

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

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August 16, 2010

HAND DELIVERED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

I am delivering for filing today the original plus five (5) copies of the Comments, on behalf of the Office of Small Business Advocate, in the above-captioned matter. A copy of the comments is also being electronically submitted to the Office of Competitive Market Oversight.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Lauren M. Lepkoski".

Lauren M. Lepkoski
Assistant Small Business Advocate
Attorney ID No. 94800

Enclosures

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**INITIAL COMMENTS OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

By Tentative Order entered July 16, 2010, the Commission initiated proposed interim guidelines applicable to the marketing and sales practices of electric generation suppliers (“EGSs”) and natural gas suppliers (“NGSs”). Ordering Paragraph No. 2 invited interested parties to submit comments within 30 days of the entry of the Tentative Order. The Office of Small Business Advocate (“OSBA”) submits the following comments in response to the Commission’s invitation.

COMMENTS ON THE PROPOSED INTERIM GUIDELINES

A. General Comments

The Commission has proposed interim guidelines to the marketing and sales practices governing EGSs and NGSs in order to help protect consumers in Pennsylvania. These guidelines should not only protect residential customers, but should also protect small business customers. The OSBA has received complaints from small business customers regarding the following:

- slamming;
- misrepresentation by agents (as defined in the proposed interim guidelines);

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- continuing written or oral contact from agents after being informed by the small business customer that the customer is not interested in service from the EGS or NGS;
- customers not being told the all-inclusive price, thereby being charged a price greater than what the customer expected when signing up with the EGS or the NGS; and
- customers not understanding how the price adjustments are to be made in the future.

Therefore, the OSBA requests that the same protections afforded to residential customers under the guidelines be expressly afforded to small business customers.

Affording such protections to small business customers is especially important because some of the protections under federal and state laws cited in the proposed interim guidelines do not apply to small business customers, *e.g.*, “Do Not Call” law.

The Commission should also include in the guidelines a procedure as to how complaints from small business customers about the marketing and sales practices of EGSs and NGSs will be handled. By establishing a clear procedure, customers will be less confused as to the office they need to contact regarding these types of complaints and as to how their complaints will be addressed.

B. Defining Small Business Customer

The proposed interim guidelines do not define “small business customers.” However, the proposed interim guidelines point to certain consumer protections in Chapter 54 of 52 Pa. Code.

For electric, Section 54.2 defines “small business customer” as “a person, sole proprietorship, partnership, corporation, association, or other business entity that receives electric service under a small commercial, small industrial, or small business rate classification, and whose maximum registered peak load was less than 25 kW within the

last 12 months.” The OSBA requests that a broader definition of small business customers be used for the proposed interim guidelines so that consumer protections are available to non-residential customers with a peak load greater than 25kW.

The OSBA requests that a broader definition of small business customers be used for the proposed interim guidelines so that consumer protections are available to non-residential gas customers with annual consumption of 300 Mcfs or greater as well as for those with annual consumption of less than 300 Mcfs .

In that regard, Section 2 of the Small Business Advocate Act, 73 P.S. §399.42, defines “small business consumer” to include businesses with as many as 249 employees and to include customers in small *industrial* rate classes. It is unlikely that many small industrial customers have a maximum peak load of less than 25 kW for electric and have an annual consumption of less than 300 Mcfs for gas. It is also unlikely that many small businesses with a maximum peak load of less than 25 kW for electric and an annual consumption of 300 Mcfs for gas have 249 employees.

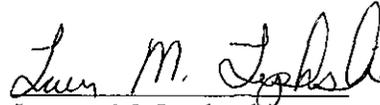
C. Do Not Call List

As mentioned in the general comment section, the OSBA has received complaints from small business customers regarding continuing written and oral contact from agents after being informed by the small business customer that the customer is not interested in service. The federal and state “Do Not Call” statutes do not apply to small business customers.¹ Therefore, it is important that Section O of the proposed interim guidelines be made clearly applicable to small business customers. Furthermore, Section O should be expanded to prohibit suppliers and agents from sending unwanted written materials and e-mail communications after a request from a customer not to receive such material.

¹ See 15 U.S.C Sec. 6101 and 73 P.S. §§2241-2249.

WHEREFORE, for the reasons set forth above, the OSBA respectfully requests that the Commission revise the proposed interim guidelines governing the marketing and sales practices for electric generation and natural gas suppliers in accordance with the foregoing comments.

Respectfully submitted,



Lauren M. Lepkoski
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For:

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Dated: August 16, 2010