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EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES

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January 11, 2021

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

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

Dear Secretary Marini:

Pursuant to the Hearing Officer's November 19, 2020, *Memorandum Requesting Comments* in the above captioned proceeding, the Massachusetts Department of Energy Resources ("DOER") respectfully submits the below comments.

Please file in accordance with your usual practices and do not hesitate to contact me with any questions.

Thank you for your attention to this matter.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENERGY RESOURCES

By its attorney:



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Enclosures

Cc: Gregory Wade, Hearing Officer
D.P.U. 19-07 Service List

**Commonwealth of Massachusetts
Department of Public Utilities**

Investigation by the Department of Public Utilities on its)
own Motion into Initiatives to Promote and Protect)
Consumer Interests in the Retail Electric Competitive)
Supply Market)

D.P.U. 19-07

**Comments of the Department of Energy Resources On the
Department of Public Utilities' Investigation into the
Retail 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 Request for Comments issued on November 19, 2020, in the above referenced proceeding.

I. INTRODUCTION

In its Request for Comments, the Department put forth proposals on which it seeks stakeholder comment regarding the following initiatives: (1) license renewal applications; (2) door-to-door marketing notifications; (3) disclosure of product information (renewable energy and basic service information to be included on contract summary form); (4) recording of telemarketing calls; (5) review of direct mail marketing; (6) the display of renewable energy information on the Energy Switch website; and (7) the definition of a small commercial and industrial (“C&I”) consumers.

II. COMMENTS

DOER is supportive of the Department’s efforts to further improve the retail electric competitive supply market. In this proceeding, the Department has made significant progress,

and its proposals on industry marketing requirements will increase transparency into the industry, protect consumers, and improve the operational efficiency of the competitive market to improve the value for ratepayers. DOER provides specific comments below on: (1) the license renewal application process; (2) disclosure of product information on the contract summary form (renewable energy and basic service information to be included); and (3) display of renewable energy information on the Energy Switch MA Website.

A. Public Access to License Renewal Applications

In a previous Order in this docket, the Department developed and has since implemented a process to allow stakeholders to comment on pending new license applications. (D.P.U. 19-07-A at 10-12). In the same Order, the Department stated that it is not appropriate to subject license renewal applications to a stakeholder comment process because of the administrative nature of the Department's review of such applications (*i.e.*, to verify that a licensee seeks to maintain its license for the upcoming year and ensure that the licensee's business information is current). (D.P.U. 19-07-A at 12-13). As an alternative, the Department proposed posting a licensee's renewal applications on its website (D.P.U. 19-07-A at 13) and is now taking comment on the contents of the existing license renewal application, including: (1) legal name of applicant; (2) applicant's business address; (3) website URL (optional); (4) contact information for a customer service contact person; (5) contact information for a regulatory contact person; (6) name and address of a resident agent for service of process; (7) a summary of any history of bankruptcy, dissolution, merger, or acquisition of the entity in the last year; and (8) a statement identifying whether there have been any regulatory actions taken against the applicant in any jurisdiction over the last year. (Request for Comments at 3).

DOER appreciates the Department's efforts to provide a measure of transparency into its existing license renewal process, while avoiding the administrative burden associated with adjudication of each application. DOER notes, however, that renewal applications are due to the Department on or before July 1 of each year, which coincides with the date each competitive supplier must file its annual Renewable Energy Portfolio Standard ("RPS") and Alternative Energy Portfolio Standard ("APS") Compliance Filing with DOER for the prior Compliance Year. (225 CMR 14.09, 15.09, 16.09). If a competitive supplier's annual Compliance Filing to DOER shows that it has either not acquired the required amount of Renewable Energy Certificates ("RECs"), Alternative Energy Certificates ("AECs"), or made Alternative Compliance Payments ("ACPs") to account for any shortfall, that supplier will be in non-compliance for the prior Compliance Year. The process to determine if a competitive supplier is in non-compliance can take several weeks prior to DOER taking specific regulatory actions against the company.

As a result, the coincident timing of DOER's compliance filings and the license renewal may have the unintended consequence of allowing for a competitive supplier to maintain its license for another full year while in non-compliance with DOER's regulations.¹ DOER appreciates that the Department's renewal process is administrative in nature and not conducive to a public comment process, but would propose that due to the proximity of the license renewal date to DOER's annual RPS/APS Compliance Filings, the Department consult with DOER on its list of entities in non-compliance with the RPS/APS regulations prior to granting any renewals

¹ Question #8 on the license renewal form requires a competitive supplier to "[p]rovide a statement identifying whether there have been any regulatory actions taken against the applicant in any jurisdiction in the last year." A company seeking to renew its competitive supplier license will know by July 1 of each year, and realistically weeks before the Compliance Filing is due when the REC trading market for the Compliance Year closes, whether it fully complied with DOER's RPS and APS regulations for the prior Compliance Year. Due to the administrative process and added time it takes for DOER to actually issue a Notice of Non-Compliance, however, it would still be able to declare on July 1 that no regulatory actions were taken against it in the prior year.

for the coming Compliance Year. DOER believes this will prevent companies from serving customers in Massachusetts for an additional year, while knowingly in non-compliance with DOER's regulations.

B. Disclosure of Renewable Energy Information on the Contract Summary Form

The Department set forth an initiative that requires competitive suppliers to provide customers, at the point of sale, with a Contract Summary Form that includes: (1) product information related to price, term, early cancellation fee, automatic renewal, and renewable energy content; and (2) general information about the competitive supplier, the customer's distribution company, consumers' right to rescind, and the Energy Switch MA website. (D.P.U. 19-07-A at 39-50). The Department is proposing to improve the Contract Summary Form by requiring more information on: (1) the competitive supply products' voluntary renewable energy content; and (2) the applicable basic or default service price. (Request for Comments at 11-13).

DOER supports the Department's proposal to require competitive suppliers to provide more detailed information about a product's voluntary renewable energy resources on the Contract Summary Form. DOER, however, proposes the following edits to the Department's proposed language for the three types of voluntary renewable energy products (in blackline):

1. *Voluntary renewable energy products that include renewable resources located outside the New England region:*

The Commonwealth of Massachusetts requires that all electric supply products include, in [2020], a minimum of [27]% clean energy resources that are located within the ~~New England~~ Northeast region, including at least [16]% of which the Commonwealth has designated as "~~premium~~" new regional renewable resources. This product includes [100]% renewable energy resources, although ~~the~~ resources that exceed the state minimum requirement may be located outside of the ~~New England~~ region and ~~have not been designated as "premium" resources by the Commonwealth~~ do not contribute towards achieving the Commonwealth's emission limits under the Global Warming Solutions Act.

2. *Voluntary renewable energy products for which all resources are located within the New England region but are not RPS Class I resources:*

The Commonwealth of Massachusetts requires that all electric supply products include, in [2020], a minimum of [27]% clean energy resources that are located within the ~~New England~~ Northeast region, including at least [16]% of which the Commonwealth has designated as “~~premium~~” new regional renewable resources. This product includes [100]% renewable energy resources, and although the ~~and all of the~~ resources that exceed the state minimum requirement ~~are located within the New England region, but~~ have not been designated as new regional renewable “premium” resources by the Commonwealth, they may contribute towards achieving the Commonwealth’s emission limits under the Global Warming Solutions Act.

3. *Voluntary renewable energy products for which all of the voluntary renewable resources are located within the New England region and are RPS Class I resources:*

The Commonwealth of Massachusetts requires that all electric supply products include, in [2020], a minimum of [27]% clean energy resources that are located within the ~~New England~~ Northeast region, including at least [16]% of which the Commonwealth has designated as “~~premium~~” new regional renewable resources. This product includes [100]% renewable energy resources, all of which have been designated as new regional renewable resources ~~are located within the New England region and have been designated as “premium” resources by the Commonwealth~~ contribute towards achieving the Commonwealth’s emission limits under the Global Warming Solutions Act.

DOER’s additional proposed language increases transparency for consumers and promotes competition for products that contribute directly to achieving the Commonwealth’s emission limits.

DOER is also supportive of the Department’s proposed language to specify basic service/gas supply rates on the Contract Summary Form. The inclusion of current and upcoming basic service and gas supply rates increases transparency and provides consumers with additional information that allows for informed decision-making.

C. Display of Renewable Energy Information on the Energy Switch MA Website

The Energy Switch MA Website currently only displays information about an energy product's voluntary renewable content if it is composed of at least 50 percent of non-RPS Class I renewable energy resources, including the content already required by the Commonwealth. In addition, for energy products that are composed entirely of RPS Class I resources, the Energy Switch MA Website will display information about an energy product's voluntary renewable content regardless of the percentage that renewable resources compose the products. (D.P.U. 19-07-A at 88-89). The Department is now proposing to eliminate the 50 percent minimum renewable energy content requirement for Non-RPS Class I products, resulting in the Energy Switch MA Website displaying the voluntary renewable energy content information of all products that exceed the content required by the Commonwealth, regardless of whether the product is composed entirely of RPS Class I resources.

DOER supports the Department's proposal to display information on the Energy Switch MA Website about a product's voluntary renewable content regardless of the percentage for products composed entirely of RPS Class I resources. Any voluntary RPS Class I renewable content contributes directly to achieving the Commonwealth's emissions limits and is relevant to increased transparency for consumers and to promote competition among suppliers. DOER, however, is not supportive of the proposal to remove the 50 percent minimum content requirement for products that contain non-RPS Class I renewable resources that do not contribute towards achieving the Commonwealth's emission limits under the Global Warming Solutions Act. These products are often offered at a premium price and requiring minimum percentage of renewable content may protect ratepayers against increased cost for resources outside New England that may have limited or non-confirmable emission reduction impact.

III. CONCLUSION

DOER's recommendations as set forth in these comments will better promote and protect consumer interests, increase transparency and stakeholder input into the supplier licensing process and provide critical rate information to customers about the renewable energy offerings in competitive suppliers' products. DOER appreciates the opportunity to comment on these important issues associated with the competitive supply market.