



Competitive Market for Electric Supply Next Steps

DPU 19-07 Working Group Meeting
March 6, 2025



Purpose

- In this meeting, Department staff presents to stakeholders a proposal for how the market for competitive retail electric supply could be reset to address concerns raised by a broad range of stakeholders related to misleading/deceptive market practices and high prices
- Staff seeks to gauge the interest of stakeholders to work collaboratively with staff to resolve these problems



Background

Department Orders

- Over the past ten years, the Department has initiated three investigations related to the retail competitive electric supply market:
 - DPU 14-140: Initiatives to Improve the Retail Electric Competitive Supply Market
 - DPU 16-156: Interim Guidelines for Competitive Supply Formal Investigations and Proceedings.
 - DPU 19-07: Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market



Background






DPU 14-140

- The Department opened this investigation to address an anticipated increase in market activity for residential and small commercial and industrial customers and concerns about problems with customer marketing
- The most significant outcome was the development of the Energy Switch website (operational in 2016), which provides **useful and understandable** information to customers about electric supply products
 - allowing customers to make **informed decisions** in selecting supply products that best suit their needs, thus making them less susceptible to deceptive marketing



Background

Energy Switch Website

Electric Supply Products					Total Products: 46
SUPPLIER NAME	PRICE ⓘ	CONTRACT TERM ⓘ	RENEWABLE ENERGY ⓘ	ADDITIONAL PRODUCTS & SERVICES	ESTIMATED MONTHLY COST ⓘ
Basic Service ⓘ	15.772 ¢/kWh TBD	Aug '24 through Jan '25 Feb '25 through Jul '25	Required:62% Voluntary:0% TOTAL : 62%		\$94.63 through Jan '25
City of Boston Community Choice Electricity Program ⓘ	14.805 ¢/kWh	through Dec '25 No cancellation fee Automatic renewal ⓘ	Required:62% Voluntary:15% TOTAL : 77% New regional resources		\$88.83 through Dec '25
 Sign Up Compare <input type="checkbox"/> New Customers Only ⓘ	12.570 ¢/kWh	6 months No cancellation fee Automatic renewal ⓘ	Required:62% Voluntary:38% TOTAL : 100%		\$75.42 through Mar '25
 Sign Up Compare <input type="checkbox"/> New Customers Only ⓘ	12.670 ¢/kWh	6 months No cancellation fee Automatic renewal ⓘ	Required:62% Voluntary:0% TOTAL : 62%		\$76.02 through Mar '25
 Sign Up Compare <input type="checkbox"/>	13.370 ¢/kWh	14 months No cancellation fee Automatic renewal ⓘ	Required:62% Voluntary:0% TOTAL : 62%		\$80.22 through Nov '25
 Sign Up Compare <input type="checkbox"/> New Customers Only ⓘ	13.390 ¢/kWh	15 months Cancellation fee ⓘ Automatic renewal ⓘ	Required:62% Voluntary:0% TOTAL : 62%		\$80.34 through Dec '25
 Sign Up Compare <input type="checkbox"/>	13.490 ¢/kWh	24 months Cancellation fee ⓘ Automatic renewal ⓘ	Required:62% Voluntary:0% TOTAL : 62%		\$80.94 through Sep '26



Background

DPU 16-156

- The Department opened this investigation to establish guidelines that govern the way in which the Department investigates whether a competitive supplier has violated the Department's consumer protection regulations (220 CMR 11.07)
- The Department has conducted several DPU 16-156 investigations:
 - informal reviews, which led to Informal Remedial Plans
 - formal proceedings, which led to Consent Agreements



Background

DPU 19-07

- The Department opened this investigation in large part in response to the 2018 Attorney General Report, “Are Consumers Benefiting from Competition?”
- The Report concluded that residential customers suffered large financial losses in the individual competitive electric supply market, and recommended that legislators either:
 - eliminate the market for residential customers; or
 - take actions that would ensure (1) the level of **transparency and informed decision-making** that is required for a well-functioning market, and (2) adequate oversight and enforcement over supplier actions



Background

DPU 19-07 (cont.)

- The Department stated that customer awareness – **transparency and informed decision-making** - is the fundamental building block of a well-functioning competitive supply market
 - to ensure such awareness, it will work with stakeholders to identify ways to promote the use of Energy Switch
- Staff led a stakeholder process from Jan 2019 through May 2020 to develop the initiatives related to:
 - Contract summary forms
 - Automatic renewal notifications
 - Review of direct mail marketing material
 - Notification of door-to-door (“D2D”) marketing
 - Marketing vendor information



Background

DPU 19-07 (cont.)

- Initiatives (cont.)
 - Marketing scripts (telemarketing and D2D)
 - Retention of telemarketing calls
 - Customer Enrollment Reports
 - Automatic Renewal Reports



Political Landscape

- The Attorney General issued an updated Report in January 2025, which asserts that, over the nine-year period evaluated in the Report, individual residential customers who switched to competitive supply paid \$651 million more than they would have had they stayed on basic service
 - \$73.7 million during the period, July 2023 through June 2024, predominately in low-income communities
- The recent legislative session ended with no legislation passed related to the competitive market
- As such, the future of the competitive market remains uncertain and contentious



Discussion Overview

- From staff's perspective, there are two overarching problems with the state of the existing competitive market
 1. Misleading/deceptive sales practices targeting vulnerable customers
 2. High prices
- The question is: Why, decades after the introduction of a competitive supply market, are so many electricity customers in Massachusetts vulnerable to these practices?



Discussion

Overview (cont.)

- The answer is: Because, even after ten years of efforts to provide transparency to customers regarding competitive supply (i.e., providing useful, understandable information that is readily available), customers remain (i) under-educated about their electric service, (ii) under-informed about their supply options; and (iii) generally under-interested
- From staff's perspective, it is time to acknowledge that refinement of the initiatives developed in DPU 19-07, or the development of other such initiatives will not be sufficient to fix the market
 - these initiatives “nibble around the edges” of the market's problems, when what it needed is a **market reset**



Discussion

Misleading/Deceptive Marketing

- Five primary marketing channels:
 1. Telemarketing
 2. Door-to-door
 3. Direct mail
 4. Table-top
 5. Digital/Email
- From staff's perspective, telemarketing and door-to-door marketing create easily exploited opportunities for *unscrupulous* suppliers to engage in deceptive sales practices that prey on vulnerable customers
- Staff does not intend to imply that the majority of suppliers are *unscrupulous* – however, there are enough of them to cause problems both for customers and for *scrupulous* suppliers



Discussion

Deceptive Marketing (cont.)

- From staff's perspective, nothing good can come out of telemarketing or D2D marketing - the use of these marketing channels should be eliminated
- While direct mail and table-top marketing potentially could be a more customer-friendly marketing channel, they also present ample opportunity for *unscrupulous* suppliers to prey on vulnerable customers
- From staff's perspective, the best way to combat deceptive marketing practices is to ensure that customers view the broad range of supply options available to them before making a choice of supply
 - Energy Switch is available for that function



Discussion

Deceptive Marketing (cont.)

Staff Proposal - Market Reset

- All initial enrollments must occur through Energy Switch
 - Energy Switch would act as the supermarket where customers shop for electric supply products, comparing price, term, content, fees
 - Nothing else would change related to the relationship between customers, suppliers, and EDCs
- Customers that have benefitted from the competitive market can continue to do so, while our most vulnerable customers are provided appropriate relief



Discussion

Deceptive Marketing (cont.)

Staff Proposal - Market Reset (cont.)

- Suppliers could continue to market and build brand recognition, but their role in enrolling a customer would be limited to:
 - pointing the customer to Energy Switch,
 - telling the customer to enter the required information to view products, and
 - discussing why its product is better for the customer than the other products listed
- As discussed below, Staff recognizes that modifications to Energy Switch would be required for it to serve this function, and that associated customer protection issues would need to be addressed



Discussion

High Prices

- High prices can arise from three sources
 1. Initial fixed price products
 2. Automatic renewal prices (both fixed and variable/monthly)
 3. Variable/monthly products for which the price steadily increases
- The Department attempted to mitigate this problem through the Contract Summary Form and Automatic Renewal Notification initiatives from DPU 19-07, with minimal effectiveness
 - To continue with these types of initiatives would nibble around the edges of the market's marketing problems when what is needed is a **market reset**



Discussion

High Prices (cont.)

1. Initial Fixed Price Products

- Addressed through required Energy Switch enrollment
 - Transparency leads to informed decision-making

2. Automatic Renewals

- Automatic renewals can lead to high prices when a fixed-price product automatically renews to either (i) another fixed price that is higher than the current price, or (ii) a variable price that increases over time
- In both instances, a customer would receive an Automatic Renewal Notification informing them that the current contract price expires on [date], and the contract will automatically renew to a new price unless the customer takes action



Discussion

High Prices (cont.)

2. Automatic Renewals (cont.)

- Staff recognizes that, in a well-functioning market (i.e., one characterized by transparency and informed decision-making), automatic renewals may be an acceptable practice (particularly when coupled with notification requirements)
- However, in the current state of the market (characterized by underinformed, undereducated, and under-interested customers), automatic renewals provide rich ground for *unscrupulous* suppliers to prey on vulnerable customers
- We need a **market reset**



Discussion

High Prices (cont.)

2. Automatic Renewals – Staff Proposal: Market Reset

- Staff proposes that automatic renewals be eliminated and that, instead, customers be required to re-enroll through Energy Switch at the end of each contract term
 - The importance of transparency and informed decision-making applies equally to automatic renewals as to initial enrollments
- Customers that do not re-enroll, or enroll with another supplier, will be placed on basic service
- Existing automatic renewal prices can stay in effect until the date of the next renewal



Discussion

High Prices (cont.)

2. Automatic Renewals – Staff Proposal (cont.)

- An alternate approach would be to establish guardrails around automatic renewals; e.g., the automatic renewal price cannot exceed a price determined by a specified market-based formula
 - Not Staff's preference - it (i) would be administratively cumbersome to implement, and (ii) would "treat the symptom, not the disease"
- As a final note, Staff seeks to better understand the extent to which supplier acquisition costs will decrease under the Energy Switch approach (potentially mitigating the need for suppliers to recover these costs through automatic renewal prices?)



Discussion

High Prices (cont.)

3. Variable (Monthly) Prices

- Customers may be receiving a variable-price product pursuant to either initial enrollments or automatic renewals
 - In neither instance are suppliers required to notify customers of the upcoming monthly price, even when the new price increases from the current price
- Staff recognizes that variable pricing can be a useful means of improving the price signals sent to customers regarding the underlying cost of electric supply



Discussion

High Prices (cont.)

3. Variable Prices (cont.)

- Staff also recognizes that, in a well-functioning market, the problem of increasing monthly prices could be sufficiently mitigated by monthly notifications
- However, in the context of the current market status, increased notification would be nibbling around the edges of the market problems when what is needed is a **market reset**



Discussion

High Prices (cont.)

3. Variable Prices – Staff Proposal: Market Reset

- Staff proposes that customers on a variable price be required to re-enroll monthly through Energy Switch
 - Customers that did not re-enroll, or enroll with another supplier, would be returned to basic service
- From staff's perspective, this should limit appropriately the customers on variable pricing to those that are sufficiently knowledgeable of the market to understand the nuances of variable pricing
- Staff recognizes that Energy Switch will need to be expanded to include webpage(s) for variable-price products



Discussion

High Prices (cont.)

“Greenwashing”

- Definition - The practice of making false or misleading claims about a company's environmental impact
- Staff is concerned that the majority of products listed on Energy Switch as being renewable are not supported by MA RPS Class I certificates
- In response, Staff proposes that, to be listed on Energy Switch as a renewable energy product, the voluntary renewable energy content of the product must be composed entirely of RPS Class 1 certificates



Staff Proposal Market Reset

Summary

1. All Enrollments Through Energy Switch

- Energy Switch will be the supermarket where customers shop for electric supply products
- transparency leads to informed decision-making

2. No Automatic Renewals

- customers required to re-enroll through Energy Switch at the end of each contract term; customers that do not either re-enroll, or enroll with another supplier, would be placed on basic service
- transparency leads to informed decision-making



Staff Proposal

Market Reset (cont.)

Summary (cont.)

3. Monthly customer authorization for variable price products
 - Customers required to re-enroll through Energy Switch each month; customers that do not re-enroll, or enroll with another supplier, placed on basic service
 - Appropriately limits variable-price customers to those sufficiently knowledgeable about the market
4. Renewable energy listing on Energy Switch limited to products for which the voluntary renewable energy content is composed entirely of RPS Class 1



Staff Proposal

Market Reset (cont.)

Challenges

- Staff recognizes that there are many issues that must be addressed in determining the viability of a timely implementation of the Energy Switch enrollment approach. However, we identify two threshold/big picture issues that we seek to discuss with stakeholders:
 1. Is there a way to reliably validate that an enrollment was initiated through Energy Switch?
 2. What is the extent of the modifications that would be required of Energy Switch to serve the enrollment function (technically, substantively, functionally, stylistically)?



Staff Proposal

Market Reset (cont.)

Challenges (cont.)

- If the answers to the two threshold questions are yes and doable modifications, then we can turn our attention to
 - modifying (re-designing?) Energy Switch (including the design of a variable-price product page, and
 - anticipating and planning for problematic supplier behavior



Staff Proposal

Market Reset (cont.)

Process

- Staff hopes to work with stakeholders to gain broad consensus around the proposed approach, revised as appropriate based on stakeholder input
 - We expect no support from *unscrupulous* suppliers
 - In contrast, we hope that *scrupulous suppliers* will see the benefit of “competing on an even playing field” and eliminating the uncertainty regarding the market’s future
- If it appears that broad consensus is possible, staff would work with stakeholders on the necessary Energy Switch modifications and customer protections