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BY EMAIL

Mark D. Marini, Secretary
Commonwealth of Massachusetts
Department of Public Utilities
One South Station
Boston, MA 02110

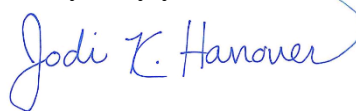
Re: Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market, D.P.U. 19-07

Dear Secretary Marini:

On behalf of CleanChoice Energy, Inc., enclosed for filing in the above-captioned docket please find the Comments of CleanChoice Energy in response to the Request for Comments issued by the Department of Public Utilities on November 19, 2020.

Should you have any questions with respect to today's filing, please do not hesitate to contact me.

Very truly yours,



Jodi K. Hanover

Enclosure

cc: Gregory Wade, Esq., Hearing Officer

**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)	D.P.U. 19-07
Supply Market)	
)	

COMMENTS OF CLEANCHOICE ENERGY

I. INTRODUCTION

On January 18, 2019, the Department of Public Utilities (the “Department”) opened this proceeding and proposed initiatives to “further improve the protections provided to residential customers related to the marketing and delivery of competitive suppliers’ product offerings” in the retail electric competitive supply market. D.P.U. 19-07, at 4. On May 22, 2020, the Department issued D.P.U. 19-07-A, in which it set forth certain initiatives, but also identified issues associated with several of these initiatives that require further discussion with stakeholders. As stated in the November 19, 2020 Hearing Officer Memorandum (“November 19 Memo”), the Department is now requesting comments on proposals related to the issues discussed in the August 6, 2020 Zoom meeting and staff proposals related to the untimely filing of license renewal applications and customer assignment for gas customers.

CleanChoice Energy, Inc. (“CleanChoice”) is a licensed competitive electric supplier that has been serving Massachusetts customers since 2016. CleanChoice submits the following comments in response to the Department’s Request for Comments in the November 19 Memo.

II. EXECUTIVE SUMMARY

CleanChoice Energy empowers people and businesses to cut emissions, support renewable energy, and live cleaner lives. To that end, we offer exclusively 100% renewable energy supply products in restructured energy markets and we are also actively offering Massachusetts customers the opportunity to support the development of solar in the Commonwealth through community solar. Since our founding in 2013, CleanChoice customers have collectively avoided more than 4 billion pounds of carbon dioxide emissions – the equivalent of not burning more than 2 billion pounds of coal.

CleanChoice has been an active participant in this investigation. CleanChoice continues to be appreciative of the Department's invitation to provide stakeholder input in this proceeding and its initiatives to promote a more competitive marketplace that includes appropriate consumer protections. Key themes that CleanChoice highlights in its specific comments below include support for clear terminology, accurate and understandable information, and appropriate level of detail in the Contract Summary, and clarity with respect to the review of marketing materials to ensure that procedures established in this Investigation remain clear and reliable.

III. COMMENTS

A. Section II: Public Access to License Renewal Applications

In order to support public access to license renewal applications, the Department is seeking to better understand how to revise the existing license renewal application to provide information that would be most useful to stakeholders, while ensuring that posting such information on the Department's website would not violate licensees' confidentiality concerns. D.P.U. 19-07-A at 13. The Department proposes to add information related to licensees' corporate structure to the license renewal application. November 19 Memo at 3. Staff requests

comment on the proposal, including whether the posting of such information on the Department's website would pose confidentiality concerns. November 19 Memo at 3-4. CleanChoice does not oppose this proposal. Such information may be helpful to stakeholders and Department staff in understanding what other affiliates a supplier may have operating within Massachusetts. Similar corporate structure documentation is provided for license renewals and applications in other jurisdictions. While some corporate structure information may be publicly available, other information may be confidential. As such, applicants should retain existing rights to file a request for confidential treatment of any information that the applicant considers to be proprietary.

In addition, consistent with the discussion during the Zoom meeting, Staff requests comment on whether (and if so, why) the license renewal application would be more useful to stakeholders if the application indicated whether a licensee is licensed to serve residential customers. November 19 Memo at 3-4. CleanChoice does not have any information to determine if this would be more useful to stakeholders. In the event that the Department determines that an indication is useful, CleanChoice does not oppose a requirement that the applicant indicate that it is licensed to serve residential customers.

B. Section III: Door to Door Marketing Notification

At this time, CleanChoice does not conduct door-to-door marketing for retail customers and therefore takes no position on Staff's proposal.

C. Section IV: Contract Summary Form

In D.P.U. 19-07-A, the Department identified two additional ways in which it believes the usefulness of the Contract Summary Form could be improved, related to information regarding (1) the competitive supply products' voluntary renewable energy content and (2) the applicable basic or default service price. D.P.U. 19-07-A at 43-45, 48-49.

1. *Specified language to be included in the contract summary form for three types of voluntary renewable energy products.*

Department Staff seek comments on specified language to be included in the contract summary form by proposing three types of voluntary renewable energy products, as follows: voluntary content that is 100% RPS Class I and located in the New England region, voluntary content that is located in the New England region but is not RPS Class I resources, and voluntary content from resources outside NE region. November 19 Memo at 12-13. CleanChoice is supportive of the new renewable energy disclosures required on the Contract Summary adopted by the Department in the Tier One Order issued in May 2020 (effective in September 2020 – less than four months ago), but has significant concerns with Staff’s current proposal. First, CleanChoice believes that the existing disclosures are adequate and while it understands that this docket is evolving, it discourages additional revisions to the Contract Summary at this time. Second, although the existing Department rules do not restrict the types of voluntary renewable products that can be offered to customers, Staff’s proposal *creates* three distinct categories of renewable energy products. It is not clear whether there is a need or benefit to categorizing voluntary renewable energy products, and even if the market would benefit from the creation of categories, there is no evidence to support that the proposed categories are appropriate or will provide understandable, useful information to customers.

CleanChoice is also concerned that the terminology used in the proposed language is likely unfamiliar to customers, and therefore will not be easily understood or useful. The proposal includes use of the phrasing “designated as ‘premium’ resources by the Commonwealth.” While the meaning of this phrase may be understood by Department Staff and by energy industry “insiders,” the term “premium” is not defined for customers and it is unlikely

that residential customers would readily understand this term or phrase, or interpret in its intended manner. Even expanding the disclosure to include further explanation like, “premium resources means RPS Class I resources” as indicated in a footnote of Staff’s proposal is unlikely to significantly increase the meaningfulness of this phrase to customers, since customers are not generally familiar with this designation either.

The term “premium” is more generally understood to convey a product of superior quality and therefore a higher price. Even this concept is subjective - what one customer might perceive to be “superior quality” might only be of average quality to another customer. Further, stating that a product that includes resources outside of the New England region and stipulating that such resources “have not been designated as ‘premium’ resources by the Commonwealth” indicates to a reader that such product is of lesser quality than a “premium” product.

CleanChoice believes that this statement inappropriately conflates voluntary renewable products offers with RPS compliance requirements. There is no basis in statute or existing rules to define *voluntary* renewable products as “premium” or “not premium.” CleanChoice believes that customers are best positioned to judge whether the attributes of a particular product meet their needs and values.

CleanChoice also believes that this level of detail is inappropriate and unhelpful in the Contract Summary. The Contract Summary is intended to capture the key terms of a contract and allow the customer to confirm their understanding of these essential terms. Therefore, it is imperative that the document does not introduce new or potentially confusing terms, which would negate the purpose of an easy-to-understand Contract Summary. Nothing in the Department’s existing rules require the contract terms and conditions (or terms of service) to include this level of detailed information about the composition of a voluntary renewable

product. CleanChoice submits that information that is not required or reflected in the contract itself should not be required in the Contract Summary.

CleanChoice supports the current renewable energy disclosures required on the Contract Summary, but does not support Staff's proposal to create three distinct categories or to describe certain voluntary renewable products as "premium."

2. Basic Service and Gas Supply information

The Department Staff proposes that Contract Summary Forms include specific information on the basic service rate. November 19 Memo at 12-13. CleanChoice opposes this recommendation. The Contract Summary form is designed to provide the customer with an easy-to-understand summary of the terms of service being offered by the supplier. Introducing basic service rate information on this form would be inappropriate and could create confusion about the relationship between the supplier and the utility. A customer seeking to find basic service information and compare that price to the price being offered by a supplier has a number of means to do that – from their own utility bill, to the Department's website, or by contacting the utility directly. A customer who is accessing a Contract Summary form has already completed their research and selected a supplier; it is inappropriate and potentially confusing to require a supplier to provide utility basic service rate information on its own contractual documents.

D. Section V: Recording of Telemarketing Calls

In D.P.U. 19-07-A the Department set forth an initiative related to the recording of outgoing telemarketing calls. D.P.U. 19-07-A at 56-57. Department Staff proposes that Competitive Entities be required to submit recordings to the Department within three business days of the Department's request. November 19 Memo at 16-17. CleanChoice is supportive of this proposal provided that it is made clear that such Department requests should be regarding a specific customer or lead with whom a supplier has made contact. Additionally, the Department

should also provide reasoning for each request – for example, by citing a specific customer complaint. The authority to request recordings in this context should not be construed to permit the Department to make a broad or sweeping request for all or a representative sample of recordings for outbound calls a supplier (or its vendor) has made. CleanChoice understands that the Department retains the right to request additional information pursuant to an informal investigation in which different rules and timeframes would apply.

E. Section VI: Direct Mail Marketing

In D.P.U. 19-07-A at 60-64, the Department set forth an initiative that requires Competitive Entities to submit their direct mail marketing materials to the Department for review. Department staff proposes that the Department include the Attorney General on the email that it sends to Competitive Entities informing them that they can proceed with using the marketing material attached to the email. November 19 Memo at 17. CleanChoice does not oppose this proposal, but believes that additional clarity is needed on the objective of this proposal. CleanChoice understands and appreciates the Attorney General’s unique role in Retail Electric Competitive Supply Market and in protecting customers. With respect to this proposal, however, CleanChoice is unclear whether the inclusion of the Attorney General is meant to be for informational purposes, or whether the marketing materials already approved by the Department would be subject to additional and separate review by the Office of the Attorney General. If the former, CleanChoice does not oppose the recommendation. If the latter, however, CleanChoice believes that would negate the purpose of the clear review process established in this Investigation.

Currently, retailers are required to submit all direct mail marketing materials to the Department for review in advance of using such materials. In contrast, while the Attorney General has a general right to request review of such materials on an individual basis, retailers do

not have an affirmative obligation to submit materials to the Attorney General's Office for "pre-approval." While CleanChoice does not object to the Department including the Office of the Attorney General on the final approval emails it sends to suppliers confirming approval of their marketing materials, it would not be productive for the Attorney General to provide additional feedback on marketing materials at this stage, since the material would have already been approved by the Department, and the Competitive Entity would be likely to begin using the material as soon as practicable. Providing for additional review from the Attorney General at the conclusion of the Department approval process would introduce uncertainty and confusion about whether the retailers may proceed with marketing materials, and thwart the purpose of the guidelines established through this investigation that were intended to provide a clear process. Therefore, CleanChoice is supportive of this proposal only to the extent that the inclusion of the Attorney General on the Department's approval communication does not subject the Competitive Entity to further automatic review, and that it is clear that the Competitive Entity may move forward with using the marketing material immediately upon approval from the Department.

F. Section VII: Display of Renewable Energy Products on Energy Switch

In D.P.U. 19-07-A, the Department stated that it intends to work with stakeholders to improve the manner in which the Energy Switch website displays information regarding the voluntary renewable energy content of renewable energy products, including the elimination of the minimum content requirement for Non-RPS Class I products. D.P.U. 19-07-A at 89. Department Staff now proposes to eliminate the minimum renewable energy content requirement for Non-RPS Class I products so that the Energy Switch website would display information related to the voluntary renewable energy content of all products that exceed the content required by the Commonwealth, irrespective of whether the product is composed entirely of RPS Class I

resources. November 19 Memo at 18. CleanChoice is supportive of this proposal so long as the total renewable energy associated with a product is clearly presented to customers.

G. Section VIII: Definition of Small Commercial and Industrial Consumer

Department Staff proposes definitions for a gas small C&I consumer and electric small C&I consumer, and proposes that, for a gas or electric C&I consumer that has multiple distribution company accounts (e.g., a fast-food chain with multiple locations), Competitive Entities may aggregate the usage of each individual account to determine whether the consumer should be treated as a small C&I consumer for the purpose of complying with the applicable initiatives. November 19 Memo at 18-19. CleanChoice supports the definitions and the aggregation proposal. CleanChoice does not have any comments at this time regarding the treatment that should be provided to new gas or electric distribution customers for whom historical annual usage is not available.

H. Section IX: Other Issues

1. Untimely License Renewal Applications

In the February 5, 2020 Hearing Officer Memorandum, at 21, Department staff put forth a proposal regarding the untimely filing of license renewal applications by Competitive Entities, subsequently received comments on such proposal, and currently seeks comments on additional proposals for rules and enforcement procedures for situations in which Competitive Suppliers and Electricity Brokers/Gas Retail Agents fail to submit a renewal license application within fourteen calendar days from the renewal due date. November 19 Memo at 18-19. CleanChoice is generally supportive of the proposal for Competitive Suppliers, but believes additional notification procedures related to enforcement should be included in the proposal. Specifically, CleanChoice suggests that the Department should send a “cease and desist” or other specific

notice to the delinquent supplier affirmatively notifying such supplier that it is prohibited from submitting new enrollment requests to the utility from a specific date forward.

2. Customer Assignment for Gas Customers

CleanChoice is not a gas supplier and therefore takes no position on this proposal.

IV. CONCLUSION

CleanChoice appreciates the Department's invitation to provide stakeholder input in this proceeding and its initiatives to promote a more competitive marketplace that includes appropriate consumer protections. A competitive retail energy market enables Massachusetts customers to easily access renewable energy and advance the Commonwealth's goals to advance a clean energy economy. CleanChoice encourages the Department to consider its comments in order to provide for clarity for Competitive Entities in following established rules, and for customers in being able to make informed decisions regarding competitive supply based on supported information and clear and digestible documentation. CleanChoice looks forward to continued participation in this discussion and remaining phases of this investigation.

Respectfully submitted,

CLEANCHOICE ENERGY, INC.

By its attorneys,

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