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June 16, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

On behalf of NRG Energy, Inc., enclosed for electronic filing please find Comments to the Tentative Order entered on May 6, 2021 in the above-captioned matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Karen O. Moury

Karen O. Moury

KOM/lww
Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of NRG Energy, Inc.'s Comments upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Electronic Mail

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Oversight
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/s/ Karen O. Moury

Karen O. Moury, Esq.

Dated: June 16, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF NRG ENERGY, INC.
TO TENTATIVE ORDER ENTERED MAY 6, 2021**

I. INTRODUCTION

NRG Energy, Inc. (“NRG”) submits these comments in response to the Commission’s Tentative Order entered on May 6, 2021 addressing the moratorium on in-person sales and marketing activities by competitive energy suppliers, which the Commission imposed by Emergency Order issued on March 16, 2020.¹ In issuing the Emergency Order, the Commission explained that the moratorium was consistent with the Governor’s March 6, 2020 Proclamation of Disaster Emergency (“Disaster Proclamation”) stemming from the COVID-19 pandemic.

By these comments, NRG respectfully urges the Commission to: (i) lift the moratorium in its entirety; (ii) impose no new requirements or conditions on suppliers; and (iii) eliminate the additional reporting requirements imposed by the Orders that modified the Emergency Order to permit in-person sales at retail locations and outdoor events. On May 4, 2021, Governor Tom Wolf and the bipartisan COVID-19 Vaccine Joint Task Force (“Task Force”) announced that all mitigation measures, other than masking, would be lifted on Memorial Day. Since then, Pennsylvania has taken other key steps and businesses are operating without restriction. In NRG’s view, energy suppliers should not be subjected to restrictions on in-person sales and marketing activities that the Commonwealth is not imposing on other businesses.

¹ Through subsidiaries licensed by the Commission to provide electric generation services and natural gas service, NRG supplies electricity and natural gas to all customer classes throughout the Commonwealth.

II. DISCUSSION

A. The Commission Should Eliminate the Moratorium

The Tentative Order seeks comments on a timeline and the metrics to be used for lifting the moratorium on in-person sales and marketing activities by suppliers, which was imposed by the Emergency Order issued on March 16, 2020. Given that the original purpose of the moratorium no longer exists, and Pennsylvania is on a clear path to a return to normalcy, NRG sees no reason to further delay its elimination.

The Commission first imposed the moratorium on in-person sales and marketing activities by suppliers via an Emergency Order signed by Chairman Gladys Brown Dutrieuille on March 16, 2020, ten days after issuance of the Governor's Disaster Proclamation. The Emergency Order reasoned that "[u]nder the unique circumstances presented by the COVID-19 pandemic, establishing a moratorium on in person sales and marketing of competitive energy supply services" would help minimize non-essential personal social contact, consistent with the Governor's Disaster Proclamation.² The Commission ratified the Emergency Order at its March 26, 2020 Public Meeting.

The Wolf administration, in coordination with the bipartisan Task Force, announced on May 4, 2021 that mitigation orders, except masking, would be lifted on Memorial Day, May 31, 2021 at 12:01 a.m. In accordance with the latest guidance from the Centers for Disease Control and Prevention, the announcement also noted that fully vaccinated Pennsylvanians are not required to wear a mask during certain activities. Members of the Task Force highlighted the roll-back of the restrictions that had been placed on businesses at the outset of the pandemic, observing that this measure would assist businesses in getting back to prior sales levels and help grow the economy.³

² March 16, 2020 Emergency Order at 1.

³ <https://www.media.pa.gov/pages/health-details.aspx?newsid=1437>

On May 20, 2021, the Governor renewed the 90-day Disaster Proclamation for the fifth time. In doing so, the Governor recognized that COVID-19 vaccinations have increased dramatically in recent weeks and that the Commonwealth is making significant progress to stop the spread of COVID-19. He also referenced the lifting of COVID-19 mitigation measures on Memorial Day. However, the Governor explained that renewal of the Disaster Proclamation would ensure that Pennsylvania does not risk the loss of valuable resources, such as federal disaster recovery dollars, which will help the Commonwealth recover from the pandemic.⁴

On June 8, 2021, the House of Representatives passed House Resolution 106 to end the Disaster Proclamation, which the Senate approved on June 10, 2021.⁵ With the Department of State's certification of the May 18, 2021 primary election results, the Disaster Proclamation expired on June 15, 2021.⁶ Further, the mask mandate is set to be lifted no later than June 28, 2021.⁷

Clearly, Pennsylvania has taken key steps forward in returning to some sense of normalcy. As evidenced by elimination of restrictions that have interfered with the ability of businesses to operate for over a year, the circumstances prompting issuance of the Commission's Emergency Order are no longer present. Since the issuance of the Emergency Order, the Commission has modified the moratorium to reflect changes in the directives issued by the Governor and the Secretary of Health.⁸ Likewise, consistent with the actions taken by the Wolf administration and the bipartisan Task Force in May 2021, and the more recent measures taken by the General Assembly, the Commission should allow energy suppliers to engage

⁴ <https://www.governor.pa.gov/newsroom/gov-wolf-signs-renewal-of-covid-19-disaster-declaration-to-aid-in-recovery/>

⁵ https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2021&sind=0&body=H&type=R&bn=106

⁶ <https://www.wtae.com/article/pennsylvania-covid-19-emergency-declaration-ends/36732400#>

⁷ <https://www.wgal.com/article/pennsylvania-department-of-health-says-mask-mandate-will-be-lifted-by-june-28/36557445#>

⁸ *Supplier Door-to-Door and In-Person Marketing Moratorium, Proclamation of Disaster Emergency – COVID 19*, Docket No. M-2020-3019254 (Orders entered June 4, 2020, December 3, 2020 and May 6, 2021).

in in-person sales and marketing activities without restriction, provided they comply with any Commonwealth's rules related to COVID-19 and the Commission's applicable regulations.

B. No Additional Conditions or Requirements Are Necessary

In the Tentative Order, the Commission seeks comments on whether additional conditions, measures, reporting requirements or monitoring and oversight of vendors and agents should be imposed on suppliers. NRG does not see any reason for the Commission to impose conditions or requirements on suppliers engaged in in-person sales and marketing activities, beyond those already established by the Commission's regulations. Just as every other business operating in the Commonwealth, suppliers should be free to return to business as usual provided they comply with any directives of the Governor and Secretary of Health when conducting in-person sale and marketing activities. This outcome would enable suppliers to focus on developing and offering the innovative products and services that consumers want from their energy providers.

C. The Commission Should Eliminate the Additional Reporting Requirements Imposed by the Orders Modifying the Emergency Order

The Tentative Order requests comments on any additional action that may be necessary with regard to the Commission's June 4, 2020 and December 3, 2020 Orders modifying the Emergency Order. On June 4, 2020, the Commission revised the Emergency Order so that suppliers could engage in in-person sales and marketing activities at retail businesses that had reopened as a result of restrictions lifted by the Governor. On December 3, 2020, the Commission eliminated the restrictions on in-person sales and marketing activities at public outdoor events, again in accordance with orders and directives issued by the Governor and the Secretary of Health. Both of these modifications enabled NRG to resume the use of these important channels for selling electricity and natural gas, for which it is appreciative.

In approving these modifications to the Emergency Order, the Commission required suppliers to comply with all relevant orders and guidance of the Governor and the Secretary of Health and to adhere to

applicable Commission regulations. The Commission further directed suppliers to report their intent to resume in-person sales and marketing activities at retail businesses and public outdoor events and provide other specific details to Commission staff before commencing such activities.⁹ NRG has no concerns about complying with directives issued by the Governor and the Secretary of Health and applicable Commission regulations. As to the notifications to the Commission regarding sales in retail establishments and at outdoor events, NRG suggests that eliminating them would be consistent with the Commonwealth's lifting of mitigation measures and getting businesses back on course.

III. CONCLUSION

NRG Energy, Inc. appreciates the opportunity to comment on the Commission's next steps concerning the moratorium that the Emergency Order imposed on in-person sales and marketing activities of competitive energy suppliers. Based upon the foregoing, NRG respectfully requests that the Commission immediately rescind the moratorium in its entirety, enabling energy suppliers to operate their businesses in the same way that other businesses in Pennsylvania do.

Respectfully submitted,

/s/ Karen O. Moury

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Date: June 16, 2021

Counsel for NRG Energy, Inc.

⁹ June 4, 2020 Order at Ordering Paragraph No. 3; December 3, 2020 Order at Ordering Paragraph No. 3. For sales and marketing activities at retail establishments, suppliers are required by the June 4, 2020 Order to provide the name and location of the retail business, including county. The December 3, 2020 Order requires suppliers to furnish the same, date, time and location of the outdoor public event.