

THE STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

DRM 16-853

RULEMAKING

New Hampshire Code of Administrative Rules

Chapter Puc 2000 - Competitive Electric Power Supplier and Aggregator Rules

**Written Comments of the Direct Energy Services, LLC, Direct Energy Business, LLC &
Direct Energy Business Marketing LLC**

Friday, January 27, 2017

On behalf of Direct Energy Services, LLC, Direct Energy Business, LLC and Direct Energy Business Marketing, LLC, (collectively, "Direct Energy"), I hereby submit these written comments pursuant to the Order of Notice dated December 27, 2016, in the above-referenced proceeding regarding the New Hampshire Public Utilities Commission's ("Commission") proposed revisions to the regulations applicable to competitive electric power suppliers (CEPS) and electric load aggregators in the New Hampshire Code of Administrative Rules, Chapter Puc 2000.

INTRODUCTION

Direct Energy is a subsidiary of Centrica plc, a Fortune Global 500 company, based in the United Kingdom (formerly known as British Gas). Direct Energy is one of the largest competitive retail and wholesale providers of electricity, natural gas, solar design and installation services and home energy efficiency services in all of North America with nearly 5 million customer relationships with multiple brands in 46 states plus the District of Columbia and ten (10) Canadian province. Direct Energy currently serves residential, small commercial and large commercial & industrial electricity and natural gas customers in the state the New Hampshire providing innovative and energy saving products and services.

BACKGROUND

On November 21, 2016, the Commission voted pursuant to RSA 541-A to initiate a formal rulemaking for N.H. Code Admin. Rules Chapter 2000, Competitive Electric Power Supplier and Aggregator Rules. The Commission's initial proposal represents a readoption of the existing Puc 2000 rules with extensive amendments. The Puc 2000 rules set forth the regulations applicable to the registration of competitive electric power suppliers (CEPS) and electric load aggregators, reporting and financial obligations of CEPS and aggregators, requirements applicable to the terms of service and price disclosure of CEPS and aggregators, other consumer protection provisions applicable to CEPS and aggregators, investigation of complaints involving CEPS and aggregators, and enforcement of laws and rules applicable to CEPS and aggregators. Amendments to the existing rules include changes based on recent legislation addressing CEPS variable rate contracts, maintenance of a customer shopping comparison website, individual customer information privacy protection, and enhanced sanctions and enforcement authority. Other material amendments address registration application requirements, financial security provisions, registration time periods, customer disclosure and notice obligations, customer solicitation restrictions, enforcement procedures, sanctions and penalties, and the specific role of aggregators which are granted agency authority by their customers to select a CEPS on their behalf.

Direct Energy presented oral testimony at the Commission's public hearing held on January 19, 2017 and is filing these written comments by January 27, 2017 in conformance with the Commission's Order of Notice. Moreover, as a member of the Retail Energy Supply Association ("RESA"), Direct Energy has directly contributed to and wholeheartedly support the written comments filed on behalf of RESA by Attorney Douglas Patch of Orr and Reno as part of this rulemaking proceeding.

I. THE COMMISSION SHOULD AMEND PUC 2004.11, SOLICITATION OF CUSTOMERS, SUBPART (E) TO ALLOW THE CONTINUATION OF DOOR TO DOOR SALES IN NEW HAMPSHIRE

While the implementation of the restructured retail electricity market was slow to evolve due to past litigation that constrained the Commission and limited the opportunity to provide customer choice to many of the state's electricity consumers, Direct Energy views New Hampshire today as having a well-designed, attractive and robust retail electricity market.

Moreover, Direct Energy generally supports constructive measures to further enhance protections for electricity consumers shopping for competitive pricing plans. However, as part of the DRM 16-853 Rulemaking, Direct Energy is opposed to the inclusion of section (e) in Puc 2004.11 – Solicitation of Customers, which states the following: “*Unless requested by the potential customer no less than 24 hours in advance, no CEPS or aggregator, or its representative, shall solicit a potential residential customer in person at the customer’s residence*”. While technically not an outright ban on the door to door sales channel, the imposition of the 24 hour advance notice arrangement with the customer, effectively amounts to a ban as it would imposed significant operational and administrative constraints that are wholly impractical in business terms. Additionally, Direct Energy views this proposed provision has having a potential chilling affect on the state’s restructured electricity market, especially impacting the residential customer segment.

Direct Energy clearly recognizes the potential high impact nature of the door to door sales channel on electricity consumers in the state of New Hampshire regarding the sales interaction process. However, rather than establish a highly restrictive ban, Direct Energy alternatively proposes that the Commission consider “*raising the bar*” for those retail suppliers that plan to utilize this particular sales channel by imposing extra or supplemental licensing conditions and/or requirements. By raising the bar, retail suppliers will have to demonstrate to the satisfaction of the Commission that they have the meet certain threshold requirements to responsibly engage in the door to door sales channel. These thresholds may be the requirement to meet more stringent licensing standards and/or door to door protocols designed to enhance consumer protections at a home residence. Direct Energy suggests these requirements and/or protocols may include but are not limited to the following:

1. Retail suppliers may be subject to a higher licensing fee;
2. Retails suppliers may be subject to a different security deposit or bonding requirements;
3. Prior to the initiation of door to door sales activities, retail suppliers may be required to submit to the Commission evidence of their sales quality assurance and oversight that identifies the process, plans and protocols for effectively managing this sales channel. Key examples of the sales quality assurance may be in the area of employee and/or vendor training, employee and/or vendor oversight, badging and dress, consumer-friendly sales techniques, etc.

4. Retail suppliers may be subject to new door-to door sales protocols. For example, retail suppliers may be required to notify the New Hampshire PUC, at least five (5) business days prior to the commencement of a door to door sales campaign and provide the Commission with the following summary information:
 - The community or communities that will be targeted as part of the door to door marketing campaign;
 - The approximate start date of the campaign;
 - Confirmation statement that local municipal solicitation permits/licenses have been obtain by the retail supplier;
 - The approximate end date of the campaign
5. Retail suppliers would be required to provide a prospective customer a New York PSC-style Consumer Bill of Rights handout that delineates there rights (see attached in Exhibit A).

Accordingly, Direct Energy recommends that the Commission amend section (e) in Puc 2004.11 - Solicitation of Customers to read as follows: *Unless requested by the potential customer no less than 24 hours in advance, "Unless meeting the enhanced licensing standards and door to door sales protocols approved by the Commission, no CEPS or aggregator, or its representative, shall solicit a potential residential customer in person at the customer's residence"*. Additionally, Direct Energy recommends the Commission convene a technical session (s) comprised of interested stakeholders to further review and develop the enhanced licensing standards and door to door protocols recommendations.

II. PRESERVE THE DOOR TO DOOR SALES CHANNEL TO BETTER SERVE NEW HAMPSHIRE'S ELECTRCITY CONSUMERS SHOPPING FOR INNOVATIVE AND ENERGY SAVING PRODUCTS AND SERVICES

The door to door sales channel can be an effective means to educate and inform electricity consumers about the benefits of competitive pricing and services offers. Competitive rate plans offered by Direct Energy and other retail suppliers may be confusing or difficult for some residential consumers to fully understand, especially those consumers who are new to retail electricity competition. The door to door sales channel affords the opportunity for retail supplier or their representatives to thoroughly explain the restructured electricity market, competitive shopping process as well as a new and exciting rate plan offers. One approach that may be effectively utilized in the state of New Hampshire is to use the door to door sales channel and a lead generation driver for the retail supplier. The approach would permit residential door to door contact to occur between the retail supplier

and the prospective residential customer. However, the retail supplier would only inform and educate a prospective customer of the supplier's product offerings but not proceed to enroll the customer at the door or residence. The agent or representative would leave behind informative marketing collateral describing the features and benefits of the competitive products and/or services, as well as the retail supplier's web or telephone contact information required to advance the sales and enrollment process. Alternatively, the customer may prefer to provide the agent or representative with their contact information (i.e., email address, telephone number, etc.) that would permit follow-up and potential enrollment at a subsequent period. This customer "lead generation" approach effectively benefits the customer and the retail supplier and represents another reason to support the door to door sales channel.

III. DIRECT ENERGY ENCOURAGES THE COMMISSION TO IMPLEMENT NEW AND ENHANCED SALES CHANNELS TO BENEFIT RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS SHOPPING FOR COMPETITIVE PRICING PRODUCTS AND SERVICES

As stated in subpart (f) in Puc 2004.11 Solicitation of Customers, "*a CEPS or aggregator, or its representative, may contact a potential residential customer in person at a location other than the customer's residence, for the purpose of selling any product or service offered by the CEPS or aggregator*". Direct Energy wholeheartedly supports this proposed regulation. However, we encourage the Commission to go further with this provision to expand and enhance new sales channels. Specifically, Direct Energy and other retail suppliers would like to market and sell its products and services at retail stores, mall kiosks, sporting events, concerts and other special events. However, unlike the telecommunications industry where a customer's mobile phone number effectively serves as their account number, most electricity consumers do not know their utility account number. In states like PA and New York, electricity consumers today can obtain their utility distribution account number by logging on to a secure web portal or calling a special toll-free telephone number and providing several pieces of basic information, e.g., name, street

address, last four digits of their social security number or telephone number, etc. Direct Energy encourages the Commission to consider the establishment of a similar account look-up function in the state of New Hampshire. Accordingly, Direct Energy recommends the Commission establish a technical session (s) comprised of interested stakeholders to further review and develop the “*Enroll with What’s in Your Wallet*” or account look-up functionality to permit retail suppliers to effectively serve New Hampshire’s residential customers outside of their residential setting. Direct Energy believes this new and enhanced sales channel would be highly beneficial to state’s electricity shopping consumers.

CONCLUSION

On behalf of Direct Energy, I would like to thank the Commission for the opportunity to submit these written comments as well as present oral testimony at the public hearing held on January 19, 2017. Thank you.

New York State Public Service Commission

Your Rights as an Energy Services Company Consumer ESCO Consumers Bill of Rights

Customers can purchase energy from an Energy Services Company (ESCO) or from a traditional utility. If you choose to purchase energy from an ESCO you are entitled to:

- A clear description of the services offered by the ESCO.
- Receive energy delivery and 24 hour emergency services from your utility company.
- Clear procedures for switching energy suppliers, including information about the enrollment process.
- Disclosure, in simple and clear language, of the terms and conditions of the agreement between you and the ESCO including:
 - price and all variable charges or fees;
 - length of the agreement;
 - terms for renewal of the agreement;
 - cancellation process and any early termination fees, which are limited by law; and
 - conditions, if any, under which the ESCO guarantees cost savings.
- Rescind an agreement with an ESCO within three days of receiving the agreement, if you are a residential customer.
- A description of how pre-payment agreements work, if offered.
- Notice from the ESCO, no less than thirty days prior to the contract renewal date, of the renewal terms and the options you have as a customer.
- A fair and timely complaint resolution process.
- Provision of any written documents (contracts, marketing materials, and this ESCO Consumers Bill of Rights) in the same language used to enroll you as a customer.

If you are a residential customer you are also entitled to the rights and protections of the Home Energy Fair Practices Act (HEFPA) which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. For more information go to www.dps.ny.gov/resright.html.

ESCOs that do not assure these consumer rights could lose their eligibility to provide service in New York. Please report any complaints to the Department of Public Service at 1-800-342-3377 (8:30 am – 4:00 pm), by mail at Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223, or online at <http://www.dps.ny.gov>.

You can find more information about your energy alternatives by visiting: www.AskPSC.com