



# **D.P.U. 19-07**

## **Tier Two Initiatives**

January 7, 2021

1-5 pm EST



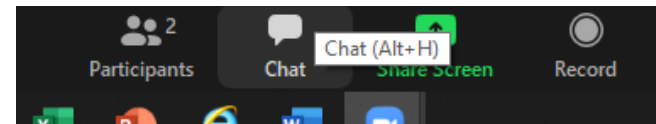
# Background

- The Department is investigating initiatives in this proceeding in a tiered manner (19-07-A at 4-5)
  - Tier One addresses those initiatives that can be resolved in the timeliest manner
    - The Department established these initiatives in 19-07-A
    - Nov. 19 HO Memo requests comments from stakeholders on potential improvements to these initiatives
  - Tier Two addresses those initiatives that require more information before we can determine how best to proceed
    - Subject of this Zoom meeting
  - Tier Three addresses those initiatives that would require fundamental changes to the way in which the retail competitive markets currently operate, and thus require significantly more discussion



# Submitting Questions/Comments

- Everyone should stay muted unless called on
- If question is simple, type your comment or question in the chat for everyone to see
  - **Alt+H**
- If question is complicated, select “raise your hand” and we will call on you
  - **Alt+U**

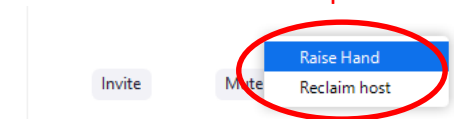


Step 1



Step 2

Step 3





# Tier Two Initiatives Overview

## 4 Types of Initiatives

1. Product-Related
  - Low-Income Customer Products
  - Monthly-Price Products
  - Automatic Renewal Products
2. Market Efficiency
  - Customer Enrollments
3. Department Oversight
  - Third-Party Verification
  - Access to Telemarketing Call Recordings
4. Supplier Complaint Scorecard *(not a subject of this meeting)*



# Product-Related Initiatives

## Staff Approach

### Disclaimer

- The proposals set forth in this presentation are those of Department staff alone – the proposals do not represent the official view of the Department on these issues
- The proposals are intended solely to facilitate robust discussion during this technical session, to allow staff to determine the most effective and efficient next steps in this phase of the 19-07 investigation
  - As such, the proposals should be viewed as “directional” rather than “definitive”



# Product-Related Initiatives

## Staff Approach (cont.)

### Four Components

#### 1. Scope

- Identify the products to which the initiative will apply

#### 2. Information/Notification Requirements

- Identify the information that suppliers should provide to consumers to ensure that they are sufficiently informed about the supply products that they have purchased or may purchase (19-07 at 5)

#### 3. Reporting Requirements

- Identify the information that suppliers should provide to the Department to allow us to take a more pro-active approach to our oversight of suppliers (19-07 at 10)



# Product-Related Initiatives

## Staff Approach (cont.)

### Components (cont.)

#### 4. Product Limitations

- If consumers were better informed and educated about the competitive market, there may be no need for product limitations – however, in the current “immature” state of the market, such limitations may be reasonable and appropriate
- Department staff seeks to work with stakeholders to develop product limitations that do not intrude on suppliers’ reasonable business practices, while providing consumers with protection against unreasonable practices



# Product-Related Initiatives

## Staff Approach (cont.)

### Components (cont.)

#### 4. Product Limitations (cont.)

- A recurring theme in the upcoming slides is the issue of whether the consumer protections that product limitations would provide could be achieved equally by increased reporting requirements that would assist the Department in identifying suppliers whose “performance” may warrant further scrutiny





# Product-Related Initiatives

## 1. Low-Income Customers

### Scope

- The initiative set forth here would apply to products provided to low-income (“LI”) customers on distribution companies’ R-2 or R-4 rates (gas and electric)

### Information/Notification Requirements

- Department has not established notification requirements specific to LI customers



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Reporting Requirements

- Department established a LI customer enrollment reporting requirement as a Tier One initiative (19-07-A at 77-80)
  - Suppliers report semi-annually on the number of residential/LI customers that they:
    - i. are serving in each distribution company service territory as of a specified date
    - ii. enrolled in each service territory per marketing channel during the specified six-month period
  - Suppliers submitted their initial enrollment reports on August 3, 2020
    - Next report due February 1, 2021



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Reporting Requirements (cont.)

- Summary of reports: Electric - statewide, as of June 30, 2020

% Low Income/ Total Residential Customers	Distribution Customers	Competitive Supply Customers		
		Individual	Municipal Aggregation	Total
Average	10.8%	18.5%	6.5%	11.4%
Range	8.8 – 20.7%	0 – 55%		
Median		16.8%		



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Reporting Requirements (cont.)

- Summary of reports: Gas - statewide, as of June 30, 2020

<b>%, Low Income/ Total Residential Customers</b>	<b>Distribution Customers</b>	<b>Competitive Supply Customers</b>
Average	10.6%	19%
Range	8.7 - 17.6%	0 - 35.8%
Median		14.5%



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Product Limitations

- Background
  - During 19-07 stakeholder process: Department staff proposed LI product limitation that price could not exceed basic service price
  - 19-07-A: Department stated that we will continue to explore such limitations as a Tier Two initiative (including the reasonableness of linking a supplier's reporting requirements to its willingness to adopt such limitations) (19-07-A at 74)
  - 19-07-B: On June 6, 2020, Department expanded the 19-07 investigation to explore the extent of the impact of the competitive supply markets on (i) AMP success rates, (ii) LI customers, and (iii) the costs paid by all ratepayers to subsidize LI assistance programs



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Product Limitations

- Summary of 19-07-B reports: Electric

#### Impact of Competitive Supply on Low-Income Customers (2019)

	Average Price (cents/kWh)			Incremental Cost (Comp. Supply – BS)		
	Basic Service	Comp. Supply	% Diff.	Total \$	% Diff.	Average Monthly Bill
Statewide	12.2	15.62	28%	\$17,739,625	29%	\$12.32



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Product Limitations

- Summary of 19-07-B reports: Gas

#### Impact of Competitive Supply on Low-Income Customers (2019)

	Average Price (\$/therm)			Incremental Cost (Comp. Supply – Default Service)		
	Default Service	Comp. Supply	% Diff.	Total \$	% Diff.	Monthly Bill
NSTAR Gas	\$0.5582	\$0.9480	70%	\$909,908	70%	\$21.75
National Grid Gas	\$0.5588	\$1.1602	108%	\$2,781,332	108%	\$30.68



# Product-Related Initiatives

## 1. Low-Income Customers (cont.)

### Product Limitations (cont.)

- These data raise significant concern regarding the manner in which the competitive market serves LI customers
- Staff proposal – 2 options:
  1. Establish product limitation akin to that proposed by staff during stakeholder process; OR
  2. Require all suppliers to report pricing information on LI products to assist the Department in identifying suppliers whose “performance” may warrant further scrutiny
    - Such suppliers may be subject to information/notification requirements (e.g., provide LI customers with information regarding the “premium” they are paying vis-à-vis basic service)





# Product-Related Initiatives

## 2. Monthly Price Products

### Scope

- The initiative set forth here would apply to products for which the contract includes a provision that calls for the customer to receive a price that remains fixed for a term of less than **six** months

### Information/Notification Requirements

- Background
  - Department requires suppliers to submit Contract Summary Forms for monthly-price products for our review (19-07-A at 39-40)
    - We have required suppliers to include on the Forms (i) price for initial month(s), and (ii) website URL/phone number through which customers can gain access to upcoming monthly price



# Product-Related Initiatives

## 2. Monthly Price Products (cont.)

### Information Requirements (cont.)

- Staff Proposal:
  1. Establish uniform requirements for suppliers regarding (i) timing of posting of upcoming monthly price, and (ii) vehicle(s) through which these prices will be made available to customers
  2. Provide notification to customers whenever price increases from one month to the next
    - Note - This would apply equally to “tiered” fixed-price products



# Product-Related Initiatives

## 2. Monthly Price Products (cont.)

### Reporting Requirements

- To date, Department has not established reporting requirements for monthly-price products
- Staff proposes that suppliers be required to report periodically on # of customers on monthly-price products



# Product-Related Initiatives

## 2. Monthly Price Products (cont.)

### Product Limitations

- Staff proposal – 2 options:
  1. Establish product limitation - price cannot increase by more than [*to be determined*]% from previous month; OR
  2. Require all suppliers to report pricing information on monthly-price products to assist the Department in identifying suppliers whose “performance” may warrant further scrutiny
    - Such suppliers may be subject to information/notification requirements (e.g., provide monthly-price customers with information regarding the premium that are paying vis-à-vis basic service)



# Product-Related Initiatives

## 3. Automatic Renewal

### Scope

- The initiative set forth here would apply to products for which the contract calls for the customer to receive a fixed price for a term **six** months or greater, at the end of which the supplier can automatically renew the customer to a new product

### Information/Notification Requirements

- Department established an automatic renewal notification requirement as a Tier One initiative (19-07-A at 66-68)
  - Suppliers must send notifications to customers between 30 and 60 days prior to the expiration of their contracts.
  - “Your current supply price, *[xx]* cents per *[kWh/therm]*, will end during *[month, year]*. Unless you contact us, your contract will automatically renew to a new price, ....”



# Product-Related Initiatives

## 3. Automatic Renewal (cont.)

### Reporting Requirements

- Department established an automatic renewal reporting requirement as a Tier One initiative (19-07-A at 71-74)
  - Semi-annual reporting on three types of information
    - number of total customers/automatic renewal customers that a competitive supplier is serving as of specified date
    - number of contracts that terminated during a specified six-month period, number of contracts that included an automatic renewal provision, and number of contracts that were automatically renewed
    - method used to deliver the automatic renewal notification to customers
  - Suppliers submitted their initial automatic renewal reports on August 3, 2020
    - Next report due February 1, 2021



# Product-Related Initiatives

## 3. Automatic Renewal (cont.)

### Product Limitations

- Background
  - During 19-07 stakeholder process, Department staff proposed automatic renewal product limitations:
    - Renewal price could not exceed specified market price (e.g., monthly basic service price)
    - Term of the renewal could not exceed specified period of time (e.g., three billing months)
  - The Department stated that we will continue to explore such limitations as a Tier Two initiative, including the reasonableness of linking a supplier's reporting requirements to its willingness to adopt such limitations (19-07-A at 74)



# Product-Related Initiatives

## 3. Automatic Renewal (cont.)

### Product Limitations

- Staff Proposal – 3 components:
  1. Terms and conditions of new product must remain unchanged from initial product, except as specified (customer has given affirmative authorization for specified terms and conditions - it is not intuitive that customer seeks/agrees to changes)
    - Price structure (fixed-price products can automatically renew only to new fixed-price products)
    - Price components (cents per kWh/therm; monthly charge)
    - Term
    - Renewable content
  2. No early cancellation fee
    - Regardless of whether initial product included such a fee





# Product-Related Initiatives

## 3. Automatic Renewal (cont.)

### Product Limitations

- Staff Proposal (cont.)

3a. Pricing Limitations (2 options):

- i. (a) new price cannot increase by greater than [*to be determined*]% from the existing price (applies to each price component); and (b) contract can only be automatically renewed once; OR
- ii. New price cannot exceed “best available” product price by greater than [*to be determined*]%

**OR**

3b. Reporting requirements

- Require all suppliers to report pricing information on automatic renewal products to assist the Department in identifying suppliers whose “performance” may warrant further scrutiny/additional notification requirements



# Market Efficiency

## Customer Account Number

### D.P.U. 19-07 (at 12-14)

- The Department seeks to address barriers that detract from the value that the competitive retail supply market can provide to customers
- One such barrier may be the requirement that suppliers provide a customer's distribution company account number in order to successfully enroll the customer, information that customers may not have readily available
- The Department sought input on the reasonableness and appropriateness of approaches that would allow suppliers to enroll customers without their account number, thus allowing suppliers to enroll customers in locations where customers may not have ready access to their account number



# Market Efficiency

## Customer Account Number

### Discussion

- The account number requirement seems to “force” suppliers to rely heavily on door-to-door (“D2D”) and telemarketing to enroll customers
  - Marketing channels that, from staff’s perspective, tend to lend themselves to aggressive/deceptive marketing practices
- Department staff seeks an approach that reduces the necessity of using these marketing channels, and allows suppliers to market their products in public settings (e.g., kiosks)



# Market Efficiency

## Customer Account Number

### Staff Proposal

- Guiding Principles
  - Suppliers should be allowed to enroll customers with personal information that is well-known by the customer, but not others
  - Improvements in market efficiency cannot be achieved at the expense of consumer protections against slamming
- One outcome that these principles would preclude is allowing successful enrollments to be based on information that is included in the distribution companies' Customer Information Lists



# Market Efficiency

## Customer Account Number

### Distribution Companies' Presentation

- Identify process(es) by which the companies could implement an “enroll with your wallet” approach most effectively and efficiently, taking into account the companies’ existing customer information systems and electronic business transaction infrastructure (see February 5, 2020 HO Memo at 20)

# Agenda

- ▶ Policy Concerns
- ▶ Enrollment Process
- ▶ Alternative Forms of Verification
- ▶ Proposals
- ▶ Concerns

# Policy Concerns With Eliminating the Customer Account Number Requirement

- ▶ The Companies are opposed to eliminating the Customer Account Number because it:
  - ▶ (1) will almost certainly result in increased unauthorized enrollments;
  - ▶ (2) would require costly utility billing system upgrades and additional administrative and overhead costs; and
  - ▶ (3) will produce questionable benefits that would be outweighed by harm to customers.
  - ▶ (4) data security concerns with maintaining customers' personal identifying information

# Customer Account Number and Supplier Enrollment Process

- ▶ The customer account number is a vital identifying marker used by the Electric Distribution Companies and LDCs to personally identify a specific customer.
  - ▶ Certain LDCs utilize PODID and meter number to verify a customer location in enrollments, drops and exchanges, which serve similar functions to the account number
- ▶ All competitive supplier enrollments, drops, and changes using the EDI process hinge on the use of the Customer's Account Number, Name Key and other information on the requested action (enrollment, drop, or change).
- ▶ The Account Number is *the single most* crucial data input as it is unique to each customer and acts as both a check in the IT system and an indicator that the customer at issue is making the affirmative and considered choice to enroll with a competitive supplier
- ▶ Every EDI transaction must have the Account Number and Name Key.
- ▶ The Customer Account number is a unique identifier that can be safely transmitted using the EDI process and used easily to validate a competitive supplier enrollment process.
- ▶ Transmitting other unique identifiers, including social security numbers, credit card or bank information or other data, present concerns about customer privacy and creates opportunities for bad actors to target the EDCs' and LDCs' customers.



# Alternative Forms of Verification are Inadequate

Using alternate forms of verification such as a customer's street address, last four digits of social security number (SSN), phone number, and birthday are inadequate.

- ▶ **Street address** - The service address is not specific enough and this data element is too readily available and doesn't identify the applicant as the customer of record. This would also require development changes in the EDI process.
- ▶ **Last 4 of SSN** - This data element may not be on file for every customer and is not sufficiently unique (possibility that last 4 of SSN overlap with other individuals).
- ▶ **Phone number** - The Companies do not always have an up-to-date phone number and may have a different number on file. Customers may not keep this up to date.
- ▶ **Birthday** - Certain companies do not have birthdays on file; for those who do, billing systems cannot do a search by birthday and this data element may not consistently available for every customer. Nor is a birth date private or unique.

# Alternative Methods of Verification are Inadequate

- ▶ Using two forms of ID
  - ▶ Only useful if they match the information on record and if all companies collect the same information.
  - ▶ Consistent data points may not exist for every customer across companies.
  - ▶ Would require EDI changes
- ▶ MA license number -
  - ▶ The Companies may not have license information on file and not every customer has a license.
- ▶ Full SSN -
  - ▶ Not all customers agree to the companies' maintaining this information on file. Presents security and compliance concerns.
- ▶ A match of three of the following, customer's full name, PODID, Meter Number, and Account Number, would produce a better result and is consistent information maintained by all companies.

# Alternative Forms of Verification are Inadequate (Continued)

- ▶ Alternative forms of verification will result in additional complications and security risks.
- ▶ Additional levels of security and compliance will be needed to protect customers' sensitive information.
  - ▶ Red Flag Act and Federal Privacy Laws
- ▶ Many of the alternative forms of verification are not unique or are publicly available
- ▶ Using inadequately private or unique information presents an increased risk of “slamming”

# Evaluation of Proposals

- ▶ To eliminate the barrier of using an account number, one option may be for customers to retrieve their account number with a mobile application or through website.
  - ▶ Less costly than other options and does not require adjustments to current process
  - ▶ Allows for on-the-go access of account number
  - ▶ Companies do have different levels of online adoption
- ▶ Change EDI to use something other than account number as primary key on enrollments
  - ▶ Costly and time consuming (EBT working group changes are time consuming and difficult to develop)
  - ▶ Potential for mismatched information on new identifiers, such as typos (e.g., Johnson v Jonson, Ash St. v Ashe St., etc.)
  - ▶ LDCs may have different reliability/consistency with other identifying information available.
  - ▶ High probability of increase in rejected transactions for inaccurate data
- ▶ Web portal whereby customers can look up account number using other personal information, i.e., enter last 4 of social and address into website lookup, website returns back account number or necessary identifier for use in EDI enrollment. Leverage two-factor authentication to increase security.
  - ▶ Example - Customer provides Supplier Representative with last 4 of social, last name, and cell phone number or email. Supplier visits website, chooses correct utility, and enters information provided by customer. Customer receives automated email or text message with link to click to authenticate. Customer receives back account number via email or text message to provide to Supplier rep for enrollment.
  - ▶ Costly and time consuming, with unknown benefits
  - ▶ Potentially outsourced to 3<sup>rd</sup> party vendor for single interface for Suppliers and Companies

# Concerns

- ▶ **Cost** - Depending on the method, supporting implementation would require system modification to the current EDI system.
  - ▶ Additionally, mobile applications or website access are already an option to obtain the billing account number, PODID and Meter Number which are the keys to enrollment today for EDCs and LDCs
  - ▶ Significant rebuilds of the Companies' systems could be required
- ▶ **Security Issues** - There are security concerns with using personal identifying information and the Companies would have to install data security protocols to encrypt to secure data being exchanged. Security concerns related to use of third-party portal as well
- ▶ **Cybersecurity** - Encryption would be required to protect the sensitive data from being exposed, increased compliance obligations depending on nature of personal information selected



# Department Oversight Third-Party Verification

## D.P.U. 19-07 (at 11-12)

- The Department seeks to expand the role of third-party verification (“TPV”) in ways that would protect customers from purchasing supply products about which they are insufficiently informed
  - e.g., require customers to accurately state information included on the Contract Summary Form as condition for successful enrollment

## Department Staff Proposal

- During 19-07 stakeholder process, staff put forth a proposal for an enhanced TPV process
  - All (outgoing) telemarketing calls and D2D marketing interactions that result in a sale would be confirmed by a TPV call
  - For an enrollment to be considered successful, a customer would be required to affirmatively identify the name of the supplier, as well as specified product information



# Department Oversight Third-Party Verification (cont.)

## Summary of Comments

- Department requested comments on staff's proposal (Feb 22 HO Memo at 19)
- In support:
  - proposal represents a first step towards improving and strengthening the TPV process, but more work is required to ensure that TPV can be relied upon as a check and verification to the enrollment process
    - TPV calls are prone to (1) manipulation by suppliers/agents, and (2) tampering



# Department Oversight Third-Party Verification (cont.)

## Summary of Comments (cont.)

- In opposition
  - proposal would convert the TPV process from a mechanism to demonstrate customers' affirmative choice to an oral examination about product details
    - cause otherwise valid enrollments (9.235 cents/kWh versus 9.2)
  - unnecessarily lengthen the TPV process/negatively impact customer experience
  - would require suppliers to develop MA-specific TPV systems
  - would eliminate use of automated TPV services





# Department Oversight Third-Party Verification (cont.)

## Supplier Presentation

- Provide overview of suppliers' current TPV practices; e.g.,
  - Use of live versus pre-recorded TPV agent
  - Role of marketing agent in TPV call
  - Information for which affirmation is required

# Third Party Verifications



CURRENT PROCESS



ROLE OF THE  
TELEMARKETING AGENT



PRODUCT  
INFORMATION

# Third Party Verifications

## PROCESS

- Suppliers use live, prerecorded, combination
  - Live = flexibility, requires training
  - IVR = less risk, less expensive
  - QA included in both processes
- Questions must be Y/N
  - Customer inquiry, uncertainty, agent interaction, or negative response will terminate TPV
- No supplier surveyed uses interactive TPV. Unaware of its use in any industry
- Other Options – Text, Email, Chat

## ROLE OF THE AGENT

- Warm transfer
  - Explain purpose of TPV to customer
- Agent drops off call or remains silent
  - Any agent interaction results in failed or terminated TPV

## PRODUCT INFORMATION

- Account Information – Name, etc.
- Rescission period
- Rate
- Term
- Renewable & other product content
- ETF
- Savings (i.e. none guaranteed)
- Renewal



# Department Oversight Access to Recordings

## 19-07-A (at 56-57)

- Suppliers must record all outgoing telemarketing calls conducted on their behalf and retain calls for which the duration exceeds one minute for a minimum of two years.
  - applies to calls that do and do not result in a customer enrollment
- The Department will discuss with stakeholders the means by which we can gain access to recordings a timely manner

## November 19, 2020 HO Memo (at 12)

- Staff proposes that suppliers be required to submit recordings to the Department within 3 business days of our request
- The Department will address the issue of “real-time access” to recordings as a Tier Two initiative
  - allow us to review calls on a pro-active basis



# Department Oversight Access to Recordings (cont.)

## Supplier Presentation

- Provide overview of ways in which suppliers comply with Department's directive in 19-07-A; e.g.,
  - Do suppliers typically delegate responsibility of recording/retaining calls to third party marketing vendors?
  - What steps do suppliers typically take to ensure that vendors are complying adequately?
  - Do suppliers typically have direct access to recordings, or must they request them from the vendor?
    - i.e., which entity typically is the guardian of the recordings?
  - Are recordings typically stored electronically in the "cloud"?
  - What happens to recordings if a supplier terminates its relationship with a vendor?

# Access to Recordings



3<sup>RD</sup> PARTY  
VENDORS



ACCESS TO  
RECORDINGS



VENDOR  
TERMINATION

# Access to Recordings

## **USE OF THIRD-PARTY VENDORS**

- Suppliers use in-house, vendor and hybrid approaches
  - Commercial decision with advantages to each
  - Contracts, enforcement, training, Quality Assurance used to ensure compliance

## **VENDOR TERMINATION**

- Contractual right to data transfer or will require access as long as is necessary
- Invoke contractual rights and remedies

## **DIRECT ACCESS**

- Depending on vendor, suppliers may have direct access or need to make requests for recordings
- Retained according to business records standards and protections
- As technology changes – i.e. cloud-based services – retrieval times and access to recordings may change based on the age of the call



# Next Steps

- Discussion
- Reminder #1- Tier “One B” comment deadlines:
  - Initial comments are due by **Jan. 11, 2021**
  - Reply comments are due by **Feb. 4, 2021**
- Reminder #2 – Supplier Enrollment and Automatic Renewal Reports will be due February 1, 2021
- Discussion of Supplier Complaint Scorecard