



# The Commonwealth of Massachusetts

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## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 19-07

January 18, 2019

Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market.

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### VOTE AND ORDER OPENING INVESTIGATION

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## I. INTRODUCTION

The Department of Public Utilities (“Department”) opens this Notice of Investigation (“NOI”) to seek input from stakeholders on initiatives to further improve the retail electric competitive supply market in the Commonwealth of Massachusetts.

In 1997, the Commonwealth enacted legislation that restructured the provision of electric service to retail customers in Massachusetts. An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein, St. 1997, c. 164, § 37 (“Electric Restructuring Act”). Before electric restructuring, customers had to purchase all components of their retail electric service – the supply component (i.e., the electricity), the delivery component (i.e., the transportation of electricity over transmission and distribution facilities), and a customer service component (i.e., metering and billing) – from their service territory’s electric company. The Electric Restructuring Act introduced competition into the supply component of retail electric service by allowing customers to purchase electric supply from third-party competitive suppliers or to continue purchasing electric supply from their electric company.

On December 11, 2014, the Department opened its investigation into initiatives to improve the retail electric competitive supply market, particularly for residential and small commercial and industrial (“C&I”) customers. Investigation by the Department of Public Utilities on its own Motion into Initiatives to Improve the Retail Electric Competitive Supply Market, D.P.U. 14-140 (2014). The Department opened the investigation to address (1) an

anticipated increase in market activity for residential and small C&I customers<sup>1</sup> and (2) concerns about problems with customer marketing that had occurred in Massachusetts and other states. D.P.U. 14-140, at 2-3. The investigation explored initiatives that would (1) ensure that residential and small C&I customers receive accurate, transparent, and understandable information regarding competitive supply products and (2) improve the protections provided to these customers related to the marketing and delivery of competitive suppliers' products. D.P.U. 14-140, at 1. Through that proceeding, the Department took the following action: (1) eliminated the bill recalculation provision<sup>2</sup> (D.P.U. 14-140-A (2015)); (2) established reporting requirements for the assignment of customers from one competitive supplier to another competitive supplier (D.P.U. 14-140-D (2016)); (3) developed a website that allows electricity consumers to compare different electric supply product offerings and purchase such products from competitive suppliers that participate in the website ("Competitive Supply Website" or "Website") (D.P.U. 14-140-E (2016)); and

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<sup>1</sup> In contrast to the market for medium and large C&I customers, a robust competitive supply market had yet to develop for residential and small C&I customers at the time the Department opened D.P.U. 14-140. The Department anticipated increased market activity due to (1) the recently enacted purchase of receivables program and (2) recent increases in basic service rates. D.P.U. 14-140, at 2, citing Investigation Regarding Purchase of Receivables, D.P.U. 10-53-C/D/E (2014).

<sup>2</sup> Under the bill recalculation provision, customers taking basic service under the fixed-price option who switched to a competitive supplier during a basic service pricing term would have their basic service costs recalculated using the monthly basic service prices that were in effect during each month that the customer received basic service. D.P.U. 14-140-A citing Pricing and Procurement of Default Service, D.T.E. 99-60-A at 8 (2000), D.T.E. 99-60-B at 10 (2000).

(4) established notification requirements and standards of conduct for door-to-door marketing campaigns in Massachusetts (D.P.U. 14-140-G (2018)).

As part of our ongoing initiatives to improve the competitive supply market, the Department, on July 6, 2017, issued Order Establishing Final Interim Guidelines For Competitive Supply Investigations And Proceedings, D.P.U. 16-156-A (2017). These interim guidelines apply to proceedings in which we investigate whether a competitive supply company<sup>3</sup> has violated the Department’s consumer protection regulations set forth in 220 CMR 11.07. D.P.U. 16-156-A at 2, Attachment A (“Competitive Supply Interim Guidelines”).<sup>4</sup>

In March 2018, the Attorney General of the Commonwealth of Massachusetts (“Attorney General”) issued a report regarding the electric supply market in Massachusetts.<sup>5</sup> The Attorney General Report examined whether residential consumers pay more or less for their electric supply when they buy it in the competitive market instead of from their electric

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<sup>3</sup> A competitive supply company refers to any electric competitive supplier, electricity broker, gas supplier, and gas retail agent that participates in the electric and gas markets in the Commonwealth of Massachusetts and are licensed by the Department of Public Utilities. D.P.U. 16-156-A at 1.

<sup>4</sup> The Department’s customer complaint regulations, 220 CMR 11.07(4), allow the Department to impose various sanctions against competitive suppliers after a hearing before the Department, which conforms with the Commonwealth’s Administrative Procedure Act, G.L. 30A. The Department designed the Competitive Supply Interim Guidelines to ensure compliance with G.L. c. 30A.

<sup>5</sup> Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts, available at: <https://www.mass.gov/doc/comp-supply-report-final>.

company (Attorney General Report, Executive Summary). The Attorney General Report concluded that residential customers “suffered large financial losses in the competitive supply market,” and recommended that the legislators in Massachusetts eliminate the electric supply market for individual residential consumers. If legislators allow the market to continue, the Attorney General Report recommended actions that would ensure (1) the level of transparency and informed decision-making that is required for a well-functioning market and (2) adequate oversight and enforcement over competitive supplier actions (Attorney General Report at 40-46).<sup>6</sup> On May 8, 2018, the Massachusetts General Court, Joint Committee on Telecommunications, Utilities and Energy conducted a hearing regarding the issues raised in the Attorney General Report.<sup>7</sup>

In this proceeding, the Department seeks to build on our initiatives and further improve the protections provided to residential customers related to the marketing and delivery of competitive suppliers’ product offerings. Our inquiry will include the issues raised by the Attorney General Report and investigate solutions that are within our statutory authority. Accordingly, the Department proposes the following: (1) increase customer awareness of the electric competitive supply market and the value these markets can provide,

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<sup>6</sup> In April 2018, the National Consumer Law Center issued a report that raised similar issues related to the competitive electric supply market in Massachusetts as those raised in the Attorney General Report. Competing to Overcharge Consumers: The Competitive Electric Supplier Market in Massachusetts, available at: <http://www.nclc.org/images/pdf/pr-reports/competitive-energy-supply-report.pdf>.

<sup>7</sup> Oversight Hearing on the Attorney General’s report on the residential competitive supply industry: *Hearings before Joint Committee on Telecommunications, Utilities and Energy*, (May 8, 2018).

thus allowing customers to make well-informed decisions (Section II, below); (2) improve the Department's ability to oversee and investigate competitive suppliers' marketing practices (Section III, below); and (3) investigate initiatives that would improve the operational efficiency of the electric competitive supply market to optimize the value that the market provides to customers (Section IV, below). To accomplish these goals, the Department seeks input from stakeholders on the issues raised in this NOI and solicits input on additional undertakings that may further the goals of this NOI for the benefit of residential customers in the Commonwealth (Section V, below).

## II. CUSTOMER AWARENESS

### A. Introduction

Customer awareness – transparency and informed decision-making - is the fundamental building block of a well-functioning competitive supply market. Customers that are well-informed of the supply product options available to them, and the positive or negative value that these products can provide, are more likely to purchase products that best suit their needs and protect their interests. Below, the Department discusses the following three approaches to improving customer awareness: (1) use of the Competitive Supply Website; (2) customer notification of automatic renewal provisions; and (3) market-related information provided through the electric distribution company bill.

### B. Competitive Supply Website

The Competitive Supply Website, launched by the Department on October 14, 2016, allows electricity customers to view information about the supply products offered by

participating competitive suppliers (as well as basic service offered by the electric distribution companies), and it allows customers to purchase those products from competitive suppliers that participate in the Website. See D.P.U. 14-140-E at 1. Although competitive suppliers are not currently required to list their supply products on the Website, the information included in the Website residential product report (“Product Report”)<sup>8</sup> shows a large number of suppliers offer a broad range of residential products on the Website. For example, during October 2018, more than 40 competitive suppliers participated in the Website, offering approximately 60 residential products that are available to most customers.<sup>9</sup>

The Website provides customers with product information related to pricing, length of contract, contract provisions such as early cancellation fees and automatic renewal, renewable energy content, and additional products and services (as applicable). The Website presents this information in a transparent and understandable manner, and it allows customers to readily compare products to select products that best fit their interests.<sup>10</sup> With this increased

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<sup>8</sup> The Product Report includes summary information about the supply products that were listed on the Website over a period of time specified by the user. Website users can download the Product Report at: <http://energyswitchma.gov/#/productreport>.

<sup>9</sup> The Department notes that competitive suppliers that participate in the Website are not required to offer products in all of the electric distribution companies’ service territories. Thus, while more than 40 competitive suppliers listed approximately 60 products on the Website during October 2018, fewer products are available to customers in certain service areas. For example, twelve competitive suppliers listed products in the National Grid Nantucket service territory, offering 19 products; and eleven competitive suppliers listed products in the Unitil service territory, offering 17 products.

<sup>10</sup> For example, Website users can filter and sort the supply products listed on the Website (e.g., by price, contact term, and renewable energy content) to view only



access to information, customers can make more informed decisions and are less susceptible to deceptive marketing. Accordingly, from the Department's perspective, an effective and efficient way to increase customer awareness of the competitive market is to take steps to ensure that customers consult the information available on the Website prior to purchasing a supply product. Since increasing awareness and improving customer understanding will help improve the competitive market and protect customers, the Department identifies the following potential education initiatives to promote Website use: (1) conducting a general education campaign; (2) requiring competitive suppliers to provide customers with information regarding the Website through their marketing materials; and (3) presenting information regarding the Website on the electric distribution companies' monthly bills. The Department seeks input from stakeholders regarding the reasonableness and appropriateness of these initiatives to promote use of the Website, and we solicit input on additional initiatives that may increase customers' awareness of the competitive supply market.

C. Automatic Renewal

An automatic renewal provision, included in some competitive supply contracts, provides that the contract will automatically renew at the end of the initial contract term. The renewed contract may have a different pricing structure than the initial contract (e.g., a fixed-price contract may renew to either a new fixed price or to a monthly variable price). As its name implies, the renewal occurs automatically unless the customer informs the

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those products that meet the user's preferences. Users can further tailor the Website's product listing to meet their preferences by selecting products for direct comparison. D.P.U. 14-140-E, Attachment A, Section V.

competitive supplier otherwise. Many of the electric products listed on the Competitive Supply Website include an automatic renewal provision.

The Department is concerned that many competitive supply customers are not sufficiently aware of when the automatic renewal provision will become effective, the new price to which the contract will automatically renew, or the duration of the new contract term. Accordingly, the Department sees this lack of awareness as a significant customer protection issue.<sup>11</sup> To ensure customers are aware of the automatic renewal provisions that may apply to them, the Department seeks to establish uniform requirements regarding the automatic renewal information competitive suppliers must provide their customers, including the timing and manner by which they must provide this information. The Department seeks input from stakeholders on these requirements. In addition, the Department seeks input from stakeholders regarding the reasonableness and appropriateness of using the electric distribution companies' bills to provide competitive supply customers with information on the automatic renewal of their supply contracts. Finally, the Department solicits input from stakeholders on additional initiatives that may increase customer awareness of contract automatic renewal provisions.

#### D. Billing through the Electric Distribution Company Bill

Competitive suppliers have the option of billing their customers either through (1) the distribution company bill, in which case customers receive a single bill that covers both the

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<sup>11</sup> If customers are unaware of the end of their existing contract and also the going forward price of their automatically renewed supply product, they are at a distinct disadvantage in the competitive market.

delivery and supply components of their electric service; or (2) a separate bill they send to their customers, in which case the customer receives two bills related to their service. See 220 CMR 11.04(10)(c). The Department understands that the large majority of residential customers on competitive supply are billed through the single bill option. Currently, the product-related information provided through the bill to these customers is limited to the product price.

Above, the Department raises the issue of using the distribution companies' bills to provide competitive supply customers with information on the automatic renewal of their supply contracts. Here, the Department seeks input from stakeholders regarding the reasonableness and appropriateness of using the distribution companies' bills to provide competitive supply customers with additional product-related information. In addition, the Department seeks input from stakeholders on other ways in which the distribution companies' bills could be used to provide these customers with greater awareness of their competitive supplier and their competitive supply product.

E. Complaint Data

Massachusetts customers may file complaints against a distribution company or competitive supplier with the Department's Customer Division. 220 CMR 11.07(3), (4); 220 CMR 14.06(3), (4); 220 CMR 25.02(4). The Department periodically receives requests from customers for information about which suppliers receive the most complaints. The Department does not have complaint information readily available on a website. The Department sees value in making complaint data or a transparent type of competitive supplier

performance rating available to the general public online if the information can be presented in a manner that is easily understood. The Department seeks input from stakeholders on the reasonableness and appropriateness of making complaint data or a supplier performance rating available to customers online.

### III. DEPARTMENT INVESTIGATION OF COMPETITIVE SUPPLIERS

#### A. Introduction

Currently, the Department's review or investigation of a competitive supplier comes in response to a third-party complaint or report about an alleged violation of an applicable statute or regulation. See 220 CMR 11.07; Competitive Supply Interim Guidelines, Section 3(1); 220 CMR 14.06. In an effort to improve our oversight of competitive suppliers, the Department seeks to take a more proactive approach, including initiating investigations. Below, the Department proposes four steps towards a more proactive approach, related to (1) expanded marketing standards of conduct, (2) expanded role for third-party verification ("TPV"), (3) supplier marketing reporting requirements, and (4) customer complaint data. The Department seeks stakeholder input on the reasonableness and appropriateness of these proposals, and we solicit input on additional initiatives that may improve our ability to investigate the practices of competitive suppliers.

#### B. Standards of Conduct

In D.P.U. 14-140-G, the Department established standards of conduct for electric suppliers, electricity brokers, and third-party vendors conducting door-to-door marketing campaigns in Massachusetts. See D.P.U. 14-140-G, Attachment 2. These standards of

conduct focus on ensuring that entities conducting door-to-door marketing clearly identify themselves and the competitive supplier that they represent.<sup>12</sup> See D.P.U. 14-140-G, Attachment 2.

The Department seeks to expand the door-to-door standards of conduct to include requirements related to the disclosure of product information such as contract term, early cancellation fees, and automatic renewal. In addition, the Department seeks to apply the door-to-door standards of conduct (revised as necessary) to marketing activities such as telemarketing and direct mail. The Department expects that specifying the types of information that marketers must disclose, rather than leaving disclosure to the discretion of marketers, would (1) best ensure that customers are sufficiently aware of the supply products they are being offered and (2) facilitate the Department's oversight of, and investigation into, competitive suppliers' marketing practices.

C. Third-Party Verification

Currently, TPV is used to confirm that competitive suppliers have obtained customers' affirmative authorization to provide supply service. See 220 CMR 11.05(4); 220 CMR 14.04(4)(c)2. The Department seeks to expand the role of TPV to include confirmation that competitive suppliers have complied with the marketing standards of conduct discussed above – absent such confirmation, a competitive supplier would not be permitted to enroll the customer. The Department expects that expanding the TPV in this

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<sup>12</sup> For example, the standards of conduct prohibit marketing personnel from representing that they are affiliated with a customer's electric distribution company. D.P.U. 14-140-G, Attachment 2.

way would (1) protect customers from purchasing supply products about which they were insufficiently informed and (2) facilitate the Department's ability to identify competitive suppliers that should be reviewed or investigated for non-compliance with the marketing standards of conduct.

D. Competitive Supplier Reporting

Currently, the Department does not require competitive suppliers to provide information on the types of marketing activities they use to enroll residential customers. The Department seeks to establish such a requirement. Having information on suppliers' marketing activities, including the types of customers enrolled through each type of activity, would allow the Department to prioritize our review of TPVs and adopt a more proactive approach to our review and investigation of competitive suppliers' marketing activities.<sup>13</sup>

IV. BARRIERS TO MARKET EFFICIENCY

The intent of this NOI is not just to improve protections for retail customers. The Department also seeks to address barriers that detract from the value that the market could provide residential customers. At present, the Department has identified two potential barriers associated with how service with a competitive supplier is initiated.<sup>14</sup> The

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<sup>13</sup> For example, the Department could prioritize our review of TPVs to ensure competitive suppliers that (1) enroll customers primarily through door-to-door marketing or (2) enroll a significant number of low-income customers comply with our marketing standards of conduct.

<sup>14</sup> The manner in which customers' service with competitive suppliers is initiated is governed by the electric distribution companies' Terms and Conditions for Competitive Suppliers. See, e.g., Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid – M.D.P.U. No. 1201.

Department seeks input from stakeholders on these barriers, and we solicit input on additional barriers that may detract from the value that the market provides to residential customers.

One potential barrier to the initiation of supply service is the time between when a customer enrolls with a competitive supplier and when the customer begins to receive service from the supplier. To initiate service with a customer, a competitive supplier submits an electronic “enroll customer” transaction (“enrollment transaction”) to the customer’s distribution company. See, e.g., Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid – M.D.P.U. No. 1201 § 5; Fitchburg Gas and Electric Light Company – M.D.P.U. No. 160 § 24.5. Provided that the information on the enrollment transaction is complete and accurate,<sup>15</sup> the initiation of supply service takes place on the date of the customer’s next scheduled meter read.<sup>16</sup> The Department seeks stakeholder input on the reasonableness and appropriateness of initiating service on an intra-billing cycle basis (e.g., two days after the submittal of a complete and accurate enrollment transaction), thus

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<sup>15</sup> In the electric competitive supply market, the information required for enrollment transactions are included in the Electronic Business Transactions Working Group Report, which sets forth rules that govern the transactions that take place between suppliers and the distribution companies in the restructured electric industry. For more information visit:

<https://www9.nationalgridus.com/maselectric/ebt/index.asp#info>.

<sup>16</sup> If the competitive supplier does not submit an accurate and complete enrollment transaction at least two business days prior to the meter read date, the initiation of supply service is deferred to the customer’s subsequent scheduled meter read date. See, e.g., Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid – M.D.P.U. No. 1201 § 5A.

allowing the initiation of service with a competitive supplier to occur in a more timely manner.

In order for an enrollment transaction of a customer to be considered complete and accurate, a competitive supplier must include the customer's electric distribution company account number, information that a customer may not have readily available. This requirement represents a second potential barrier to the initiation of supply service because customers must have access to their account number (in effect, to their electric bill) to successfully enroll. The Department seeks stakeholder input on the reasonableness and appropriateness of replacing the customer account number with alternate information, to allow suppliers to enroll customers when customers may not have ready access to their account number.

## V. REQUEST FOR COMMENTS

### A. Introduction

The Department invites all interested persons to participate in this investigation. The Department seeks written comments on questions 1 through 21 below no later than 5:00 p.m. on February 19, 2019. When providing comments, please indicate clearly which question is being answered. Comments may be provided on any or all of the questions. The Department anticipates and hopes for significant interest in this proceeding. Therefore, we encourage interested persons to present consensus positions and submit comments jointly, when possible. All comments must be accompanied by an executive summary. One original and two copies of all comments should be filed with Mark D. Marini, Secretary, Department



of Public Utilities, One South Station - 5<sup>th</sup> Floor, Boston, Massachusetts 02110.<sup>17</sup> The Department will determine the appropriate next steps after reviewing the initial comments.

B. Section II - Customer Awareness

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

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<sup>17</sup> All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to [dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov) and the hearing officer [greggory.wade@mass.gov](mailto:greggory.wade@mass.gov) or (2) on a CD-ROM. The text of the e-mail or CD-ROM label must specify (1) the docket number of the proceeding (D.P.U. 19-07); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. All documents submitted in electronic format will be posted on the Department's website by looking up the docket by its number in the docket database at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber> (enter "19-07").

3. Would it be reasonable and appropriate for the Department to require the electric distribution companies to put information regarding the Competitive Supply Website on their bills (see Section II.B)? If no, explain why not. If yes, identify the information (e.g., Website URL, number of participating suppliers, number of products listed) that would be most effective in increasing customer awareness of the value that the Competitive Supply Website can provide.
4. What other steps could the Department take to increase customer awareness of the value that the Competitive Supply Website can provide?
5. Would it be reasonable and appropriate for the Department to establish uniform requirements by which competitive suppliers would notify customers of the automatic renewal provision in their supply contracts (see Section II.C, above)? If no, explain why not. If yes,
  - a. What information should competitive suppliers be required to provide to customers (e.g., the date on which the automatic renewal will take effect, the price and pricing structure to which the contract will automatically renew)?
  - b. How long before the automatic renewal takes effect should competitive suppliers be required to provide such notification to customers?
  - c. What method(s) should competitive suppliers be allowed to use to provide the notification (e.g., direct mail, e-mail)?
  - d. If the contract would renew to a monthly-priced product, should competitive suppliers be required to notify customers on an ongoing basis regarding the

price that will be in effect during the upcoming month? If no, explain why not.

- e. What state(s) have established automatic renewal notification requirements? For each state, discuss the manner in which the state implements such a requirement.
6. Would it be reasonable and appropriate for the Department to require the electric distribution companies use their monthly bills to provide information to competitive supply customers about the automatic renewal provision in their supply contracts (see Section II.C, above)? If no, explain why not. If yes,
    - a. What information should be provided through the bills (e.g., the date on which the automatic renewal will take effect, the price and pricing structure to which the contract will automatically renew)?
    - b. How often should the electric distribution companies be required to provide this information (e.g., on all bills to competitive supply customers for whom the supply contract includes an automatic renewal provision, only on the bill preceding the month in which the renewal takes effect)?
    - c. What other supply product-related information should the electric distribution companies be required to provide to competitive supply customers through the bills (e.g., early termination fees)?
  7. How could the presentation of competitive supply information on electric distribution companies' bills be revised to provide competitive supply customers with improved

awareness of their competitive supplier and their competitive supply product (e.g., a separate page dedicated to the competitive supply component of customers' electric service, the insertion of competitive supplier logos on the bill)?

C. Section III - Department Investigation of Competitive Suppliers

8. Would it be reasonable and appropriate for the Department to establish door-to-door marketing standards of conduct for competitive suppliers related to the disclosure of supply product information (see Section III.B, above)? If no, explain why not. If yes,
  - a. What supply product information should door-to-door marketers be required to disclose to customers?
  - b. Should the Department establish uniform language (and a uniform format) that suppliers would be required to use to disclose this information?
9. What other standards of conduct should the Department add to the door-to-door marketing standards of conduct established in D.P.U. 14-140-G?
10. Would it be reasonable and appropriate for the Department to establish standards of conduct for marketing channels such as telemarketing and direct mail (see Section III.B, above)? If no, explain why not. If yes, identify the marketing channels for which the Department should establish standards of conduct and, for each marketing channel, discuss how the standards of conduct should differ from the standards of conduct for door-to-door marketing.

11. Would it be reasonable and appropriate for the Department to expand the role of TPV to include confirmation that a competitive supplier has complied with the marketing standards of conduct (see Section III.C, above). If no, explain why not. If yes, should the Department establish uniform language that TPV service providers would be required to use to confirm that suppliers have complied with the marketing standards of conduct?
12. Would it be reasonable and appropriate for the Department to require competitive suppliers to periodically provide the Department with data on the types of marketing channels through which they have signed up customers (see Section III.D, above)? If no, explain why not. If yes,
  - a. What data should competitive suppliers be required to provide the Department?
  - b. How often should competitive suppliers be required to provide this data to the Department?
13. How else could the Department improve its ability to investigate suppliers' marketing activities?
14. Would it be reasonable and appropriate for the Department to make competitive supplier complaint and/or performance information available to customers and other stakeholders? If no, explain why not. If yes,
  - a. Identify other state(s) that make this information publicly available; and for each state, discuss the usefulness of (1) the information that is provided and (2) the manner in which that information is presented.

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

D. Section IV - Barriers to Market Efficiency

- 15. Would it be reasonable and appropriate for the Department to direct the electric distribution companies to initiate competitive supply service during a customer's meter read cycle (see Section IV, above)? If no, explain why not. If yes,
  - a. Discuss how this would improve the value that the market can provide customers.
  - b. Identify other states that allow the initiation of supply service during a customer's meter read cycle. For each state, describe the manner in which the state implements such an approach.
- 16. Would it be reasonable and appropriate for the Department to eliminate the customer account numbers as required information on an enrollment transaction (see Section IV, above)? If no, explain why not. If yes:
  - a. Discuss how this would improve the value that the market can provide to customers.
  - b. Identify alternate piece(s) of information that could be required on enrollment transactions in order to provide the same level of customer protection that a customer's account number provides.

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

E. Other Issues

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

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

a. Discuss the manner in which the “do not switch” list should be implemented.

b. Identify other states that have established such a list, and, for each state, describe the manner in which the state has implemented the list.

In commenting on the reasonableness and appropriateness of the initiatives identified in this NOI, stakeholders should provide comment on whether the initiative is within the

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<sup>18</sup> Pursuant to the Department’s directives in Investigation into Competitive Market Initiatives, D.T.E. 01-54 (2001), the electric distribution companies provide electric suppliers and electricity brokers, upon their request, with information regarding customers’ names, addresses, rate classes, and historic usage (“Customer Information List”). See D.T.E. 01-54-A at 11 (2001); D.T.E. 01-54, at 6 (2001). Customers have the opportunity to opt-out of having their information included from the Customer Information List. D.T.E. 01-54-A at 24-25.

Department's existing statutory or regulatory authority to implement or whether the initiative would require a legislative or regulatory change.

F. Application to Small C&I Customers

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

G. Application to the Gas Competitive Market

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



VI. ORDER

Accordingly, the Department

VOTES: To open an investigation into initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market; and it is

ORDERED: That the Secretary of the Department shall publish notice of this investigation in a statewide paper of daily circulation within the Commonwealth of Massachusetts; and it is

FURTHER ORDERED: That the Secretary of the Department shall serve a copy of this Order upon all persons on the Department's official service list.

By Order of the Department,

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/s/  
Angela M. O'Connor, Chairman

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/s/  
Robert E. Hayden, Commissioner

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/s/  
Cecile M. Fraser, Commissioner