

**Commonwealth of Massachusetts  
Department of Public Utilities**

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

**Comments of the Department of Energy Resources On Initiatives  
to Promote and Protect Consumer Interests in the Retail  
Electric Competitive Supply Market**

On January 18, 2019, the Department of Public Utilities (“Department”) issued an Order opening an investigation into initiatives to promote and protect consumer interests in the retail electric competitive supply market. The Massachusetts Department of Energy Resources (“DOER”) respectfully submits the following comments, in response to the Department’s Notice of Investigation and Request for Comments (“NOI”) issued on January 23, 2019, in the above referenced proceeding.<sup>1</sup>

**I. Introduction**

The Department proposed twenty-one (21) questions in its Order on the following specific topic areas: (1) increase customer awareness of the electric competitive supply market and the value these markets can provide, thus allowing customers to make well-informed decisions (Order, Section II); (2) improve the Department’s ability to oversee and investigate competitive suppliers’ marketing practices (Order Section III); 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 (Order Section IV).

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<sup>1</sup> On February 15, 2019, DPU Stamp Granted DOER’s *Motion for Extension of Time to File Written Comments*, extending the comment period to March 8, 2019.

Below are DOER's Executive Summary and comments in response to specific questions from the Department's Order.

## **II. Executive Summary**

DOER is supportive of the Department's efforts to further improve the retail electric competitive supply market. In its responses to specific questions below, DOER recommends the Department improve its Competitive Supply Website in various ways to increase customer awareness and general knowledge on competitive supply. DOER believes the website would be improved by providing easy to understand materials on how the competitive supply market works, such as an interactive infographic and/or tutorial video and some additional written material to educate customers on the basics of competitive supply. The tutorial should include definitions of common terms for customers, such as "Basic Service", and educate customers on the differences between their supplier options, including choosing between competitive suppliers, Basic Service from their distribution companies, or municipal aggregation where available. DOER also recommends that competitive suppliers and the distribution companies be required to provide basic information on the Competitive Supply Website in their communications with customers, as part of the billing statement, bill insert or in any marketing materials sent to customers. In addition, competitive suppliers should be required to timely notify its customers about automatic contract renewals and subsequent rate changes. DOER recommends these notifications be sent 90, 60, and 30 days out from the automatic renewal date.

DOER notes that 145 cities and towns currently have adopted municipal aggregation options for their customers, yet the Competitive Supply Website does not make any mention of this for consumers that may be participants in a municipal aggregation. DOER recommends this information be added to the Competitive Supply Website and that when a customer in a city or

town that is part of a municipal aggregation enters their information that the current energy supply rate offered by their municipal aggregation be displayed as well as the basic service rate.

DOER is supportive of the Department's efforts to address both door-to-door and other marketing practices competitive suppliers deploy. These efforts should ensure transparency on business affiliations of competitive suppliers and clear disclosure of rates and terms being offered. DOER is generally supportive of the Department's efforts to address barriers to market efficiency by requiring distribution companies to initiate competitive supply service during meter read cycles and allowing customers to sign-on to a "do not switch" list precluding the switching of a customer to a competitive supplier. Finally, DOER believes it would be reasonable and appropriate for the Department to investigate all of these issues as they relate to the electric and gas competitive supply market for all customers including small commercial and industrial (C&I) customers and DOER would be like to be part of any stakeholder meetings to further discuss these matters.

### **III. Customer Awareness (Order Section II)**

**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.**

The Competitive Supply Website should include basic, easy to understand educational resources for customers that define any and all basic terminology, alert customers on municipal aggregation options when available in their city or town and include an interactive infographic and/or a video tutorial explaining the differences between Basic Service, competitive suppliers and municipal aggregation. For example, the website should provide a clear definition of "Basic Service" so consumers understand which rate is being offered by their local distribution

company if they do not switch to competitive supply. Such resources will help customers more easily understand how the competitive supply market works

Introductory material explaining electricity market deregulation and competitive supply in straightforward language should also be featured more prominently on the Competitive Supply Website. Currently, the website attempts to explain the difference between electric distribution utilities and suppliers by stating, “The electric companies in Massachusetts deliver electricity to our homes and businesses regardless of our choice of electric supplier.” The average ratepayer is likely unaware of the difference between an “electric company” and an “electric supplier,” as most residential customers may still believe that the distribution company on their utility bill is still vertically integrated. A clearly marked, annotated electric bill on the website homepage could be a starting point to improving public communication on this issue. The website should be a resource that serves to help customers fully educate themselves on choosing an electric supplier before signing long-term delivery contracts. Updating the Competitive Supply Website with definitions of basic terms, information on municipal aggregation, and improved language, design, and formatting could be jointly developed by stakeholders, and implemented on the website.

**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.**

The Department should require all competitive suppliers to provide information regarding the Competitive Supply Website to customers in marketing materials. The information should be displayed in a standard manner the Department approves and at a minimum should include, the URL and information on the content and offerings available on the website, stressing in

particular the customer's ability to select from multiple product offerings with different pricing and options.

**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.**

The Department should require the electric distribution companies to provide information to their customers in bill inserts regarding options on competitive supplier choice, including a clear explanation that customers are not required to use their current electric distribution companies as their retail supplier and may compare options available to them on the Competitive Supply Website. At a minimum, the bill insert should include the Competitive Supply Website URL directing the customers on where to find basic information on energy suppliers or municipal aggregation in their city or town.

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

The Competitive Supply Website does not include any information on municipal aggregation for any of the 145 cities or towns where it is available. The Department should add information to the Competitive Supply Website on customers' options with respect to municipal aggregation. When a customer enters their zip code, the supplier list should indicate whether the city or town has municipal aggregation and provide basic information on what that means.

The Department should also consider including information regarding the website and retail choice options in other touchpoints with customers (*e.g.*, energy audits, new service signups, etc.).

**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)?**

Yes, uniform notification requirements should be established. Automatic renewal provisions are acceptable, as long as customers are fully aware when their contracts are set to renew and what the new rate will be going forward. The Department should require competitive suppliers to provide customers with this information in a timely and transparent manner that specifies the date on which the automatic renewal will take effect as well as the price and pricing structure to which the contract will renew.

**b. How long before the automatic renewal takes effect should competitive suppliers be required to provide such notification to customers?**

The Department should require competitive suppliers to provide information regarding the potential for automatic renewal at the time they initially sign a customer up for service and should be required to provide notification to the customer of upcoming automatic renewal. The first notification should go to the customer 90 days before the automatic renewal date, with subsequent notices provided within 60 and 30 days before the renewal date. Each notice should also provide the customer with the rate change that will go into effect on the contract renewal date. DOER's recommended notification schedule allows the customer adequate time to research and potentially change suppliers before an existing contract automatically renews.

**c. What method(s) should competitive suppliers be allowed to use to provide the notification (e.g., direct mail, e-mail)?**

The Department should require, at a minimum that competitive suppliers use both direct mail and e-mail to notify its customers of an approaching automatic renewal date. Competitive suppliers could also use additional methods to communicate with its customers about automatic

renewals, provided customer consent regarding opting-out of direct mail or e-mail notifications is clearly established beforehand.

**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.**

Yes, the Department should require competitive suppliers to inform their customers with monthly-priced contracts of material variations in price in advance of any change occurring, as the transition from a fixed price contract to a monthly variable rate may not be fully understood by customers. The Department should also explore, to the extent feasible, means for placing limits on such transitions until companies ensure customers are fully aware and understand the implications of the transition to monthly term, including any changes in rates.

**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)?**

If a customer is receiving their competitive supply service via consolidated billing, to the extent feasible, the electric distribution companies' bill should be required to include some basic information about the product supplied by the competitive supplier. This should at a minimum

include the term, price, information on whether it automatically renews, and the termination/cancellation rights of the customer. However, the distribution company should not be required to provide any additional communications regarding automatic renewals beyond those that are already required to be provided by the competitive supplier.

**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)?**

DOER is not providing any comments to this question.

#### **IV. Department Investigation of Competitive Suppliers (Order Section III)**

**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?**

The Department should require competitive suppliers to identify themselves directly as representatives of the competitive supply company they work for and not the customer's distribution company or any other entity (*e.g.*, city/town official, etc.). Competitive suppliers should also clearly disclose to customers basic terms relative to their offerings including whether a product contains any provision for a variable rate and when that rate becomes active. The Department should also consider, to the extent feasible, requiring competitive suppliers to submit an annual report containing information on areas where it is using door-to-door marketing and the training such marketers receive prior to interacting with customers as well as any recurring training such marketers receive.

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

The Department should consider approving a uniform disclosure form that would be developed jointly by the Attorney General's Office ("AGO") and DOER, in consultation with other stakeholders, which will explain competitive retail choice, the options available to customers, provide them with a series of suggested questions to ask marketers about their product offering, and provide links to the Department's Competitive Supply Website. The form should have the relevant Massachusetts government agency logos (*i.e.*, Department, DOER, AGO) on it. The disclosure form should be presented to and signed by every customer that elects to sign-up for competitive supply. The required form could be developed in a process similar to that used for the customer disclosure form DOER established for SMART Program participants, which DOER, the AGO, and the Massachusetts Clean Energy Center jointly developed through a public stakeholder process.

**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?**

All standards of conduct established as a part of this proceeding that were not previously established as part of D.P.U. 14-140-G should be added to the door-to-door marketing standards of conduct.

**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.**

The Department should establish standards of conduct for other marketing channels such as telemarketers and direct mailings that are similar to the standards suggested for door-to-door marketing detailed in Questions 8 and 9 above, including: requiring competitive suppliers to identify themselves directly as representatives of the competitive supply company they work for and not the customer's electric distribution company; disclosures to customers on provision for a

variable rate and when that rate becomes active; and a uniform disclosure form explaining competitive retail choice, the options available to customers, and providing customers with a series of suggested questions to ask marketers about their product offering, and provide links to the Department's Competitive Supply Website. While DOER's suggestions for door-to-door marketing standards of conduct may not transfer to other advertising mediums perfectly, DOER recommends extrapolating them to other forms of marketing with the objective of increasing transparency in the areas we have already highlighted (*e.g.*, clear, department-approved bilingual explanations of competitive supply and of product offerings).

**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?**

DOER is not providing any comments to this question.

**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?**

DOER generally agrees that this type of data should be provided to the Department.

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

DOER is not providing comments to this question.

**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).**

DOER is not providing a detailed response to this question but generally believes that complaint and performance information regarding competitive suppliers should be available to customers.

#### **IV. Barriers to Market Efficiency (Order Section IV)**

**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.**

If the Department adopts the consumer protection and customer awareness recommendations DOER proposed in its answers to earlier questions (*i.e.*, Questions 2-6; 8-10), DOER is generally supportive of efforts that would expedite the customer's ability to transition to competitive supply or to switch between competitive suppliers or to return to basic service.

**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.**

DOER is not providing a response to this question.

**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:**

Requiring customer account numbers to enroll new customers with competitive suppliers provides inherent protections for consumers, however, DOER recognizes that the requirement can be cumbersome. DOER would be open to the Department considering other ways to enroll new customers to facilitate participation and awareness of competitive supply, provided the critical customer protection and transparency initiatives recommended above in Sections II and

III are in place and the Department establishes a mechanism to monitor for fraudulent enrollment practices by competitive suppliers.

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

See response above.

**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.**

See response above.

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

DOER is not providing a response to this question.

#### **V. Other Issues (Order Section V.E)**

**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?**

DOER is not providing a response to this question.

**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.**

The Department should require the distribution companies to allow customers the option to be placed on a "do not switch" list through a notification and process clearly explained on their distribution company bill, in a bill insert or in a separate communication from the electric distribution companies. Customers that are placed on the list should also have the ability to easily remove themselves from the list.

**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.**

DOER is not providing a response to this question.

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

DOER is not providing a response to this question.

#### **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.**

It would be reasonable and appropriate for the Department to investigate all of these issues as they relate to the electric competitive supply market for small C&I customers as many such customers are similarly situated as residential customers and may not be as sophisticated or as familiar with their options relative to competitive supply as larger 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.**

DOER is not providing a specific response to this question, but generally believes that any investigation of competitive suppliers should include both electric and gas supply.

#### **VI. Conclusion**

DOER recommendations as set forth in these comments to the competitive supply market will help to better promote and protect consumer interests, including: improvements to the Department's Competitive Supply Website to increase customer awareness and general

knowledge on their choices regarding competitive supply, as well as information on municipal aggregation options where available; requiring suppliers and distribution companies to provide basic information on the Competitive Supply Website in their communications with customers; requiring competitive suppliers to notify customers about automatic contract renewals and subsequent rate changes; efforts to address both door-to-door and other marketing practices competitive suppliers deploy; and measures to address barriers to market efficiency. DOER believes it would also be reasonable and appropriate for the Department to investigate all of the issues addressed above as they relate to the electric competitive supply market for small C&I customers. DOER is willing to work with all interested stakeholders going forward to further analyze the matters raised in these comments to the extent necessary or appropriate as determined by the Department.

DOER appreciates the opportunity to comment on these important issues associated with the competitive supply market.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS  
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DATE: March 8, 2019