

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Rulemaking Re: Marketing and Sales
Practices for the Retail Residential
Energy Market**

**Public Meeting – February 10, 2011
2208332-DIR
Docket No. L-2010-2208332**

STATEMENT OF VICE CHAIRMAN TYRONE J. CHRISTY

Although the proposed regulations that the Commission is issuing today are well-intentioned, they are based on the assumption that door-to-door marketing is a valid marketing strategy. I invite comment from the public on this issue. In addition, I request that all of the electric distribution companies (EDCs) file information similar to that previously provided by PPL on the complaints and phone calls that they have received from their customers concerning door-to-door marketers.¹ Since rate caps expired in the remaining EDC service territories on January 1, 2011, my understanding is that EDCs other than PPL have been receiving complaints from their customers about door-to-door marketers. I believe that it is important that this information be made public.

It is telling that all of the entities that represent the interests of residential consumers that filed comments in the related proceeding last year at Docket No. M-2010-2185981, *Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers*, either opposed door-to-door marketing, or expressed serious concerns about the practice. The Commission's Consumer Advisory Council (CAC) stated as follows:

The Consumer Advisory Council strongly urges the Pennsylvania Public Utility Commission to conclude that door-to-door sales of electric generation and natural gas utility service constitute "unsafe, inadequate and unreasonable service." As discussed in more detail below, door-to-door sales are fraught with danger for many consumers. Moreover, unlike the PUC and OCA web sites, door-to-door sales are designed to provide consumers with inadequate information to make an informed purchase decision. These important safety and information issues alone make door-to-door sales of electric generation and natural gas utility service unreasonable. Consequently, the Commission should conclude that door-to-door sale of such utility service should be prohibited.

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¹ Attached to my Dissenting Statement at Docket No. M-2010-2185981 was a memo prepared at my request by PPL, which provided a representative sample of calls received by PPL in response to door-to-door marketing by EGSs in PPL's service territory. The most common complaint involves EGS sales agents telling customers that they represent PPL. The most alarming complaint involves a complaint about a sales agent exposing himself in the customer's home after asking to use the bathroom.

[T]he process of door-to-door sales contravenes the important consumer education efforts engaged in by the PUC and the OCA. . . [S]uch sales . . . will not provide consumers the same level of detail made available by these agencies, and will limit a consumer's opportunity for reflection and consideration of the information they receive at their door and should be prohibited. Unlike some other goods and services sold door-to-door, the CAC submits that electric and natural gas service are so essential and fundamental to the life of residential consumers and families that the selection process for electric and natural gas service must be an "informed and comparative purchase decision."

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The CAC submits that the sale of electric generation and natural gas utility service door-to-door requires greater regulation than any other sales methods because of the "physical invasion" of consumer privacy which results from door-to-door sales. The physical invasion of privacy creates an increased risk of physical harm to consumers and a greater likelihood that elderly, infirm and uneducated consumers may become victims. . . In the experience of the CAC, door-to-door sales often target the elderly. . . The CAC is extremely concerned that the elderly, infirm and uneducated consumers may be victimized by door-to-door sales through the use of unfair and deceptive trade practices. We encourage this Commission to adopt the one position which avoids this possibility and prohibit door-to-door sales of electric supply and natural gas utility service.

CAC Comments at 2-5. The Pennsylvania Utility Law Project (PULP) stated as follows:

PULP respectfully submits that the Commission should proceed cautiously to ensure that the development of competitive markets does not come at the expense of other important consumer concerns, such as the safety of vulnerable customer populations and the protection of privacy. . . The proposed use of door-to-door marketing . . . places vulnerable consumer populations at too great a risk and improperly violates consumer privacy. Door-to-door marketing should be prohibited by the Interim Guidelines.

* * *

Door-to-door marketing places vulnerable customers at heightened risk of unfair and deceptive trade practices. The complaints of unfair and deceptive trade practices cited most often regarding door-to-door sales are of five kinds: (1) Deception by salesmen in getting inside the door; (2) high-pressure sales tactics; (3) misrepresentation as to the quality, price or characteristics of the product; (4) high prices for low-quality merchandise; and (5) the nuisance created by the visit to the home by the uninvited salesmen. Vulnerable customers are particularly susceptible to these kinds of tactics and are often targeted for door-to-door sales. . . . Elderly customers, particularly those with deteriorating mental capacities associated with dementia or Alzheimer's disease, may be ill-equipped to or uncomfortable fending off unwanted attention from persistent sales people.

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[L]ow-income, elderly, disabled, non-English speaking communities are particularly susceptible to unfair and deceptive trade practices that often take

place in door-to-door sales. They are “easy marks” who are targeted. . . [T]he danger to vulnerable populations is real. It is a real danger that the Commission can address by prohibiting the use of door-to-door sales.

Door-to-door marketing runs counter to the intent of the Choice Acts. Another problem with door-to-door sales is that it does not support customers in making an informed choice. This is a serious deficiency since the Choice Acts, as one might suspect from their names, are built upon the assumptions that customers will make choices, *informed choices*. The General Assembly explicitly included in each law a requirement that information be provided to customers to support an informed decision making process. As such, consumers will need to do homework as part of the process of choosing an alternative supplier. This homework includes researching a range of options and companies to have sufficient data on which to base a reasoned decision.

* * *

Door-to-door sales methods are diametrically opposed to the kind of informed decision making contemplated by the Choice Acts and the General Assembly. Door-to-door sales are high-pressure, one-sided presentations . . . Given that door-to-door sales do not lead a consumer to make an informed choice, they run counter to the intent of the Choice Acts and should not be permitted.

* * *

The prohibition of door-to-door marketing would not unduly burden alternative suppliers or undermine the creation of a competitive marketplace. We live in a world that is awash with wireless connection and multiple channels of communication – radio, television, print media, the Internet, e-mail, etc. Millions of business use these channels to market their products successfully. It seems difficult to understand why electric generation and natural gas suppliers can not do the same. . . It seems particularly questionable when it will come at the expense of consumer safety and privacy. Door-to-door-sales are not needed since there are ample other resources consumers can use to learn about alternative suppliers.

PULP Comments at 2-7.

The Office of Consumer Advocate (OCA), AARP, and Dominion Retail submitted joint comments supporting the adoption of the Interim Guidelines, and noting that it shares the Commission’s concerns about door-to-door marketing. OCA/AARP/Dominion stated as follows:

Shopping for energy supply requires thoughtful consideration of a wide range of information, including information about prices, individual customer usage patterns, other available offers, default service prices, potential termination fees, and the length of contracts in the face of price volatility. A door-to-door sales contact, where the customer may not have ready access to the necessary information for making an informed choice, and may feel pressured to make a quick decision in light of a sales agent standing in their door or home, could result

in customers making less than optimal choices about their energy supply. This concern is heightened even further when door-to-door sales techniques are used with senior citizens or vulnerable customer populations. Making an informed choice is critical for these customers as the potential for getting locked into a contract that becomes unaffordable is not merely an annoyance, but a matter of their own health and safety if they are unable to pay their energy bill and face termination of service.

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The OCA/AARP/Dominion Retail would also note that the Commission's concerns about customer confusion and potential for fraud or abuse in the door-to-door sales contact have been borne out in other states where this sales technique has been used. In Illinois, AARP joined with the Illinois Citizens Utility Board (CUB) in filing a complaint against a marketer related to door-to-door sales practices. The Illinois Commerce Commission and CUB had received approximately 5,630 complaints alleging various forms of misrepresentation by the sales agents for the marketer, including allegations that the sales agents were switching customers without authorization, were representing that they were from the utility, were providing misleading or incomplete information, and were taking advantage of non-English speaking or elderly customers who did not understand the transaction. The OCA/AARP/Dominion Retail submit that while there is always a potential for fraud, fraud and sales abuses can be particularly prevalent in hard-sell door-to-door solicitations as has been seen in other states.

OCA/AARP/Dominion Energy Comments at 1-2.

In addition to the concerns about unscrupulous sales agents expressed by the CAC, PULP and the OCA/AARP/Dominion Retail in their previous comments, I also am concerned that door-to-door sales will lead to instances where customers are physically assaulted and/or subjected to property crimes by sales agents who have not been properly screened. Given that electricity and natural gas supply can be marketed effectively through a myriad of other ways, I invite comment on whether the Commission should continue to allow door-to-door sales of electricity and gas to residential customers.

2-10-11
DATE

Tyrone J. Christy
TYRONE J. CHRISTY, VICE CHAIRMAN