

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

Pennsylvania Public Utility Commission

(2) Agency Number:

L-2010-2208332

Identification Number: 57-283

IRRC Number: 2915

RECEIVED
IRRC

2011 OCT 11 AM 11:12

Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market
<http://www.puc.state.pa.us//pcdocs/1121422.doc>

(4) PA Code Cite:

52 Pa. Code §§ 111.1 – 111.14

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

Patricia Krise Burket, 717-787-3464, PA Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265, 717-783-3458, pburket@state.pa.us

Secondary Contact:

Daniel Mumford, 717-783-1957, PA Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265, 717-787-6641, dmumford@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

Sherri DelBiondo, 717-772-4597, PA Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265, 717-783-3458, sdelbiondo@state.pa.us

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed regulation is directed at electric generation suppliers (EGSs) and natural gas suppliers (NGSs) and their agents who provide sales and marketing support in the retail residential energy market. The proposed regulation is drafted to lessen customer confusion about suppliers and to ensure that the customer's account is not transferred without authorization. Because a supplier is responsible for its agent, topics include agent qualifications and selection, including criminal background investigations; agent training, compensation and discipline; and agent identification and misrepresentation. Other topics relate to supplier/agent-customer interactions, such as the need for customer authorization to transfer an account, and a customer's 3-day right to rescind a contract. Door-to-door marketing and telemarketing are addressed separately.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments:
Comments to the proposed rulemaking must be received within 60 days of the date of publication of the proposed rulemaking order in the Pennsylvania Bulletin.
- B. The date or dates on which public meetings or hearings will be held:
It is not contemplated that a public meeting or hearing will be held other than the public meeting at which the PAPUC will approve the final-form regulation.
- C. The expected date of promulgation of the proposed regulation as a final-form regulation:
Not able to predict as this is a proposed rulemaking.
- D. The expected effective date of the final-form regulation:
Not able to predict as this is a proposed rulemaking.
- E. The date by which compliance with the final-form regulation will be required:
Not able to predict as this is a proposed rulemaking. Compliance with final form rulemaking will be required on publication date.
- F. The date by which required permits, licenses or other approvals must be obtained:
Not applicable. The regulation does not require that permits, licenses or other approvals be obtained.

(10) Provide the schedule for continual review of the regulation.

No schedule is needed. This proposed regulation sets forth best marketing and sales practices for EGSs and NGSs for the retail residential market. The purpose of this regulation is consumer protection. Specifically, this regulation will ensure that customers are provided with adequate and accurate information about energy service offers and the suppliers making these offers. This will lessen customer confusion and help prevent the unauthorized transfer of a customer's account, *i.e.*, "slamming." When finalized, the effectiveness of the regulation will be continually reviewed by the PUC's monitoring of the number of, and the types of, complaints filed by consumers, and by concerns raised by competing suppliers and local distribution companies.

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Sections 501, 504, 1501, 1504, 2206(b), 2208(b) and (e), 2807(d)(1) and 2809(b) and (e) of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504, 2206(b), 2208(b) and (e), 2807(d)(1) and 2809(b) and (e).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The proposed regulation is not mandated by any federal law or court decision so there is no external deadline that must be met.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The proposed regulation is needed to address customer complaints about the marketing and sales practices used by suppliers and their agents. Door-to-door marketing has been of particular concern. The proposed regulation will help to lessen customer confusion about the identity of suppliers and their agents and their relationship, business and operational, with the customer's distribution company. The proposed regulation also reminds suppliers of their liability for the actions of their agents, and instruct that sales and marketing activities need to comply not only with PUC regulations and orders, but also with applicable federal, state and local law regarding consumer protection.

All Pennsylvania residential energy consumers who purchase electric generation or natural gas supply in the retail market will benefit from these proposed regulations.

Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies or references were used to justify the proposed regulation that sets forth best practices for marketing and sales activities for NGSs and EGSs in the retail residential energy market. The proposed regulation is justified by necessity, to wit: to address residential customers' complaints and concerns about marketing strategies and sales techniques employed by EGSs and NGSs and their agents.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

As of January 1, 2011, there are 169 EGSs and 102 NGSs operating in Pennsylvania. While some suppliers may already be compliant with the proposed regulation and the best practices contained therein, some suppliers may argue that they will be adversely affected because they may need to make changes in the way they hire, train, compensate and discipline sales and marketing agents. For example, Section 111.14(b) requires that suppliers institute background checks for agents who engage in door-to-door marketing and sales activities.

However, compliance with the best practices set forth in the proposed regulation, which are based largely on common sense, should lessen suppliers' risks of being held legally and financially liable for the actions of its agents. The imputed liability of a supplier for its agent was established in the PUC's licensing regulations at 52 Pa. Code § 54.43(f) for EGSs and § 62.114(e) for NGSs. Thus, the consequences of an agent's action could be the imposition of fines on the supplier, or the suspension or revocation of a supplier's license pursuant to 52 Pa. Code § 54.42 (for EGSs) or § 62.113 (for NGSs).

Distribution companies, *i.e.*, EDCs and NGDCs are also expected to comply with the proposed regulation in regard to the prohibition against sharing information with their affiliated suppliers (proposed section 111.14(b)) and against commenting on a supplier's offer in responding to customer inquiries about a supplier's offer of service (proposed section 111.14 (c)). As distribution companies are already required to observe this prohibition by Code of Conduct provisions at § 54.122 for EDCs, and § 62.142 for NGDCs, distribution companies are not expected to be adversely affected by this proposed regulation.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

NGDCs, EGDCs, EGSs and NGSs will be expected to comply with the proposed regulation. As of December 3, 2010, there are 169 licensed EGSs and 11 EGDCs that will need to comply with the proposed regulation. There are 102 licensed NGSs and 10 NGDCs that will need to comply with the proposed regulation.

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

An estimate of the costs and /or savings associated with compliance with the proposed regulation cannot be made as the costs incurred or savings realized will vary from supplier to supplier. The proposed regulation sets forth best practices and standards on marketing and sales activities, some of which may have already been adopted by some suppliers. In regard to costs, proposed section 111.7 (b)(4) requires a supplier to have a system capable of retrieving the verification information for a customer transaction by customer name and account number. A supplier that has a system that is capable of retrieving verification information by customer name and by account number will incur no costs compared to a supplier that has a system capable of retrieving verification information only by customer account, but not by customer name. A supplier that does not have a system capable of retrieving customer verification information by either customer name or account number will incur the most costs.

Savings also vary among suppliers so that an estimate cannot be made. Again, a supplier that is already complying with these best practices may not see much savings while a supplier who needs to bring its agent selection and training process into compliance with the proposed regulation may realize savings in the form of having a more efficient and well-trained sales force that offsets the costs of compliance.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Except for the Philadelphia Gas Works, which is a NGDC under the Public Utility Code at 66 Pa.C.S. §2212 (relating to city natural gas distribution operations), local governments are not affected by the proposed regulation, and will not incur any costs as a result. For Philadelphia Gas Works, see the above answer at (15) in regard to distribution companies' obligations to use information provided by suppliers only for the purpose for which it was intended.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

State government, namely the PUC, should not incur additional costs as the result of the proposed regulation. The PUC has overseen the quality of customer service since the retail electric generation market opened in January 1, 1997, and the retail natural gas supply market opened in July 1, 1999. The proposed regulation may, in fact, lessen the cost of PUC oversight by reducing customer complaints regarding marketing and sales, particularly as to the identity and affiliation of suppliers and agents. PUC's costs for adjudicating a customer complaint may also be reduced as suppliers will be required to maintain adequate records of the transfer of customer accounts so that complaints about slamming can be expeditiously addressed. See proposed section 111.7 (relating to customer authorization to transfer account; transaction; verification; documentation) at Annex A, pp. 5-7.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:	N/A					
Regulated Community	Varies by supplier	Varies by supplier	Varies by supplier	Varies by supplier	Varies by supplier	Varies by supplier
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	Not able to quantify	Not able to quantify	Not able to quantify	Not able to quantify	Not able to quantify	Not able to quantify
REVENUE LOSSES:						
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	N/A					

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Not applicable				

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The proposed regulation sets forth best practices for sales and marketing activities. Compliance with these best practices will lessen the chance of customer confusion, will ensure that customers are receiving accurate information, including price, about a supplier's service offers, and should reduce customers complaints received by the PUC, the OCA, the EDCs and the supplier, itself. Additionally, compliance with these best practices should lessen a supplier's risk of being held legally and financially liable for the actions of its agents. Finally, the proposed regulation provides clear guidance to the energy industry about ethical conduct and appropriate marketing practices, and should foster customer confidence in the marketplace. These benefits clearly outweigh the cost to the supplier for compliance. The PUC cannot identify any other non-fiscal adverse effect resulting from the proposed regulation that should be taken into account in IRRC's review.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The proposed regulation is based on interim guidelines on marketing and sales practices that were developed by a working group comprised of natural gas and electric utilities, EGSs, NGSs, industry trade organizations, consumers, and the statutory consumer advocates. The group was led by PUC staff assigned to the Office of Competitive Market Oversight. The project was initiated by the electric industry working group on January 7, 2009 based on customer complaints and concerns about particular sales practices being utilized by suppliers. After four months of discussion, the group was expanded to include members of a working group from the natural gas industry in April 2009. After 2 months of additional discussion, the combined working groups met on the final draft guidelines on June 24, 2010.

On July 16, 2010, the Commission issued for public comment the draft interim guidelines on marketing and sales practices for EGSs and NGSs. The *Tentative Order* established a 30-day comment period and a subsequent 15-day reply comment period. The order was served on all EGDCs, NGDCs, EGSs, NGSs, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate and the Energy Association (EAP). It was also posted on the PUC's website, and e-mailed to all of the members of the working groups.

Comments were timely filed by MX Energy (MX), Pennsylvania Energy Marketers Coalition, Pennsylvania Utility Law Project (PULP), PPL Electric Utilities Corporation, Duquesne Light Energy, Direct Energy LLC, Consumer Advisory Council, Retail Energy Marketers Association (RESA), Pennsylvania Independent Oil and Gas Association, Interstate Gas Supply, Inc., Constellation New Energy Inc., National Energy Marketers Association (NEMA), EAP, and Office of Small Business Advocate (OSBA). Joint comments were filed by Office of Consumer Advocate, American Association of Retired Persons (AARP), and Dominion Retail. Reply comments were filed by NEMA, PEMC, PULP, RESA, MX, and Washington Gas Energy Service. Joint reply comments from OCA, AARP and Dominion. After reviewing the comments, the Commission issued its order finalizing the interim guidelines on November 5, 2010.

The proposed regulation was issued on February 14, 2011.

Regulatory Analysis Form

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The need to develop guidelines and ultimately promulgate regulations on marketing and sales activities was demonstrated by customer complaints when rate caps in PPL territory were lifted at the end of 2009 and supplier activity increased. The major customer concern was agents of suppliers that engaged in door-to-door marketing.

The working group that developed the interim guidelines on marketing and sales activities considered whether door-to-door marketing by EGSs and NGSs should be banned. The working group rejected the ban and instead proposed reasonable standards to regulate the activity. Proposed section 111.9 (Annex A, p. 8-9) along with provisions relating to agent selection, background checks, training, and compensation set forth best practices and standards to regulate door-to-door sales activities and the agents engaged in such activities.

The PUC implicitly adopted the working group's position to regulate rather than ban door-to-door activities in the proposed rulemaking order. However, in a separate statement, PUC Vice Chairman Christy has requested that comments be filed on whether door-to-door sales of electric generation or natural gas supply service should be banned completely.

<http://www.puc.state.pa.us/pcdocs/1121072.pdf>. The comments filed pursuant to this request will be considered carefully before the proposed regulation is finalized to ensure that the provisions related to door-to-door marketing activities will be the least burdensome acceptable alternative for addressing customer concerns.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no specific federal standards that are directed at the marketing and sale in the retail market of electric generation or natural gas supply services so the answer to the first question is "no." That said, the proposed regulation is, in fact, consistent with federal law. Proposed section 111.3(a) requires that sales and marketing activities be conducted consistent with federal law and proposed section 111.5(a)(1) requires that agents be trained on applicable federal law. *See* Annex A at pp. 3 and 4. Proposed section 111.3 requires that agents "Do Not Call" Law, *Telemarketing and Consumer Fraud and Abuse Prevention Act*, 15 U.S.C. §§ 6101, *et seq.* and *Telemarketing Sales Rule*, 16 CFR Part 310. *See* proposed section 111.10 (a)(3) at Annex A, p. 11. Proposed section 111.2 also requires compliance with the Consumer Credit Protection Act (15 U.S.C. §§ 1601 - 1693c) and 12 CFR Part 202 (relating to equal credit opportunity) and the *Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations*, 16 CFR Part 429. *See* Annex A, p. 12.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The proposed regulation establishes best practices and standards to govern marketing and sales activities for Pennsylvania's retail residential energy market. Other states have some of the same requirements, and others appear to be looking to Pennsylvania for guidance. As such, Pennsylvania's ability to compete with other states would not seem to be affected by the proposed regulation.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation will not affect other existing PUC regulations or existing regulations of other state agencies.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No additional legal, accounting or consulting services should be required for the implementation of the regulation. There may be additional recordkeeping and paperwork required of those suppliers who do not already have a system capable of accessing customer records to retrieve verification information by customer name and account number. See proposed section 111.7 (b)(4)(relating to customer authorization to transfer account; transaction; verification documentation) at Annex A, p. 7. For those that do have such a system, there is no change.

(28) Please list any special provisions, which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The proposed regulations is a consumer protection regulation. Most pertinent to this question is proposed section 111.9 that addresses door-to-door marketing activities, and that puts certain safeguards into effect to protect customers in their homes. See Annex A, pp. 8-10. For example Subsection 111.9 (e) protects non-English speaking customers by directing that when an agent engaged in door-to-door sales encounters a person who does not speak English, he may try to find another agent who speaks the customer's language, or must terminate contact with the customer. Subsections 111.9 (g) and (h) respectively direct an agent to leave the customer's premises when asked to do so, and to remove the customer from the supplier's data base to prevent further marketing contacts.

RAF SUPPLEMENTAL PAGE

(This page valid for use through November 1, 2011)

RECEIVED

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

OCT 11 A 11:12

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:

Pennsylvania Public Utility Commission

(2) Agency Number: L-2010-2208332/57-283

Identification Number:

IRRC Number:

2915

(3) PA Code Cite: 52 Pa. Code §§ 111.1 – 111.14

(4) Short Title: Marketing and Sales Practices for the Retail Residential Energy Market

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Patricia Krise Burket, 717-787-3464, PA Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265, 717-783-3458, pburket@state.pa.us

Secondary Contact: Daniel Mumford, 717-783-1957, PA Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265, 717-787-6641, dmumford@state.pa.us

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The proposed regulation is not based on data; it was developed in response to customer questions, concerns and complaints about marketing and sales practices employed by electric generation suppliers and natural gas suppliers and their agents. Door-to-door marketing was of particular concern to these customers. The proposed regulation instructs that sales and marketing activities need to comply not only with PUC regulations and orders, but also with applicable federal, state and local law regarding consumer protection. The proposed regulation also reminds suppliers that they are liable for the actions of their agents, and sets forth best practices for selecting and training sales agents. The proposed regulation should help lessen customer confusion about the identity of suppliers and their sales agents, and the suppliers' relationship, business and operational, with the customer's distribution company.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED
IRRC

2011 OCT 11 A 11:13

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY *Amy M. Elliott*
(DEPUTY ATTORNEY GENERAL)

JUL 27 2011

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-2010-2208332/57-283

DATE OF ADOPTION February 10, 2011

BY *Rosemary Chiavetta*
Rosemary Chiavetta

TITLE *Secy*
(SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY *Bohdan R. Pankiw*
Bohdan R. Pankiw
Chief Counsel

2-10-2011

DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-2010-2208332/57-283
Proposed Rulemaking
Marketing and Sales Practices
for the Retail Residential Energy Market
52 Pa. Code, Chapter 111

The Pennsylvania Public Utility Commission on February 10, 2011, adopted a proposed rulemaking order which sets forth regulations on marketing strategies and sales techniques for EGSs and NGSs to ensure fairness and integrity in the competitive market and eliminate confusion on behalf of consumers. The contact persons are Daniel Mumford, BCS, 717-783-1957 (technical) and Patricia Krise Burket, Law Bureau, 717 787-3464.

EXECUTIVE SUMMARY

L-2010-2208332/57-283

Rulemaking Re: Marketing and Sales

Practices for the Retail Residential Energy Market

52 Pa. Code §§ 111.1 – 111.14

The Public Utility Commission's (PUC's) Office of Competitive Market Oversight with industry working groups comprised of gas and electric utilities, suppliers, consumers and other interested parties developed draft interim guidelines on marketing and sales activities for electric generation suppliers (EGSs) and natural gas suppliers (NGSs). The draft guidelines were issued for public comment. After reviewing the comments, the interim guidelines were finalized on November 5, 2010. *See* Docket No. M-2010-2185981. The interim guidelines cover a wide range of topics and recommended best practices for direct (door-to-door) marketing, telemarketing and sales for the retail residential market. These interim guidelines will provide direction to EGSs and NGSs until final regulations are promulgated.

On February 14, 2011, the PUC issued a proposed regulation based on the interim guidelines that are applicable to the retail residential energy market. The proposed regulation, which is directed at EGSs and NGSs and their agents who provide sales and marketing support, is drafted to lessen customer confusion about suppliers and the sales process, and to ensure that a customer's account is not transferred to a supplier without his authorization. Specifically, the proposed regulation covers, *inter alia*, a supplier's liability for its agent; agent qualifications and criminal background investigations; agent training; agent compensation and discipline; and agent identification and misrepresentation. In addition, subjects relating to supplier/agent-customer interactions are addressed: customer authorization to transfer account; customer receipt of disclosure statement and right to rescind contract; consumer protection law; and customer complaints. Door-to-door (direct) marketing and telemarketing, two sales practices fairly new to Pennsylvania's retail energy market, are also addressed.

The contact persons for this proposed rulemaking are Daniel Mumford, 717-783-1957 (technical), and Patricia Krise Burket, 717-787-3463 (legal).

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held February 2011

Commissioners Present:

James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman, Statement
John F. Coleman, Jr.
Wayne E. Gardner
Robert F. Powelson

RECEIVED
2011 JUL 29 AM 9:56
PA P.U.C.
LAW BUREAU

Rulemaking Re: Marketing and Sales
Practices for the Retail Residential Energy Market

Docket No. L-2010-2208332

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

Before us for consideration is a proposed rulemaking order on marketing and sales practices for the retail residential energy market. The proposed regulations set forth herein are based on interim guidelines that were developed on the subject by the Pennsylvania Public Utility Commission's Office of Competitive Market Oversight (OCMO) as a result of meetings held with the working groups, CHARGE (Committee Handling Activities for Retail Growth in Electricity) and SEARCH (Stakeholders Exploring Avenues to Remove Competitive Hurdles).¹ As was the case with the interim guidelines, the proposed regulations will be applicable to both electric generation suppliers (EGSs) and natural gas suppliers (NGSs). Accordingly, with this order, we issue these proposed regulations for public comment.

¹ CHARGE and SEARCH members included electric distribution companies, natural gas distribution companies, EGSs, NGSs, industry trade organizations, consumers, the Office of Consumer Advocate, and the Office of Small Business Advocate.

DISCUSSION

Background

With the expiration of the electric generation rate caps of PPL Electric Utilities in 2010, and those of the First Energy Companies (Metropolitan Edison Company, Pennsylvania Electric Company), PECO Energy Company and West Penn Power Company this past January, greater numbers of EGSs have entered, and will enter Pennsylvania's retail electric generation supply market. As a result, consumers are being exposed to unfamiliar marketing strategies and sales techniques. One particular sales technique, direct sales or door-to-door sales, has created confusion for some customers, who contacted this Commission with their concerns. To address these concerns, the OCMO and the CHARGE working groups were assigned the task of developing interim guidelines on marketing and sales activities in the retail electric market.

CHARGE took up the issue of third party marketing and sales support at its January 7, 2010, meeting. CHARGE continued to meet to discuss and review various drafts of the interim guidelines prepared by OCMO staff. The group met on January 22; February 4 and 18; March 4 and 18; April 08 and 29; May 13 and 27; and June 10. During the discussions, CHARGE asked OCMO staff to consider expanding the draft marketing guidelines to include NGS marketers. On April 29, 2010, OCMO circulated the guidelines to SEARCH, seeking feedback from natural gas stakeholders about the feasibility of that suggestion. Joint meetings of CHARGE and SEARCH were held on May 13, 2010, and on June 7, 2010. On June 24, 2010, the group met on the final OCMO staff draft of the proposed interim guidelines.

On July 16, 2010, the Commission issued a Tentative Order with proposed interim guidelines on marketing and sales practices for EGSs and NGSs. *Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers*, Docket no. M-2010-2185981 (*Interim Guidelines*). The Tentative Order set forth 17 proposed interim guidelines and established a 30-day comment period and a subsequent 15-day reply comment period. Fifteen comments and seven reply comments were filed. After considering the comments, the Commission issued its final order on the *Interim Guidelines* on November 5, 2010.

Proposed Rulemaking

The proposed regulations are based on the *Interim Guidelines*. In each section below, the proposed regulation is described, the guideline that forms the basis for the proposed regulation is identified, and any significant differences between the interim guideline and the proposed regulation are highlighted. One major difference between the proposed regulations and the interim guidelines, which we note here, is the elimination of many of the references to existing Title 52 regulations with which suppliers are already required to comply.

Section 111.1. General.

This is a general section based on *Interim Guideline A* and explains the purpose of the proposed regulations -- to establish standards and practices for marketing and sales activities for EGSs and NGSs and their agents. Section 111.1 also explains the applicability of the proposed regulations to the retail residential energy market.

Section 111.2. Definitions.

This section sets forth definitions for terms used in the proposed regulations. The *Interim Guidelines* did not include a definition section. Accordingly, this section proposes definitions for some terms, and references to definitions for other terms that have been already established in the Public Utility Code, 66 Pa.C.S. §§ 101 *et seq.*, or in other regulations in the *Pennsylvania Code* at Title 52 (relating to public utilities).

In regard to the proposed definition of “agent,” the Commission recognizes that some entities that provide marketing and sales support services may provide service to one supplier in one distribution company’s service territory and another supplier in another distribution company’s service territory. Also, there are some such entities that may have separate divisions that provide marketing and sales support service to different suppliers. Therefore, we propose that agents that provide marketing and/or sales support services to more than one supplier shall be included in our proposed definition of “agent” and will be bound to follow these regulations when they are finalized. The Commission specifically solicits comments on this definition of “agent.”

Section 111.3. Supplier liability for its agent.

This section states that a supplier, defined to include an EGS or a NGS, may use agents to conduct marketing or sales activities in accordance with federal, state and municipal law, and applicable commission rules, regulations and orders. Referencing section 54.43(f) and section 62.114(e), relating to standards of conduct for licensees for EGSs and NGSs respectively, it discusses a supplier’s liability for the actions of its employees, agents and representatives and imposition of possible penalties, including the

suspension or revocation of a supplier's license. This proposed regulation is based on *Interim Guideline A*.

Section 111.4. Agent qualifications and standards; criminal background investigations.

Section 111.4 proposes a requirement for a supplier to develop standards and qualifications for individuals that it hires as its agents to conduct marketing and sales activities. Most importantly, it requires a supplier to conduct criminal background investigations, including a check of the Megan's Law registry prior to hiring an individual to conduct door-to-door marketing and sales activities for the supplier. A supplier is also required to confirm that a contractor or vendor has performed criminal background investigations on its employees, agents and independent contractors who will perform door-to-door activities on the supplier's behalf. This proposed regulation is based on *Interim Guideline B*.

Section 111.5. Agent training.

Section 111.5 sets forth requirements for agent training, and includes the same subject matter that was included in *Interim Guideline C*. The proposed regulation does not require advance review and approval of training materials, but does require the supplier to provide training materials and training records of its agents to the Commission upon request. A new requirement proposed is that a supplier shall ensure that its vendors and independent contractors have provided the same training for its employees, agents or independent contractors. Finally, there is a requirement that the supplier monitor a representative sample of telephonic and door-to-door marketing calls to evaluate its training program and to ensure that its agents are providing accurate and complete information to customers. A similar provision may be found in *Interim Guideline D-2*.

Section 111.6. Agent compensation; discipline.

This section is based in part on advice about agent compensation plans offered in the *Interim Guidelines Final Order* at page 33 and *Interim Guideline E* (relating to discipline). This proposed section requires a supplier to design its agent compensation programs so that it does not promote or encourage or reward behavior that runs counter to the practices established by these regulations. The section also requires a supplier to incorporate in its agent discipline practices and procedures the Commission's long-standing zero tolerance policy on the unauthorized transfers of customer accounts and the violation of other consumer protections.

Section 111.7. Customer authorization to transfer account; transaction; verification; documentation.

This proposed regulation is based primarily on *Interim Guideline D* (monitoring / quality control / documentation).

This section requires the supplier to establish a transaction process for a customer to authorize the transfer of his or her account to the supplier. Additionally, it sets forth specific information required to be included on a document used to complete a transaction, such as a means to identify the agent who completed the transaction and a notation indicating how the transaction was completed. The latter would include whether the transaction was the result of a door-to-door or a telephone contact with an agent, or whether the transaction was the result of the customer completing the transaction document and sending it to the supplier outside the presence of, and without interacting with, an agent working for the supplier. The supplier is required to provide documentation used to complete a transaction to the Commission upon request.

The supplier is also required to establish a process to verify transactions that involved an agent. The process is to confirm that the customer authorized the transfer of the account to the supplier. The supplier may use, but is not required to use, a third party for the verification. A transaction that was completed by a customer outside the presence of, or without interacting with, an agent would not need to be submitted to the verification process. These transactions would be ones where a customer completed a form and mailed it directly to the supplier, or where a customer completed an on-line application or e-mailed an electronic document to a supplier.

Additionally, this section requires that the verification process be separate from the transaction process, and that the verification process be initiated only after the transaction has been completed. This section also requires that when a transaction is the result of an in-person contact with an agent in a public location, the verification process can be initiated only after the customer leaves the vicinity of the agent. When a transaction resulted from an agent's contact with the customer at the customer's residence, the verification process can be initiated only after the agent has physically exited the customer's residence. At the end of the verification process contact, the customer must be informed of the three business day right of rescission of the transaction pursuant to Commission regulations at either 52 Pa. Code § 54.5(d) or § 62.75(d).

The proposed regulation also requires a supplier to maintain a record of the verification in a system that is capable of retrieving the record by customer name and by customer account number for a period of six billing cycles. It prescribes the contents of the verification record, and provides that copies of verification records shall be provided to the Commission upon request.

Finally, this section states that when the supplier is informed that a transaction cannot be verified, the supplier may contact the customer by telephone, e-mail or by letter

to offer assistance to correct the identified problem so that the transaction can be re-submitted to the verification process.

This section differs from the *Interim Guidelines* that required that all transactions be verified. The proposed regulation creates an exception to the verification process for transactions completed by the customer without the involvement of an agent. Because the majority of the customer concerns about suppliers' marketing and sales practices involved the suppliers' use of agents, the verification of transactions completed by the customer that did not involve an agent at all seemed to be a redundant exercise, which would create unnecessary costs for suppliers. For this reason, we created this exception.

Section 111.8. Agent identification; misrepresentation.

This section is based on *Interim Guideline G* and requires that the supplier issue a photo identification badge to an agent who conducts door-to-door activities or appears at public events. The section also requires that an agent's badge shall be visible at all times when the agent is engaged in such activities.

This section also requires an agent, upon first contact with a customer, to identify the supplier that he or she represents, and to state that he or she is not working for, and is independent of, the local distribution company. Additionally, the agent shall not wear any apparel or accessories or carry equipment that contains branding elements, including the logo of the local distribution company. The agent also must not use the name, bills, marketing materials or consumer education materials of another supplier, distribution company, or government agency in a way that suggests a relationship that does not exist

This section also requires a supplier that is an affiliate of a distribution company to comply with applicable regulations concerning affiliate marketing at 52 Pa. Code

§ 54.122 (relating to the standards of conduct) for an EGS or § 62.142 (relating to the standards of conduct) for an NGS.

Section 111.9. Door-to-Door Sales.

This section is based on elements found in *Interim Guideline G* (misrepresentation), *Interim Guideline J* (local ordinances), *Interim Guideline M* (marketing, sales activities and materials), and *Interim Guideline O* (no call/ no visit list).

The section requires that a supplier and its agents comply with local municipal ordinances governing door-to-door marketing and sales activities. It establishes certain hours of the day when a supplier may engage in door-to-door marketing and sales activities unless a local ordinance has restrictions that are more stringent. It requires that the supplier notify local municipal officials in advance of its schedule with the locations where it intends to conduct marketing and sales activities. This proposed regulation also requires that the supplier's agent wear his or her identification badge and have it visible at all times.

In regard to customer interactions, the proposed regulation requires the agent, upon greeting the customer, to identify himself or herself by name, the supplier that he or she represents and the reason for the visit. The agent also is required to offer a business card or other material that lists the agent's name, title and identification number, the supplier's name and contact information for the supplier. This section also addresses an agent's interaction with a potential customer where there is a language barrier.

Additionally, the proposed regulation sets requirements that are to be observed after the transaction has been completed. The agent is required to provide a copy of each document that the customer signed or initialed relating to the transaction before the agent

leaves the customer's residence. Upon request, copies of the materials used by the agent during the call shall be provided to the customer as soon as is practical. The agent also is required to explain the supplier's verification process and that the process will not be initiated until the agent has left the customer's residence. The agent must state that the supplier will send a copy of the disclosure statement to the customer after the transaction has been verified, and that the customer may rescind the transaction within three business days of receiving the disclosure statement.

The proposed regulation also requires the agent to leave a residence when requested to do so by the customer, the owner or another occupant of the premises. Finally, this section directs a supplier to comply with an individual's request to be exempted from door-to-door marketing and sales contacts, and to note this request on its existing marketing or sales databases.

Section 111.10. Telemarketing.

This section is based on *Interim Guideline H* (federal law/consumer protection) and *Interim Guideline O* (no call/no visit list). This section requires that a supplier and its agents comply with applicable provisions of Pennsylvania's *Telemarketer Registration Act*, 73 P.S. § 2241 - § 2249, and the federal "Do Not Call" law. See *Telemarketing and Consumer Fraud and Abuse Prevention Act*, 15 U.S.C §§ 6101, *et seq.* and *Telemarketing Sales Rule*, 16 CFR Part 310. This section makes it clear that that customer consent to the release of customer information by the distribution company to a supplier to enable competitive solicitations does not constitute an express intent to receive telephone solicitation calls.

In addition, this section proposes several requirements to lessen customer confusion that may occur when a transaction is completed by telephone. An agent

contacting a customer by telephone must provide the customer with his or her first name and the name of the supplier on whose behalf the agent is calling. The agent must also provide his or her identification number upon customer request.

After completing the transaction, the agent must explain the supplier's verification process and that the supplier will send a copy of the disclosure statement after the transaction is verified. At the end of the call, the agent must state that the customer may rescind the transaction within three business days of receiving the disclosure statement.

Section 111.11. Receipt of disclosure statement and right to rescind transaction.

This section is based on *Interim Guideline L* (disclosure statement/contract terms) and *Interim Guideline N* (rescission period). This proposed regulation states that a supplier shall provide a copy of its disclosure statement to a customer as soon as is practical after the completion of a transaction that does not require to be verified. The supplier shall provide a disclosure statement to a customer after a transaction that involved an agent is verified. The proposed section also includes a rebuttable presumption that a customer will have received a disclosure statement, correctly addressed with sufficient first class postage attached, three days after it is deposited in the United States mail. This proposed regulation is patterned after the Commission's "mail box rule" at 52 Pa. Code § 1.56(b)(relating to date of service).

Section 111.12. Consumer protection.

This proposed regulation is based on *Interim Guideline H* (federal law/consumer protection) and *Interim Guideline I* (state laws / OAG / consumer protection). This section prohibits discrimination in the provision of electric generation and natural gas supply as to availability and terms of service based on race, color, religion, national

origin, sex, marital status, age, receipt of public assistance income, and exercise of rights under the Consumer Credit Protection Act (15 U.S.C. §§ 1601—1693c). *See* 15 U.S.C. §§ 1691 - 1691f (relating to equal credit opportunity) and 12 CFR Part 202 (relating to equal credit opportunity)(Regulation B). This requirement is consistent with the Commission’s regulations relating to standards of conduct and disclosure for licensees at 52 Pa. Code § 54.43(e) and § 62.114 (e), for EGSs and NGSs, respectively.

Additionally, this section requires that a supplier and its agent must comply with federal “cooling off” period for door-to-door sales: *Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations*, 16 CFR Part 429. A supplier must also comply with the Commission’s regulations at 52 Pa. Code § 54.5(d) and § 62.75(d) that provide a three business day right of rescission of a transaction after the customer receives a disclosure statement.

Section 111.13. Customer complaints.

This proposed regulation is based on *Interim Guideline P* and requires that a supplier investigate all customer inquiries, disputes and complaints concerning marketing or sales practices. It further requires that a supplier cooperate with the Commission and other government agencies that are investigating complaints about prohibited marketing or sales practices. The supplier must also provide the Commission with a single contact and a list of escalation contacts to be used by Commission staff to obtain information to address customer inquiries and complaints.

This section also requires a supplier to implement an internal process for responding to, and resolving customer inquiries, disputes and complaints and to document and retain records of the resolution of these matters. Commission regulations with which such a supplier’s internal process must comply are listed at the end of the section.

Section 111.14. Notification regarding marketing or sales activity.

This section is based on *Interim Guideline K* (distribution company and commission involvement). This proposed regulation requires a supplier to contact the Commission in advance of any sales or marketing efforts that the supplier anticipates may generate telephone calls and inquiries to the Commission. A slight departure from the guideline is that the supplier will now be required to provide general information about such activity to the local distribution utility. This section requires that the distribution company use this information only for informing its customer service representatives to enable them to respond to customer questions about the activity. Finally, this section requires distribution companies to refer customer questions about a supplier's prices and terms of service to the supplier.

CONCLUSION

The proposed regulations issued for comment by this order represent the first step in establishing best practices for marketing and sales activities for suppliers serving residential customers. This step was necessary to address customer concerns about various marketing strategies and sales techniques not heretofore utilized in Pennsylvania's growing retail energy market.

The proposed regulations are based for the most part on the *Interim Guidelines* developed by the CHARGE and SEARCH working groups, and will be applicable to both EGSs and NGSs. Thus, we encourage all interested parties to comment on these proposed regulations.

Accordingly, pursuant to sections 501, 504, 1501, 1504, 2206(b), 2208(b) and(e), 2807(d)(1) and 2809(b) and (e) of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504, 2206(b), 2208(b) and (e), 2807(d)(1) and 2809(b) and (e); sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; and section 612 of the Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.234, we are proposing to amend our regulations as set forth in Annex A, attached hereto;
THEREFORE,

IT IS ORDERED:

1. That a rulemaking docket shall be opened to promulgate regulations at 52 Pa. Code to add Chapter 111 relating to Marketing and Sales Practices for the Retail Residential Energy Market as set forth in Annex A.
2. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. That the Secretary shall submit this Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. That the Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. That an original and 15 copies of written comments referencing the docket number of the proposed regulations be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. To facilitate posting, a copy of each comment filed shall be forwarded via electronic mail to Patricia Krise Burket at pburket@state.pa.us, Daniel Mumford at dmumford@state.pa.us, and Cyndi Page at cypage@state.pa.us.
6. That a copy of this Order and Annex A shall be served on all jurisdictional electric generation companies, all jurisdictional natural gas distribution companies, all licensed electric generation suppliers, all licensed natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of

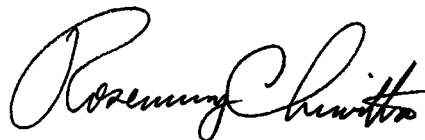
Pennsylvania, and all other parties that filed comments at the docket number M-2010-2185981.

7. That the Office of Competitive Market Oversight shall electronically serve a copy of this Order and Annex A on all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity (CHARGE) and Stakeholders Exploring Avenues to Remove Competitive Hurdles (SEARCH).

8. That a copy of this Order and Annex A shall be posted on the Commission's website at the Office of Competitive Market Oversight's web page.

9. That the contact persons for this Proposed Rulemaking are Patricia Krise Burket, Law Bureau, 717-787-3464 (legal) and Daniel Mumford, Bureau of Consumer Services, 717-783-1957 (technical).

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: February 10, 2011

ORDER ENTERED: February 14, 2011

ANNEX A

TITLE 52 PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart F. COMPETITIVE MARKETS

**CHAPTER 111. MARKETING AND SALES PRACTICES FOR THE RETAIL
RESIDENTIAL ENERGY MARKET**

§ 111.1. General.

The purpose of this chapter is to establish standards and practices for marketing and sales activities for electric generation suppliers and natural gas suppliers and their agents, in order to ensure the fairness and the integrity of the competitive residential energy market. Electric generation suppliers and natural gas suppliers and their agents shall comply with these standards and practices when engaged in sales and marketing activities involving residential customers. When these standards and practices do not address a specific situation or problem, the supplier shall exercise good judgment and use reasonable care in interacting with customers, prospective customers and members of the public.

§ 111.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

Agent - A person who conducts marketing or sales activities, or both, on behalf of a single licensed supplier. The term includes an employee, a representative, an independent contractor, or a vendor. For natural gas suppliers, the term “agent” also includes “marketing services consultant” or “nontraditional marketer” as those terms are defined at 52 Pa. Code § 62.101 (relating to definitions).

Commission – Public Utility Commission.

Disclosure statement – A written disclosure of the terms of service between a supplier and a customer that satisfies the definition of “consumer contract” in section 3 of the Plain Language Consumer Contract Act (73 P. S. § 2203) containing information as required in, and developed consistent with 52 Pa. Code § 54.5 (relating to disclosure statement for residential and small business customers) for electric generation service and § 62.75 (relating to disclosure statement for residential and small business customers) for natural gas supply service.

Distribution company – An electric distribution company or a natural gas distribution company.

Door-to-door sales- A solicitation or sales method whereby an agent proceeds randomly or selectively from residence to residence without prior specific appointment.

EDC - Electric distribution company – As defined in 66 Pa.C.S. § 2803 (relating to definitions).

EGS - Electric generation supplier — As defined in 66 Pa.C.S. § 2803.

Electric generation service – Electricity and related services.

Energy service – Electric generation service or natural gas supply service.

Marketing services consultant – As defined in 52 Pa. Code § 62.101.

Natural gas supply services – As defined in 66 Pa.C.S. § 2202 (relating to definitions).

NGDC - Natural gas distribution company — As defined in 66 Pa.C.S. § 2202.

NGS - Natural gas supplier — As defined in 66 Pa.C.S. § 2202.

Sales - The extension of an offer to provide services or products communicated orally, electronically or in writing to a customer.

Supplier – An electric generation supplier or a natural gas supplier.

Telemarketing – An activity, plan, program or campaign using one or more telephones that is conducted to induce customers to purchase goods or services. See 73 P.S. § 2242 (relating to definitions).

§ 111.3. Supplier liability for its agent.

(a) A supplier may use an agent to conduct marketing or sales activities in accordance with federal, state and municipal law, and applicable Commission rules, regulations and orders.

(b) In accordance with § 54.43(f) (relating to standards of conduct and disclosure for licensees) for an EGS, and § 62.114(e) (relating to standards of conduct and disclosure for licensees) for a NGS, a supplier is responsible for fraudulent, deceptive or other unlawful marketing or billing acts performed by its agent.

(c) Consistent with due process, the Commission may suspend or revoke a supplier's license, and may impose fines for fraudulent acts, violations of Commission regulations and orders, or for violations of state and federal law committed by the supplier's agent.

§ 111.4. Agent qualifications and standards; criminal background investigations.

(a) A supplier shall exercise good judgment in developing standards and qualifications for individuals it chooses to hire as its agents, and may not hire an individual that fails to meet its standards.

(b) Prior to hiring an individual who will be performing door-to-door marketing and sales activities, a supplier shall conduct criminal background investigations to determine if the individual presents a probable threat to the health and safety of the public.

(1) The criminal background investigation shall include checking the sex offender registry commonly referred to as the "Megan's Law" registry maintained by the Pennsylvania State Police.

(2) There shall be a presumption that a person whose name is listed on the "Megan's Law" registry presents a threat to the health and safety of the public.

(c) When a supplier contracts with an independent contractor or vendor to perform door-to-door activities, the supplier shall confirm that the contractor or vendor has performed criminal background investigations on its employees and agents in accordance with this section and with the standards set by the supplier.

§ 111.5. Agent training.

(a) A supplier shall ensure the training of its agents on the following subjects:

(1) Pennsylvania and federal laws and regulations that govern marketing, telemarketing, consumer protection and door-to-door sales, including consumer protection regulations in Chapter 54 (relating to electric generation customer choice) and Chapter 62 (relating to natural gas supply customer choice), and with applicable provisions of Chapter 56 (relating to standards and billing practices for residential utility service), Chapter 57 (relating to electric service) and Chapter 59 (relating to gas service) of Title 52 (relating to public utilities) of the Pennsylvania Code.

(2) Responsible and ethical sales practices.

(3) The supplier's products and services.

(4) The supplier's rates, rate structures and payment options.

(5) The customer's right to rescind and cancel contracts.

(6) The applicability of an early termination fee for contract cancellation when the supplier has one.

(7) The necessity of adhering to the script and knowledge of the contents of the script if one is used.

(8) The proper completion of transaction documents.

(9) The supplier's disclosure statement.

(10) Terms and definitions related to energy supply, transmission and distribution service.

(11) Information about how customers may contact the supplier to obtain information about billing, disputes, and complaints.

(b) A supplier shall document the training of an agent and shall maintain a record of the training.

(c) A supplier shall make training materials and training records available to the Commission upon request. A supplier is not required to submit training materials and programs for advance Commission review and approval.

(d) When a supplier contracts with an independent contractor or vendor to perform marketing or sales activities on the supplier's behalf, the supplier shall confirm that the contractor or vendor has provided training to employees, agents and independent contractors in accordance with this section.

(e) The supplier shall monitor a representative sample of telephonic and door-to-door marketing and sales calls to evaluate the supplier's training program, and to ensure that agents are providing accurate and complete information, complying with applicable rules and regulations, and providing courteous service to customers.

§ 111.6. Agent compensation; discipline.

(a) A supplier shall design its agent compensation program to ensure that it does not promote, encourage or reward behavior that runs counter to the practices established in these regulations and to the general obligation of fair dealing and good faith that a supplier should exercise when interacting with customers.

(b) In developing internal agent discipline practices and procedures, a supplier shall incorporate the Commission's long-standing zero-tolerance policy regarding the unauthorized transfer of customer accounts and the violation of other consumer protections. A supplier shall consider the legal consequences faced by a supplier that fails to properly train and supervise its agents.

§ 111.7. Customer authorization to transfer account; transaction; verification; documentation.

(a) A supplier shall establish a transaction process for a customer to authorize the transfer of his or her account to the supplier.

(1) The process may include the following:

(i) The formation of a written or oral contract where a customer knowingly authorizes the transfer of his or her account to a supplier.

(ii) The enrollment of a customer in a program where a customer knowingly authorizes, orally or in writing, the transfer of his or her account to a supplier.

(iii) The subscription of a customer to a program where a customer knowingly authorizes, orally or in writing, the transfer of his or her account to a supplier.

(2) A document used to complete a transaction shall include a means to identify the agent who completed the transaction and a notation indicating whether the transaction was the result of:

(i) A door-to-door call or other in-person contact with an agent.

(ii) A telephone contact with an agent.

(iii) A written document completed and mailed to a supplier by a customer outside the presence of, or without interaction with, an agent.

(iv) An electronic document completed and uploaded to a supplier's website or electronically mailed to a supplier by a customer outside the presence of, or without interaction with, an agent.

(3) A supplier shall provide a copy of documentation used in a customer transaction to the Commission upon request.

(b) A supplier shall establish a process to verify a transaction that involved an agent. The process shall confirm that the customer authorized the transfer of his or her account to the supplier. This subsection shall not apply to a transaction that was completed solely by the customer as set forth in subsection (a)(2)(iii-iv).

(1) A supplier may use a third party to verify transactions.

(2) The verification process shall be separate from the transaction process, and shall be initiated only after the transaction has been finalized.

(i) When verifying a transaction that resulted from an agent's in-person contact with a customer in a public location, the verification process shall be initiated only after the customer leaves the vicinity of the agent.

(ii) When verifying a transaction that resulted from an agent's contact with a customer at the customer's residence, the verification process shall be initiated only after the agent has physically exited the customer's residence.

(3) A customer shall be informed of the 3 business day right of rescission of the transaction pursuant to § 54.5(d) and § 62.75 (d) at the end of the verification process contact.

(4) A supplier shall maintain a record of a verification in a system that is capable of retrieving the record by customer name and by customer account number for a period of time equivalent to at least six billing cycles to enable compliance with § 57.177 (relating to customer dispute procedures) for an EGS and § 59.97 (relating to customer dispute procedures) for a NGS.

(5) The verification record shall include the transaction documents and the following information:

- (i) The date that the transaction was completed.
- (ii) The name or identification number of the agent that completed the transaction.
- (iii) The date of the verification.
- (iv) The name or identification number of the individual that conducted the verification.
- (v) The results of the verification.
- (vi) The date that the disclosure statement was provided to the customer and the method by which it was provided.

(6) A supplier shall provide copies of verification records to the Commission upon request.

(c) When a supplier is informed that a transaction could not be verified, the supplier shall contact the customer by telephone, email or by letter, and explain that the transaction could not be verified. The supplier may offer assistance to correct the problem so that the transaction can be re-submitted to the verification process.

§ 111.8. Agent identification; misrepresentation.

(a) A supplier shall issue an identification badge to agents who conduct door-to-door activities or appear at public events. The badge shall accurately identify the supplier, its trade name and logo, and shall display the agent's photograph, and his or her full name and identification number in reasonably sized font. The badge shall be visible at all times.

(b) Upon first contact with a potential customer, an agent shall identify the supplier that he or she represents. The agent shall state that he or she is not working for, and is independent of the customer's local distribution company or other supplier. This requirement shall be fulfilled either by an oral statement by the agent, or by written material provided by the agent.

(c) When conducting door-to door activities or appearing at a public event, an agent may not wear apparel or accessories, or carry equipment that contains branding elements, including a logo, that are deceptively similar to that of the local Pennsylvania distribution company.

(d) A supplier may not use the name, bills, marketing materials or consumer education materials of another supplier, distribution company, or government agency in a way that suggests a relationship that does not exist.

(e) An agent of a supplier that is an affiliate of a distribution company shall comply with the rules regarding affiliate marketing at § 54.122 (relating to the code of conduct) for an EGS and at § 62.142 (relating to the standards of conduct) for a NGS.

§ 111.9. Door-to-Door Sales.

(a) A supplier and its agents shall comply with local ordinances regarding door-to-door marketing and sales activities.

(1) A supplier shall limit door-to-door marketing or sales activities to the hours between 9 a.m. and 7 p.m. during the 6 months beginning October 1 and ending March 31, and between 9 a.m. and 8 p.m. during the months beginning April 1 and ending

September 30. When a local ordinance has stricter limitations, a supplier shall comply with the local ordinance.

(2) As a courtesy, a supplier shall notify the local municipal officials in advance of its schedule and the locations in which it intends to conduct door-to-door marketing and sales activities.

(b) A supplier and its agents shall comply with Pennsylvania and federal laws and regulations that govern marketing, consumer protection and door-to-door sales including consumer protection regulations in Chapter 54 and Chapter 62, and applicable provisions of Chapter 56, Chapter 57 and Chapter 59.

(c) When conducting door-to-door sales or marketing activities, an agent shall display his or her identification badge issued by the supplier. The identification shall be visible at all times.

(d) When engaging in door-to-door sales or marketing activities, an agent shall comply with the following:

(1) After greeting the potential customer, the agent shall immediately identify himself or herself by name, the supplier he or she represents and the reason for the visit. The agent shall state that he or she is not working for, and is independent of the local distribution company or another supplier.

(2) The agent shall offer a business card or other material that lists the agent's name, identification number and title, and the supplier's name and contact information, including telephone number. This information does not need to be pre-printed on the material, but if the information is handwritten, it shall be hand-printed and legible.

(e) When a customer's English language skills are insufficient to allow the customer to understand and respond to the information being conveyed by the agent, or when the customer or a third party informs the agent of this circumstance, the agent shall find another agent who is fluent in the customer's language to continue the sales or marketing activity. If the agent cannot find another agent to help with translation, the agent shall terminate contact with the customer. The agent shall use translation services, electronic

language translation devices and language identification cards only to identify the language spoken by the potential customer.

(f) When an agent completes a transaction with a customer, the agent shall:

(1) Provide a copy of each document that the customer signed or initialed relating to the transaction. A copy of these documents shall be provided to the customer before the agent leaves the customer's residence. If requested by the customer, a copy of the materials used by the agent during the call shall be provided to the customer as soon as practical.

(2) Explain the supplier's verification process to the customer, and that the verification process may not be initiated until after the agent has left the customer's residence.

(3) State that the supplier shall send a copy of the disclosure statement about the service to the customer after the transaction has been verified.

(4) State that the customer may cancel the transaction within 3 business days after receiving the disclosure statement.

(g) An agent shall immediately leave a residence when requested to do so by a customer or the owner or an occupant of the premises.

(h) A supplier shall comply with an individual's request to be exempted from door-to-door marketing and sales contacts, and shall annotate its existing marketing or sales databases consistent with this request.

§ 111.10. Telemarketing.

(a) A supplier and its agents shall comply with Pennsylvania and federal laws and regulations that govern marketing, consumer protection and telemarketing sales including consumer protection regulations in Chapter 54 and Chapter 62, and applicable provisions of Chapter 56, Chapter 57 and Chapter 59.

(1) A supplier that is licensed by the Commission and engages in telemarketing is not required to register as a telemarketer pursuant to 73 P.S. § 2243 (a) (relating to

registration requirement), but shall comply with other provisions of the *Telemarketer Registration Act*, 73 P.S. § 2241 - § 2249.

(2) An agent that contracts with a supplier to conduct telemarketing and sales activities on behalf of the supplier shall register as a telemarketer, and shall comply with the *Telemarketer Registration Act*.

(3) A supplier and its agents shall comply with the federal “Do Not Call” law. *Telemarketing and Consumer Fraud and Abuse Prevention Act*, 15 U.S.C §§ 6101, *et seq.* and *Telemarketing Sales Rule*, 16 CFR Part 310.

(4) Customer consent to the release of customer information by the distribution company to the supplier to enable competitive solicitations does not constitute an express intent to receive telephone solicitation calls. *See* 73 P.S. § 2245 (relating to unlawful acts and penalties). *See also* definition of “do not call list” at 73 P. S. § 2242 (relating to definitions).

(b) An agent who contacts customers by telephone shall provide the agent’s first name and shall state the name of the supplier on whose behalf the call is being made. The agent shall provide his or her identification number upon request by the customer.

(c) When an agent completes a transaction with a customer, the agent shall explain the supplier’s verification process to the customer and shall state that the supplier will send a copy of the disclosure statement and other material about the service to the customer after the transaction has been verified. At the end of the telephone contact, the agent shall state that the customer may rescind the transaction within 3 business days after receiving the disclosure statement.

§ 111.11. Receipt of disclosure statement and right to rescind transaction.

(a) When a transaction is completed by a customer without the presence of, or interaction with an agent and is not submitted to the verification process, a supplier shall provide the customer with a copy of its disclosure statement as soon as it is practical. A

customer shall have the right to rescind the transaction within 3 business days after receiving the disclosure statement.

(b) After a transaction that involved an agent has been completed and verified, a supplier shall provide the customer with a copy of its disclosure statement. A customer shall have the right to rescind the transaction within 3 business days after receiving the disclosure statement.

(c) There shall be a rebuttable presumption that a disclosure statement correctly addressed to a customer with sufficient first class postage attached shall be received by the customer 3 days after it has been properly deposited in the United States mail.

§ 111.12. Consumer protection.

(a) A supplier and its agents shall not discriminate in the provision of electric generation and natural gas as to availability and terms of service to a customer based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance income, and exercise of rights under the Consumer Credit Protection Act (15 U.S.C. §§ 1601 - 1693c) and 12 CFR Part 202 (relating to equal credit opportunity). This requirement is consistent with § 54.43(e) (relating to standards of conduct and disclosure for licensees) for EGSs and § 62.114 (e) (relating to standards of conduct and disclosure for licensees) for NGSs.

(b) A supplier and its agents that engage in door-to-door marketing or sales shall comply with the federal cooling off period requirements. *See Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations*, 16 CFR Part 429.

(c) A supplier and its agents shall comply with the 3 business day cooling off period requirement at § 54.5 (d) that applies to EGSs and § 62.75 (d) that applies to NGSs.

§ 111.13. Customer complaints.

(a) A supplier shall investigate customer inquiries, disputes and complaints concerning marketing or sales practices. The supplier shall cooperate with the Commission and other government agencies that are investigating complaints about marketing or sales practices

prohibited by state and federal law, and with local law enforcement officials that are investigating complaints about violations of local municipal law.

(b) A supplier shall implement an internal process for responding to, and resolving customer inquiries, disputes and complaints. The process shall document as a record the customer inquiry, dispute or complaint, subsequent communications between the supplier and the customer, and the resolution of the inquiry, dispute or complaint. A supplier shall retain the record for a time period equivalent to six billing cycles in a system capable of retrieving that record by customer name and account number.

(c) The internal process shall comply with the applicable dispute regulations including:

- (1) 52 Pa. Code § 56.141. Dispute procedures.
- (2) 52 Pa. Code § 56.151. General rule.
- (3) 52 Pa. Code § 56.152. Contents of the utility company report.
- (4) 52 Pa. Code § 54.9. Complaint handling process.
- (5) 52 Pa. Code § 62.79. Complaint handling process.
- (6) 52 Pa. Code § 57.177. Customer dispute procedures.
- (7) 52 Pa. Code § 59.97. Customer dispute procedures.

(d) A supplier shall provide a single contact and a list of designated escalation contacts for the Commission staff to access to address consumer inquiries and resolve complaints.

§ 111.14. Notification regarding marketing or sales activity.

(a) When a supplier engages in marketing or sales activity that the supplier anticipates may generate phone calls and inquiries to the Commission, the supplier shall notify the Bureau of Consumer Services no later than the morning of the day that the activity will commence. The notification shall include general, non-proprietary information about the activity, the period involved, and a general description of the geographical area.

(b) A supplier shall provide the local distribution company with general, non-proprietary information about the marketing or sales activity that caused the supplier to provide notice to the Commission in accordance with subsection (a). The supplier shall

provide this general information to the distribution company no later than the morning of the day that the marketing or sales activities commence. The distribution company shall use this information only for acquainting its customer service representatives with marketing or sales activity occurring in its service territory so that they may knowledgably address customer inquiries. Consistent with § 54.122 for an EDC and § 62.142 for a NGDC, a distribution company may not use the information for other purposes.

(c) In responding to a customer inquiry about price and service, a distribution company may provide information about its own price and terms, but shall refer the customer to the supplier for questions about the supplier's prices and terms.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Rulemaking Re: Marketing and Sales
Practices for the Retail Residential
Energy Market**

**Public Meeting – February 10, 2011
2208332-DIR
Docket No. L-2010-2208332**

STATEMENT OF VICE CHAIRMAN TYRONE J. CHRISTY

Although the proposed regulations that the Commission is issuing today are well-intentioned, they are based on the assumption that door-to-door marketing is a valid marketing strategy. I invite comment from the public on this issue. In addition, I request that all of the electric distribution companies (EDCs) file information similar to that previously provided by PPL on the complaints and phone calls that they have received from their customers concerning door-to-door marketers.¹ Since rate caps expired in the remaining EDC service territories on January 1, 2011, my understanding is that EDCs other than PPL have been receiving complaints from their customers about door-to-door marketers. I believe that it is important that this information be made public.

It is telling that all of the entities that represent the interests of residential consumers that filed comments in the related proceeding last year at Docket No. M-2010-2185981, *Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers*, either opposed door-to-door marketing, or expressed serious concerns about the practice. The Commission's Consumer Advisory Council (CAC) stated as follows:

The Consumer Advisory Council strongly urges the Pennsylvania Public Utility Commission to conclude that door-to-door sales of electric generation and natural gas utility service constitute "unsafe, inadequate and unreasonable service." As discussed in more detail below, door-to-door sales are fraught with danger for many consumers. Moreover, unlike the PUC and OCA web sites, door-to-door sales are designed to provide consumers with inadequate information to make an informed purchase decision. These important safety and information issues alone make door-to-door sales of electric generation and natural gas utility service unreasonable. Consequently, the Commission should conclude that door-to-door sale of such utility service should be prohibited.

* * *

¹ Attached to my Dissenting Statement at Docket No. M-2010-2185981 was a memo prepared at my request by PPL, which provided a representative sample of calls received by PPL in response to door-to-door marketing by EGSs in PPL's service territory. The most common complaint involves EGS sales agents telling customers that they represent PPL. The most alarming complaint involves a complaint about a sales agent exposing himself in the customer's home after asking to use the bathroom.

[T]he process of door-to-door sales contravenes the important consumer education efforts engaged in by the PUC and the OCA. . . [S]uch sales . . . will not provide consumers the same level of detail made available by these agencies, and will limit a consumer's opportunity for reflection and consideration of the information they receive at their door and should be prohibited. Unlike some other goods and services sold door-to-door, the CAC submits that electric and natural gas service are so essential and fundamental to the life of residential consumers and families that the selection process for electric and natural gas service must be an "informed and comparative purchase decision."

* * *

The CAC submits that the sale of electric generation and natural gas utility service door-to-door requires greater regulation than any other sales methods because of the "physical invasion" of consumer privacy which results from door-to-door sales. The physical invasion of privacy creates an increased risk of physical harm to consumers and a greater likelihood that elderly, infirm and uneducated consumers may become victims. . . In the experience of the CAC, door-to-door sales often target the elderly. . . The CAC is extremely concerned that the elderly, infirm and uneducated consumers may be victimized by door-to-door sales through the use of unfair and deceptive trade practices. We encourage this Commission to adopt the one position which avoids this possibility and prohibit door-to-door sales of electric supply and natural gas utility service.

CAC Comments at 2-5. The Pennsylvania Utility Law Project (PULP) stated as follows:

PULP respectfully submits that the Commission should proceed cautiously to ensure that the development of competitive markets does not come at the expense of other important consumer concerns, such as the safety of vulnerable customer populations and the protection of privacy. . . The proposed use of door-to-door marketing . . . places vulnerable consumer populations at too great a risk and improperly violates consumer privacy. Door-to-door marketing should be prohibited by the Interim Guidelines.

* * *

Door-to-door marketing places vulnerable customers at heightened risk of unfair and deceptive trade practices. The complaints of unfair and deceptive trade practices cited most often regarding door-to-door sales are of five kinds: (1) Deception by salesmen in getting inside the door; (2) high-pressure sales tactics; (3) misrepresentation as the quality, price or characteristics of the product; (4) high prices for low-quality merchandise; and (5) the nuisance created by the visit to the home by the uninvited salesmen. Vulnerable customers are particularly susceptible to these kinds of tactics and are often targeted for door-to-door sales. . . . Elderly customers, particularly those with deteriorating mental capacities associated with dementia or Alzheimer's disease, may be ill-equipped to or uncomfortable fending off unwanted attention from persistent sales people.

* * *

[L]ow-income, elderly, disabled, non-English speaking communities are particularly susceptible to unfair and deceptive trade practices that often take

place in door-to-door sales. They are "easy marks" who are targeted. . . [T]he danger to vulnerable populations is real. It is a real danger that the Commission can address by prohibiting the use of door-to-door sales.

Door-to-door marketing runs counter to the intent of the Choice Acts. Another problem with door-to-door sales is that it does not support customers in making an informed choice. This is a serious deficiency since the Choice Acts, as one might suspect from their names, are built upon the assumptions that customers will make choices, *informed choices*. The General Assembly explicitly included in each law a requirement that information be provided to customers to support an informed decision making process. As such, consumers will need to do homework as part of the process of choosing an alternative supplier. This homework includes researching a range of options and companies to have sufficient data on which to base a reasoned decision.

* * *

Door-to-door sales methods are diametrically opposed to the kind of informed decision making contemplated by the Choice Acts and the General Assembly. Door-to-door sales are high-pressure, one-sided presentations . . . Given that door-to-door sales do not lead a consumer to make an informed choice, they run counter to the intent of the Choice Acts and should not be permitted.

* * *

The prohibition of door-to-door marketing would not unduly burden alternative suppliers or undermine the creation of a competitive marketplace. We live in a world that is awash with wireless connection and multiple channels of communication – radio, television, print media, the Internet, e-mail, etc. Millions of business use these channels to market their products successfully. It seems difficult to understand why electric generation and natural gas suppliers can not do the same. . . It seems particularly questionable when it will come at the expense of consumer safety and privacy. Door-to-door-sales are not needed since there are ample other resources consumers can use to learn about alternative suppliers.

PULP Comments at 2-7.

The Office of Consumer Advocate (OCA), AARP, and Dominion Retail submitted joint comments supporting the adoption of the Interim Guidelines, and noting that it shares the Commission's concerns about door-to-door marketing. OCA/AARP/Dominion stated as follows:

Shopping for energy supply requires thoughtful consideration of a wide range of information, including information about prices, individual customer usage patterns, other available offers, default service prices, potential termination fees, and the length of contracts in the face of price volatility. A door-to-door sales contact, where the customer may not have ready access to the necessary information for making an informed choice, and may feel pressured to make a quick decision in light of a sales agent standing in their door or home, could result

in customers making less than optimal choices about their energy supply. This concern is heightened even further when door-to-door sales techniques are used with senior citizens or vulnerable customer populations. Making an informed choice is critical for these customers as the potential for getting locked into a contract that becomes unaffordable is not merely an annoyance, but a matter of their own health and safety if they are unable to pay their energy bill and face termination of service.

* * *

The OCA/AARP/Dominion Retail would also note that the Commission's concerns about customer confusion and potential for fraud or abuse in the door-to-door sales contact have been borne out in other states where this sales technique has been used. In Illinois, AARP joined with the Illinois Citizens Utility Board (CUB) in filing a complaint against a marketer related to door-to-door sales practices. The Illinois Commerce Commission and CUB had received approximately 5,630 complaints alleging various forms of misrepresentation by the sales agents for the marketer, including allegations that the sales agents were switching customers without authorization, were representing that they were from the utility, were providing misleading or incomplete information, and were taking advantage of non-English speaking or elderly customers who did not understand the transaction. The OCA/AARP/Dominion Retail submit that while there is always a potential for fraud, fraud and sales abuses can be particularly prevalent in hard-sell door-to-door solicitations as has been seen in other states.

OCA/AARP/Dominion Energy Comments at 1-2.

In addition to the concerns about unscrupulous sales agents expressed by the CAC, PULP and the OCA/AARP/Dominion Retail in their previous comments, I also am concerned that door-to-door sales will lead to instances where customers are physically assaulted and/or subjected to property crimes by sales agents who have not been properly screened. Given that electricity and natural gas supply can be marketed effectively through a myriad of other ways, I invite comment on whether the Commission should continue to allow door-to-door sales of electricity and gas to residential customers.

2-10-11
DATE

Tyrone J. Christy
TYRONE J. CHRISTY, VICE CHAIRMAN



COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
400 NORTH STREET
HARRISBURG, PA 17120

ROBERT F. POWELSON
CHAIRMAN

October 11, 2011

The Honorable Silvan B. Lutkewitte, III
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

**Re: L-2010-2208332/57-283 Proposed Rulemaking
Marketing and Sales Practices for the Retail Residential Energy
Market, 52 Pa. Code, Chapter 111**

Dear Chairman Lutkewitte:

Enclosed please find one copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15), the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to set forth regulations on marketing strategies and sales techniques for EGSs and NGSs to ensure fairness and integrity in the competitive market and eliminate confusion on behalf of consumers. The contact persons are Daniel Mumford, BCS, 717 783-1957 and Patricia Krise Burket, Law Bureau, 717 787-3464.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,

A handwritten signature in black ink that reads "Robert F. Powelson".

Robert F. Powelson
Chairman

Enclosures

pc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Burket
Mr. Mumford
Regulatory Coordinator DelBiondo

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2010-2208332/57-283

Subject: Proposed Rulemaking Re Marketing and Sales Practices
for the Retail Residential Energy Market

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

RECEIVED
IRRC
OCT 11 AM 11:13

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
<u>10/14/11</u>	<u>[Signature]</u>	<u>HOUSE COMMITTEE (Godshall)</u> Consumer Affairs
<u>10/11/11</u>	<u>[Signature]</u>	<u>SENATE COMMITTEE (Tomlinson)</u> Consumer Protection and Professional Licensure
<u>10/11/11</u>	<u>[Signature]</u>	<u>Independent Regulatory Review Commission</u> Attorney General
<u>10/11/11</u>	<u>[Signature]</u>	<u>Legislative Reference Bureau</u>