

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines on Marketing and Sales)
Practices for Electric Generation Suppliers) Docket No. M-2010-2185981
and Natural Gas Suppliers)

**REPLY COMMENTS OF THE PENNSYLVANIA ENERGY MARKETERS
COALITION:
AGWAY ENERGY SERVICES, LLC, ENERGY PLUS HOLDINGS LLC, GATEWAY
ENERGY SERVICES CORPORATION, INTERSTATE GAS SUPPLY, INC.,
PENNSYLVANIA GAS & ELECTRIC, AND VECTREN RETAIL, LLC**

INTRODUCTION

The Pennsylvania Energy Marketers Coalition (“PEMC”)¹, consisting of Agway Energy Services, LLC (“Agway”), Energy Plus Holdings LLC (“Energy Plus”), Gateway Energy Services Corporation (“Gateway”), Interstate Gas Supply, Inc. (“IGS”), Pennsylvania Gas & Electric (“PAG&E”), and Vectren Retail, LLC (“Vectren”), appreciate the opportunity to provide Reply Comments in response to Comments filed by the Pennsylvania Utility Law Project (“PULP”) and the Pennsylvania Consumer Advisory Council (“CAC”) in the above referenced Docket, who both recommended the prohibition of door-to-door sales.

PEMC urges the Commission to reject PULP and CAC’s suggestion that door-to-door sales be prohibited outright. We believe that this arbitrary position does not take into account the integrity with which most energy suppliers conduct their business, and we further believe that adoption of these Interim Guidelines on Marketing and Sales Practices will provide a clear pathway for natural gas and electricity supplier conduct, as they were strongly supported by members of the supplier community during their development.

¹ This group of energy marketers, which supply electricity, natural gas, and various other energy services to residential and commercial customers across a large number of utility markets throughout several states, works together collaboratively on non-competitive, regulatory issues to advance competitive markets and consumer choice.

As noted in our Initial Comments filed in this Docket, PEMC is “very sensitive to the Commission’s concerns regarding door-to-door marketing (“D2D”), and has made an emphatic commitment – both individually, for those members who utilize this sales channel, as well as for the PEMC as a coalition – to advocate the best D2D practices in the industry regardless of any regulatory requirement to do so.”²

We believe that the elimination of D2D marketing would set a dangerous precedent relative to competitive marketing practices as a whole in the Commonwealth and send mixed messages to potential market entrants which will discourage entry into a marketplace in which so many stakeholders have expended such great effort to further develop. However, in view of the unique circumstances attending this acquisition channel, we do agree that an articulated expectation is advisable for energy suppliers and third-party vendors that utilize D2D. PEMC believes it is important to note that the group consists of marketers that conduct door-to-door activity, but more that do not; yet we all share the concerns contained herein and all support the positions relayed because of a fundamental desire to create a competitive market landscape that fosters long term growth of the market, allowing for creativity in responding to consumer demand and product and service design and structure, as well as the means by which the market presents its messages to the consumers. Regulation, although at times appropriate, can stifle the growth of competition and the benefits vibrant competitive markets can bring to consumers; and thus, regulatory rulemaking in this restructured market should be exercised with care and with an appreciation for the unintended creation of potential impediments to further market development.

Those entities that choose a D2D sales channel must operate with integrity and a commitment to effectively manage this sales channel. To that end, we believe that the

² Comments of Pennsylvania Energy Marketers Coalition, filed August 13, 2010, p. 2.

proposal submitted by Interstate Gas Supply, Inc. (“IGS Energy”)³ warrants discussion as part of a collaborative Working Group which would be established by the Office of Competitive Market Oversight (“OCMO”), and charged with the expressed purpose of developing a protocol specifically related to those electricity and/or natural gas suppliers and third-party vendors who engage in D2D as a marketing and sales channel.

While not summarily opposed to the development of protocols specifically targeted to D2D marketing activities, the PEMC believes that, should such protocols be developed, any processes promulgated should be narrowly defined to only that customer acquisition channel. Additionally, because a supplier’s ability to engage in sales activities may be impacted as a result of alleged acts of non-compliance with any rules which may be adopted, procedural safeguards which assure fundamental principles of due process must be incorporated into the collaborative discussion.

**AVOIDING UNNECESSARY AND OVERBURDENSOME REGULATION
ON ALL OTHER SALES CHANNELS**

While PEMC believes that D2D marketing practices should receive additional scrutiny, we do have a significant concern that an extended level of oversight on D2D activity should not be extended cart blanche to other forms of marketing and sales activity (i.e., telephone, direct mail, or the Web). We believe that our emerging industry must be able to maintain and foster a truly competitive landscape for all sales channels, and that the industry must be allowed to continue in a competitive manner as they do relative to other commercially available retail products and services without undue restriction. PEMC is mindful of weighing its concern regarding over-reaching regulation against a recognition that D2D sales channels are in some ways unique in nature, in that the contact with the consumer is

³ Comments of Interstate Gas Supply, Inc., filed August 16, 2010.

direct, in-person, in-home contact; and a recognition that there have been issues – real or perceived – which have been raised due to the direct nature of the solicitation method.

The scope of our suggestion for further oversight of marketing and sales are strictly limited, therefore, to the D2D sales channel. To that end, we believe the Commission should allow marketers the opportunity to incorporate the Interim Guidelines into their marketing practices for all other channels while we concurrently work as an industry to more fully address the specific considerations associated with D2D marketing.

ALLOW TIME FOR INTERIM GUIDELINES TO WORK

Finally, we reemphasize our recommendation that the evaluation of marketing and sales activity by OCMO not be limited to a final determination of effectiveness on November 30, 2010.⁴ PEMC strongly believes that more time will be needed to determine the true effectiveness of these Interim Guidelines, especially with regard to their impact on “third party independent contractors,” as outlined in Section Q. We believe it would be prudent and practical to consider additional reviews in June 2011, December 2011, and June 2012 to give the Guidelines a chance to work, incorporate any additional resulting D2D requirements, and to track resulting trends for all marketing and sales activities covered in these Guidelines, not just those related to third party independent contractors.

CONCLUSION

PEMC believes that the development of these Interim Guidelines is a very important step in the further development of the competitive natural gas and electricity marketplace in the Commonwealth of Pennsylvania. More than any other component of energy choice, it is critical that these Interim Guidelines are approached with a continued commitment to empowering consumers. If implemented properly with a strong commitment by all parties, PEMC believes that the implementation of the Interim Guidelines on Marketing and Sales Practices, along with

⁴ Tentative Order, Commission Comments, p. 8.

any additional guidelines that may be developed relative to D2D marketing, will empower consumers so that they have access to more choices for natural gas and electricity supply – and the ability to take control of their energy purchases with products that they believe best fit their individual needs.

We recognize that a significant amount of work remains to promote this environment, and we pledge to the Commission our continued support to help with all of these efforts.

August 30, 2010

Respectfully submitted



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(See PEMC distribution list attached)

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