



March 4, 2020

D.P.U. 19-07

Investigation into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market

## Comments of Arcadia on Tier One initiatives

Thank you for the opportunity to comment on the proposals for the Tier One initiatives put forth by the Department of Public Utilities (Department) staff on February 5, 2020, regarding the Investigation into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market. The Department has an opportunity to issue orders establishing processes and oversight that increase customer awareness of the electricity supply market, allowing them to make well-informed decisions; provide proactive oversight of competitive supplier performance; and improve operational efficiency of the competitive market. In these comments we describe ways to provide the best experience to residential customers while helping them save them money.

Before responding to specific elements of the Tier One proposals, we wish to make a foundational comment. Our understanding is that this investigation is primarily the result of studies showing that sizable numbers of residential customers on competitive supply have paid more than the SOS rate. While there may be marketing issues the Department would like to evaluate even if all customers were saving money, we believe that the bulk of this investigation would be moot if rules were in place requiring competitive supply rates to be below the SOS rate. In such a market suppliers and their representatives could not unfairly take advantage of customers by charging an excessive rate. Customers would not be at risk of being charged a higher rate for switching away from the SOS. Such a market would also require less onerous oversight by the Department. It is the view of Arcadia that the best path forward for Massachusetts consumers and the Department would be to prohibit competitive suppliers from offering supply rates above the SOS rate.

### Background

Arcadia is the first nationwide digital energy services platform. Our job is to connect residential utility customers with clean energy while helping them save money. Depending on the local market structure, we provide a number of services to our customers, including renewable energy credit purchasing, retail supply brokerage, zero-downpayment energy efficient products, and community solar. We currently have more than 400,000 customers, spread across all 50 states.

In the Commonwealth of Massachusetts, we are licensed as a broker. Our legally binding commitment to our customers is that we will not broker them to a supply rate that is above the



SOS rate. To date, we have had the opportunity to broker for more than 4,000 customers, providing them an average savings of \$24.61 below the standard offer service (SOS) rate. This represents a cumulative savings greater than \$105,000 for Massachusetts residents. We look forward to working with the Department, suppliers, and utilities to guarantee our customers save money on their energy bills.

## Introduction

The Department staff's proposals are a significant step toward improving the customer experience in the competitive supply market. Most of the proposals increase customer protection while sparing the Department from excessive administrative burden. As you will see in our specific recommendations below, Arcadia finds much of the Department staff's proposals as written to be acceptable.

There is one area where the current language is acceptable, but any changes could be problematic. The license renewal process for electricity brokers should remain an administrative process less onerous than applying for a new license. Any change making license renewal more onerous than applying for a new license would be unacceptable.

Active marketing techniques, such as door-to-door marketing and telemarketing involve a live discussion between a supplier representative and a customer. On occasion, this type of marketing has resulted in customers receiving inaccurate or incomplete information from the marketer. In some instances, customers feel pressured into enrolling by the marketer without consulting additional resources. Passive marketing techniques, including online advertisements, online communications, and direct mail are different. These types of marketing do not pressure customers. When presented with passive marketing material, it is easy for a customer to ignore or move beyond it. This unique arrangement grants the customer the opportunity to consult additional resources on their own time horizon before making a decision to - or not to - enroll in a service. This clear distinction suggests that active and passive marketing techniques should receive different regulatory treatment. Two specific instances where excessive regulatory burden on passive marketing techniques can be problematic are explained below.

There are two parts of the proposal that must be changed. First, competitive suppliers should not be required to submit updated versions of their direct mail marketing material to the Department for review. Passive marketing techniques, including direct mail, do not require such regulatory treatment. In addition, while we are pleased the Department staff do not propose regulating online communication, it is pertinent to note that requiring a ten day wait period for review of online communication would be unacceptable, and the process of reviewing thousands of similar, but slightly modified online communications would be onerous to the Department. Any change to include online communication would also be unacceptable. Second, the proposal calls for competitive suppliers to periodically report on the total number of residential and low-income customers enrolled through door-to-door marketing, telemarketing and other marketing channels, including online communication. Direct mail and online





communication are passive marketing techniques that do not pressure customers in the way active techniques do, and do not require the same regulatory burden. Therefore, "other marketing channels" should be redacted from the final order.

### Specific recommendations

- Section A(3)a New License Application
  - Arcadia does not have specific feedback on this section at this time.
- Section A(3)b License Renewals
  - Arcadia supports this section as written by Department staff. The license renewal for an electricity broker brings less risk to customers and should therefore have a less onerous process than approving a new license application. We support an administrative license renewal process for electricity brokers, as proposed by the Department staff. The Department should implement this order as written.
- Section B(1) Introduction
  - Arcadia does not have specific feedback on this section at this time.
- Section B(2) Notification of Door-to-Door Marketing
  - Arcadia does not have specific feedback on this section at this time.
- Section B(3) Identification of Third-Party Marketing Vendors
  - Arcadia does not have specific feedback on this section at this time.
- Section B(4) Disclosure of Product Information
  - Arcadia does not have specific feedback on this section at this time.
- Section B(5) Door-to-Door and Telemarketing Scripts
  - Arcadia does not have specific feedback on this section at this time.
- Section B(6) Recording of Marketing Interactions
  - Arcadia does not have specific feedback on this section at this time.
- Section B(7) Marketing Materials
  - Arcadia opposes the Department staff's proposal requiring all direct mail marketing material be subject to prior approval by the committee. Direct mail is a form of passive marketing and does not pressure potential customers to enroll. Rather, customers have time to conduct their own research and make their own informed decisions on their personal schedule. Until passive marketing, and specifically direct mail, is determined to be problematic, it should not have such a regulatory requirement. The department should remove this section from the final order.
- Section C Automatic Renewal
  - Arcadia does not have specific feedback on this section at this time.
- Section D Competitive Supplier Enrollment Report
  - Arcadia opposes the Department staff's proposal to require competitive suppliers to report periodically on the total number of residential customers enrolled through passive marketing techniques, such as direct mail and online advertising. As noted in our comments on Section B(7) above, direct mail and online advertising are inherently different and less intrusive than door-to-door marketing



and telemarketing and should therefore not require prior approval of marketing material before use. The department should remove "(3) other marketing channels" from this proposal. Should the Department still choose to require data on residential customers and low-income customers enrolled through passive marketing techniques, including direct mail and online advertising, we suggest the Department require competitive suppliers to provide the number of residential customers and the number of customers in the R2 rate class that are receiving electricity at a rate below the SOS rate. This will allow the Department to more effectively monitor the market and protect customers from inappropriate marketing practices and excessively complicated billing schemes.

- Section E Energy Switch Website
  - Arcadia does not have specific feedback on this section at this time.

## Conclusion

The Department staff's proposals are significant steps to improving the customer experience, helping them save money; increase renewable energy access; and improve the retail electric competitive supply market.

While the majority of the Department staff's proposals can be included in the final order, we look forward to seeing an order that does not hold direct mail and online communication to the same regulatory burden as door-to-door marketing and telemarketing.

We appreciate the opportunity to provide these comments and look forward to continuing to participate in this - and similar - processes. Please don't hesitate to contact James Feinstein at [James.Feinstein@arcadia.com](mailto:James.Feinstein@arcadia.com) or 202 999 8916 if you would like to discuss these issues further.

Sincerely,

James Feinstein  
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