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Via Electronic Filing and First Class Mail

November 26, 2019

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority
10 Franklin Square
New Britain, CT 06051

Re: **Docket No. 14-07-20RE01: PURA Development and Implementation of Marketing Standards and Sales Practices by Electric Suppliers – Revised Standards**

Dear Mr. Gaudiosi:

Enclosed please find the Retail Energy Supply Association's Motion for Further Action in connection with the above-referenced matter.

I certify that a copy hereof has been sent to all parties and intervenors of record as reflected on the Public Utilities Regulatory Authority's ("Authority") service list as of this date. A copy has also been filed with the Authority as an electronic web filing and is complete.

Please do not hesitate to contact me if you have any questions or require additional information. Thank you.

Sincerely,



Brian E. Calabrese

Enclosures

Copy to: Service List

STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

PURA DEVELOPMENT AND : DOCKET NO. 14-07-20RE01
IMPLEMENTATION OF MARKETING :
STANDARDS AND SALES PRACTICES BY :
ELECTRIC SUPPLIERS - REVISED :
STANDARDS : NOVEMBER 26, 2019

**RETAIL ENERGY SUPPLY ASSOCIATION'S
MOTION FOR FURTHER ACTION**

The Retail Energy Supply Association (“RESA”)¹ hereby requests that the Public Utilities Regulatory Authority (“Authority”) take further action in the instant proceeding.

BACKGROUND

In 2014, the Connecticut General Assembly passed Public Act 14-75, *An Act Concerning Electric Customer Consumer Protection* (“Public Act 14-75”). Section 4 of Public Act 14-75 required, *inter alia*, that the Authority “initiate a contested proceeding to develop and implement, or cause to be implemented, standards relating to abusive switching practices, solicitations and renewals by electric suppliers, the hiring and training of sales representatives, door-to-door sales and telemarketing practices by electric suppliers.”² In response to this statutory requirement, the Authority opened the original phase of this proceeding³ and, on February 4, 2015, issued a

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² The relevant provisions of Section 4 of Public Act 14-75 were codified at Connecticut General Statutes section 16-245o(l)(2).

³ See, generally, Docket 14-07-20, *PURA Development and Implementation of Marketing Standards and Sales Practices by Electric Suppliers*.

Decision adopting certain Electric Supplier Standards (the “Original Standards”) and a disclosure statement.⁴

On March 19, 2015, the Office of Consumer Counsel (“OCC”) and several suppliers jointly moved to reopen the docket “for the limited purpose of accepting, approving and implementing” certain mutually-agreed-upon proposed revisions to the Original Standards (the “Supplier/OCC Revised Standards”) and to stay the Original Standards during the Authority’s consideration of the motion to reopen.⁵ In response to the motion, the Authority agreed to reopen the docket but declined to adopt the Supplier/OCC Revised Standards without “testimony in support of suggestions as to how the Standards may or should be updated, improved and or streamlined” and “input as to the most appropriate vehicle (e.g., periodic reopeners, or Supplier Working Group) to accommodate and implement any necessary future changes to the Standards.”⁶

On May 8, 2015, in response to a request from the Authority,⁷ a group consisting of various individual electric suppliers and RESA (the “Supplier Group”) offered pre-filed testimony in support of the Supplier/OCC Revised Standards.⁸ In response to specific questions asked by the Authority in notices dated October 28, 2016⁹ and February 21, 2017,¹⁰ Supplier

⁴ See, generally, Docket 14-07-20, *PURA Development and Implementation of Marketing Standards and Sales Practices by Electric Suppliers*, Decision (Feb. 4, 2015) (“Docket 14-07-20 Decision”).

⁵ See Docket 14-07-20, *PURA Development and Implementation of Marketing Standards and Sales Practices by Electric Suppliers*, Motion No. 9 (Mar. 19, 2015).

⁶ See Docket 14-07-20, *PURA Development and Implementation of Marketing Standards and Sales Practices by Electric Suppliers*, Motion No. 9 Ruling (Mar. 26, 2015). In a separate ruling, PURA confirmed that the Original Standards were stayed pending a final decision in this docket. See Motion No. 1 Ruling (Apr. 15, 2015).

⁷ Notice of Request for Written Comments (Apr. 8, 2015).

⁸ See, generally, Pre-Filed Testimony (May 8, 2015).

⁹ Notice of Request for Written Comments (Oct. 28, 2016).

¹⁰ Second Notice of Request for Written Comments (Feb. 21, 2017).

Group witnesses offered further pre-filed testimony.¹¹ On June 7, 2017, the Authority released proposed revisions to the Original Standards (the “Proposed PURA Revisions”) and solicited comments and testimony from parties.¹² The Supplier Group responded by once again submitting pre-filed testimony.¹³

On July 24, 2017, the Authority conducted an evidentiary hearing at which witnesses for the Supplier Group and a witness for The Connecticut Light and Power Company d/b/a Eversource Energy (“Eversource”) appeared.¹⁴ The Authority subsequently received late filed exhibits.¹⁵ Thereafter, the Supplier Group, Eversource, the OCC, and the Attorney General (“AG”) filed briefs¹⁶ and reply briefs.¹⁷ On October 25, 2017, the OCC filed a notice of supplemental authority to which RESA responded on November 6, 2017.¹⁸ Although more than two years have passed since the conclusion of the hearing, no decision has yet been issued.¹⁹

MOTION

The Connecticut Uniform Administrative Procedures Act provides that “[e]ach agency shall proceed with reasonable dispatch to conclude any matter pending before it”²⁰ The Authority and the participants have devoted considerable effort to the instant proceeding since it

¹¹ *See, generally*, Additional and Updated Pre-Filed Testimony (Dec. 19, 2019); Second Additional and Updated Pre-Filed Testimony (Mar. 7, 2017).

¹² Notice of Request for Written Comments and Hearing (Jun. 7, 2017).

¹³ *See, generally*, Pre-Filed Testimony Regarding the June 7, 2017 Proposed Revisions to the Revised Marketing Standards (Jun. 30, 2017).

¹⁴ *See, generally*, Hearing Transcript.

¹⁵ *See* Late Filed Exhibit No. 1 (Aug. 14, 2017); Late Filed Exhibit No. 2 (Aug. 24, 2017).

¹⁶ *See* Brief of George Jepsen, Attorney General of the State of Connecticut (Oct. 11, 2017); Brief of the Office of Consumer Counsel (Oct. 11, 2017); Brief of the Supplier Group (Oct. 11, 2017); Brief of The Connecticut Light and Power Company d/b/a Eversource Energy (Oct. 11, 2017).

¹⁷ *See* Reply Brief of George Jepsen, Attorney General of the State of Connecticut (Oct. 18, 2017); Reply Brief of the Office of Consumer Counsel (Oct. 18, 2017); Reply Brief of the Supplier Group (Oct. 18, 2017); Reply Brief of The Connecticut Light and Power Company d/b/a Eversource Energy (Oct. 18, 2017).

¹⁸ *See* Office of Consumer Counsel’s Notice of Supplemental Authority (Oct. 25, 2017); Retail Energy Supply Association Response to Notice of Supplemental Authority (Nov. 6, 2017).

¹⁹ *See, generally*, Record.

²⁰ Conn. Gen. Stat. § 4-180(a).

was opened to develop, modify, and implement electric supplier practice standards that will benefit consumers and that are practical, efficient, and workable.²¹ However, because the instant proceeding remains pending, consumers, electric suppliers, and other stakeholders are not receiving the benefits of those efforts. Accordingly, to ensure that consumers, electric suppliers, and other stakeholders receive these benefits, the Authority should take further action in this docket.

Connecticut law and regulation provide robust protections to consumers participating in the competitive retail electric supply market. These protections cover a vast array of activity within this market, from marketing retail electric supply products,²² to standards for marketing representatives,²³ to contracts²⁴ and bills for electric supply.²⁵ Moreover, electric suppliers are subject to general consumer protections, such as those in the Connecticut Unfair Trade Practices Act,²⁶ and, to the extent that they conduct door-to-door sales and telesales, the Home Solicitation Sales Act²⁷ and state and federal telemarketing laws and regulations, respectively.²⁸ Exhibit A to this motion lists some of the most significant consumer protections in this market.

The instant proceeding offers the Authority the opportunity to enhance protections for consumers in a way that will improve consumers' experiences when participating in the retail

²¹ See, generally, Record.

²² See, e.g., Conn. Gen. Stat. § 16-245o(h)(2) (imposing requirements on specified sales and solicitations of electric generation services to customers with maximum demands of 100 kilowatts or less).

²³ See Conn. Gen. Stat. § 16-245o(h)(10) (“ Each electric supplier shall develop and implement standards and qualifications for employees and third-party agents who are engaged in the sale or solicitation of electric generation services by such supplier.”).

²⁴ See, e.g., Conn. Gen. Stat. 16-245o(h)(7)(A) (“No contract for electric generation services by an electric supplier shall require a residential customer to pay any fee for termination or early cancellation of a contract in excess of fifty dollars . . .”).

²⁵ See, generally, Docket No. 14-07-19RE05, *PURA Investigation into Redesign of the Residential Electric Billing Format – Review of Summary Information, Implementation and Display*, Decision (Dec. 19, 2018).

²⁶ See Conn. Gen. Stat. § 42-110a *et seq.*

²⁷ See Conn. Gen. Stat. § 42-134a *et seq.*

²⁸ See, e.g., Conn. Gen. Stat. § 16-245o(i) (requiring electric suppliers to comply with federal telemarketing regulations); Conn. Gen. Stat. § 42-284 *et seq.*

electric supply market and account for the interests of other stakeholders. By adopting appropriate standards for electric suppliers that account for the practical and operational issues that electric suppliers and other stakeholders face, the Authority will be able to enhance this market and increase consumer confidence in it.

The electric supplier community has supported these efforts. In fact, various electric suppliers collaborated with the OCC to develop the Supplier/OCC Revised Standards to accomplish these goals.²⁹ In addition, in its initial brief, RESA, along with the other members of the Supplier Group, supported the adoption, with certain adjustments, of the Supplier/OCC Revised Standards.³⁰ RESA continues to support the issuance of a decision adopting the Supplier/OCC Revised Standards with those adjustments.

That said, more than two years have elapsed since the submission of briefs in this docket.³¹ During this time, the competitive retail electric market has continued to develop. For example, the Authority strengthened the rules governing the transmission of next cycle rate information,³² technologies used by electric suppliers have advanced, and interest in products that the competitive market offers (beyond what the distribution companies offer through Standard Service), such as renewable energy, has continued to develop. Accordingly, RESA requests that, given these more recent developments, the Authority proceed to issue a final set of supplier standards for stakeholder review and comment.

²⁹ See Docket 14-07-20, *PURA Development and Implementation of Marketing Standards and Sales Practices by Electric Suppliers*, Motion No. 9 (Mar. 19, 2015).

³⁰ See Brief of the Supplier Group (Oct. 11, 2017), at 1-2.

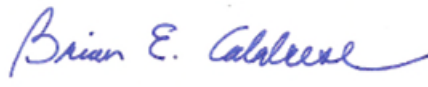
³¹ See, generally, Record.

³² See, generally, Docket No. 14-07-19RE05, *PURA Investigation into Redesign of the Residential Electric Billing Format – Review of Summary Information, Implementation and Display*, Decision (Dec. 19, 2018).

CONCLUSION

For all of the foregoing reasons, RESA respectfully requests that the Authority take further action in the instant proceeding as discussed herein.

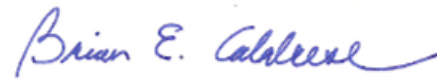
Respectfully Submitted,
RETAIL ENERGY SUPPLY ASSOCIATION

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CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants of record on this 26th day of November 2019.



Brian E. Calabrese

SELECT RETAIL ELECTRIC SUPPLY MARKET CONSUMER PROTECTIONS

The following protections already exist:

Customer Information

- Customers may opt out of having distribution companies release their names, contact information, and rate class to electric suppliers.¹
- Customers must consent to the release of additional information to electric suppliers.²

Marketing Materials

- Requirement for door-to-door marketing materials be available in English and Spanish³
- Requirement to disclose distribution company charges⁴
- Font size requirements for disclosure of certain information⁵
- Prohibition on the distribution of materials containing distribution company logos⁶
- Prohibition on the distribution of materials that suggest a relationship that does not exist with a distribution company, government agency, or other supplier⁷
- Mandatory disclosures regarding voluntary renewable energy content⁸

Marketing Solicitations

- Mandatory disclosures⁹
- Restrictions on the time of day in which solicitations may occur¹⁰
- Prohibition on deceptive acts and practices¹¹
- Prohibition on misrepresenting the supply portion of the bill as the entire bill and on implying that a customer must choose a supplier¹²
- Generally applicable Connecticut door-to-door sales requirements¹³
- Generally applicable federal and Connecticut telemarketing requirements¹⁴

¹ See Conn. Gen. Stat. §16-245o(a).

² See Conn. Gen. Stat. §16-245o(a).

³ See Conn. Gen. Stat. § 16-245o(h)(2)(B).

⁴ See Conn. Gen. Stat. §16-245o(h)(3).

⁵ See Conn. Gen. Stat. §16-245o(h)(3).

⁶ See Conn. Gen. Stat. §16-245o(h)(2)(B).

⁷ See Conn. Gen. Stat. §16-245o(h)(2)(B).

⁸ See Conn. Gen. Stat. § 16-245o(h)(5), (6).

⁹ See Conn. Gen. Stat. § 16-245o(h)(2)(A).

¹⁰ See Conn. Gen. Stat. § 16-245o(h)(2)(B).

¹¹ See Conn. Gen. Stat. §§ 16-245o(h)(4); 42-110a *et seq.*

¹² See Conn. Gen. Stat. § 16-245o(h)(3).

¹³ See Conn. Gen. Stat. §§ 42-134 *et seq.*

¹⁴ See 15 U.S.C. § 6102; Conn. Gen. Stat. §§ 16-245o(i); 42-284 *et seq.*

- Generally applicable Connecticut Unfair Trade Practices Act regulations regarding guarantees,¹⁵ comparison price advertising,¹⁶ misleading advertising,¹⁷ bait and switch,¹⁸ offer conditions,¹⁹ and game promotions²⁰
- Compliance with municipal ordinances²¹

Sales Agents

- Training requirements²²
- Requirement that door-to-door sales agents wear or display identification²³
- Prohibition on door-to-door sales agents wearing apparel or carrying equipment that includes the insignia of a distribution company²⁴
- Mandatory annual regulatory filing identifying agents²⁵
- Requirement that suppliers develop and implement sales agent standards and qualifications²⁶

Enrollments/Customer Contracts

- Provision of residential electric supply summary form²⁷
- Customer consent provided in specified format(s)²⁸
- Plain language requirement for consumer contracts²⁹
- Requirement that certain contract provisions be provided in a “clear and conspicuous format” (e.g., statement explaining customer’s rates)³⁰
- Requirements that certain contracts contain specified provisions (e.g., statement identifying how long rates are guaranteed)³¹
- Notice required for certain contract price changes³²
- Prohibition on new residential variable rates³³

¹⁵ See Conn. Agencies Regs. §§ 42-110b-1 through 42-110b-8.

¹⁶ See Conn. Agencies Regs. §§ 42-110b-9a through 42-110b-15.

¹⁷ See Conn. Agencies Regs. § 42-110b-18.

¹⁸ See Conn. Agencies Regs. § 42-110b-20.

¹⁹ See Conn. Agencies Regs. § 42-110b-22.

²⁰ See Conn. Agencies Regs. § 42-110b-23.

²¹ See Conn. Gen. Stat. § 16-245o(h)(2)(B).

²² See Conn. Gen. Stat. § 16-245o(h)(1).

²³ See Conn. Gen. Stat. § 16-245o(h)(2)(B).

²⁴ See Conn. Gen. Stat. § 16-245o(h)(2)(B).

²⁵ See Conn. Gen. Stat. § 16-245o(h)(9).

²⁶ See Conn. Gen. Stat. § 16-245o(h)(10).

²⁷ See Conn. Gen. Stat. § 16-245o(f)(1).

²⁸ See Conn. Gen. Stat. §§ 16-245o(f)(2); 16-245s(a).

²⁹ See Conn. Gen. Stat. § 42-152.

³⁰ See Conn. Gen. Stat. § 16-245o(f)(2).

³¹ See Conn. Gen. Stat. § 16-245o(f)(2).

³² See Conn. Gen. Stat. § 16-245o(g)(1); *see also* Conn. Gen. Stat. § 16-245o(g)(3).

³³ See Conn. Gen. Stat. § 16-245o(g)(4).

- Residential early termination fee cap³⁴
- Right to rescind contract within three business days³⁵
- Prohibition on waiver of certain consumer protections³⁶
- Retention requirement for contract documents/customer consent³⁷
- Renewal notice requirements³⁸
- Opportunity for residential customer to cancel renewal without penalty³⁹

Billing

- Standard billing format for residential customers⁴⁰

³⁴ See Conn. Gen. Stat. §16-245o(h)(7)(A).

³⁵ See Conn. Gen. Stat. § 16-245o(f)(2).

³⁶ See Conn. Gen. Stat. §16-245o(j).

³⁷ See Conn. Gen. Stat. § 16-245o(f)(2).

³⁸ See Conn. Gen. Stat. § 16-245o(h)(8).

³⁹ See Conn. Gen. Stat. § 16-245o(h)(8).

⁴⁰ See Conn. Gen. Stat. §16-245d(a).