



House Consumer Affairs Committee
Public Hearing on Competitive Energy Supplier Sales and
Marketing Practices

June 18, 2018

Comments of the Retail Energy Supply Association

Good morning Chairman Godshall, Chairman Caltagirone, members and staff of this committee. I appreciate the opportunity to provide testimony at this public hearing on Competitive Energy Supplier Sales and Marketing Practices.

My name is Tony Cusati, and I am the Chairman of the Pennsylvania State Electricity Caucus and Pennsylvania State Natural Gas Caucus of the Retail Energy Supply Association* #. All of the 20 RESA members are licensed electricity suppliers and many are licensed natural gas suppliers in PA.

**AEP Energy; AP Gas & Electric; Calpine Retail; Constellation New Energy; Crius Energy; Direct Energy Services, LLC; ENGIE Resources; Entrust Energy; IGS Energy; Just Energy; Liberty Power; NextEra Energy Services; Nordic Energy Services; NRG Energy, Inc.; Source Power & Gas; Spark Energy; Starion Energy, Inc.; Stream; Talen Energy; and Vistra Energy.*

The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome, than regulated monopoly utilities. RESA members are devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers.

In 1996 Gov. Tom Ridge signed into law the "Electricity Generation Customer Choice and Competition Act," which restructured the state's electricity industry to provide for customer choice among competing electricity suppliers.

Thus, consumers are no longer captive to a single monopoly-protected utility company for their electric service. Scores of retail suppliers now compete to provide energy products to households, churches, schools and universities, small businesses and manufacturers offering innovative products and services specifically tailored to meet the customer's needs and individual energy circumstances.

Currently more than 2 million Pennsylvania electricity customers are served by competitive suppliers, including 1.7 million residential customers.

Competitive supply represents more than 65% of Pennsylvania's total electricity demand. Retail Competition has spurred economic development and job creation here in the Commonwealth.

The invitation to speak here today asked that participants address the following issues:

- (1) The language used in marketing materials;
- (2) Ensure these materials are not misleading;
- (3) Information related to PA PowerSwitch and PA GasSwitch and the level of coordination between the PUC and suppliers;
- (4) Are statutory or policy changes needed to enhance transparency and improve the competitive retail energy market in PA;

Let me first address as a global matter, the Principles under which all RESA members agree and abide by as a condition of membership. As part of the Overall Statement of Principles there is a section devoted to protecting the rights and privileges of the consumer. I have attached to my testimony Addendum #1 which details the consumer protection principles that RESA members abide by.

I highlight for you those protections that are the subject of this hearing.

- Not engage in unfair, deceptive, or misleading practices;
- Not making false or misleading representations;
- Use of plain language;
- Provide written information;
- Product or service offerings contains information designed to be understood by the customer;

I need to stress that since consumer protections are important to RESA, the organization spent tireless hours debating the development of these principles and the Consumer Education Guide that can be found on our website. It is not an area that we took lightly.

Secondly, I'd like to point out that under Title 52 of the Pennsylvania Code, Chapter 111 is devoted entirely to the Marketing and Sales Practices for the Retail Residential Energy Market.

This Chapter addresses the following points:

- A supplier may not engage in misleading or deceptive conduct;

- May not make false or misleading representations;
- Shall provide the customer with written information about the products and services being offered;
- Shall provide accurate and timely information about services and products;
- Shall ensure that product or service offerings made by a supplier contain information, verbally or written, in plain language;

The point here is the Commission has the tools available, and uses its authority to enforce the rules and does so when items that are thought to be in non-compliance are brought to their attention. I know this to be the case because I have on separate occasions raised some concerns about marketing materials from competitors that appeared non-compliant and the Commission took the necessary steps to investigate and resolve. The message here is continued enforcement of the existing rules should be the focus and not necessarily adding more rules. Adding more rules without continued enforcement of existing rules actually punishes the good actors in

the market, while allowing bad actors to continue bad behavior.

As for the specific issues that this committee would like to address:

- The Commission rules are very specific that suppliers “May not make false or misleading representations.” Any marketing material that is thought to be non-compliant should be brought to the Commission’s attention for proper disposition.
- The Commission works very hard on “the level of coordination between the PUC and suppliers” on information related to PA PowerSwitch and PA GasSwitch. Improvements for a better shopping experience and constantly being made to the website.
- Improvements to the competitive retail energy market are one of RESA’s core principles. For example, the improvement that the Commission is currently evaluating regarding Supplier Consolidated Billing is in RESA’s opinion an important next step in the evolution of the retail market. A positive outcome in that proceeding would not only improve customer relations and

understanding of the products and services the consumer agrees to purchase, it will enhance transparency and improve the competitive marketplace.

I hope these comments are helpful to the committee and want you to know RESA is available to assist for any follow-up to this subject.

Thank you again for the opportunity to speak to you about this important subject, and I would welcome any questions from committee members.

Addendum #1

RESA Statement of Principles

EFFECTIVE CONSUMER PROTECTIONS that give customers sufficient trust in the retail market so that they shop freely and with confidence for the products and services that best meet their needs.

As such, RESA members hereby commit to undertaking and promoting the following practices:

- Not engaging in unfair, deceptive, or misleading conduct as defined by applicable state and federal statutes and regulations.
- Not making false or misleading representations of competitive products and services, including misrepresenting rates, prices, or customer savings.
- Using plain language, including words and images that facilitate customer understanding of competitive products and services.
- Providing customers with written information, upon request, or with a link to a website at which information can be obtained, in response to all customer inquiries.

- Using reasonable efforts to provide accurate and timely information about products, services, and customers' cancellation rights.
- Ensuring that any product or service offering made by a competitive retail energy provider contains information designed to be understood by the customer, including but not limited to providing any written information to customers in the language used during a sales call or on-site visit or negotiation of the contract.
- Ensuring prompt and fair investigations of all customer inquiries and complaints concerning a competitive supplier's service and/or marketing practices.
- Cooperating fully with the appropriate state regulatory authorities, state consumer agencies, and local law enforcement in investigations concerning unfair, deceptive and/or misleading marketing practices prohibited by state law or regulation.
- Applying all the above principles and practices in:
 1. Training of marketing representatives.
 2. In-person and telephone contact with customers.
 3. Dispute resolution of customer complaints and disputes.