

TO: Hearing Officer Gregg Wade  
FROM: Competitive Supplier Working Group  
RE: D.P.U. 19-07 Investigation into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market MA Supplier Working Group Assignments – Introductory/Closing Scripts  
DATE: September 20, 2019

**INTRODUCTION AND PRIOR PROCEEDINGS (UPDATED TO PRESENT)**

Our working group was tasked with developing suggestions, comments and model text from a competitive supplier standpoint for “c. Introductory and closing scripts for door-to-door and telemarketers.” See Department of Public Utilities (“Department”) July 2, 2019 Hearing Officer Memorandum at p. 2; see also June 24, 2019 Hearing Officer Memorandum at p. 4 outlining goals for June 26, 2019 Department Working Group meeting, including the following:

*“2. Agent Behavior*

*During the June 6 technical session, Department staff identified agent behavior implementation details associated with (i) uniform introductory and closing scripts for both door-to-door and telemarketers, (ii) protocols for supplier oversight of third-party marketing vendors, (iii) protocols for GPS for door-to-door marketers, and (iv) protocols for caller ID information and repeat calls for telemarketers. Department staff proposes that competitive suppliers take the lead in establishing straw proposals for the development of uniform scripts. This is because suppliers are best positioned to identify and combine the best practices implemented in other states, for use in the Commonwealth....”*

And see also June 26, 2019 Department Powerpoint regarding “Agent Behavior” at Slide 10, point 1, proposing the following as a means of regulating agent behavior:

*“1. Uniform “introductory” and “closing” scripts should be developed for use by all agents*

*o “Hello, my name is \_\_\_\_\_, I work for \_\_\_\_\_, a company that is licensed to provide electric/gas supply products in MA. I do not work for Dist Co.”*

*o “Thank you for purchasing ... We will be sending you ... You have 3 days to change your mind... Here is a product disclosure form.....”*

On July 26, 2019, our working group forwarded to the Hearing Officer recommendations for Introduction and Closing Scripts for door-to-door (“D2D”) and telemarketing, along with a set of general observations that were considered in formulating the working group script proposals.

On August 6, 2019, the Department conducted a working group meeting and presented an Excel of slides that (1) codified our proposals in box form in the far left column of each page and (2) proposed “Department Alternative Proposals” in the center columns of each page (with one proposed language change re municipal aggregations in the right hand column of such page). The technical session discussion made clear that inclusion of point-by-point offer details in the Department’s alternative closing script assumed that the Department would implement an interactive third party verification (“TPV”) call format mentioned in the Department’s original January 18, 2019 Vote and Order Opening Investigation, at pp. 11-12 and later classified by the Department as a Tier II investigation issue. See June 6, 2019 Technical Session Agenda.

On August 15, 2019, the Department circulated the Department’s alternative script proposals to the parties attached to a procedural memorandum that requested responses from our working group and other parties on or before September 20, 2019.

The supplier working group now responds to the Department’s alternative script proposals. See Exhibit A (revised initial script), Exhibit B (revised closing script - telemarketing) and Exhibit C (revised closing script – D2D), with additional explanations below (with new information in bold). In the Excel exhibits, our response text to the Department’s August 6 and August 15, 2019 proposals are located in the right hand columns of each exhibit.

## TELEMARKETING SCRIPT RECOMMENDATION

### A. Introduction and General Observations.

1. Telemarketing calls are, by nature, dynamic and guidelines for such calls need to balance the need to provide minimum information to consumers with overburdening the calls or artificially constraining the conversation in a manner that would cause the consumer to decline the sale or otherwise abandon the call. The Department’s preliminary script attached to the June 26, 2019 Department Powerpoint (quoted above) appears to recognize that fact. **Suppliers are concerned that several elements in the Department’s alternative scripts include excessive and unnecessary text and will overburden marketing discussions and should not be included in a required initial script. By definition, a telemarketing call is unsolicited and the prospect is likely willing to hear no more than minimum mandatory disclosure text before hearing the sales pitches, or they will abandon the call prematurely.**
2. The Department has expressed significant concern about any efforts by a supplier to portray itself as affiliated with the customer’s local distribution company/utility. We recommend to include that in the script but not to name the specific utility (out of concern that saying you are not from X utility will lead to some consumers to think the call is in fact coming from X utility). **The Department’s alternative scripts include additional text proposing to mandate suppliers to educate consumers about competitive market issues but the proposed additions include text that is excessive in length and not**

complete or balanced (i.e., they require suppliers to say that municipal aggregations compete with supplier offerings but fail to point out that utility basic service offerings compete with supplier offerings). We propose not to adopt the mandatory educational portions of the script on grounds of lack of necessity, excessive length and likely confusion to customers.

3. As discussed during the August 6, 2019 technical session, suppliers are subject to G.L. c. 159C, § 5A requirements relative to telemarketing. (Such statute does not apply to D2D marketing.)<sup>1</sup> We propose to adjust the script to require that a vendor agent identify the names of his or her vendor and the electric supplier at the start of the call, as required by c. 159C, § 5A. Furthermore, the requirement that a description of goods and services offered must be completed in the first minute of the call strengthens the above argument to excise from the required opening text the suggested educational information on distribution companies and municipal aggregations, questions relative to customer authorization, and marketing introductory text (discussed below).

## B. Proposed Telemarketing Scripts

1. Introductory Script. We propose that at the start of the call, or at latest within the first minute of the call (as required by State telemarketing laws), the following information should be conveyed:
  - “My name is [first name only of the telemarketing agent) **and I work for [name of vendor company]”;**
  - “I am calling on behalf of [name of electric supplier], a licensed electric supplier”; and
  - “[Supplier name] is not affiliated with the local electric utility **or any city or town energy program.**”
  - **The suppliers do not support the other proposed language additions in the Department’s alternative proposal. They are not necessary for inclusion in the opening text, are overly lengthy and/or with respect to the proposed marketing introduction language (i.e., “I am calling to inform you of the electric supply products that [Supplier Name]**

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<sup>1</sup> The portion of Section 5A addressing opening script requirements reads as follows:

“(a) A telephone solicitor shall disclose all of the following information within the first minute of a telephonic sales call and before requesting, accepting or arranging for payment by a consumer: (i) that the purpose of the telephone call is to make a sale or solicit funds; (ii) the correct name of the telemarketing company that employs the individual telemarketer who is making the call; (iii) the correct name of the ultimate seller whose goods or services are being offered by means of the telemarketing call; and (iv) a complete and accurate description of the goods or services being offered including, but not limited to, the retail market value of the goods or services.” (Emphasis added).

offers, and to explain how our products may provide value to you”) are too wooden, and infringe on the ability of supplier sales agents to fashion a more effective opening to their sales pitches.

- **In particular, the suppliers do not support requiring a question in the opening script soliciting information on the authorized customer/customer of record. Suppliers need to ask this question as a matter of business practice but do not generally do so during the call opening. Additionally, the text proposed by the Department is under-inclusive and in need of revision (even if retained) because persons authorized to make electric decisions on an account can do so even if not the account holder or person whose name is on the electric utility bill.**
- **Once the three supplier-supported required elements are completed, the agent then would be able to move into his or her sales pitch about the electricity products offered, thereby providing a necessary opportunity for agent to meet the one minute rule for a “complete and accurate” product and service description as required in c. 159C, § 5A.**

2. Closing Script. After terms have been agreed to with the customer, the following minimum statements should be communicated to the customer:

- **“In a moment you will be transferred to [Supplier Name’s] verification service provider”; and**
- **“The verification service provider will ask you to confirm the product and price information we have discussed.”**
- **The suppliers do not support the five boxes proposed in the Department’s alternative proposal that introduce and then re-specify each of the price, termination fee, automatic renewal and renewable product provisions which were discussed during the sales call. Obtaining customer confirmation of each of these elements is a task that is addressed during the TPV call that will immediately follow, and the proposed language will be unnecessarily duplicative of each of these elements.**
- **From the discussion at the August 6, 2019 technical session, Department staff made clear that these five additional boxes were intended to prepare the customers for answering interactive questions that would occur if the Department moves forward with a proposal, discussed only at a high level to date and deferred as a Tier II issue, to fundamentally change TPVs from the current structure in which the Company asks questioners a series of questions that must be answered “yes” or the TPV call will immediately fail, to an interactive**

discussion in which the agent will ask the customer to give oral answers to questions such as what is the agreed-upon fixed price, what are the termination fee provisions, what are the automatic renewal provisions, etc. Nevertheless, unless and until such alternative TPV regime is adopted following procedural measures that will be part of the Department's Tier II issues in this docket, suppliers strongly suggest that it would be premature and unwarranted to require such five additional boxes to be included in the required closing scripts. Additionally, even in the event that the Department moves forward with such new alternative TPV approach at some future point in this docket, suppliers do not see a need to include these five specific additional boxes in the required minimum script. At that point, suppliers would need to devote time in a sales call to prepare the customers to "pass" the mandatory interactive question test and would no doubt be rehearsing the questions with the customers using the same or similar questions as included in the Department's alternative proposal without the need for the text to be expressly required in the closing script.

- Finally, suppliers have significant concerns with the Department's proposal for an interactive TPV process. All or virtually all suppliers raised real concerns with this proposal in responses to the discussion when mentioned in the Department's January 18, 2019 Vote and Order Opening Investigation, at pp. 11-12. Supplier concerns have yet to be alleviated to date, and they look forward to presenting information and argument on this point during Tier II processes.

## **DOOR-TO-DOOR ("D2D") SCRIPT RECOMMENDATION**

### **A. Introduction and General Observations.**

1. Massachusetts Law on D2D Sales – Suppliers need to comply with requirements established in the May 2018 decision in Docket DPU 14-140-G establishing standards of conduct and notification requirements for D2D sales, including the following solicitation requirements:

*"All personnel engaging in a door-to-door marketing campaign shall identify the Competitive Supplier or Electricity Broker which he/she represents upon commencement of the sales call"; and*

*"Personnel engaging in a door-to-door marketing campaign may not represent, in any way, that he/she is affiliated with the local distribution company serving the customer."*

**B. Proposed D2D Scripts**

1. The working group suggests that the D2D opening script be materially the same as the telemarketing scripts, except modified to change references from “call” to terms applicable to an in-person sale with a follow up TPV call
2. **The suppliers have created a separate D2D script, largely tracking the closing script chart in the August 15, 2019 Department alternative proposal, in Exhibit E hereto. Exhibit C makes the same changes as discussed above for the telemarketing closing script.**
3. Note that both of the D2D scripts meet the requirements established in the May 4, 2018 DPU 14-140-G order, in that both allow for a short and plain statement of both introductory and closing remarks common to a reasonable sale.