

**Commonwealth of Massachusetts**  
**Department of Public Utilities**

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

**COMMENTS OF SOURCEONE, INC.**

**EXECUTIVE SUMMARY:**

SourceOne is one the largest buy-side commodity consulting firms serving commercial, industrial, and municipal clients in Massachusetts. Originally licensed in February 2000, SourceOne is also one of the longest continually active energy brokers in the Commonwealth. From this position, we respectfully offer our observations on the evolution of energy deregulation in Massachusetts in response to the Department’s inquiries on the subject. We also acknowledge that it is impossible to respond fully to the Department’s inquiry without also addressing the larger policy context and vocal skepticism surrounding the residential market.

The Attorney General raises many valid points in her critique of the residential market and we agree there is reason to be skeptical. Deregulation has delivered substantial benefits to the commercial and industrial market segment. The residential market however, faces a number of inherent disadvantages. Most residential customers will be in a position of less topic-specific knowledge, fewer resources, and little competitive leverage, making them more susceptible to entering into bad contracts with unfavorable commercial terms and to falling for misleading sales

plys. Furthermore, in most residential markets the opportunity for relatively meager bill savings is often outweighed by the higher risk of economic loss, lost time, and the overwhelming likelihood that the contract will continue indefinitely without oversight. With this in mind, we fundamentally believe that the Department's best opportunity for exerting positive influence over this market is to require that suppliers demonstrate performance to the clients they serve. This could be achieved through a variety of means, including the inclusion of the monthly "price to compare" rate on customer bills and/or mandated reporting of annual savings (loss) metrics back to the customer. Also of great importance to the viability of this market is fee transparency. In the same way that the financial products industry requires disclosure of brokerage fees, the Department should require that all discretionary fees be clearly disclosed in the contract. Both residential and commercial customers should have the right to know how the broker, sales representative, or 1099 independent agent they are speaking with is compensated. This simple disclosure could do a great deal to clean up the market and keep some of the industry's worst actors from garnering egregious fees from often unsuspecting customers (see, e.g., Comment 20).

#### **QUESTIONS & COMMENTS:**

- 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.**

We agree that the Department's website is likely the most effective tool for general education due to the dynamic nature and low cost associated with maintaining a website.

The addition of six-month “price-to-compare” for future basic service rate information would be a valuable addition. The Department might also consider adding a “customer complaint index” (see, e.g., Comment 13) column to each supplier that captures the number of complaints per enrolled customers per year. It is reasonable to require that supplier contracts include a clear and prominent reference to this website. Generally, we are skeptical of the effectiveness and value of a broader outreach campaign. The Department should take a “less is more” approach with the goal of providing clear and useful information that diffuses much of the obfuscation associated with third party marketing efforts. When presenting “price-to-compare” numbers for example, it is important for the Department to be aware of a common sales tactic which many marketers engage in; that is to present a long-term contract rate offer by comparing this offer to a particularly high-price month on basic service supply, e.g., winter. The Department should consider using either six to 12-month ahead “price-to-compare” guidance or even a 12-month rolling historical value, as appropriate.

- 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.**

Yes. The Department should require a standard “Right to Know” table at the top of all contracts that includes, at a minimum:

- i. A statement acknowledging that the vendor is not the utility, and that the customer has options, including remaining with utility supply;
- ii. A statement that “this contract may be more or less expensive than the existing rate from the utility”;
- iii. A link to the Department’s URL for more information and current “price to compare”;
- iv. Confirmation that the customer has the authority to enter into the contract;
- v. Customer signature acknowledging understanding of the above

**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.**

Yes. Electric distribution companies should be required to include the existing “price to compare” below the third party supply rate on each invoice. Other states such as Pennsylvania and Ohio have similar requirements. We also think that a simple link would be beneficial, e.g., “for more information: <http://www.energyswitchma.gov>”

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

To increase awareness of the Competitive Supply Website, the Department should require that all small commercial and residential contracts reference the Competitive Supply Website in the “Right to Know” table at the top of the contract (see Comment 2).

- 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)?**

We think these questions are best addressed with a full understanding of the cost and complexity of implementing the various solutions.

- 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)?**

We think these questions are best addressed with a full understanding of the cost and complexity of implementing the various solutions.

- 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)?**

We think these questions are best addressed with a full understanding of the cost and complexity of implementing the various solutions.

- 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)?**

Yes. A consistent “Right to Know” disclosure at the top of every mass-market contract would be the best way to communicate critical information to mass-market customers, regardless of the sales channel. See, e.g., Comment 2.

**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?**

Intentionally omitted

**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)?**

Yes. A consistent “Right to Know” disclosure at the top of every mass-market contract would be the best way to communicate critical information to mass-market customers, regardless of the sales channel. See, e.g., Comment 2. In addition to similar information on the physical contract, for mass-market telemarketing sales, this “Right to Know” information could be read to the customer verbatim and require verbal acknowledgement from the customer.

**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).**

See Comment 10.

**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)?**

Intentionally omitted

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

There are a number of ways that the Department could provide additional oversight on the marketing practices in the industry and these are probably best addressed in a broader stakeholder setting. Ultimately, the Department must strike the right balance between its desire to correct problems in the market with the risk of creating unnecessary or burdensome regulations that make it more difficult to do business, perhaps without addressing the underlying challenges. One fairly easy change would be for the Department to publish a broker / supplier complaint report on its website. This would provide customers with helpful information and help organize data that the Department likely already captures, thereby providing both an internal and external regulatory resource. A complaint index could also be presented in an additional column adjacent to supplier offers on the energyswitch.gov website. The Texas PUC publishes a good report on customer complaints.<sup>1</sup>

**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?**

Yes. We suggest that the Department considering adding to its website a “customer complaint index” column to that captures the number # of complaints per enrolled customers per year. This index should appear in conjunction with supplier offers presented on the Department’s website.

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<sup>1</sup> <https://www.puc.texas.gov/consumer/electricity/CustomerComplaintStats.aspx>

**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)?**

Mid-cycle enrollments are a valuable option for large commercial accounts wherein they can result in significant avoided cost for the client. They are less strategically important in the small commercial and residential market. We don't believe there is sufficient need to revise the existing process, particularly in consideration of the incremental administrative and systems costs that would be incurred, and likely financed by ratepayers.

**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)?**

No. Account numbers are a standard enrollment requirement in virtually all deregulated states. Presentation of an account number can mitigate the likelihood of unauthorized, mistaken, or even fraudulent enrollments. Also, we would contend that if customers are unwilling to obtain an invoice during the sales process, they are unlikely to be allocating the attention and time necessary to prudently enter into a long-term contract. If the goal is to educate customers, we feel that by disengaging customers from the mechanics of the process is generally counterproductive, even if it results in a less streamlined sales process.

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

Intentionally omitted

**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?**

Intentionally omitted

**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?**

Intentionally omitted

**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?**

Yes. All responses provided herein are, in our opinion, applicable to all mass-market customer classes (residential and small commercial). In many ways, small commercial customers are more prone to disingenuous sales tactics. This is because they likely face the same informational disadvantages as residential customers, but they have fewer consumer protections and they represent a more lucrative commercial opportunity to the salesperson due to higher consumption and fee-based revenues. This is why the disclosure of fees being paid to a brokerage company or being added by a sales representative should be required on the contract. For example, both brokers and direct employees of a competitive supplier should be required to include his or her per unit fee (\$/kWh) or per contract fee (\$/contract signed) on the contract.

**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?**

Yes. We believe that many of the questions overlap and are generally applicable to natural gas sales.

**CONCLUSION:**

We appreciate the Department's desire to review marketing and sales practices within mass-market customer segment. Reform is necessary if not critical to the survival of the segment.

Deregulation has provided ample benefits to the commercial and industrial sector and it has the potential to be a transformative influence on the development of dynamic prices, alternative rate structures, and cost savings across the entire industry. However, the story of the residential market has been less encouraging and the industry needs to be better oriented to provide customers with economic value and transparency. We believe that arming customers with a clear understanding of how their contracts are performing and how their providers are compensated are the key to true market reform.

Respectfully submitted,



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