

December 20, 2011

**VIA e-File**

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

Re: Proposed Rulemaking –  
Marketing and Sales Practices for the Retail Residential Energy Market  
Docket No. L-2010-2208332

Dear Secretary Chiavetta,

Please find the attached written comments submitted on behalf of the Pennsylvania Coalition Against Domestic Violence (PCADV). PCADV is submitting these comments via e-File. This method of delivery was approved by Daniel Mumford in a telephone conversation today, December 20, 2011. Please notify me immediately at 717.671.4767 x. 132 if an alternative method of delivery is required.

Respectfully Submitted,



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**Before the Pennsylvania Public Utilities Commission**

Proposed Rulemaking : Docket No. L-2010-2208332  
Marketing and Sales Practices :  
for the Retail Residential Energy Market :

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**Comments of the Pennsylvania Coalition Against Domestic Violence Regarding the  
Marketing and Sales Practices for the Retail Residential Energy Market**

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The Pennsylvania Coalition Against Domestic Violence (PCADV) submits the following comments to express its concerns on behalf of the 60 domestic violence programs across the Commonwealth, and the thousands of victims and families each program serves, regarding the Marketing and Sales Practices for the Retail Energy Market. PCADV is grateful to the Pennsylvania Public Utilities Commission for its thoughtful consideration of the unique issues facing victims of domestic violence through this period of transition to electric choice.

## **I. INTRODUCTION**

PCADV respectfully asserts that the PUC must adopt marketing regulations that prioritize the physical safety and privacy of electric consumers and that promote consumer education and choice. To achieve a regulatory scheme that more appropriately addresses these priorities, PCADV urges the PUC to eliminate door-to-door sales or, in the alternative, to strengthen safety provisions that will enhance all aspects of consumer safety and customer choice. Moreover, PCADV strongly urges the PUC to adopt strict confidentiality and security protocols to protect against data breaches that could be used to locate or track a consumer who is or has been the victim of crime. These measures should be underscored by requiring comprehensive educational programs for all agents subject to these regulations to ensure full compliance with the PUC's regulations and guidelines. PCADV would be happy to serve in an advisory role through the implementation of the PUC's final marketing rules to ensure that victims of domestic violence and other victims of crime are adequately protected.

## **II. RECOMMENDATIONS**

### **a. Prohibit Door-to-Door Sales**

PCADV echoes the serious and substantial concerns of the Consumer Advisory Council (CAC), the Pennsylvania Utility Law Project (PULP), the Office of Consumer Advocate (OCA), AARP, and Dominion Retail with regard to door-to-door sales of electric generation and natural gas. PCADV supports the conclusion of CAC that the PUC's approval of door-to-door sales for such "essential and fundamental" services is "unsafe, inadequate and unreasonable."<sup>1</sup> The PUC should not condone such an invasive and dangerous marketing tactic.

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<sup>1</sup> *Comments of the Pennsylvania Consumer Advisory Council (CAC), Interim Guidelines on Marketing and Sales Practices for Electric Generation and Natural Gas Suppliers*, Docket No. M-2010-2185981, at 2-3 (Aug. 16, 2011)

*i. Door-to-Door Sales Threaten Customer Safety*

PCADV strongly asserts that door-to-door sales pose too many threats to customer safety and, therefore, must be censured.

Door-to-door sales present a particularly unique and troublesome threat to victims of domestic violence and other victims of similarly insidious crime. Batterers use emotional coercion and physical abuse to control and abuse their intimate partners and/or spouses. One tactic that a batterer commonly uses to establish control is to isolate the victim from family, friends, and others who could offer help. For victims in an actively battering relationship, the risk of physical harm by a batterer who learns of a salesperson's visit to the home is great. Batterers may perceive a visit from a salesperson while they are out as a threat to their control over the victim, either out of fear that the visit would reveal abuse within the home or connect the victim to services, or out of irrational jealousy. As a result, the batterer may lash out at the victim for receiving such a visit. Even if the victim is no longer living with their batterer, victims who have relocated to avoid abuse or are actively hiding from their batterer, stalker, or perpetrator are at risk of being retraumatized by the presence of an unexpected salesperson at their doorstep. The population affected by these particularized dangers is by no means small. According to the most recent data from the Center for Disease Control, which was released on December 14, 2011, found that more than 1 in 3 women and more than 1 in 4 men will experience rape, physical violence, and/or stalking by an intimate partner.<sup>2</sup> The potential for continued traumatization of victims through the use of door-to-door tactics is simply too high and should not be endorsed by the PUC as an appropriate marketing tactic for such necessary and essential services.

Moreover, door-to-door marketing poses a threat to all customers by allowing marketers to knock on doors and ask to be invited into a person's home. The CAC explained in its previous comments that "[t]he physical invasion of privacy" into an individual's home "creates an increased risk of physical harm to consumers and a greater likelihood that [vulnerable

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[hereinafter *Comments of CAC*]; see also *Statement of Vice Chairman Tyrone J. Christy*, 41 Pa. Bull. 5624, Doc. No. 11-1789 (Oct. 22, 2011).

<sup>2</sup> NAT'L CTR. FOR INJURY PREVENTION & CONTROL, CTR. FOR DISEASE CONTROL, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY, Summary at 2 (Nov. 2011) [hereinafter NISVS].

populations] will be victimized.”<sup>3</sup> There is also the threat that criminals will seize on the door-to-door marketing techniques, and use its acceptance to impersonate a marketer and gain access to a home. As the Office of Consumer Advocate (OCA), Dominion Retail, and AARP explained to the PUC in their comments:

All too often in the recent past, criminals have tried to gain access to homes through pretending to be a utility representative. Allowing door-to-door sales by marketers who are selling a ‘utility type’ service could lead to additional such pretenses to enter the home.<sup>4</sup>

PCADV recognizes and commends the PUC for including safety provisions such as background checks, uniform/identification requirements, and independent verifications to address these significant safety concerns. But, as explained below in section II.b (*If Door-to-Door Sales Are Approved, Strengthen Safety Provisions*), the proposed provisions are inadequate and insufficiently specific to fully address these concerns and the concerns of victims of domestic violence and other victims of crime.

The only way to truly protect against the unique risks posed to victims of domestic violence and other crimes is to completely prohibit door-to-door sales by electric and gas suppliers.

***ii. Door-to-Door Sales Undermine Efforts to Foster Informed Customer Consent***

In addition to posing a potential threat to customer safety, the use of door-to-door marketing tactics undermines the efforts of the PUC, the OCA, and others to ensure that customers are making an informed choice about their electric service. As the CAC points out, door-to-door sales “are inherently biased toward one supplier, will not provide consumers with the same level of detail made available by [the PUC and the OCA], and will limit a consumer’s opportunity for reflection and consideration of the information they receive at their door.”<sup>5</sup> PCADV agrees with this conclusion, and points also to PULP’s explanation that “[d]oor-to-door

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<sup>3</sup> *Id.*

<sup>4</sup> *Comments of the Office of Consumer Advocate, AARP, and Dominion Retail, Interim Guidelines on Marketing and Sales Practices for Electric Generation and Natural Gas Suppliers*, Docket No. M-2010-2185981, at 11 (Aug. 16, 2010) [hereinafter *Comments of OCA et al.*].

<sup>5</sup> *Comments of CAC*, *supra* note 1.

sales are high-pressure, one-sided presentations intended to persuade a customer that the agent's product is 'the right' one, perhaps the only one, certainly the only one that makes sense."<sup>6</sup>

Door-to-door sales are particularly problematic for victims of domestic violence, who are more vulnerable to coercive tactics employed by door-to-door salesman. The consequence of making an uninformed decision is great. The OCA, AARP, and Dominion Retail explained that "[m]aking an informed choice is critical for [vulnerable] 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.*"<sup>7</sup> This is particularly true for victims of domestic violence. In an attempt to maintain control over their victim, batterers often forbid victims from working outside the home or, if permitted to work, victims often must forfeit their earnings to their batterer. A victim who escapes abuse by an intimate partner is often left with little – if any – financial resources. In fact, financial considerations are frequently cited as the reason a victim believes they must stay with their batterer or must return to their batterer after failing to establish financial independence.

Many victims who are attempting to live a life free of violence must struggle to meet basic expenses. So, when a salesman knocks on the door and offers savings without providing the same types of consumer-oriented choice materials provided by the PUC and the OCA, it is difficult for a financially-strapped victim to make an informed decision. As PULP points out:

Poverty makes promises of cheaper natural gas or cheaper electricity almost impossible to resist, even if the promises are not altogether true or guaranteed. Vulnerable customers frequently are under enormous pressure due to unpaid bills, including bills for utility service. This financial distress makes these households more susceptible to high-pressure sales tactics which offer 'a way out from under' some of these bills; given their financial distress, the consumers may make hasty or uninformed decisions in their desire to solve their immediate financial problems.<sup>8</sup>

For victims of domestic violence, the stress of meeting basic expenses is exacerbated because ensuring financial independence is often synonymous with maintaining physical safety.

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<sup>6</sup> *Comments of the Pennsylvania Utility Law Project (PULP), Interim Guidelines on Marketing and Sales Practices for Electric Generation and Natural Gas Suppliers*, Docket No. M-2010-2185981, at 4 (Aug. 16, 2010) [hereinafter *Comments of PULP*].

<sup>7</sup> *Comments of OCA et al.*, *supra* note 4, at 2 (emphasis added).

<sup>8</sup> *Comments of PULP*, *supra* note 6, at 6.

The PUC must prohibit door-to-door sales in its final rulemaking because approval of door-to-door sales would undermine the PUC's own efforts to ensure that customers are fully informed of energy retail alternatives so they can make a choice that is appropriate for their life circumstances.

***iii. Door-to-Door Sales are Difficult to Adequately Monitor***

PCADV recognizes that the PUC included many provisions in its proposed rules to provide tangential oversight for door-to-door marketing activities. However, the fact remains that – short of sending a representative from the PUC along with door-to-door solicitors – it is impossible to effectively monitor a door-to-door solicitor's activities. Other methods of marketing, such as telemarketing, print media, or radio and television advertising, allow for continuous oversight. Records of these activities are easy to maintain and facilitate seamless investigations into complaints. However, for door-to-door sales, the only witnesses of abuse, fraud, or other illicit tactics by a salesperson are the victim and the perpetrating salesperson. Door-to-door sales tactics already generate a large number of complaints. In March, 2011, it was reported that the PUC was investigating 79 complaints.<sup>9</sup> Moreover, specific complaints about abusive and inappropriate practices have been chronicled in the news. In one report, a salesperson asked to see the customer's bill, containing a great deal of personal information, and in another report, a man's elderly mother was "subjected to high-energy sales tactics."<sup>10</sup> Given the increased threat to physical and financial safety of vulnerable populations, the added lack of effective oversight should be enough to overcome any perceived benefit of door-to-door marketing.

**b. Alternatively, If Door-to-Door Sales are Approved, Strengthen Safety Provisions**

While it is admirable for the PUC to have included safety provisions in its proposed rulemaking, the proposed provisions are not sufficiently specific to fully address the concerns discussed above. If the PUC is not compelled to prohibit door-to-door sales by the severe

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<sup>9</sup> Pa. Environment Daily, Energy Marketers (Mar. 14, 2011), <http://paenvironmentdaily.blogspot.com/2011/03/house-committee-questions-puc-on.html>.

<sup>10</sup> Paul Muschick, *Knock Knock. Who's There? Beware of Door-to-Door Electricity Sales*, THE MORNING CALL (Lehigh, Pa.) (Nov. 20, 2010), available at [http://articles.mcall.com/2010-11-20/news/mc-watchdog-idt-energy-20101120\\_1\\_gateway-energy-electric-supplier-sales](http://articles.mcall.com/2010-11-20/news/mc-watchdog-idt-energy-20101120_1_gateway-energy-electric-supplier-sales).

consequences and potential threat to the public outlined above, PCADV urges it to make specific changes to its marketing regulations to ensure maximum consumer protection.

*i. Institute a Clear Customer Exemption Process*

PCADV urges the PUC to develop a clear process whereby customers can elect to decline door-to-door marketing. Moreover, customers should then be explicitly informed of their right to prevent salespersons from knocking on their doors. This exemption process should be incorporated into the EDC customer solicitation process, which is required to provide customers the opportunity to restrict all of their information from being released to electric generation suppliers on the eligible customer list (ECL).<sup>11</sup> An door-to-door exemption process would enable victims of domestic violence and other victims of similarly invasive crimes to protect themselves from harm.

A good model for such a process is in Illinois, where the regulated companies maintain a “Do Not Market List” for customers who wish to avoid direct marketing.<sup>12</sup>

*ii. Clarify Background Check Requirements for Sales Agents*

In the Final Order on the Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers, the PUC indicated that it expected “that the suppliers will conduct background checks and screenings sufficient to determine whether the individual presents a possible threat to health and public safety.” Allowing suppliers such broad discretion to determine what types of offenses pose a possible threat to health and public safety is dangerous, and puts thousands of victims of domestic violence, stalking, sexual assault, and other similar crimes at risk of further victimization. Perpetrators of intimate partner crimes do not always have a criminal record because intimate partner crimes are grossly underreported, undercharged, and underprosecuted.<sup>13</sup> Moreover, even when charged and convicted, many

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<sup>11</sup> *Interim Guidelines for Eligible Customer Lists, Final Order on Reconsideration*, Docket No. M-2010-2183412 (Nov. 10, 2011) [hereinafter *ECL Final Order*].

<sup>12</sup> See ILL. ADMIN. CODE tit. 83, § 412.170(d).

<sup>13</sup> The National Intimate Partner and Sexual Violence Survey, an independent report produced by the CDC, reports: Incidents of sexual violence, stalking, and intimate partner violence are underreported as crimes in the United States. Survivors may be reluctant to disclose their victimizations ... for a variety of reasons including shame, embarrassment, fear or retribution from perpetrators, or a belief that they may not receive support from law enforcement. Laws may also not be enforced adequately or consistently, and perpetrators may become more dangerous after their victims report these crimes. NISVS, *supra* note 2, at 91.

serious offenses only appear as a misdemeanor or do not amount to a recorded crime at all. The existence of a Protection From Abuse Order, for instance, is not revealed by a criminal history search. Even an abuser's violation of a Protection From Abuse Order (charged as indirect criminal contempt) does not appear on a criminal record in every county, even though a violation often involves harassment, stalking, threats, or sexual or physical violence. Such information is very important to prevent known perpetrators from visiting customer homes. By failing to provide further direction to suppliers, the PUC is placing thousands of victims across Pennsylvania at risk of further harm. To assuage these serious concerns, PCADV suggests the following:

### **1. Define "Probable Threat to Health and Safety of the Public"**

PCADV urges the PUC to define "probable threat to health and safety of the public." Convictions that should bar an applicant from conducting door-to-door sales should include, but should not be limited to, harassment, stalking, terroristic threats, simple assault, aggravated assault, violation of a Protection From Abuse Order, and any sexual or sexually-related offense, such as indecent exposure, indecent assault, sexual assault, and rape. Inchoate crimes, such as solicitation, attempt, and conspiracy to commit one of the above crimes should also be included. PCADV applauds the PUC for including a presumption that a person listed on the Megan's Law registry presents a threat to health and safety of the public, but even this list does not encompass all of the relevant crimes that should prevent a person from being allowed to visit customers at their home with little to no direct supervision.

### **2. Require Additional Affirmations from Applicant**

Additionally, PCADV strongly recommends that the PUC provide suppliers with further instruction on how to uncover additional offenses that do not appear on a criminal background check. For instance, any application for door-to-door sales positions should require a signed affirmation regarding the existence of a Protection From Abuse Order or similar no-contact order. Applicants should also be asked to affirm that they have no pending criminal charges.

If the PUC were to provide additional safeguards against inappropriate hiring for door-to-door sales positions, it would communicate a clear message to the marketers and to customers that door-to-door sales must be conducted in a manner that prioritizes customer safety. Prioritizing customer safety is not only sound public policy, it is also key to a successful door-to-

door marketing campaign because it addresses customer concerns and encourages them to respond to solicitations.

### *iii. Expand “Agent” Definition*

As written, the PUC’s definition for “agent” is not sufficiently inclusive because it fails to explicitly incorporate second-level sub-contractors, employees, vendors, or representatives. The definition, as proposed, provides, “The term includes an employee, a representative, an independent contractor or a vendor.” However, it is unclear whose employee, representative, independent contractor or vendor the definition is referencing. The PUC should specify that an agent is one who is employed, represents, contracts, or serves as a vendor for any entity contracting with the supplier, or any subcontractors thereof. If a supplier contracts with a large marketing firm, it is likely that the marketing firm will hire a subcontractor located in the specific service area to conduct door-to-door sales, telemarketing, and other marketing activities. Therefore, it is essential that the definition of agent be clarified to sufficiently cover all sub-contractors, employees, vendors, and representatives not directly contracted by the supplier.

The lack of clarity for the term “agent” is particularly problematic in light of the PUC’s confidentiality requirements. Chapter 52, sections 54.8 and 54.43(d) of the Pennsylvania Code contain confidentiality provisions that apply to every EDC and EGS, and require these entities to maintain strict confidentiality of customer information unless and until it obtains customer consent to release such information.<sup>14</sup> If the definition of agent is not clarified, the confidentiality requirement may not apply to agent subcontractors and others who are only tangentially related to the EGS. Such a result is dangerous for victims of domestic violence and others similarly endangered, who keep contact information confidential and unpublished as a way to keep them safe from abuse.<sup>15</sup>

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<sup>14</sup> 52 PA. CODE. §§ 54.8, 54.43(d).

<sup>15</sup> For more information on the necessity of strict confidentiality for victims of domestic violence and others who are similarly endangered, see *Comments of Pa. Coalition Against Domestic Violence, Uniform Eligible Customer List*, Docket No. M-2010-2183412 (July 11, 2011); see also, *supra* section II.c (*Implement Clear Data Protection Protocols*).

#### ***iv. Increase Agent Oversight***

As discussed above, door-to-door sales are difficult to monitor effectively, which results in an increase in customer complaints that cannot be fully investigated.<sup>16</sup> If the PUC approves this method of marketing, it must develop an effective way to monitor door-to-door agents that does not pit the consumer against the marketer in a he-said-she-said battle. Closely agent monitoring and supervision requirements coupled with liberal enforcement of supplier liability provided in § 111.3 would ensure that the risk of fraudulent or coercive sales tactics is minimal. Without effective oversight, complaints by customers cannot be fully investigated and, as a result, the PUC would be stunted in its ability to impose sufficient sanctions for inappropriate marketing techniques. Without effective sanctions, the suppliers have little motivation to use fair marketing strategies. The PUC's role in facilitating marketing by suppliers is to ensure that customers are empowered to choose; however, unless the PUC can effectively oversee a suppliers' marketing techniques to prevent fraud and abuse, it cannot fulfill its assigned role in fostering customer choice.

#### **c. Implement Clear Data Protection Protocols**

As explained above,<sup>17</sup> and in prior proceedings regarding the safekeeping of consumer data,<sup>18</sup> PCADV is very concerned about the availability of private customer data. The lack of clear data protection protocols places victims of domestic violence and others similarly endangered at risk of harm because it increases the likelihood of unauthorized access to contact and credit information. Access to private, personally identifying information exponentially increases the risk of physical harm to victims. Domestic violence, sexual assault, and stalking are the most personal of crimes, and the more personal information the perpetrator has about the victim, the more dangerous the perpetrator can be. Victims of these crimes face the greatest risk of physical harm and/or lethality after separating from their abusers, when batterers regularly go to great lengths to reestablish power and control.<sup>19</sup> In addition to physical assaults and stalking, batterers regularly empty bank accounts, shut off utility services, and cut off joint lines of credit

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<sup>16</sup> See *supra* section II.a.iii (*Door-to-Door Sales are Difficult to Adequately Monitor*).

<sup>17</sup> See *supra* section II.b.iii (*Expand "Agent" Definition*).

<sup>18</sup> See *Interim Guidelines for Eligible Customer Lists*, Docket No. M-2010-2183412. PCADV filed several comments and pursued a prior appeal to protect personally identifying information from blanket disclosure because such disclosure placed victims at a risk of harm.

<sup>19</sup> See NISVS, *supra* note 2, at 91.

after the relationship ends.<sup>20</sup> Unwarranted access to private, identifying information, whether by an agent or from an agent, facilitates further harassment, stalking, and potentially lethal physical violence.

***i. Include Specific Confidentiality Requirements for All Agents***

The proposed marketing regulations do not contain any provisions for data protection and it is unclear whether current confidentiality requirements will apply to “agents” under the new regulations.<sup>21</sup> The PUC should include a specific confidentiality provision for all agents and should include confidentiality as a topic of required training under § 111.5 (agent training). And, as explained above, the PUC must expand the definition of “agent” to be sure that the definition encompasses all potential subcontractors.<sup>22</sup>

***ii. Prohibit Agents from Selling Customer Information***

Providing a confidentiality provision that applies directly to agents is a first step to protecting private customer data, but it is not the only step that the PUC must take to ensure that customer information is not disclosed to third parties. In addition to extending the confidentiality provisions contained in sections 54.8 and 54.43(d), the PUC should explicitly prohibit agents from selling customer information to third parties under any circumstance by restricting agents’ use of personal customer data to activities directly related to the sale of electricity by an approved supplier.

The PUC currently requires EDCs to inform customers prior to releasing their private data to suppliers on the eligible customer list (ECL).<sup>23</sup> An EDC must give every customer an opportunity to opt-out of inclusion on the ECL.<sup>24</sup> When this ECL notice and opt-out requirement is read in conjunction with sections 54.8 and 54.43(d) of the Pennsylvania Code, it appears as though the ECL notice requirement may fulfill the customer consent required in section 54.8 and 54.43(d) to waive EDC and EGS confidentiality requirements.<sup>25</sup> But the ECL notification that customers receive regarding the release of their information to electric suppliers does not

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<sup>20</sup> See JILL DAVIES, SAFETY PLANNING WITH BATTERED WOMEN: COMPLEX LIVES/DIFFICULT CHOICES (1998).

<sup>21</sup> See *supra* section II.b.iii (*Expand “Agent” Definition*); see also 52 PA. CODE §§ 54.8, 54.43(d).

<sup>22</sup> See *supra* section II.b.iii (*Expand “Agent” Definition*).

<sup>23</sup> See *ECL Final Order*, *supra* note 11.

<sup>24</sup> *Id.*

<sup>25</sup> 52 PA. CODE § 54.8 (requiring only that an EDC or EGS notify the customer of its intent to release information to a third party and provide the party with “a convenient method of notifying the entity of [their] desire to restrict the release of private information.”).

mention that data likely may be sold to marketers outside the electric industry. Thus, it is insufficient to enable customers to knowingly approve the use of their personal data beyond electric marketing. Without further regulation explicitly prohibiting subsequent release of personal data, the PUC is inappropriately condoning the use of private data in a manner that invades constitutionally protected personal information.<sup>26</sup>

In its Final Order regarding eligible customer lists, which will be used by supplier agents for direct marketing purposes, the PUC examined personal privacy rights. The PUC determined that the method of notice by an EDC was sufficiently compliant with constitutional privacy requirements because it balanced the need for such privacy with the state's need to facilitate customer choice.<sup>27</sup> However, if weighing the right to customer privacy against the right of a marketer to profit from selling customer information to other marketing lists, privacy must win. Nothing in the PUC's current regulations explicitly prevents the release or sale of customer information by agents. To avoid inadvertently condoning the use of information in a manner that is directly contrary to an individual's right to privacy, the PUC should completely restrict the sale of customer information by agents.

### *iii. Include Functional Data Protection*

In today's increasingly digital world, data encryption and other secure data transmission requirements are necessary to prevent credit abuse and other misuse of private customer data. The PUC's marketing guidelines provide no requirements for the encryption of sensitive customer data. PCADV urges the PUC to closely examine the method in which customer data will be transmitted and adopt appropriate guidelines, including data encryption, to prohibit unintended disclosure that may place customers at risk of identity theft or even physical harm through the disclosure of personal identifying information. For instance, suppliers should be prohibited from transmitting or storing private customer data on portable electronic devices, which can be lost, stolen, or surreptitiously accessed by a third party. Also, unauthorized and unnecessary access to customer data contained on the eligible customer list should be prohibited. Because the PUC has sanctioned the collection and dissemination of private data to agents both

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<sup>26</sup> See *Comments of Pa. Coalition Against Domestic Violence*, *supra* note 15, at 9-13 (explaining the various federal and state constitutional privacy protections implicated by the government-sanctioned release of privacy customer data).

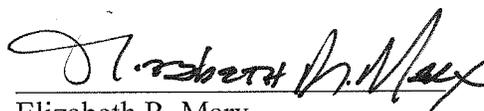
<sup>27</sup> See *ECL Final Order*, *supra* note 11, at 16-17 (Nov. 10, 2011) (quoting *Mid-Atlantic Power Supply Ass'n v. Pa. PUC*, 746 A.2d 1196, 1201 (Pa. Commw. Ct. 2000)).

in and outside Pennsylvania, it has an affirmative and ethical duty to be sure that the data is not used in a manner that places customers at risk of harm. Requiring sufficient encryption and other protections is, therefore, a necessary step that the PUC must undertake.

### III. CONCLUSION

For the foregoing reasons, PCADV urges the PUC to prohibit door-to-door sales and to enact strict confidentiality and data privacy provisions to protect customers and customer data from risky marketing techniques. In the event that the PUC approves of door-to-door sales, PCADV urges the PUC to prioritize customer safety. To do so, the PUC should explicitly define “probable threat” and should clarify and expand its definition of “agent.” Further, the PUC should adopt a method for customers to opt-out of door-to-door marketing and develop a plan for better oversight of salespersons. These steps, in coordination with increased confidentiality and data protections for customer information, would send a clear message that customer safety is a priority for the PUC and would result in a more open marketplace and enhanced consumer confidence.

Respectfully Submitted,



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Dated: December 20, 2011

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