

**PENNSYLVANIA HOUSE CONSUMERS AFFAIRS
COMMITTEE
Public Hearing on Competitive Energy Supplier Sales and
Marketing Practices
COMMENTS OF AEP ENERGY, INC.
HARRISBURG, PA JUNE 18, 2018**

Majority Chairperson Godshall, Democratic Chairperson Caltagirone, staff and members of the Pennsylvania House Consumers Affairs committee, I am F. Mitchell Dutton, regulatory counsel for AEP Energy, Inc. and I thank you for this opportunity to appear before you and share information regarding AEP Energy's sales and marketing practices. AEP Energy serves nearly 430,000 commercial, industrial, public sector and residential customers in 24 different utility service territories across six states (PA, OH, IL, NJ, MD, and DE) and the District of Columbia. In Pennsylvania for calendar year 2017, AEP Energy served approximately 140,000 residential and business electric customers, paid approximately \$1.6 million in PA sales taxes, has performance bonds posted in excess of \$6.5 million with the Commonwealth and PA local distribution companies to ensure performance, and paid over \$6.7 million in income and state gross receipts taxes.

The Commonwealth of Pennsylvania has been a business friendly environment committed to the success of competitive retail electric markets in a fair and transparent manner. The Office of Competitive Market Oversight within the Pennsylvania Public Utilities Commission has been particularly invaluable in providing guidance, insight, and compliance with the regulatory requirements. On January 30th this year, I and my colleague who is responsible for investigating customer complaints met with Mr. Daniel Mumford, Director of the Office of Competitive Market Oversight, and his staff. The meeting was helpful to AEP

Energy by the experiences mutually shared in the areas of customer service, sales tactics, and marketing practices. The next day we attended the Residential Supplier Workshop hosted by the Pennsylvania Public Utility Commission, along with the Office of Consumer Advocate and Office of Attorney General. The presenters provided an excellent overview of telemarketing requirements, contract issues, and misleading marketing materials, among other topics. My experience in Pennsylvania has been that the regulators are actively involved in monitoring the competitive retail electric supply markets, are helpful in addressing questions of regulatory interpretation, and are knowledgeable about this industry.

PA PowerSwitch

In Pennsylvania, AEP Energy only supplies retail electricity and does not, as of now, participate in the retail natural gas market. AEP Energy posts its Pennsylvania offers on the PA PowerSwitch website. In our view, PA PowerSwitch is one of the better search sites for competing electric supply offers. The site is well organized, easily navigated, transparent in its selection criteria, and discloses most of the information a residential customer would need to make an informed supplier choice.

AEP Energy's view of PA PowerSwitch was confirmed in a survey of 226 Pennsylvania residential customers who had heard of AEP Energy through PA PowerSwitch and enrolled with AEP Energy. Seventy five percent of these customers had no significant suggestion for improvement of the PA PowerSwitch website. Typical of the customers' responses was the following: "PA Power Switch was very easy to use. I put in Fixed, and wanted at least a 12 month rate and it showed which companies used Renewable. I sorted by Price. I can't imagine it could be easier or how to improve it." Nonetheless, from the survey

results or in AEP Energy's view, the following enhancements could be considered to the PA PowerSwitch website:

1. For introductory or "teaser" fixed rate offerings of short duration that flip to a variable rate, require that the current month variable rate or an historical range of the variable rate be disclosed with the offer. It is disingenuous to offer a below market fixed rate of short duration followed by a jump to a high variable based price.
2. For variable rate offers which are not introductory, disclose both current applicable monthly variable rate and prior historical rates, as is already required to be available on the Supplier's internet site and by telephone.
3. Additional information about the supplier businesses to aid customers in selecting which supplier with whom to do business, such as an independent third party rating like the Better Business Bureau and years in business could be added to the website.
4. Advertising the existence of the PA PowerSwitch website as an independent, Commission sponsored source of unbiased supplier information. There are supplier sponsored websites that purport to post competing offers by ZIP code and pricing type, much like PA PowerSwitch, but are "pay-to-play" sites for select suppliers which intentionally look and feel like the PA PowerSwitch site. Residential customers need to be informed about the PA PowerSwitch website to reduce this confusion. Additionally, it would be appropriate to explore whether these third party sites are confusing and misleading customers, such that requiring disclosures of the nature of these sites should be adopted.

5. For any fixed monthly fee offer placed on PA PowerSwitch, require an equivalent rate per kWh to be posted based on a methodology developed by consensus using reasonable residential electric consumption assumptions.
6. PAMPowerSwitch currently states that not all PA PUC licensed suppliers may be making offers on PAMPowerSwitch as it is each individual supplier's business decision as to whether it makes offers on the website or not. Some other State websites require every licensed supplier to post at least one offer on its website. The advantage of such a requirement is not only a more robust comparison shopping tool, but also a readily available regulatory check on offers being made and an easy means for constructive feedback to correct any non-compliance oversights.

Marketing Materials

AEP Energy's process for developing many of its marketing material starts with surveys and market research to obtain customers' insight on their experience with our retail electric supply. AEP Energy collects and assembles representative datasets that includes customer feedback to measure key performance indicators and obtain insight on important business strategies. These customer insights drive communication improvements, cost reductions, product development, marketing, and messaging.

The customer research provides the framework for creation of AEP Energy's marketing material. Once drafts of such documents are created, the documents are reviewed for compliance with the robust existing marketing requirements adopted in Pennsylvania. This includes the "Marketing and Sales Practices for the Retail Residential Energy Market" set forth in Title 52 Pa. Chapter 111 consisting of comprehensive provisions addressing the entirety of the means of customer interface, training, liability, consumer protections, and complaints. Additionally,

there are marketing/sales activities general requirements on pricing (Title 52 Pa. Code §54.7), standards and pricing practices for retail electricity service (Title 52 Pa. Code §54.3), standards of conduct and disclosure (Title 52 Pa. Code §54.43), and disclosure of information about generation supply (Title 52 Pa. Code §54.6(d)). Upon completion of the legal review and revisions to achieve compliance, the marketing materials are utilized as designed.

Needed Statutory or Policy Changes to Enhance Transparency and Improve Competitive Retail Energy Market

Pennsylvania has a robust regulatory environment that provides many consumer protections and safeguards in the area of retail competition. The Public Utilities Commission is actively involved in monitoring the retail electric residential market, and the Office of Competitive Market Oversight is a unique approach among regulators in having a focus on this particular market segment. There are not gaping shortcomings in the existence of statutory authority, regulatory policy, or in the PA competitive retail energy market. AEP Energy does support the Public Utilities Commission's evaluation of Supplier Consolidated Billing as an option within Pennsylvania.

One area that could improve the competitive retail energy market would be to encourage the use of supplier employees in the process of the customer enrollments, particularly in residential door-to-door sales solicitations. AEP Energy does not currently conduct residential door-to-door sales solicitations in Pennsylvania, but does do so in Ohio. AEP Energy has historically used both third party vendors as a source for door-to-door sales agents and hired its own employees. In AEP Energy's experience, the use of direct employees of the supplier in door-to-door sales activities results in an improved customer experience, a better trained, knowledgeable and experienced sales force, better

compliance with sales scripts and enrollment documentation, and fewer instances of customer slamming, misinformation, and misrepresentation than when a third party vendor is used to field door-to-door sales agents. There is inherently greater accountability of and control by the supplier when direct employees are used than when a third party vendor relationship exists. Finally, supplier contracts with third party vendors generally are based on a sales commission structure, where the third party vendor is only paid for customers who are enrolled for service. Third party vendors tend to pass along this performance risk by paying their agents only on a commission basis, which encourages high pressure sales tactics for the contracted sales force and, by extension, for customers. For the foregoing reasons, door-to-door enrollments should only be conducted by agents employed by the supplier and not paid solely on a commission basis, but rather paid, in part, on an hourly or salary basis.

Thank you for this opportunity to share AEP Energy's views about speak to you about the competitive energy supplier sales and marketing practices. I would welcome any questions from the committee members.