

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Public Utilities)
On its Own Motion into Initiatives to Promote and) **D.P.U. 19-07**
Protect Consumer Interests in the Retail Electric)
Competitive Supply Market)

COMMENTS OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION

Executive Summary:

The National Energy Marketers Association (NEM)¹ hereby submits its comments on the Department’s Investigation to consider initiatives aimed at improving residential electric consumer protections regarding competitive supply offerings. These comments are submitted pursuant to the Department’s Order Opening Investigation dated January 18, 2019, and Notice of Investigation and Request for Comments, dated January 23, 2019. The Department proposed a number of initiatives for stakeholder consideration. These initiatives include increasing consumer awareness of the competitive supply market and the value that can be derived; improving Department oversight of supplier marketing activities; and improving the operational efficiency of the electric competitive supply market to optimize the value that the market provides to consumers.

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

NEM supports the Department's initiation of this investigation and its consumer-focused orientation. Indeed, examining measures that enhance consumer awareness and understanding of the retail marketplace, provide clear "rules of the road" for supplier compliance, and minimize barriers to supplier offerings of innovative energy and energy-related products and service, is a well-measured and reasonable approach. As explained in more detail herein, NEM supports the delineation and implementation of a uniform set of behavioral marketing standards for marketplace actors with clear consequences for violations. The effective enforcement of behavioral standards is an effective incentive for desired conduct and a deterrent for fairly-defined misconduct.

Comments:

NEM's responses to the specific questions set forth in the Department's Order Opening Investigation are set forth below:

Customer Awareness

1. What types of general education activities would be most effective to increase customer awareness of the value that the Competitive Supply Website can provide (see Section II.B)? For each type of activity, identify the appropriate role of the Department, the distribution companies, the competitive suppliers, and other stakeholders.

Consumers rely on and trust the Department as a source of objective energy choice information. A robust consumer shopping website hosted by the Department is an excellent education tool. For consideration, the Pennsylvania PUC's PAPowerSwitch website is highly regarded by suppliers and consumers alike. The Pennsylvania PUC has promoted consumer shopping, including the existence of the PAPowerSwitch website, through appearances at local events and fairs and press releases. They also required the utilities to make a number of informational mailings to consumers about the availability of energy choice.

2. Would it be reasonable and appropriate for the Department to require competitive suppliers to provide customers with information regarding the Competitive Supply Website through their marketing materials/scripts (see Section II.B)? If no, explain why not. If yes, identify the information (e.g., Website URL, number of participating suppliers, number of products listed) that would be most effective to increase customer awareness of the value that the Competitive Supply Website can provide.

Marketing materials can include a reference to the website URL of the Competitive Supply Website. NEM cautions against requiring suppliers to include lengthy descriptions of the number of participating suppliers and number of products listed as this information is likely to change on a frequent basis, thereby making it difficult and costly to continually update and accurately disclose that information. Moreover, the value to the consumer is in understanding that the website exists as a tool that the consumer itself than references and interacts with as part of the shopping process. Noting the existence of the website URL in marketing materials will accomplish that.

3. Would it be reasonable and appropriate for the Department to require the electric distribution companies to put information regarding the Competitive Supply Website on their bills (see Section II.B)? If no, explain why not. If yes, identify the information (e.g., Website URL, number of participating suppliers, number of products listed) that would be most effective in increasing customer awareness of the value that the Competitive Supply Website can provide.

Similar to the response to Question 2 above, NEM would recommend that the utilities include the Website URL of the Competitive Supply Website on customer bills and a brief description. The inclusion of lengthy descriptions of the number of participating suppliers and number of products listed on the utility bill may be expensive and difficult to implement because this information is likely to change on a frequent basis and would require continual updating to accurately disclose that information on the bill.

4. What other steps could the Department take to increase customer awareness of the value that the Competitive Supply Website can provide?

As discussed in response to Question 1, the Department should consider promoting the availability of the Competitive Supply Website, and consumer choice in general, in various forms of public outreach such as press releases and consumer fairs and forums. The Department should also consider requiring the utilities to include the website URL and site description on customer bills, informational mailings and utility websites. The provision of competitively neutral consumer education is an on-going process that should be undertaken collaboratively by the stakeholders. It is a responsibility that the Commission, energy suppliers, utilities, and consumer advocates all share.

5. Would it be reasonable and appropriate for the Department to establish uniform requirements by which competitive suppliers would notify customers of the automatic renewal provision in their supply contracts (see Section II.C, above)? If no, explain why not. If yes,

- a. What information should competitive suppliers be required to provide to customers (e.g., the date on which the automatic renewal will take effect, the price and pricing structure to which the contract will automatically renew)?**
- b. How long before the automatic renewal takes effect should competitive suppliers be required to provide such notification to customers?**
- c. What method(s) should competitive suppliers be allowed to use to provide the notification (e.g., direct mail, e-mail)?**
- d. If the contract would renew to a monthly-priced product, should competitive suppliers be required to notify customers on an ongoing basis regarding the price that will be in effect during the upcoming month? If no, explain why not.**
- e. What state(s) have established automatic renewal notification requirements? For each state, discuss the manner in which the state implements such a requirement.**

In establishing uniform requirements for customer notification of automatic renewal provisions in supply contracts, NEM recommends that the Department should seek to balance the need for timely consumer disclosure with the cost to suppliers (and by extension, their customers) of providing such notice, including the cost of the hedges required to lock in prices for extended

advanced notice periods. In that regard, the Pennsylvania Public Utility Commission has adopted a rule on automatic renewal notices. The rule requires suppliers to provide what is called an “initial notice” to customers forty-five to sixty days prior to contract expiration, followed by an “options notice” to customers thirty days prior to contract expiration.²

Consumers on fixed rate contracts should receive advanced notice of the terms of renewal and what steps should be taken should they wish to leave their competitive supplier. This provides the consumer with adequate notice of the renewal, which would also be a term disclosed at the time of contracting.

With respect to “monthly-priced products,” the consumer is free to leave without termination fee. It would be highly impracticable and costly to require suppliers to provide a notice on an on-going basis for every month of such contracts. The customer is on notice when they sign the agreement that the product by its very nature is variable and subject to change. Requiring suppliers to give advance notice of a price change for a variable price product, would in effect, cause the creation of something akin to a new two-month, fixed product. This is because if the supplier is required to provide advance notice of a price change, the supplier must price in advance, which in turn requires more hedging. This increases the costs and risks of providing the product. In addition, after the supplier were to give the customer notice of the price, the customer would be free to leave the next day without an early termination fee, thereby compounding the supplier’s risk. Requiring that consumers be provided with “insurance” of this type against

² 52 Pa. Code § 54.10. Similar approaches were adopted in Texas and New York. See, e.g., TX PUC § 25.475(e) “The REP shall send a written notice of contract expiration at least 30 days or one billing cycle prior to the date of contract expiration, but no more than 60 days or two billing cycles in advance of contract expiration for a residential customer”; NY UBP Section 5.B.5.d. and 5.B.5.g. (notice provided not less than 30 days nor more than 60 days prior to renewal date and consumer’s option to reject renewal terms).

variable rates will ultimately increase the prices consumers end up paying or eliminating the availability of these products overall.

Suppliers should be permitted to provide such notices via direct mail, phone, and email. The consumer itself may have already indicated to the supplier that it wishes to receive correspondence about the product it purchased by mail, email or phone, and the supplier should be permitted to honor that consumer preference. A strict direct mail requirement is a costly burden to impose on the marketplace, particularly when the notices can be effectively communicated using other more cost-effective means.

6. Would it be reasonable and appropriate for the Department to require the electric distribution companies use their monthly bills to provide information to competitive supply customers about the automatic renewal provision in their supply contracts (see Section II.C, above)? If no, explain why not. If yes,

a. What information should be provided through the bills (e.g., the date on which the automatic renewal will take effect, the price and pricing structure to which the contract will automatically renew)?

b. How often should the electric distribution companies be required to provide this information (e.g., on all bills to competitive supply customers for whom the supply contract includes an automatic renewal provision, only on the bill preceding the month in which the renewal takes effect)?

c. What other supply product-related information should the electric distribution companies be required to provide to competitive supply customers through the bills (e.g., early termination fees)?

It is highly inappropriate to insert the utility, which is an active participant and competitor in the retail electric marketplace, in the role of policing the marketplace. Requiring an EDC to use their monthly bills to provide detailed information to customers about the terms of contracts that the customers have entered into with competitive suppliers would do just that. Of course the bill should disclose the rate the customer contracted for with the supplier. But requiring the posting of renewal dates and early termination fees from the competitive supply contract on the monthly *utility* bill is inappropriate. It may also be logistically challenging for utilities and suppliers to

coordinate the sharing and updating of this information so that it is accurately presented. NEM also questions whether it would be technologically feasible using current EDI transactions to transmit this type of customer and contract specific information for inclusion on the utility's monthly bill.

If the Department establishes a uniform requirement for notice of automatic renewals, the competitive supplier will be responsible for complying with that requirement and ensuring its customers receive the required notice.

7. How could the presentation of competitive supply information on electric distribution companies' bills be revised to provide competitive supply customers with improved awareness of their competitive supplier and their competitive supply product (e.g., a separate page dedicated to the competitive supply component of customers' electric service, the insertion of competitive supplier logos on the bill)?

NEM agrees that EDC bills should be revised to aid customers in developing a stronger recognition of, and relationship with, his or her competitive supplier, and increase customer awareness when participating in the competitive retail electric market. Inclusion of the competitive supplier's logo on the bill is necessary to reinforce to consumers that the bill that they receive is collecting charges from two separate entities, for both the competitive commodity supply service as well as the utility delivery service.

Requiring a separate bill page dedicated to the competitive supply component of customer's electric service would certainly enhance consumer understanding that the bill includes charges from two separate entities for different products. It would also enhance supplier's ability to provide more detailed messaging about the products and services the customer has contracted for and thereby strengthen the supplier-consumer relationship. At a minimum, the Department should consider requiring that the utility bills include additional supplier line items and bill

messaging space. Providing additional line items will facilitate the provision of increased value-added services to consumers such as energy efficiency products, rebates, discounts, and the like. Suppliers would be better able to provide consumers with innovative products if they had additional billing line items for their presentation.

The Department should also consider inclusion of a Shopping Information Box on the monthly bill that would include the customer account/customer number, customer Rate Schedule, and an explanatory statement that this information is needed when shopping for a competitive supplier.

This proposal may need to be modified pending the Department's decision with respect to Question 16.

Department Investigation of Competitive Suppliers

8. Would it be reasonable and appropriate for the Department to establish door-to-door marketing standards of conduct for competitive suppliers related to the disclosure of supply product information (see Section III.B, above)? If no, explain why not. If yes,

a. What supply product information should door-to-door marketers be required to disclose to customers?

b. Should the Department establish uniform language (and a uniform format) that suppliers would be required to use to disclose this information?

9. What other standards of conduct should the Department add to the door-to-door marketing standards of conduct established in D.P.U. 14-140-G?

10. Would it be reasonable and appropriate for the Department to establish standards of conduct for marketing channels such as telemarketing and direct mail (see Section III.B, above)? If no, explain why not. If yes, identify the marketing channels for which the Department should establish standards of conduct and, for each marketing channel, discuss how the standards of conduct should differ from the standards of conduct for door-to-door marketing.

NEM submits that the most effective consumer protection rules are premised on the fundamental requirement of informed consumer consent derived from accurate, affirmative statements from marketers that disclose the attributes of contracted-for products and services and likewise require accurate, affirmative statements of marketer identification. Consumer protection regulations can and should be narrowly tailored to accomplish this objective. Rules that are unnecessarily

prescriptive of marketer behavior result in increased costs being borne by the competitive marketplace and restrict marketers' ability to offer innovative products in response to consumer preferences.

NEM and its members adopted a Consumer Bill of Rights³ evincing marketers' commitment to ethically serve energy consumers and addresses the need for clear marketer responsibilities and consumer expectations with respect to appropriate marketing practices. These rights include access to energy products and services that provide what they promise and are presented and described in clear and understandable language; accurate price and usage information; terms and conditions written in plain language; explanation of how to terminate a contract and at what cost; and a fair and timely complaint resolution process.

NEM and its members also developed and adopted "National Marketing Standards of Conduct"⁴ that set forth a list of practices that form a common basis for doing business in today's energy marketplace. These business practices pertain to competitive supplier marketing and sales activities, supplier agents, customer enrollment, customer contracts and complaint resolution.

Other retail choice jurisdictions have developed robust rules and policies related to consumer protection requirements and marketing practices. NEM submits that the regulations adopted by the Pennsylvania Public Utility Commission⁵ and Public Utility Commission of Texas⁶ represent best practices in this regard and would be useful resources to consult in designing marketing standards for the Commonwealth.

³ Available at: http://www.energymarketers.com/Documents/Consumer_Bill_of_Rightsfinal_formatted.pdf.

⁴ Available at: <https://www.energymarketers.com/Documents/ACF74.pdf>

⁵ See 52 Pa. Code § 111, Marketing and Sales Practices for the Retail Residential Energy Market.

⁶ See Texas Administrative Code 25.471 Consumer Protection Rules for Retail Electric Service.

11. Would it be reasonable and appropriate for the Department to expand the role of TPV to include confirmation that a competitive supplier has complied with the marketing standards of conduct (see Section III.C, above). If no, explain why not. If yes, should the Department establish uniform language that TPV service providers would be required to use to confirm that suppliers have complied with the marketing standards of conduct?

The Public Utilities Commission of Ohio has adopted a minimum uniform language requirement for TPVs to be used to confirm customer enrollment that would be a useful reference.⁷

12. Would it be reasonable and appropriate for the Department to require competitive suppliers to periodically provide the Department with data on the types of marketing channels through which they have signed up customers (see Section III.D, above)? If no, explain why not. If yes,

a. What data should competitive suppliers be required to provide the Department?

b. How often should competitive suppliers be required to provide this data to the Department?

The Department already established door-to-door reporting standards in DPU 14-140-G. A supplier can provide additional information upon request from the Department or Staff. Establishing a regular reporting requirement in excess of that already adopted may inhibit suppliers from being able to nimbly utilize different marketing channels to quickly seize upon opportunities to offer products based on current market conditions. Applying reporting standards to other marketing channels may be administratively infeasible to comply with. A more extensive reporting requirement will also impose unnecessary costs on suppliers that ultimately result in higher prices for consumers.

⁷ Ohio Admin. Code 4901:1-21-06(D)(2)(a). Similar approaches were adopted in Texas and New York. See, e.g., TX PUC §25.474(h)(1)-(4) and NYPSC UBP Section 5, Attachment 1.

13. How else could the Department improve its ability to investigate suppliers' marketing activities?

Clear rules of the road facilitate competitive suppliers understanding of expectations and compliance. Any changes to the Department's rules adopted as a result of this investigation should be formulated with that goal in mind and will improve Department oversight of supplier marketing activities. Likewise, rules on Department oversight should include the provision of due process to market participants that may have violated marketing requirements, and the delineation of infractions, clerical errors, mistakes, misunderstandings and intentional misconduct.

14. Would it be reasonable and appropriate for the Department to make competitive supplier complaint and/or performance information available to customers and other stakeholders? If no, explain why not. If yes,

a. Identify other state(s) that make this information publicly available; and for each state, discuss the usefulness of (1) the information that is provided and (2) the manner in which that information is presented.

b. Based on your response to (a), identify best practices for (1) determining which competitive supplier complaint and/or performance information should be made publicly available, and (2) presenting that information (stakeholders are welcome to provide a visual representation of such best practices).

The Illinois Commerce Commission has adopted an approach to posting supplier performance information that would be a useful reference in this regard.⁸ This is particularly because of its focus on positive supplier performance in the star ranking system on the Supplier Complaint Scorecard as well as the differentiation of complaint data related to contracts/billing, customer service, sales/marketing and those that were elevated to formal complaints on the Complaint Summary. As an overarching recommendation from the outset, NEM cautions against the use of the word "complaint" in reference to these statistics. Using the word "complaint" carries an

⁸ See Illinois Customer Complaint Statistics available at: <https://www.pluginillinois.org/complaints.aspx>.

unnecessary, negative connotation to consumers. Indeed, what is termed a “complaint” may be later dismissed and so these issues should more appropriately be referred to as “contacts” or “inquiries.” It overshadows that the desired result of a consumer inquiry process should be to obtain a reasonable resolution that does not rise to the level of a complaint, and to permit the supplier to respond to the concern. We submit that this creates a more consumer-friendly environment that encourages supplier compliance and a commitment to exemplary service.

A tantamount consideration to the posting of supplier complaint data is to avoid revealing confidential supplier customer counts in the presentation of the data. This is imperative to avoid imposing substantial injury to suppliers’ competitive positions.

Barriers to Market Efficiency

15. Would it be reasonable and appropriate for the Department to direct the electric distribution companies to initiate competitive supply service during a customer’s meter read cycle (see Section IV, above)? If no, explain why not. If yes,

a. Discuss how this would improve the value that the market can provide customers.

b. Identify other states that allow the initiation of supply service during a customer’s meter read cycle. For each state, describe the manner in which the state implements such an approach.

The current delay experienced by consumers in the switching process creates consumer confusion and dissatisfaction at the very early stages of exposure to energy shopping and this persists with any subsequent consumer decisions to switch suppliers. Consumers simply do not understand the reason for the delay, particularly when other similar service changes, such as cell phone service, can be accomplished in a matter of hours. Accelerating the switching process as proposed will positively enhance the consumer energy shopping experience. An additional rationale for accelerated switching is to allow consumers to realize the full potential benefit of price savings that a competitive supplier may be offering. Delayed switching times can result in the limitation and loss of consumer savings that can be experienced during peak pricing seasons.

The Pennsylvania Public Utility Commission adopted an accelerated switching timeline of three business days for electric choice customers, premised on the need to provide consumers with a faster timeframe within which they can avail themselves of more competitive rates.⁹ The Maryland Public Service Commission has also adopted measures to accelerate the customer switching process.¹⁰

16. Would it be reasonable and appropriate for the Department to eliminate the customer account numbers as required information on an enrollment transaction (see Section IV, above)? If no, explain why not. If yes:

a. Discuss how this would improve the value that the market can provide to customers.

b. Identify alternate piece(s) of information that could be required on enrollment transactions in order to provide the same level of customer protection that a customer's account number provides.

The customer account number requirement for enrollment transactions has been a significant barrier to choice. Competitive suppliers are prohibited from marketing to and aggregating residential customers in a meaningful way and achieving economies of scale in enrollment because of the requirement that the customer account number be submitted with an enrollment transaction. Customers generally do not know their utility account number – it is not memorable - and often find it difficult to locate a utility bill in a timely manner when discussing service options with a supplier.

To ameliorate this problem, customers should be permitted to enroll with a competitive supplier using information typically available to the customer in his or her wallet, i.e. a “wallet

⁹ Pennsylvania PUC Docket L-2014-2409383, Order, issued April 3, 2014. The Pennsylvania PUC reasoned that accelerating the switching process will, “allow customers to more quickly and easily switch electric suppliers, which will allow customers to more fully realize the benefits of a fully functioning retail market through quicker and easier access to a more favorable retail rate. These changes will also allow customers to avoid being trapped on unfavorable and volatile rate plans as many were this past winter. Furthermore, these changes will advance competition in the retail market as EGSs will need to respond more quickly to customer concerns or risk losing them to more agile competitors.” (Order at 34).

¹⁰ See Maryland Public Service Commission, RM54. For electric customers under Maryland COMAR 20.53.04.02B, “A utility shall process an electronic enrollment or drop from a supplier to be effective within 3 business days after receipt of the electronic transaction.”

enrollment” process. Alternatively, competitive suppliers should be permitted to obtain a customer’s account number from the utility upon receiving the customer’s consent and tendering the customer’s phone number and last four digits of the customer’s social security number in a look up process. This should be accomplished in real time using a secure internet website that generates a particular customer’s account number when the required fields are entered. Permitting marketers to have access to information in this manner will reduce a significant barrier to enrolling mass market customers and permit aggregation of this market segment on a more cost-effective basis. Furthermore, the proposed process will protect against unauthorized disclosure of consumer information and unauthorized switching.

17. What other rules may act as barriers to a more efficient competitive market? For each answer, propose ways to mitigate those barriers.

A number of state PUCs are examining the implementation of supplier consolidated billing (SCB) as a billing option for customers of competitive suppliers. SCB allows competitive suppliers to significantly enhance the nature and quality of the relationship with their customers and also enables competitive suppliers to offer an expanded array of innovative products and services that utility consolidated billing simply does not accommodate.

Suppliers value highly the ability to have control of the customer interface and the presentation of their products as is made possible with supplier consolidated billing. By contrast, the current format of utility consolidated bills offers very limited ability for suppliers to include relevant information for their customers. A supplier consolidated billing option would provide suppliers with the improved ability to communicate with their customers and offer increased innovation in their product offerings, thereby making the bill and competitive offerings more consumer-oriented as a result. This is a significant benefit for choice customers. Customers, particularly in

the residential and smaller commercial classes, generally prefer a single bill and single point-of-contact. In markets where customers are selecting from a variety of providers and commodity products, it makes the most sense for the billing entity and point-of-contact to be the entity selected by the customer to provide the commodity service.

Consumer education and outreach efforts, value-added services, and customer-selected billing services are primarily delivered through customer bills. To a large extent, given the invisibility of electrons and the infrequency of face-to-face interactions with the entity providing energy service, the consumer's perception of the product and service received is embodied in the bill itself. Enabling suppliers to render consolidated consumer bills is critical beyond the mere delivery of a bill because of the simple fact that it is impossible for suppliers to provide a full range of innovative, competitive energy services without relaying that information in the form of flexible, supplier- or even consumer-specific correspondence. Examples include the customer's purchase of green energy and the retirement of renewable energy credits, demand response products, time of use rates, usage history over time, levelized billing, tiered rates, and other non-commodity products and services that can be bundled and paid for along with energy supply such as smart thermostats, home services warranties and maintenance plans, security system subscriptions and a myriad of others. The customer's ability to take control over their service and usage is largely dependent on the billing entity's ability to communicate through bills and even to customize bills to suit the customer with customer-selected products and services.

Other Issues

18. In what ways could the electric distribution companies better inform customers of their ability to prevent distribution companies from providing their account information to competitive suppliers and electricity brokers?

Competitive suppliers and electricity brokers can only receive consumer account information from the utility after having received the consumer's affirmative consent. It is inappropriate to suggest otherwise.

19. Would it be reasonable and appropriate for the Department to require the electric distribution companies to establish a “do not switch” list, which would preclude a company from switching a customer to a competitive supplier? If no, explain why not. If yes,

- a. Discuss the manner in which the “do not switch” list should be implemented.**
- b. Identify other states that have established such a list, and, for each state, describe the manner in which the state has implemented the list.**

The concept of a utility-established “do not switch” list is concerning. There are a number of important issues associated with allowing such lists that should be considered. First among these issues is the appropriateness of instituting the utility (the incumbent and dominant provider) as the keeper of the list in a competitive marketplace. Related to this is the need for rules regarding how the utility may inform consumers in a competitively neutral fashion about the existence of the list, what constitutes consent for the consumer to be on the list, how long will a consumer be kept on the list, and the implementation and on-going costs to the utility of maintaining the list. NEM is concerned that a “do not switch” list, in concert with telemarketing sales restrictions, could drastically limit the availability of effective sales channels without first having made a requisite finding that such a restriction is necessary to protect consumers.

From a practical perspective, implementation of a “do not switch” list may lead to the unintended creation of consumer confusion and dissatisfaction. For example, a consumer may forget that they previously joined the list and then subsequently decide to shop for a competitive supplier.

The customer's enrollment would be rejected under those circumstances even though the consumer sought to enroll with the competitive provider. The underlying goal of this proposal is that consumers should not be enrolled without their authorization, i.e., competitive suppliers should not be slamming consumers. That goal can be achieved through marketing standards that require the consumer's affirmative consent, rather than the implementation of a "do not switch" list.

A uniform requirement for the utilities to provide an enrollment notice to the customer, subject to the rescission period, would be consistent with the approach taken in other jurisdictions and would more appropriately achieve the presumed goal of a "do not switch" list. This approach would ensure that the switching process is controlled by the customer.

Application to Small C&I Customers

20. The issues raised in this NOI, and the questions presented above, relate solely to the electric competitive supply market for residential customers (see Section I, above). Would it be reasonable and appropriate for the Department to investigate any (or all) of these issues as they relate to the electric competitive supply market for small C&I customers? If no, explain why not. If yes, identify the issues that the Department should investigate, and for each issue, discuss whether the Department's resolution of the issue should differ between residential and small C&I customers.

No record has been developed to support the extension of the investigation to small C&I customers. Business customers must evaluate and enter into contracts for products and services as a standard facet of conducting their business. The application of the proposed marketing standards under consideration here to supplier service to a sophisticated business customer would be unnecessarily burdensome and costly to implement. Marketing standards should be utilized that are closely tailored toward achieving the goal of protecting consumers that are in need of the extra element of protection.

From a practical perspective, before any new requirements are imposed, it should be determined whether the utilities have the transactional ability to provide suppliers with historical usage information *prior* to an enrollment. This information would be necessary in order to allow suppliers to ensure compliance with any marketing standards that were applicable to serving small C&I customers. It is also necessary to establish clearly defined thresholds based on annual consumption that determine if a consumer is considered to be a small C&I customer.

Application to the Gas Competitive Market

21. The issues raised in this NOI, and the questions presented above, relate solely to the electric competitive supply market for residential customers (see Section I, above). Would it be reasonable and appropriate for the Department to investigate any (or all) of these issues as they relate to the competitive gas market for residential customers? If no, explain why not. If yes, identify the issues that the Department should investigate, and for each issue, discuss whether the Department's resolution of the issue should differ between the electric and gas markets, and why.

Many competitive retail suppliers seek to serve both residential electric and natural gas consumers in the Commonwealth. The standardization of reasonable rules and practices required to serve electric and natural gas consumers can permit competitive suppliers to realize economies and efficiencies in their operations so they can more cost-effectively do business. There may also be some areas for which operational differences in serving electric and natural gas consumers legitimately justify differences in the rules.

Moreover, an examination of measures that improve the operational efficiency of the retail market, such as accelerated switching and eliminating the customer account number as required information for an enrollment transaction, would benefit competitive suppliers seeking to serve both electric and natural gas markets. There may be also barriers to competition exclusive to the retail gas market that should be examined as well, for example, capacity access.

Conclusion

NEM appreciates the opportunity to offer its comments on the Department's proposals on initiatives to improve residential consumer protections and to improve the operational efficiency of the electric competitive supply market in order to enhance and optimize consumer value. We look forward to a continued dialogue on these important issues.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Craig Goodman", with a long horizontal flourish extending to the right.

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