolling-blackouts/>;

<https://www.texastribune.org/2021/02/16/texas-power-outage-ercot/>;

<https://www.texastribune.org/2021/02/17/texas-winter-storm-power-outage-ercot/>;

<https://www.texastribune.org/series/winter-storm-power-outage/?page=2>

34. On Friday, February 19, 2021, officials also began to advocate for investigating the high energy bills and alleviating costs by developing a “solution to ensure that Texans are not on the hook for unreasonable spikes in their energy bills.”<sup>33</sup> Senator Ted Cruz agreed: “No power company should get a windfall because of a natural disaster, and Texans shouldn’t get hammered by ridiculous rate increases for last week’s energy debacle.”<sup>34</sup>

35. On Saturday, February 21, 2021, Governor Abbott convened an emergency meeting to find a solution for Texans with high electricity bills. The next day, the Public Utility Commission (“PUC”) issued two orders to temporarily stop electricity providers from disconnecting for non-payment and to continue offering deferred payment plans.<sup>35</sup> PUC also “urged retail electric providers to delay invoicing” for customers.<sup>36</sup>

### CLASS ALLEGATIONS

36. Pursuant to Texas Rule of Civil Procedure 42, Khoury brings this action on behalf of herself and all others similarly situated, and seeks to represent the following:

#### **Class**

All Texas residents who purchased or obtained electricity services from Griddy and were charged and/or paid excessive and/or exorbitant electricity prices during and because of Winter Storm Uri of February 2021 (the “Class”).

37. Excluded from the Class is Griddy, any entities in which Griddy has a controlling interest, any of Griddy’s officers, directors, or employees, any of Griddy’s legal representatives, heirs, successors, and assigns, anyone employed with Plaintiffs’ counsels’ firms, any Judge to whom this case is assigned and his or her immediate family.

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<sup>33</sup> <https://www.cnn.com/2021/02/20/business/texas-electricity-bills-griddy-puct/index.html>;  
<https://www.texastribune.org/2021/02/21/texas-electric-bill-greg-abbott/>;  
<https://www.cnn.com/2021/02/20/business/texas-electricity-bills-griddy-puct/index.html>

<sup>34</sup> <https://www.reuters.com/article/uk-usa-weather-texas-idUSKBN2AL0J7>

<sup>35</sup> <https://www.kxan.com/news/texas/texas-utility-commission-orders-delay-of-power-disconnections-due-to-potential-high-bills/>; <https://www.puc.texas.gov/51812RuleExceptions.pdf>;  
<https://www.puc.texas.gov/51812ERCOTProtocolActions.pdf>

<sup>36</sup> <https://www.puc.texas.gov/agency/resources/pubs/news/2021/PUCTX-REL-COLD21-022121-EOM.pdf>



38. **Numerosity.** The Class is so numerous that joinder of all members is impracticable. While the exact number of Class Members is information not readily available at this time, as only Griddy possesses the data to determine a numerical figure to indicate the number of customers who experienced excessive electricity prices during and because of Winter Storm Uri of February 2021, Khoury has reasonable belief that there are thousands of potential members in the Class. Griddy has thousands of customers in Texas and all of Texas was affected by the winter storm and most of Texas was affected by power outages.

39. **Typicality.** Khoury's claims are typical of the claims of the Class Members she seeks to represent because Khoury and all Class Members were customers of Griddy, who provides variable-rate electricity plans to all customers, and were charged excessive electricity prices during and because of Winter Storm Uri of February 2021.

40. **Adequacy.** Khoury has retained counsel experienced in complex class action and consumer protection litigation. Khoury has no interests that are adverse to or in conflict with other Class Members. Khoury will fully and adequately protect the interests of all Class Members.

41. **Commonality.** The questions of law and fact common to Class Members predominate over any questions that may affect only individual members, namely: whether Griddy engaged in price gouging by charging excessive electricity prices to its customers during and because of Winter Storm Uri of February 2021; whether Griddy acted negligently when failing to monitor and prevent excessive electricity prices charged to customers during and because of Winter Storm Uri of February 2021; whether Griddy is liable for the excessive price increase on electricity supplied by the market; whether Griddy was unjustly enriched as a result of charging excessive electricity prices to its customers during and because of Winter Storm Uri of February 2021; whether Griddy committed conversion when keeping Plaintiffs' money; whether Griddy

committed a violation under Texas’s Deceptive Trade Practices Act, negligence, conversion, or unjust enrichment; whether Khoury and Class Members were harmed; and whether Griddy should be subjected to a declaratory judgment, injunction, and statutory and other damages.

42. **Superiority.** A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all Class Members is impracticable. The prosecution of separate actions by individual Class Members would impose heavy burdens upon the courts and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the Class. A class action, on the other hand, would achieve substantial economies of time, effort, and expense and would assure uniformity of decision with respect to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.

43. The interest of Class Members in individually controlling the prosecution of separate actions is theoretical rather than practical. The Class is cohesive, and prosecution of the action through representatives would be unobjectionable. The damages suffered by the Class are uniform and generally formulaic, and the expense and burden of individual litigation could preclude them from fair redressal of the wrongs done to them. Khoury anticipates no difficulty in the management of this action as a class action.

**COUNT I: VIOLATION OF TEXAS DECEPTIVE TRADE PRACTICES ACT  
(TEX. BUS. & COM. CODE §§ 17.01-954)**

44. The preceding paragraphs are incorporated by reference as if fully alleged herein.

45. Texas’s Deceptive Trade Practices Act (“DTPA”), Chapter 17 of the Texas Business and Commerce Code, prohibits “false, misleading, or deceptive acts or practices in the conduct of any trade or commerce . . . .” Tex. Bus. & Com. Code § 17.46(a).

46. The DTPA specifically addresses price gouging during a declared disaster. The DTPA disallows taking advantage of a disaster, declared by the governor under Chapter 418 of the Texas Government Code, by:

- (A) selling or leasing fuel, food, medicine, lodging, building materials, construction tools, or another necessity at an exorbitant or excessive price; or
- (B) demanding an exorbitant or excessive price in connection with the sale or lease of fuel, food, medicine, lodging, building materials, construction tools, or another necessity;

Tex. Bus. & Com. Code § 17.46(b)(27). The designated disaster period begins at the earliest of the date of disaster or date of disaster proclamation by governor or presidents and ends within 30 days.

*Id.* § 17.4626.

47. Griddy engaged in false, misleading, or deceptive acts by selling and/or demanding electricity at excessive prices during and because of Winter Storm Uri of February 2021.

48. Griddy's electricity prices and bills increased astronomically. Customers did not anticipate such increases.

49. Griddy committed price gouging knowingly and/or intentionally when Griddy allowed their customers to be charged such exorbitant amounts for electricity. Knowing the variable-rate plan would result in customers paying grossly inflated prices, Griddy even suggested their customers move to a fixed-rate plan under a different provider.

50. Griddy attempted to justify the price increases as being a result of the wholesale power market and places the burden on customers to track market prices. Pursuant to the DTPA, Griddy should still be held accountable and liable for price gouging when it excessively raised prices during a disaster.

51. Governor Abbott, pursuant to Section 418.014 of the Texas Government Code, on February 12, 2021, declared a state of disaster due to the winter weather. Ex. A. Additionally,

Texas's disaster declaration for COVID-19 was renewed on February 4, 2021.<sup>37</sup> President Biden declared an emergency exists in Texas on February 14 and 20, 2021. President Biden specified the storm began on February 11, 2021.<sup>38</sup>

52. Khoury and Class Members were victims of Griddy's price gouging during and because of the winter storm. They relied on Griddy's electricity to their detriment, particularly in an unprecedentedly winter storm where other providers were unavailable. Griddy's price gouging was a producing cause of economic and mental anguish damages. Tex. Bus. & Com. Code § 17.50.

53. In addition, Griddy's charging of excessive prices for electricity with their variable-rate plan is unconscionable. An unconscionable act "takes advantage of the lack of knowledge, ability, experience, or capacity of the consumer to a grossly unfair degree." Tex. Bus. & Com. Code § 17.45(5). Khoury and Class Members are unsophisticated consumers. They chose Griddy, a wholesale electricity provider, to pay less. Variable-rate plans, however, are a gamble and unpredictable. Consumers rarely understand the risks. Griddy took advantage of this lack of knowledge to a grossly unfair degree when selling these plans. Griddy's unconscionable act was a producing cause of economic and mental anguish damages. Tex. Bus. & Com. Code § 17.50.

54. Khoury and Class Members seek all available and applicable relief under the DTPA, including economic, mental anguish, and additional damages, an order enjoining Griddy from engaging in price gouging, an order to restore money acquired by Griddy in violation of the DTPA, attorneys' fees and costs, and pre- and post-judgment interest.

## **COUNT II: NEGLIGENCE AND NEGLIGENCE PER SE**

55. The preceding paragraphs are incorporated by reference as if fully alleged herein.

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<sup>37</sup> <https://gov.texas.gov/news/post/governor-abbott-extends-covid-19-disaster-declaration-february-2021>

<sup>38</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/14/president-joseph-r-biden-jr-approves-texas-emergency-declaration/>; <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/20/president-joseph-r-biden-jr-approves-texas-disaster-declaration/>

56. Griddy has a duty to apply a level of care commensurate with the foreseeable harm arising from its control and management of its wholesale electricity service. This encompasses a duty to ensure, during a declared disaster, electricity is not sold via Griddy at excessive prices.

57. As the winter storm disaster emerged in February 2021, it was foreseeable to Griddy and the energy sector that electricity prices would be excessively inflated due to the measures taken to prevent the power grid from completely failing. Griddy sent an email as early as February 15, 2021, recommending customers abandon its variable-rate plan.

58. Griddy had the ability, capacity, and contractual right to prevent charging customers excessive prices during the disaster. Griddy controlled its services and platform and oversaw pricing and contracting. Griddy may alter its electricity pricing. Consumers, who are made to absorb inflated prices, often cannot afford unexpectedly large expenses and are greatly penalized by not paying electricity bills, such as with penalties and the threat or reporting of negative credit.

59. Griddy did not exercise ordinary care and comply with existing standards of care when it failed to shield consumers from excessive electrical bills and to properly detect and react to electricity market price increases.

60. Given the foreseeability of excessive prices during the winter storm, a reasonable electricity provider in Griddy's position would have had a system in place to prevent its customers from being charged excessive prices and taken aggressive steps to prevent it. Griddy did not do so, and instead, responded in an ineffective manner.

61. Griddy's actions resulted in violations of the DTPA. The DTPA was designed to protect Khoury and Class Members from experiencing price gouging during a disaster and from suffering injuries. Accordingly, Griddy's conduct constitutes negligence per se.

62. Griddy's negligence proximately caused damages to Khoury and Class Members. Had Griddy exercised reasonable care, Khoury and Class Members would not have paid excessive prices for electricity they purchased from Griddy. Khoury and Class Members are entitled to compensatory and equitable damages.

### **COUNT III: CONVERSION**

63. The preceding paragraphs are incorporated by reference as if fully alleged herein.

64. Khoury and Class Members paid for electricity at excessive prices from Griddy.

65. Khoury and Class Members were entitled to keep the money withdrawn by Griddy to pay for excessively priced electricity. Griddy illegally and unlawfully charged excessive prices.

66. Griddy exercised dominion and control over Khoury's money and electrical services. Griddy wrongfully withdrew from Khoury's bank account and then retained the amount Khoury paid for the excessively priced electricity.

67. Khoury expressed concern to Griddy about the withdrawals but never heard back. Many Class Members demanded a refund, but Griddy refused.

68. Griddy's interference damaged Khoury and Class Members.

69. Khoury and Class Members seek a refund of withdrawn funds associated with excessive pricing, as well as attorneys' fees, costs, and interest.

### **COUNT IV: UNJUST ENRICHMENT**

70. The preceding paragraphs are incorporated by reference as if fully alleged herein.

71. Griddy exploited vulnerable consumers by selling electricity at excessive prices during Winter Storm Uri of February 2021. During power outages and other hardships, consumers relied on Griddy for electricity and turned to Griddy to provide a service vital to their safety, health,

and well-being. Texas law, and basic principles of equity and fair dealing, prohibit sellers from capitalizing on such exigencies and charging excessive prices.

72. By selling electricity at excessive prices during the storm, Griddy was unjustly enriched. Griddy profited off the sale of electricity and retained the payments it acquired from customers charged excessive prices for electricity.

73. Griddy knew it was overcharging consumers, that consumers would be harmed, and Griddy would be unjustly enriched by retaining customers' payments.

74. In the event Khoury and Class Members lack an adequate remedy at law, Griddy is required to make restitution in equity pursuant to the common law of unjust enrichment.

#### **COUNT V: DECLARATORY AND INJUNCTIVE RELIEF**

75. The preceding paragraphs are incorporated by reference as if fully alleged herein.

76. An actual controversy has arisen and now exists between Khoury and the Class, on the one hand, and Griddy, on the other, concerning prices charged for electricity during and because of the winter storm.

77. Khoury and Class Members contend Griddy charged its customers excessive prices during a disaster. Khoury. Therefore, they request the Court declare Griddy's conduct unlawful to prevent future controversies that would allow for continued injustices such as the present one, where an essential service provider took advantage of masses of consumers.

78. Plaintiffs further seek an injunction enjoining Griddy from (1) any engagement in the unlawful conduct of charging customers excessive prices during and because of a disaster; and (2) from billing and collecting payments from customers charged with excessive prices during and because of disaster and ordering Griddy to fully forgive any late or non-payments associated

with such bills, including removing any negative credit reporting and penalties, and to refund payments already made on such bills.

### **DAMAGES AND PRAYER FOR RELIEF**

WHEREFORE, Khoury, Individually and on Behalf of all Others Similarly Situated, request relief and judgment against Griddy as follows:

a. That the Court enter an order certifying the Class, appointing Khoury as a representative of the Class, appointing Khoury's counsel as Class counsel, and directing that reasonable notice of this action, as provided by Texas Rule of Civil Procedure 42(c), be given to the Class;

b. For a judgment against Griddy for the causes of action alleged against it;

c. For damages in an amount to be proven at trial;

d. For an order of restitution and all other forms of equitable monetary relief;

e. Appoint a receiver or sequester Griddy's assets if it has been ordered by this Court to make restitution and Griddy has failed to do so within three months after the order to make restitution has become final and non-appealable;

f. For a declaration that Griddy's conduct as alleged herein is illegal and unlawful;

g. For appropriate injunctive relief, enjoining Griddy from continuing to engage in illegal and unlawful conduct;

h. For all available actual, statutory, and/or treble damages;

i. For punitive damages;

j. For pre-judgment and post-judgment interest;

k. For Plaintiffs' attorneys' fees, costs, and expenses; and

l. For such other relief in law or equity as the Court deems just and proper.



**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all issues so triable.

February 22, 2021

Respectfully submitted,

**THE POTTS LAW FIRM, LLP**

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