

Deanne M. O'Dell
717.255.3744
dodell@eckertseamans.com

June 2, 2020

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Supplier Door-to-Door and In-Person Marketing Moratorium Proclamation of Disaster
Emergency-COVID-19 – Docket No. M-2020-3019254

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Inspire Energy Holdings, LLC's ("Inspire") Answer in Support of the Petition of NRG Energy, Inc. for Partial Rescission of March 16, 2020 Emergency Order Establishing Moratorium on In-Person Sales and Marketing of Competitive Energy Supply Services and the Petition of NRG Energy, Inc. for Expedited Relief in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely



Deanne M. O'Dell, Esq.

DMO/lww

Enclosure

cc: Certificate of Service w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Supplier Door-to-Door and In-Person :
Marketing Moratorium Proclamation : Docket No. M-2020-3019254
of Disaster Emergency-COVID-19 :

**ANSWER OF INSPIRE ENERGY HOLDINGS, LLC IN SUPPORT OF
THE PETITION OF NRG ENERGY, INC. FOR PARTIAL RESCISSION OF MARCH
16, 2020 EMERGENCY ORDER ESTABLISHING MORATORIUM ON IN-PERSON
SALES AND MARKETING OF COMPETITIVE ENERGY SUPPLY SERVICES
AND THE PETITION OF NRG ENERGY, INC. FOR EXPEDITED RELIEF**

Pursuant to Section 5.61 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.61, Inspire Energy Holdings, LLC (“Inspire”) submits this Answer in Support of NRG Energy, Inc.’s (“NRG”) Petition for Partial Rescission of March 16, 2020 Emergency Order Establishing Moratorium on In-Person Sales and Marketing of Competitive Energy Supply Services and Petition for Expedited Relief (“Petition”) in the above-referenced matter. Inspire is a licensed electric generation supplier (“EGS”) in Pennsylvania and relies on a number of various sales channels to promote its renewable energy supply products intended to create a truly transformative smart energy experience for customers. These sales channels include in-person sales at retail locations. While Inspire looks forward to having access to all available sales channels in the future, at this point in time, Inspire fully supports the Commission granting NRG’s Petition to rescind the March 16, 2020 Emergency Order establishing a moratorium on certain in-person sales and marketing activities as it applies to all competitive energy suppliers, including Inspire, on an expedited basis. Inspire is fully prepared to comply with all health and safety guidelines established by the Commonwealth and reasonable requirements the Commission may deem appropriate.

As Pennsylvania moves toward reopening, it is reasonable for the Commission to permit energy suppliers, like Inspire, to also begin to resume all their sales activities for the benefit of

consumers. While the scope of NRG’s Petition – as supported by Inspire – is limited to in-person sales at retail locations, the availability of other sales channels also benefits consumers in their ability to become educated about and access competitive alternate suppliers that are offering products and services that they desire. In further support of this Answer, Inspire states as follows:

I. BACKGROUND

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency pursuant to subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. §7301(c), proclaiming a disaster emergency throughout the Commonwealth for a period of up to ninety days as a result of the COVID-19 pandemic.¹ Section 7301 limits the initial emergency declaration to a period of up to ninety days but permits the Governor to renew the declaration at his or her discretion. Given the current state of the pandemic, it is likely that the Governor will continue the Proclamation past its current expiration date of June 4, 2020.

The Commission relied on the Proclamation of Disaster Emergency in issuing its March 16, 2020 Emergency Order, which was later ratified on March 26, 2020.² The Emergency Order established a moratorium on door-to-door, public event and in-person sales and telemarketing of competitive energy supply services in Pennsylvania, which will continue to apply “during the pendency of the Proclamation of Disaster Emergency, or unless otherwise directed by the Commission.”³

¹ See *Proclamation of Disaster Emergency* (March 6, 2020), available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

² *Re: Supplier Door-to-Door and In-Person Marketing Moratorium Proclamation of Disaster Emergency – COVID-19*, Docket No. M-2020-3019254, Emergency Order (Mar. 16, 2020) (“Emergency Order”).

³ Emergency Order at 2.

On March 19, 2020, all non-life-sustaining businesses were ordered to close to help stop the spread of the virus, and by April 1, 2020, all of Pennsylvania was under a Stay-at-Home Order. In recent weeks, however, the Governor’s Office and the Pennsylvania Department of Health have begun a phased process of reopening non-life-sustaining businesses under the Governor’s Plan to Reopen Pennsylvania.⁴ A significant number of regions of within the Commonwealth are now in the “yellow” or “green” phases, which allow many businesses to reopen subject to certain social restrictions and in compliance with guidance from the Centers for Disease Control and Prevention (“CDC”) and the Department of Health. All counties remaining in the “red” phase are currently expected to move into the “yellow” phase on Friday, June 5, 2020.

On May 20, 2020, NRG filed the Petitions requesting that the Commission rescind the March 16, 2020 Emergency Order establishing a moratorium on certain in-person sales and marketing activities as it applies to competitive energy suppliers on an expedited basis.

Specifically, NRG requested:

...immediate relief only from the portion of the Emergency Order that bans in person sales and marketing at retail businesses that are open or opened as a result of orders and directives subsequently issued by Governor Wolf and/or the Secretary of Health in counties in the “yellow” phase, “green” phase or which are otherwise permitted to be open under future directives.

NRG Petition at ¶ 2. Additionally, NRG specified that energy suppliers resuming this these types of in-person sales and marketing would comply with: (i) all orders, guidance and other directives issued by the Governor’s Office and the Secretary of Health; (ii) the safety protocols that apply to their retail channel partners and employees; and (iii) any other applicable Commission regulations, including the marketing and sales practices regulations. NRG Petition

⁴ <https://www.governor.pa.gov/process-to-reopen-pennsylvania/>

at ¶ 3. NRG’s Petition also states that suppliers engaging in such marketing activities be required to follow best practices including taking steps to ensure sales agent and customer safety, such as temperature checks, use of face masks, use of disposable stylus pens, hand sanitizer and disinfectant wipes; maintaining six-foot social distancing requirements, including training and designations of such space; and using a contactless enrollment process. NRG Petition at ¶ 4. NRG requested that the Commission act expeditiously such that NRG could resume such marketing activities by June 1, 2020. NRG Petition at ¶ 5.

On May 27, 2020, the Office of Consumer Advocate (“OCA”) submitted an Answer to NRG’s Petition. The OCA’s Answer did not oppose NRG’s Petition, but stated that the Commission should require additional information from suppliers, including “documentation to establish that retailers have requested NRG’s presence be returned to their retail establishments to market and sell energy in-person to customers,” as well as documentation of retail location’s address and whether the location in in the “yellow” or “green” phase. The OCA also suggests that the Commission review NRG’s or any supplier’s practices to ensure compliance with safety protocols. OCA Answer at 5.

II. ANSWER

Inspire strongly supports NRG’s Petition and submits that the rescission of the March 16, 2020 Emergency Order requested by NRG should apply to all competitive energy suppliers, including Inspire. Inspire is a licensed electric generation supplier (“EGS”) in Pennsylvania and focuses on providing renewable electric energy supply to create a truly transformative smart energy experience for customers. Like NRG, Inspire markets its services through various channels, including in-person sales at retail locations. As the Commonwealth reopens and counties move into the “yellow” and “green” phases, Inspire should be permitted to resume in-

person sales in retail locations that are open for business. Inspire is willing and able to comply with all health and safety requirements applicable to retail sales, including those specifically outlined in the NRG Petition, in order to protect the health and safety of both customers and sales agents. Inspire should be allowed to safely resume its marketing activities as retail locations reopen.

Regarding the additional reporting requirements suggested by the OCA in its Answer, Inspire believes these requirements are unnecessary and do not provide any useful additional information to the Commission. The OCA seeks to require documentation that retailers are allowing an energy supplier to conduct marketing activities within their store. However, the very fact that Inspire or another supplier is marketing in any given store is itself proof that the retailer has provided permission for the supplier to conduct marketing within the store. If the retail store did not want the supplier marketing in the store, then the supplier would not be able to conduct sales in that location. The fact that a supplier is conducting in-person sales in a particular retail location speaks for itself, and a requirement that a supplier prove that it has been granted permission serves no meaningful purpose and only creates an unnecessary additional hurdle to restarting this type of in-person marketing.

The OCA's Answer also suggested that suppliers provide reporting to confirm that they are only conducting these marketing activities in areas that are within the "yellow" or "green" phase. Notably, as of June 5, 2020, all counties in Pennsylvania are projected to move to either the "yellow" or "green" phase of reopening, so this type of reporting would also be rendered moot. If required, however, Inspire would be willing to provide the Commission with locations where it is conducting in-person marketing on a confidential basis.

III. CONCLUSION

For the reasons discussed above and in NRG's Petition, Inspire urges the Commission to expeditiously grant NRG's Petition and partially rescind the March 16, 2020 Emergency Order to allow competitive energy suppliers, including Inspire, to resume in-person sales and marketing at retail businesses that are open, subject to CDC and Department of Health guidance to maintain public health and safety.

Respectfully submitted,



Deanne M. O'Dell, Esquire
Attorney ID 81064
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6000
Fax: 717.237.6019

Date: June 2, 2020

Counsel for Inspire Energy Holdings, LLC

VERIFICATION

I, Aaron Jacobs-Smith, hereby state that: (1) I am the Director of Regulatory Strategy for Inspire Energy Holdings, LLC.; (2) the facts set forth in the foregoing Answer are true and correct (or are true and correct to the best of my knowledge, information and belief); and, (3) I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: June 2, 2020



Aaron Jacobs-Smith
Director, Regulatory Strategy
Inspire Energy Holdings, LLC

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Inspire Energy's Answer in Support of the Petition of NRG Energy, Inc. for Partial Rescission of March 16, 2020 Emergency Order Establishing Moratorium on In-Person Sales and Marketing of Competitive Energy Supply Services and the Petition of NRG Energy, Inc. for Expedited Relief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54

Via E-mail Only

Richard Kanaskie, Esq.
Bureau of Investigation and Enforcement
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Tanya J. McCloskey, Esq.
Laura Antinucci, Esq.
Office of Consumer Advocate
555 Walnut St., 5th Fl. Forum Place
Harrisburg, PA 17101
tmccloskey@paoca.org
lantinucci@paoca.org

John R. Evans, Esq.
Office of Small Business Advocate
555 Walnut St., 1st Fl., Forum Place
Harrisburg, PA 17101
jorevan@pa.gov

Karen O. Moury, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101
kmoury@eckertseamans.com

Daniel Mumford
Director
Office of Competitive Market Oversight
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
dmumford@pa.gov

Kriss E. Brown, Esq.
Deputy Director
Office of Competitive Market Oversight
Deputy Chief Counsel, Law Bureau
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
kribrown@pa.gov

Dated: June 2, 2020



Deanne M. O'Dell, Esq.