

**Competing to Overcharge Consumers:  
The Competitive Electric Supplier  
Market in Massachusetts**

April 2018

By

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National Consumer Law Center<sup>®</sup>

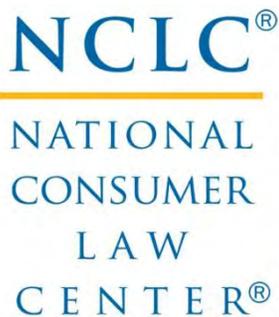
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## ACKNOWLEDGEMENTS

The author thanks NCLC Senior Attorney Charlie Harak and NCLC Deputy Director Carolyn Carter for their insightful reviews and comments, and Ana Girón-Vives of NCLC for her research and data analysis. Barbara Alexander generously shared her extensive knowledge of competitive supply markets and provided invaluable support and insight. The author also thanks Elizabeth Berube of Citizens for Citizens, Inc., Darlene Gallant of Lynn Economic Opportunity, Richard Berkley of the Public Utility Law Project of New York, and NCLC colleagues Olivia Wein, John Howat, Jan Kruse, Svetlana Ladan, and Cleef Milien for their invaluable assistance.



## ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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## EXECUTIVE SUMMARY

In 1997, Massachusetts passed the Electric Restructuring Act and deregulated its electric utility companies. Prior to that change in the law, electric utilities (local distribution companies or LDCs) owned the power plants that generate electricity and the local utility poles and lines seen on virtually every street that connect homes and businesses to the electricity customers need. The utility companies also sent the bill, handled customer calls, and maintained the local distribution poles and lines. After the 1997 law was enacted, the electric industry was restructured. The electric utilities were required to sell off their power plants and thus became just distribution companies. They still deliver electricity to customers over local poles and lines, send out bills, and make repairs. But customers now can get the actual electricity they need in one of two ways. First, they can rely on the LDC to buy electricity on behalf of those who do not want to shop elsewhere for their electricity. Second, they can choose a so-called competitive energy supply company (CES company) that sells electricity, which would still be delivered by the LDC. For customers who buy their electricity from a CES company, the LDC acts somewhat like UPS or FedEx does when delivering packages. The LDCs deliver electricity that the consumer has bought elsewhere.

The Massachusetts Department of Public Utilities also adopted regulations that similarly allow customers to choose a third-party competitive gas supplier. Like the current situation with electricity, a gas customer can also simply rely on the local gas distribution company to purchase gas on the customer's behalf. There is no requirement that a customer affirmatively choose a CES company.

Competition in the sale of electricity and gas sounds like it should lead to lower prices and better deals, but in the market for electricity the opposite is commonly true. Customers often end up worse off, paying the CES company more for the same electricity service that their LDC would have provided for a lower price. Equally troubling is the documented extent to which competitive energy suppliers engage in unfair and deceptive sales practices, particularly in low-income communities as well as among older consumers and those who speak English as a second language.

While LDCs are closely regulated, and must seek permission from state government to raise their prices, CES companies can charge any prices at all. CES companies usually attract customers by claiming to offer lower rates. Some advertise benefits like special thermostats or more green energy generated from solar power or wind. But consumers who switch to CES companies often find that they are paying more for the same electricity. Seemingly small overcharges for each customer can add up to millions of dollars, as demonstrated by data collected in Connecticut, Illinois, New York, and, recently in Massachusetts. For the period of June 2016 through May 2017, Connecticut residential customers who purchased electricity through competitive supply companies paid \$66,736,598.41 more than they would have paid their regulated public utility

companies for the same electric service. In Illinois, residential customers who purchased electricity from competitive supply companies spent an additional \$152,108,081 from June 2016 through May 2017 over the prices charged by regulated public utility companies. In New York, residential and some small commercial customers overpaid by \$817 million between January 2014 and June 2016, and low-income customers overpaid by almost \$96,000,000 during the same period, compared to the prices charged by regulated public utility companies. Massachusetts customers paid \$176,800,000 more than what they would have paid for electricity from their utility, during the period of July 2015 through June 2017.

Aggressive salespeople market competitive supply contracts by going door-to-door and by telemarketing. Some of this marketing appears to be concentrated in low-income neighborhoods, where salespeople may pressure vulnerable consumers into contracts based on misinformation and false promises of lower prices. Even consumers who do some research and enter electricity contracts through online sales may be surprised to find that the initial low introductory price for electricity ends after a few months and is replaced by a variable rate without limits.

Vulnerable consumers are disproportionately harmed. A higher percentage of low-income households sign up for competitive supply compared to non-low-income households, so more low-income consumers pay unstable and inflated rates. Higher bills for these consumers may also cause a portion of Massachusetts and federal low-income assistance funds to be absorbed by for-profit competitive supply companies.

States such as Connecticut, New York, and Illinois have taken steps to protect consumers from high prices and deceptive practices. But despite these additional protections, consumers are still paying too much and receiving little or no benefit. Now is the time for the Massachusetts Department of Public Utilities and other Massachusetts regulators policymakers to closely examine the harm to residential ratepayers, and to lead the drive for strong consumer protections and a fair utility marketplace.

## **Stopping Abusive Energy Sales Practices: Recommendations for Massachusetts**

### **Reconsider the sale of competitive energy supply to individual residential customers**

The competitive market for energy is simply not working for residential customers. Consumers pay more for the same electricity, and even states with strong consumer protections have not ended overcharging and abusive marketing practices. In light of this history, states should consider whether competitive suppliers should be limited to the commercial and industrial markets and municipal aggregation.

**Limit the ability of energy supply companies to sell to low-income customers**

Following the lead of the New York Public Service Commission, states should investigate the harmful impacts on of competitive energy sales on low-income customers and the effect on assistance programs that help low-income customers to keep their heat and lights on. The harm will likely require additional protections for these customers.

**Prohibit contracts that lock customers into variable rates**

Customers may be fooled by low teaser rates which expire and change to unregulated variable rates. Variable rate contracts should be prohibited, both in new contracts and when a contract is renewed, unless the customer is free to end the variable rate contract at any time without penalties.

**Prohibit automatic reenrollment**

Energy supply contracts should not renew without the affirmative consent of the customer.

**Limit cancellation fees**

In Massachusetts, cancellation fees are not limited and have exceeded \$200. Cancellation fees should be limited, as in Connecticut where state law caps these fees at \$50.

**Provide better information**

Important information should be included directly on the consumer's utility bill. The electric or gas bill should list the name and contact information for the customer's supply company, the price that the customer is paying, the price that public utility customers are paying for the same service, any additional fees, and the end date of the customer's contract with the supplier.

**Prohibit deceptive and aggressive marketing**

Use the full authority of the utility commission, attorney general, consumer advocate and other agencies to adopt the strongest possible consumer protections.

**Give consumers an easy and binding way to opt out of marketing**

Opting out of marketing by competitive energy supply companies or placing a block on utility accounts should be quick and easy for consumers.

**Report actual prices paid for the public**

Shopping websites describe initial offers for potential customers, but consumers and stakeholders need data that shows how much customers actually pay for competitive energy supply and how those prices compare to the prices charged by public utility companies.

**Make data about consumer problems and complaints involving competitive energy supply companies easily accessible to the public**

Consumers, regulators, and policymakers should have ready access to a published database of complaints against competitive energy supply companies and their agents including third-party marketers.

**Step up enforcement**

Strong consumer protections must be backed up with aggressive state enforcement.

# Competing to Overcharge Consumers: The Competitive Electric Supplier Market in Massachusetts

## INTRODUCTION

Customers in Massachusetts are paying too much for the electricity they consume, due to the deceptive practices and high-pressure sales tactics of the competitive energy supply (CES) companies that are allowed to compete with local distribution companies (LDCs) for customers. CES companies benefit from a state law that allows them to sell electricity directly to residential customers in most Massachusetts cities and towns. Usually claiming to offer a better deal than the LDCs whose rates are closely regulated by the Massachusetts Department of Public Utilities (DPU), CES companies can charge any price at all for electricity, and can lock customers into confusing and expensive contracts.<sup>1</sup>

Most Massachusetts residents have been on the receiving end of telemarketing, robocalls, door-to-door sales, direct mail marketing, and other sales tactics used by competitive electric supply companies. Since the Massachusetts energy market<sup>2</sup> was partly deregulated in 1997, these companies have been authorized to sell electricity supply directly to residential customers in Massachusetts.<sup>3</sup> Residential customers may choose to continue to buy their power from the regulated public utility company that offers service to the customer's home (the LDC, currently Eversource, National Grid or Unitil, depending on where the customer lives), or from a CES company which is not part of any LDC.<sup>4</sup>

The aim of the deregulation law was to promote competition and reduce electricity rates by allowing private companies to procure electric supply and sell this electricity directly to customers, with the LDC still delivering that electricity to homes and businesses and sending bills to customers. Yet Massachusetts ratepayers are paying inflated prices compared with public utility company rates. Twenty years later, there is reason to look back at deregulation and to ask whether the financial harm and other problems that residential customers experience in the competitive supply market outweigh the hoped-for benefits to consumers.

## Glossary of Terms

**Basic service:** The rate that LDCs charge for electricity, which is usually lower than the rate charged by CES companies

**CES:** competitive energy supply

**Competitive energy supply company or competitive supply company:** In Massachusetts, a private company licensed by the Department of Public Utilities to sell electricity or gas service to homeowners or renters for the customer's household use. Competitive supply companies are different from regulated public utilities companies (such as Eversource, National Grid or Unitil)

**DPU:** The Massachusetts Department of Public Utilities, a state agency that oversees utility companies, setting rates and monitoring quality. According to its website, "The DPU oversees investor-owned electric power, natural gas, and water companies in Massachusetts. In addition, the DPU regulates the safety of bus companies, moving companies, and transportation network companies. We also oversee the safety of natural gas pipelines."

**ESCO:** Energy Services Company, which is the acronym used in New York for competitive energy supply company

**Kilowatt hour:** A unit of measure of energy, which may also be written as kWh.

**LDC:** Local distribution company, which is the regulated public utility company that provides electricity or gas to a designated area of the state. For instance, Eversource is the LDC for electricity service for the city of Boston.

**Regulated Public Utility:** An investor-owned utility company such as Eversource, National Grid or Unitil, which must follow certain state laws administered by the Massachusetts Department of Public Utilities.

## PROBLEMS, COMPLAINTS AND HARM TO CONSUMERS

### Sales Pitches That Are Too Good to Be True

Since deregulation, CES companies have become a fixture in Massachusetts, and most consumers are probably contacted by these companies several times per year. While

many do sign up to become customers, over the years since deregulation, consumers have steadily reported problems such as aggressive marketing practices, deceptive and misleading sales pitches, unwanted robocalls, confusing contract terms, and prices that dramatically escalate after promotional contract terms expire.

## Aggressive and Deceptive Marketing Targets Low-Income, Older Consumers, and Those with Limited English Proficiency

Deceptive and aggressive door-to-door marketing appears to be disproportionately directed towards older consumers, people with limited English proficiency, and low-

### Aggressive and False Marketing in Lynn

income communities. A long history of reports from social services providers and low-income advocates supports this observation. It may be that low-income consumers and older customers, whose economic circumstances may motivate them to consider the apparent low price offers, are more likely to be marketed to than are higher income consumers, or are more willing to sign up with a competitive supply company, or are seen by salespeople as less likely to understand the costs and risks of the offer.

2017 data<sup>5</sup> from the Massachusetts Department of Energy Resources (DOER) demonstrate that about half of Massachusetts low-income customers received their electric service from competitive supply companies from January through September 2017. This rate significantly exceeded the rate at which other residential customers chose competitive electric supply, which hovered around 37%-42% for the same time period.

In Lynn, community social services providers reported that competitive supply salespeople gained access to a locked apartment building by dishonestly claiming to work with National Grid. The salespeople then approached building residents, intimidating an older resident. Police were called.

Source: Lynn Economic Opportunity

**Chart 1**  
**Percentages of Massachusetts Low-Income Customers and Other Residential Customers Receiving Electric Service from Utility Companies and from Competitive Electric Supply Companies (including municipal aggregation customers) January 2017 and September 2017**



Source: Mass. Dept. of Energy Resources

## Complaints about Competitive Electric Supply Companies

### Boston Consumer Deceived

A Mattapan resident signed up with a competitive supply company for gas service after a salesperson came to her door and told her that she could save money on her gas bill. After receiving a surprisingly large bill, the consumer learned that the competitive supply company's salesperson signed her up for gas service, but also switched her electricity service without her knowledge.

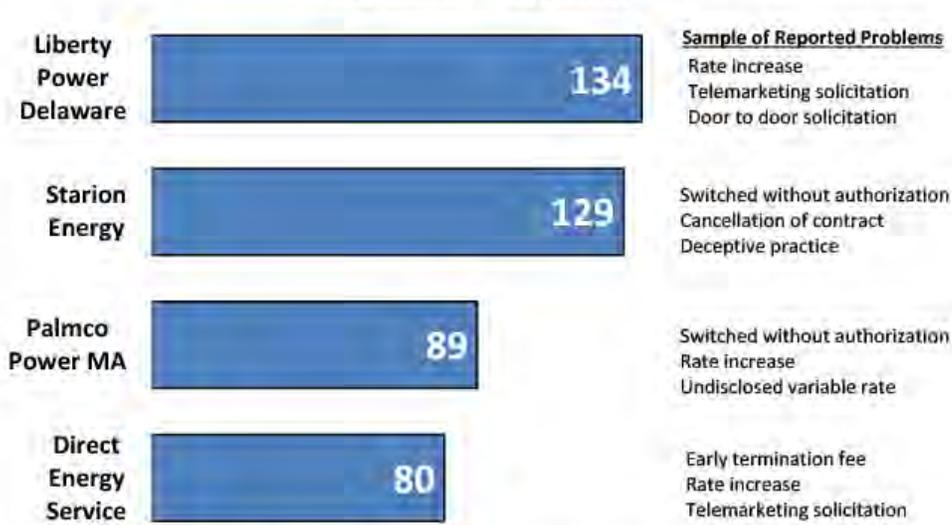
Source: National Consumer Law Center

Utility customers who are solicited by or sign up with competitive electric supply companies may file complaints in Massachusetts with the DPU and with other entities. While the DPU collects data on customer-reported problems with CES companies, DPU does not publish these complaints even though consolidating this information and making it readily available would allow the public and policymakers to observe problem areas and trends in complaints.<sup>6</sup> In addition to the DPU, complaints may be directed to other agencies or parties such as the Office of the Attorney General,<sup>7</sup> the utility company, the CES company itself, or non-profit and social services organizations.<sup>8</sup>

Though not a complete catalog of all complaints about competitive electric supply companies, the DPU complaint data provides a snapshot that illustrates the types of problems that consumers encounter. DPU maintains an unpublished database of complaints regarding competitive electric suppliers, which is available by making a public records request.<sup>9</sup> Massachusetts consumers made 1,198 complaints to the DPU about competitive electric supply

companies from August 1, 2015 through August 1, 2017. Among the complaints made to the DPU, consumers objected to the marketing practices and prices charged by a number of companies. Liberty Power, Palmco Power, Major Energy Electric, Spark Energy, Verde Energy USA, Clearview Electric, Direct Energy Service, and others were the subject of complaints. Complaints originated throughout Massachusetts and included criticisms about door-to-door marketing, variable rates, and switching the customer without the customer’s authorization.<sup>10</sup>

**Chart 2**  
**Complaints Against Sample of Large**  
**Competitive Electric Supply Companies by Massachusetts Consumers**  
**August 2015 – August 2017**



Source: Massachusetts Department of Public Utilities

## State Agencies Can Rein in Abuses

The DPU has oversight and enforcement authority over the activities of CES companies, which includes licensing and certifying these companies,<sup>11</sup> oversight of certain aspects of marketing and disclosures, handling consumer complaints,<sup>12</sup> investigating possible violations, and taking enforcement actions. The DPU Consumer Division compiles complaint data, which the DPU reviews when deciding whether to grant or renew licenses for competitive energy suppliers.<sup>13</sup> The DPU has not reported any CES license revocations or suspensions. In contrast, DPU exercises more extensive oversight over the rates, business practices, and service quality of regulated public utility companies or LDCs, reviewing

Massachusetts consumers made 1,198 complaints to the DPU about competitive electric supply companies from August 1, 2015 through August 1, 2017.

most actions by public utility companies in light of its mission to ensure that utility consumers are provided with the most reliable service at the lowest possible cost.

The DPU shares oversight with the Office of the Attorney General, since jurisdiction over certain marketing practices rests with the Attorney General. The Attorney General enforces M.G.L. c. 93A, the Massachusetts law that prohibits unfair and deceptive trade practices, and has created regulations that specifically address the marketing practices of CES companies.<sup>14</sup> The Attorney General has used this authority to obtain settlements with several companies that have violated state law. In a January 2015 settlement, Just Energy agreed to pay \$3.8 million to Massachusetts customers in restitution and \$200,000 in civil penalties, settling allegations of deceptive sales marketing practices and customer overcharges.<sup>15</sup> In 2008, the Attorney General entered into an agreement with Spark Energy to cease certain deceptive marketing practices such as misrepresenting Spark's relationship with the LDC or misrepresenting customer contract terms and pricing. Spark Energy also agreed to refund certain charges to Massachusetts customers and to pay \$55,000 into a consumer aid fund instead of paying of a civil penalty.<sup>16</sup> During April 2017, the Attorney General also issued a civil investigative demand against Starion Energy seeking evidence about the company's rates and whether certain rates consistently exceeded the prices charged by LDCs.<sup>17</sup>

Although the DPU and Office of the Attorney General have created regulations and guidance to police the business practices of CES companies, problems still persist. For instance, existing consumer protections for customers with limited English proficiency include guidance from Massachusetts stating that CES companies cannot sign up residential customers who speak a language other than English until they complete a third-party verification or letter of authorization in the customer's own language, and provide the customer with a contract written in that language.<sup>18</sup> Yet reports of company salespeople selling in a language the consumer cannot understand, without providing a translator, are common.

### **Deaf Customer in Springfield Pressured to Sign Contract Without Sign Language Interpreter**

In western Massachusetts, a salesperson pressured a deaf customer to sign up for competitive supply service without providing a sign language interpreter or other help to answer questions and explain the contract terms. The customer did not understand the agreement and contacted a local social services agency for help. With assistance from an advocate, the customer canceled the contract.

Deceptive representations by marketers are frequently reported.<sup>19</sup> Since 1998, regulations have prohibited the use of "any misleading symbol or representation"<sup>20</sup> in the marketing of retail electricity supply to customers. Yet customers continue to report that salespeople have called or come to their homes, stated that they were "working with" the customer's LDC, and offered to sign the customer up for a lower rate if the customer provides a bill or account number.<sup>21</sup> LDCs and consumer advocates have issued warnings to the public for years, reminding consumers that a legitimate LDC representative will never contact a customer to ask for a utility account number. When a salesperson claims to be working with the LDC

but then asks the customer for a utility account number, the salesperson is not an employee or agent of the LDC, and a customer who hands over the account number may find that she has unwittingly signed up with a CES company. Yet these illegal practices persist, despite LDC efforts to warn customers through press releases and social media.

### **Information from the Massachusetts Office of the Attorney General**

**Do not show a competitive supplier's agent your electricity bill or give him/her your account number unless you have agreed to sign up with the competitive supplier.**

A common tactic for a dubious sales agent is to ask to see the customer's utility bill under the pretense of "determining eligibility" or "comparing the rate that you're paying now." Some Massachusetts consumers have complained that they were switched to competitive supply without their authorization after showing a competitive supplier's sales agent their account number or showing the agent their electricity bill.

**Your electric utility will NOT contact you about your electricity supply rates.**

Your utility will not send representatives to your door, or call you on the phone to talk about electricity supply rates. If a representative contacts you about electricity supply rates, this person most likely works for a competitive supplier.

Source: "FAQs Regarding Competitive Electric Supply for Residential Customer in Massachusetts," at [www.mass.gov/ago](http://www.mass.gov/ago)

Options exist to shield consumers from some of these practices, although these options are not well-known and information is not readily available. Each LDC is required to maintain a "customer information list" or list of eligible electricity customers, with the following information: the name on the account, mailing and service addresses, monthly meter reading date and rate class. The customer's monthly kilowatt-hour usage (and demand where applicable) for the previous 12 months at the current address will be included.<sup>22</sup> The LDC updates the list on a quarterly basis, and must periodically share this list with CES companies. Customers may opt out of the list by either calling the LDC or filling out an on-line form.<sup>23</sup>

Consumers may request to be removed from the eligible customer list, but it is not clear if many customers are even aware of this option, or how many have taken steps to opt out. The industry association that represents energy supply companies has opposed the creation of additional methods of opting out of marketing by suppliers. In its recent rate case, Eversource asked the DPU for the authority to allow customers to inform

Eversource if these customers wanted to be protected from solicitations by competitive supply companies.<sup>24</sup> The Retail Energy Supply Association (RESA), a national association that represents CES companies, opposed this modest consumer protection.<sup>25</sup> The DPU declined to allow this change in the rate case, but will allow Eversource to make the request again in a new proceeding.<sup>26</sup>

The value of even the best list is limited, since it is not clear whether salespeople would regularly consult the list before knocking on the door of a customer's home or calling the customer's phone number.

## Consumers in Other States Have Lost Millions of Dollars to Competitive Electric Suppliers

Higher prices, even inflated prices, charged by CES companies are a problem across the many states that allow residential customers to purchase competitive electric supply. Many CES companies operate in multiple states, and higher prices (compared with LDC's prices) have been documented in other states, including Connecticut, Delaware, Illinois, and New York.<sup>27</sup>

In Connecticut, the Office of Consumer Counsel issues periodic reports comparing CES company pricing to the regulated LDC prices. For the period of June 2016 through May 2017, Connecticut residential customers who purchased electricity through CES companies paid \$66,736,598.41 more than they would have paid to their LDCs for the

same electricity.<sup>28</sup> During December 2017, six out of ten CES customers in Eversource territory and eight out of ten CES customers in United Illuminating territory paid more for competitive supply than the price charged by their LDC.<sup>29</sup>

As calculated by the Illinois Commerce Commission, residential customers who bought electricity from CES companies spent an additional \$115,204,320 during the period of June 2014-May 2015, an additional \$73,439,971 during the period of June 2015-May 2016, and an additional \$152,108,081 from June 2016-May 2017 compared with residential customers who obtained their electricity from the LDC.<sup>30</sup>

### Worcester Resident Reports Scam by CES Company

"Beware of this company!!! They are mis-leading and will take whatever means possible to get you to switch from your local energy supplier without you even knowing. They're business model is based on a scam. They came by my house, told me they were checking on my rates and that they should have been lowered earlier in the year. They asked me to sign something saying they had talked to me and they would make my rates match the national rates, but in reality, they were switching my account from National Grid to their company. I don't care how low the rates are, if they can't tell me honestly what they are doing, I NEVER want to do business with a company like that. I only hope others avoid getting stuck with this problem too. (It took me days of follow up and being given the run-around to have my account actually remain with my original company)."

Source: Yelp Customer Review of Direct Energy (2012) from Worcester, MA

The New York Public Service Commission recently prohibited CES companies from selling electricity to low-income customers, after considering the high prices charged to these customers. The Commission stopped these sales after determining that low-income customers were overcharged by almost \$96,000,000 from January 2014 through June 2016, and that these overcharges were high enough to diminish the benefits of New York's low income utility assistance programs.<sup>31</sup> Although the competitive electric supply industry associations challenged the low income sales moratorium in court, the New York Supreme Court in Albany county upheld the order in June 2017.<sup>32</sup>

In a Delaware proceeding, the state's Public Advocate stated in comments that there has been no proof that competitive electric supply has saved money for consumers in Delaware or elsewhere.<sup>33</sup>

Enforcement actions by state regulators have also identified overcharges, such as a complaint by the Pennsylvania Office of the Attorney General against a CES company called Blue Pilot. The Pennsylvania Utility Commission found multiple violations of state law and ordered Blue Pilot to refund \$2.4 million in overcharges to customers.<sup>34</sup> Palmco Power has also been the target of state enforcement actions, including a \$5.28M settlement with the New Jersey Attorney General for alleged deceptive and abusive marketing practices,<sup>35</sup> and a current lawsuit by the Illinois Attorney General for alleged violations of the state law prohibiting unfair and deceptive trade practices.<sup>36</sup>

CES companies usually operate in multiple states. For instance, Liberty Power, Starion Energy, Palmco Power and Direct Energy operate in Massachusetts and also sell electricity to residential customers in other states including Connecticut, Illinois and New York. Massachusetts customers filed hundreds of complaints about these four companies from 2015 through 2017, as shown in Chart 2.

## Higher Prices for Massachusetts Consumers

Consumers in other states have lost hundreds of millions of dollars due to competitive electric suppliers' false promises of lower prices. How have Massachusetts consumers fared?

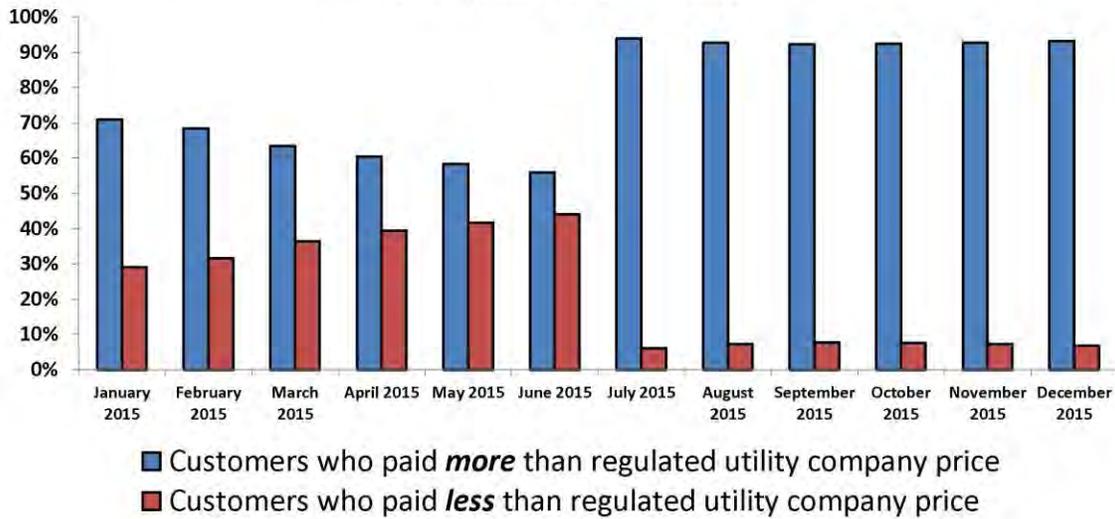
CES companies in Massachusetts are not required to publicly report enough data to enable consumers and others to determine whether customers are overpaying. However, the data we have strongly suggests that consumers in Massachusetts are overpaying by at least as much as those in Connecticut, Illinois, and New York. In a recent report, the Massachusetts Office of the Attorney General found that residential customers in Massachusetts who bought electricity directly from CES companies paid \$176.8 million more than they would have paid their utility company, from July 2015 through June 2017. And from July 2016 through 2017, low-income consumers paid \$23.6 million more for electricity supplied by CES companies than they would have paid to their utility companies.<sup>37</sup>

An examination of data from the Eversource eastern Massachusetts territory<sup>38</sup> demonstrates that the residential customers in this region who purchased electricity from CES companies usually paid more for electricity than had they remained with their LDC. The data also shows that competitive electricity supply prices can fluctuate significantly. Even if some consumers paid a fair price for a few months, rates can swing

widely and the lack of predictability in pricing only adds to the financial challenges faced by low-income households.

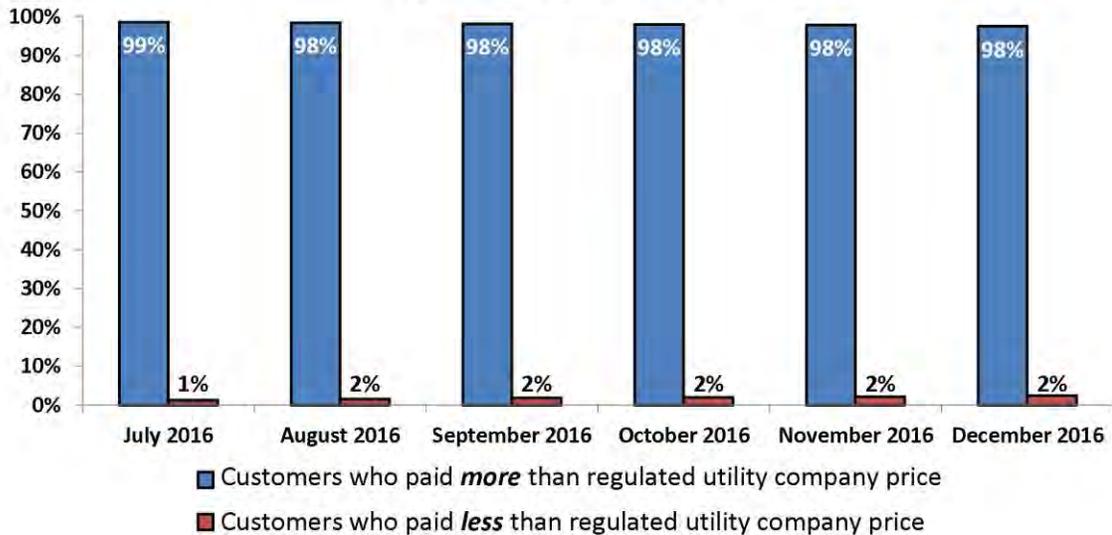
As Charts 3 and 4 show, **during eighteen months in 2015 and 2016, most of Eversource’s eastern Massachusetts residential customers paid more for electricity when they contracted with a CES company than they would have paid if they had remained customers of Eversource.**<sup>39</sup>

**Chart 3**  
**Percentage of Competitive Electric Supply Customers in Eversource Eastern Massachusetts Territory Who Paid More than the Regulated Utility Price**  
**January 2015 – December 2015**



*Source: Eversource, Inc. Data includes households in cities and towns that have entered municipal aggregation contracts.*

**Chart 4**  
**Percentage of Competitive Electric Supply Customers in Eversource Eastern Massachusetts Territory Who Paid More than the Regulated Utility Price**  
**July 2016 – December 2016**



*Source: Eversource, Inc. Data includes households in cities and towns that have entered municipal aggregation contracts.*

Customers who signed up with CES companies almost always paid more for their electricity than the LDC’s price, and of the customers who paid more, most were charged significantly more, at rates more than \$0.01 per kilowatt hour higher. While the price difference might not sound dramatic, it amounts to an increase of about 10% or more. Massachusetts households use an average of about 600 kilowatt hours per month.<sup>40</sup> An increase of even 2 or 3 cents per kilowatt hour above the public utility company price could quickly add up to over one hundred dollars each year for a household depending on their energy usage, and millions of dollars for all customers in a state as shown in Connecticut, Illinois, and New York.<sup>41</sup>

Even though salespersons pitch competitive electric suppliers’ contracts as bringing lower prices, electricity supply prices for residential consumers fluctuate and this instability would create additional burdens for low-income customers. The fluctuations are illustrated in the following chart, which show the variations between regulated public utility prices and the competitive electric supply prices over three years, in the Eversource eastern Massachusetts territory.

**Table 1**  
**Variation Between Eversource Eastern Massachusetts Prices and**  
**Competitive Electric Supply Prices**  
**September 2015 and September 2016**

	September 2015	September 2016
Eversource prices	10.05¢ per kilowatt hour	8.208¢ per kilowatt hour
CES customers paying a little more for CES service (less than 1¢ extra)	46.3%	4.5%
CES customers paying even more for CES service (1¢ or more extra)	45.9%	93.7%
CES customers paying less than Eversource price	7.7%	1.9%
<b>Total percentage of CES customers who paid more than Eversource prices</b>	<b>92.3%</b>	<b>98.1%</b>

*Source: Eversource, Inc. Data includes households in cities and towns that have entered municipal aggregation contracts.*

It would be difficult to directly compare 2017 data to prior years because of the rapid increase in residential customers who are part of municipal aggregations. In a municipal aggregation, a city or town contracts with one energy supply company to provide electricity to the town’s residents, except for households that opt out and either return to regulated utility company service or switch to another CES company. Municipal aggregations have become more common recently. In the Eversource eastern Massachusetts territory, nine municipalities began their municipal aggregation programs in 2016, and five more began their programs in 2017.<sup>42</sup>

With these limits of the data in mind, the chart indicates that CES prices exceed the prices for service from the LDC. Additionally, of customers who sign up with CES companies and pay a price that is higher than the price charged by the regulated utility company, most pay significantly more (a price difference of more than 1 cent per kilowatt hour, or a price that is usually at least 10% higher than the LDC price).

The deregulation law’s stated purpose of “promot[ing] the prosperity and general welfare of its citizens . . . by restructuring the electricity industry in the commonwealth to foster competition and promote reduced electricity rates”<sup>43</sup> has not been achieved for residential customers in Massachusetts. Rather than delivering promised “long-term rate reductions,”<sup>44</sup> deregulation has led to increased confusion and higher prices for consumers.

## **Consumers Lose with Variable Rate Contracts, High Cancellation Fees, and Automatic Renewal of Contracts**

In addition to often offering consumers electricity at higher prices, the competitive electric suppliers offer confusing variable rate contracts that many consumers do not understand. Customers may enroll in a contract with a CES company that offers a fixed introductory price for six or twelve months. For instance, as of October 2017, the price for electricity charged by Eversource in eastern Massachusetts was 10.759¢ per kilowatt-hour. During the same month, a slightly lower rate of 10.25¢ was offered by a CES company called Ambit Energy.<sup>45</sup> The lower rate offered by Ambit Energy would be in effect for the first six months of the contract. After six months elapse, the consumer would be automatically enrolled into a variable-price contract, at a price that would not be disclosed to the customer until the first variable price electric bill arrives.

### **Variable Rate Contracts**

Variable rate contracts are prohibited in Connecticut, but in Massachusetts there are no legal limits on the amount that can be charged under a variable rate contract, or by how much the variable rate can exceed the regulated utility company's prices. After the initial fixed rate expires, the variable rate charged by the CES can skyrocket.<sup>46</sup> Some consumers have tried to challenge excessive variable rates in court and have sued for breach of contract and other contract claims, with mixed results.<sup>47</sup>

### **High Cancellation Fees**

Consumers are also harmed by high cancellation fees, which can add a big expense if the consumer tries to cancel a competitive electric supply contract. While a customer may switch from the LDC's electric service at any time without fees, customers who wish to switch back from the CES company, or who want to switch from one CES company to another, may be charged an expensive cancellation fee. In a review of CES contracts offered in October 2017, cancellation fees ranged as high as a \$200 flat fee, or a fee of \$12 for each month remaining on the contract term at the time the consumer cancels, which would amount to \$276 for a customer who cancelled a 24-month contract after one month.<sup>48</sup> The high cancellation fee can effectively trap the consumer in a contract for expensive electricity supply for the entire term of the contract.

### **Automatic Renewal**

Frequently, contracts for competitive electric supply will automatically renew. A consumer who finds that the low introductory rate has been replaced with a higher

variable rate may have few options other than waiting for the contract to expire or paying a cancellation fee to end the contract early. But it is easy for most consumers to lose track of the contract term or miss the date when the contract needs to be cancelled prior to being automatically renewed – in fact, companies may count on this to retain customers. Automatic renewal benefits the company to the detriment of consumers.

## **STOPPING ABUSIVE ENERGY SALES PRACTICES: RECOMMENDATIONS FOR MASSACHUSETTS**

Massachusetts needs to do more to protect consumers from unfair practices in the competitive electricity supply market. Residential customers are being harmed in several ways. Many of these customers are paying too much for electricity. Aggressive marketing practices, which are disproportionately aimed at vulnerable consumers, continue even though Massachusetts has several laws and regulations which are intended to protect consumers from these abuses. Competitive electric supply contracts are confusing, and usually contain terms such as variable rates, high cancellation fees, and automatic reenrollment, which benefit CES companies but harm consumers.

Low-income consumers often reach out to advocates in their communities or to the National Consumer Law Center for help with competitive supply contracts. Usually, consumers were deceived and did not knowingly consent to the contract. When advocates get involved, we are often able to get relief for the individual consumers. But these small victories do not fix the systemic problems that harm a wider group of consumers. We urge Massachusetts to undertake the following reforms.

### **End Retail Competitive Energy Supply Sales to Individual Residential Customers**

Consumers and their advocates rarely see any benefit from the residential competitive electric supply market. As the history of consumer protection issues and high prices shows, consumers and stakeholders are expending money and resources to deal with the same problems over and over again, and only the CES companies appear to benefit. The current scheme of electricity market deregulation is simply not working for the majority of residential consumers.

It is time to end the unsuccessful experiment. The retail competitive energy market is harming residential customers. Evidence of problems continues to mount with no relief in sight for consumers. CES companies continue to profit while consumers continue to suffer. A change to remove CES companies from the residential

A change to remove CES companies from the residential energy market could be made through legislation, or the Massachusetts Department of Public Utilities could open an investigation to begin this process.

energy market could be made through legislation, or the Massachusetts Department of Public Utilities could open an investigation to begin this process. New York is conducting this type of investigation, and is determining whether to end competitive energy supply sales to residential customers entirely. The New York Public Service Commission, in light of the prevalence of consumer problems in the competitive energy market, is considering “whether ESCOs should be completely prohibited from serving their current products to mass-market customers[.]”<sup>49</sup>

Until this step is completed, the following policy changes would help protect consumers. In the short term, as long as the Massachusetts residential electricity market remains deregulated, policy makers and stakeholders must take steps to make the market work more fairly, with adequate protections for consumers. Several other states, including Connecticut, New York, Pennsylvania, and Illinois have responded to consumers’ problems with additional consumer protections. Massachusetts has fallen behind these other states. Stronger consumer protections that would help Massachusetts consumers include examination of financial harm to low-income consumers, limits on residential contract terms, rules regarding permissible marketing tactics and third-party marketers, opt-out provisions for customers, and more comprehensive public reporting.

### **Investigate Harm to Low-Income Consumers and Programs and Make Needed Reforms**

As noted, low-income consumers may be disproportionately harmed by higher rates and unfair contracts, and many are struggling to pay their bills even before signing up for CES service. In New York, the state’s Public Service Commission (PSC) conducted proceedings and issued an order to halt CES companies’ sales to certain low-income customers.<sup>50</sup> The PSC took this step after proceedings in which CES companies failed to show that their services provided any additional service or value compared with LDC electric service, and evidence showed that customers who signed up with CES companies (referred to as ESCOs in New York) overpaid for the same electric service. Further, the PSC found that the higher charges were significant enough to drain crucial funds from taxpayer and ratepayer supported programs that were intended to assist low-income customers.

In Massachusetts, the Attorney General recently reported that a higher proportion of low-income customers buy electricity from CES companies than do higher-income customers, low-income customers pay CES rates that are 17% higher on average than those charged to other customers, and low-income customers have paid \$23.6 million more from July 2016-June 2017 compared to the prices charged by utility companies.<sup>51</sup> Massachusetts has adopted several programs and protections to assist low-income ratepayers, who receive help from these state programs as well as from the federal Low Income Home Energy Assistance Program<sup>52</sup> (LIHEAP, also called Fuel Assistance) funding which provides crucial support for low-income people during the winter

heating season. In light of New York's findings, and evidence of disproportionate harm to low-income Massachusetts customers, the Massachusetts DPU should conduct a similar investigation to determine whether, and by how much, low-income ratepayers overpay for electricity, and whether the inflated prices charged by some CES companies weaken the effectiveness of the state's low-income assistance programs, particularly the low-income discount rate and the Arrearage Management Programs.<sup>53</sup>

### **Prohibit Variable Rate Contracts and Automatic Reenrollment, and Limit Cancellation Fees**

If the competitive electricity market is to function more fairly, then the energy contracts offered by CES companies must be fair to consumers and contain reasonable terms. In light of problems reported by consumers in Massachusetts and other deregulated states, solutions should include prohibiting variable rate contracts unless consumers can exit these contracts without penalties, eliminating or limiting early cancellation fees, and removing "negative option" terms that automatically re-enroll consumers when a contract ends.

Variable rate contracts that lock in customers should be prohibited in Massachusetts, both as initial contracts and when a contract is renewed. As described above, customers may be enticed by an initial fixed rate but cannot know what variable rate they will be charged later. Variable rate contracts are already prohibited in Connecticut.<sup>54</sup> As a weaker alternative, variable rates could be capped at a reasonable percentage (e.g., no more than 10% higher than the introductory price). These protections could be added to Massachusetts law by the Legislature.

Cancellation fees, which as noted above can exceed \$200, must be limited to a reasonable amount. For example, Connecticut passed a state law that capped cancellation fees at \$50.<sup>55</sup> Indeed, any claim that competitive supply contracts need to provide for any cancellation fees at all is inconsistent with the premise that, as the competitive supply industry association claims, competitive supply allows customers to "take control of their energy costs and benefit from innovative services."<sup>56</sup>

Automatic reenrollment in a contract to purchase goods or services, without the affirmative consent of the consumer, is referred to as a negative option plan. The practice of automatic reenrollment has created problems for consumers who signed up for service without understanding that they could be reenrolled with a higher rate for electricity once the initial contract expired.<sup>57</sup> Negative option billing is meant to restrict customer choice, which is the opposite of the policy reasons behind deregulation. Requiring affirmative consent prior to reenrollment in contracts to purchase electricity or gas would enhance customer choice by allowing consumers to assess new contract terms and prices and make an informed decision before reenrolling. Federal law already prohibits negative option billing for another type of utility service — cable television

service.<sup>58</sup> Massachusetts law should be amended to prohibit automatic reenrollment in CES contracts.

More detailed information on electric bills could provide some benefit to consumers, by putting information about their electric supplier in one easily accessible place. Connecticut permits Eversource to list the name and phone number of the customer's competitive supply company on each monthly bill. The bill also contains the rate charged by the CES company, the rate for basic service, the amount of any cancellation fee, the expiration date of the contract, and other information as illustrated. (See Appendix A).

This information, including the comparison between utility company and competitive supplier prices, would be helpful for customers who want to understand the terms of the competitive supply contract and compare prices. If a customer wants to end the contract, the information is readily available. However, providing more detailed information would not be a solution on its own and would not eliminate the risk of financial harm borne by consumers.

### **Develop Tougher Rules for Third-Party Marketers and Their Sales Practices**

Massachusetts law directs the DPU to create a code of conduct for the retail sale of electricity. This code of conduct must, by statute, address "rules and regulations governing the confidentiality of customer records, metering, billing, and information systems, and conformance with fair labor practices."<sup>59</sup> A CES company that violates the code of conduct, the DPU consumer protection regulations,<sup>60</sup> or the Massachusetts Consumer Protection Act<sup>61</sup> may be subject to a civil penalty of up to \$5,000,000.<sup>62</sup>

A CES company that violates the code of conduct, the DPU consumer protection regulations, or the Massachusetts Consumer Protection Act<sup>1</sup> may be subject to a civil penalty of up to \$5,000,000.

CES companies that conduct door-to-door marketing campaigns in Massachusetts must first file a form with the DPU to notify the agency before starting a marketing campaign. Some cities and towns also require that door-to-door marketers register with the municipal government before marketing. The DPU requires CES companies to provide some information before beginning a marketing campaign, but it could require more. Currently, the CES company must provide contact information and verification that it has complied with licensing and background check requirements, and has complied with any relevant municipal licensing or notice requirements. There is an optional section where the CES company can choose to tell the DPU where it will conduct marketing and the start and end dates of the marketing campaign, but the DPU does not require that information. The notice rules and the standards of conduct for in-person marketing to consumers are still being developed as part of a DPU proceeding,<sup>63</sup> and DPU should require the CES companies to list the

locations and dates of their door-to-door marketing campaigns.<sup>64</sup> Reporting the dates and locations of these campaigns would allow DPU to better monitor CES marketing activities and identify trends of abusive or deceptive sales practices. The information would also help policy makers to determine if vulnerable communities<sup>65</sup> are targeted for excessive marketing of potentially over-priced products.

The DPU should also use the full extent of its authority to adopt the strongest possible consumer protections in its regulations. During July 2017, the DPU stated that it plans to initiate a rulemaking to codify some interim rules and also update the agency's CES regulations. The DPU did not provide a timeline, but noted that "The Department intends on initiating such rulemaking after sufficient time has passed to assess the implementation of the [interim rules]."<sup>66</sup> The DPU should initiate this rulemaking promptly, in light of the long history of problems in this market.

The DPU should also use the full extent of its authority to adopt the strongest possible consumer protections in its regulations.

The Attorney General also writes regulations that protect consumers from abuses by CES companies. The Attorney General enforces the state law prohibiting unfair and deceptive business practices, and has issued regulations that deal directly with the marketing practices of competitive supply companies.<sup>67</sup> These regulations are now being updated, and the Attorney General released proposed changes that would improve consumer protections. For example, if adopted, the updated regulations would prohibit variable rate contract prices unless the variable rate is first disclosed to the consumer in the contract or is "calculable" using information that the CES company gives to the consumer. The proposed updates would require CES companies to disclose more information to consumers about the details of the contract and the source of the electricity. The CES company could only compare its prices to prices charged by the LDC if the prospective customer specifically asked for the comparison. If a customer asks a CES marketer to stop a sales solicitation, the marketer would have to stop immediately and could not market to that customer for six months unless requested by the customer. While these updates to the regulations would not safeguard consumers from every abusive practice and unfair contract term, the proposed regulations would provide some protection and may discourage bad actors.

### **Strengthen Customers' Ability to Limit Marketing**

Customers have had the ability to opt out of marketing by competitive supply companies since the process was formalized in 2001.<sup>68</sup> However, the constant flow of consumer complaints makes it clear that the existing process is not working adequately. Although no formal survey has been done, it appears that either most customers are not aware of their ability to opt out of the eligible customer list, or that customers who have tried to opt out continue to receive unwanted sales pitches. The DPU should open a new investigation into whether residential consumers would be better served through

an opt-in process, where they can affirmatively decide if they want to receive offers from competitive supply companies. The Massachusetts Office of the Attorney General has also voiced support for an examination of whether an opt-in process is now needed.<sup>69</sup>

If an opt-in system is not possible, then customers should be able to easily and effectively opt out of marketing by competitive supply companies. While customers may ask to be removed from the list,<sup>70</sup> the information about how to opt out is not prominently featured online, and few consumers know how to opt out. In the early years of deregulation, utilities were directed by DPU to send information to customers in a bill insert, letting them know how to opt out.<sup>71</sup> They still have the ability and authority to do so.<sup>72</sup> It would benefit consumers if DPU required utility companies to send an annual notice of the right to opt out. In addition, DPU should create stricter requirements prohibiting door-to-door soliciting unless the salesperson has confirmed that the household is not on the “opt-out” list.

As noted earlier, Eversource recently asked the DPU for the authority to create a list of customers who want to be protected from solicitations by competitive supply companies.<sup>73</sup> The Retail Energy Supply Association (RESA), a national association that represents competitive supply companies, opposed this,<sup>74</sup> despite a long history of abuses by the industry.<sup>75</sup>

In addition to opting out of marketing, customers should have the power to place a block on their accounts, since salespersons may still try to contact customers who have tried to opt out. In neighboring Rhode Island, customers have the option of placing a block on an electricity account to prevent being switched to a CES company. Customers must contact their LDC to ask for a block, and information about how to do so is easily found on the Rhode Island Public Utilities Commission website.<sup>76</sup>

## **Report Violations of the Law and High Prices to the Public, and Pursue Violations**

### *Create a public report of complaints*

Currently, complaint data is difficult to track. As noted, CES customers may complain to the DPU, the Office of the Attorney General, the LDC, elected officials, or others when encountering problems with competitive supply companies. Complaint data is not posted online or published for the public, and there is no source for consolidation of complaint data from different sources.

The DPU has the legal authority to require the collection and reporting<sup>77</sup> of complaint data, and to implement other consumer protections, under its broad statutory authority to regulate the retail energy market.<sup>78</sup> It would benefit consumers and all stakeholders to have detailed information about CES company complaints, including the company at issue and the consumer’s concern. Massachusetts should consider following the model

implemented by Connecticut, which publishes a “Complaints Scorecard” online for the general public.<sup>79</sup> Collection and publication of complaint data from different sources should also be considered.

*Create public reporting of prices actually paid by consumers*

With stakeholder input, the DPU has developed a shopping website that consumers can use to compare different offers from CES companies, at [EnergySwitchMA.gov](http://EnergySwitchMA.gov). The Energy Switch website is helpful as a shopping tool, but does not provide information about the prices that customers will ultimately pay under variable rate contracts or how the CES company prices will compare with LDC rates over time.

Detailed and frequent public reporting of the prices charged by CES companies, including rates paid by customers after any introductory rate expires, is essential for identifying patterns of high charges and protecting consumers. Such reporting would go beyond the information provided on the Energy Switch shopping website. Massachusetts must consider adopting reporting such as that required in Connecticut by the state’s Public Utilities Regulatory Authority.<sup>80</sup> Through this reporting, data and analysis of the actual prices paid by consumers (beyond the initial offers of the supply companies) could be made available to stakeholders, policy makers and members the public. Failing to require this data to be reported only encourages companies to make use of variable pricing in order to hide the true costs of their services.

*Department of Public Utilities and the Attorney General should actively pursue enforcement, including fines and license revocations, and the Attorney General should continue to pursue bad actors*

DPU has jurisdiction over licensing of competitive supply companies. It can take any of the following actions: revoking or suspending the license of a competitive supply company, prohibiting the company from signing up new customers for a specified period of time, placing the company on probationary status, or imposing a remedial plan on the company.<sup>81</sup> The DPU also has the statutory authority to suspend the license for up to one year for “slamming,” i.e., if the supplier has intentionally, maliciously or fraudulently switched more than 20 customers to its service within a 12 month period.<sup>82</sup>

Despite this authority, the DPU has not reported license revocations or suspensions. The agency had the authority to do so since the beginning of deregulation but did not adopt regulations for adjudicating enforcement actions until 2017.<sup>83</sup> With the regulations in place, the DPU now has a process for pursuing enforcement. And with over 1,000

Despite the authority, the DPU has not reported license revocations or suspensions. The agency had the authority to do so since the beginning of deregulation but did not adopt regulations for adjudicating enforcement actions until 2017.

consumer complaints<sup>84</sup> filed between August 2015 and August 2017, DPU has an ample set of complaints to investigate.

The Office of the Attorney General has no authority over licensing, but may investigate and pursue violations of the Massachusetts unfair and deceptive business practices law (M.G.L. c. 93A), and has enforcement authority under state law<sup>85</sup> to bring a consumer protection action in response to violations of laws governing competitive supply companies.<sup>86</sup> Both the DPU and Attorney General may investigate a competitive supply company, and both investigations can proceed simultaneously.<sup>87</sup> The Office of the Attorney General has exercised this authority to end abusive and deceptive practices by Just Energy and Spark Energy, to investigate the practices of Starion Energy, and to return millions of dollars to consumers.<sup>88</sup> Consumers have benefitted substantially from the Attorney General's enforcement actions to date. The Attorney General should continue to devote substantial resources to investigating complaints against CES companies, and bringing enforcement actions when merited. The Attorney General should also continue to engage with community groups and others to educate particularly vulnerable populations, such as the elderly and communities that speak English as a second language, about the risks of CES companies, and to solicit complaints that would help inform future enforcement.

## CONCLUSION

Competitive energy suppliers are overcharging Massachusetts consumers for electricity. Faced with aggressive sales pitches and false promises of lower prices, consumers sign contracts with these companies but frequently learn that service is more costly than they originally believed. Low-income households buy competitive electric supply more frequently than other households, but the financial harm caused by high electricity prices adds another burden for these vulnerable families.

Deregulation in Massachusetts began in 1997, but the goals of deregulation -- "promot[ing] the prosperity and general welfare of its citizens . . . by restructuring the electricity industry in the commonwealth to foster competition and promote reduced electricity rates"<sup>89</sup> -- have not been achieved. The other deregulated states (for electricity, Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, and Texas) have faced similar struggles, and none have found a way to operate a restructured electricity market without financial harm to residential customers.

In the short term, Massachusetts ratepayers urgently need stronger consumer protections from high prices, deceptive sales practices, and contract terms that put consumers at a disadvantage. In the longer term, policymakers must recognize that the deregulated energy market is harming Massachusetts families, and it is time to consider limiting CES companies to commercial and industrial energy markets.

## APPENDIX: SAMPLE CONNECTICUT EVERSOURCE ELECTRIC BILL\*



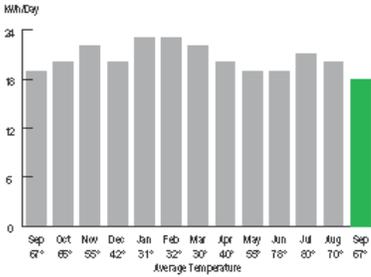
Account Number: **1234 567 8900**  
Statement Date: 09/30/16

John J Customer  
123 Any St  
Any Town, CT 00000

**Total Amount Due by 10/28/16** **\$151.00**

Amount Due On 09/26/16	\$168.00
Last Payment Received On 09/23/16	-\$168.00
Balance Forward	\$0.00
Total Current Charges	\$151.00

**Electric Usage History** – Kilowatt Hours (kWh)



**Current Charges for Electricity**

<b>Supply</b>	<b>Delivery</b>
<b>\$69.93</b>	<b>\$81.07</b>
<small>Cost of electricity from Any Energy Co.</small>	<small>Cost to deliver electricity by Eversource</small>



**Electric Usage Summary**

This month your average daily electric use was **25 kWh**

This month you used **4% less** than at the same time last year

4%  
USAGE ↓

**Supply Information**

Supplier Rate: 9.990¢/kWh Fixed  
Term: 13 cycles  
Expiration: Dec 2016 meter read  
Next Cycle Rate: 9.990¢/kWh  
Cancellation Fee: \$0  
Standard Service Rate: 6.606¢/kWh  
Term/Expiration: 6 mos until Dec 31, 2016  
Your Supplier Charge: \$69.93  
Standard Service Comparison: \$46.24

**Your electric supplier is**

Any Energy Company  
Any Street  
Any Town, Any State 00000  
1-100-000-0000

To return to Standard Service, visit CT's official Rate Board at [www.EnergizeCT.com](http://www.EnergizeCT.com), Eversource.com or call 1-800-286-2000

**News For You**

Welcome to your newly designed bill! This new design provides a clear view of your energy use and charges to help you manage your energy costs.

---



Account Number: **1234 567 8900**  
The "Total Amount Due" must be received by Oct 28, 2016 to avoid a 1.00% late payment charge.

Seg Code

Remit Payment To: Eversource, PO Box 660032, Dallas, TX 75265-0032  
Make your check payable to Eversource. Please consider adding \$1 for Operational Fuel. To add more, visit [Eversource.com](http://Eversource.com)

**Total Amount Due by 10/28/16** **\$151.00**

**Amount Enclosed**



John J Customer  
123 Any St  
Any Town, CT 00000



Eversource  
PO Box 660032  
Dallas, TX 75265-0032

Sample Bill

00 0 0000118192 00 70 1234 567 8900

# EVERSOURCE

Account Number: **1234 567 8900**

Customer name key: CUST

John J Customer

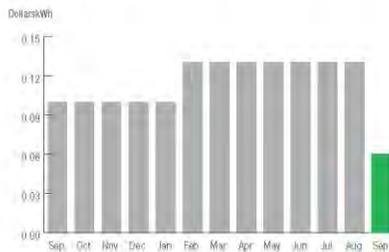
123 Any St

Any Town, CT 00000

**Service reference: 100000000 Billing Cycle: 01**  
**Service from 09/26/16 - 10/24/16 28 Days**  
**Next read date on or about: Oct 25, 2016**

Meter Number	Current Read	Previous Read	Current Usage	Reading Type
1234567	79765	79165	600	Actual

## Supply Rate



## Contact Information

Emergency: 800-286-2000

www.eversource.com

CustomerServiceCTElectric@eversource.com

Pay by Phone: 888-783-6618

Customer Service: 800-286-2000

For information or questions regarding your account, please contact Eversource at the Customer Service number above. For other consumer questions and unresolved complaints, contact Public Utilities Regulatory Authority (PURA) Consumer Services toll free at 800-382-4586 or www.ct.gov/PURA.

**Total Amount Due by 10/28/16**

**\$151.00**

## Electric Account Summary

Amount Due On 09/26/16	\$168.00
Last Payment Received On 09/23/16	-\$168.00
Balance Forward	\$0.00
Current Charges/Credits	
Electricity Supply Services	\$69.93
Delivery Services	\$81.07
Total Current Charges	\$151.00
<b>Total Amount Due</b>	<b>\$151.00</b>

## Total Charges for Electricity

### Supplier (Any Energy Company)

Generation Srvc Chrg**	700 kWh X 0.09990	\$69.93
Subtotal Supply Services		<b>\$69.93</b>

### Delivery

Transmission Charge	700 kWh X 0.02922	\$20.45
Distribution Customer Service Charge		\$19.25
Distribution Charge per kWh	700 kWh X 0.03467	\$24.27
Revenue Adj Mechanism	700 kWh X 0.00079	\$0.55
CTA Charge per kWh	700 kWh X 0.00116	\$0.81
FMCC Delivery Charge	700 kWh X 0.00932	\$6.52
Comb Public Benefits Charge*	700 kWh X 0.01275	\$8.93
Distribution Adj Charge***	700 kWh X 0.00042	\$0.29
Subtotal Delivery Services		<b>\$81.07</b>
<b>Total Cost of Electricity</b>		<b>\$151.00</b>

### Total Current Charges

**\$151.00**

## Explanation of your charges

\* The Combined Public Benefits Charge represents a combination of three charges formerly known as: Conservation and Load Mgmt Charge, Renewable Energy Investment Charge, and System Benefits Charge. This charge also includes the Conservation Adjustment Mechanism approved by the Public Utilities Regulatory Authority in Docket No. 13-11-14.

\*\* Effective January 1, 2007, the Generation Services Charge (GSC) and the Bypassable Federally Mandated Congestion Charge (BFMCC) have been combined into the "GSC Charge" listed in the Supplier Services section of your bill. The GSC reflects all of the cost of procuring energy from Eversource wholesale suppliers. The BFMCC portion of this line item is \$0.0003/kWh. If you multiply this BFMCC rate by the number of kWhs on your bill, you can calculate the dollar amount associated with the BFMCC.

\*\*\* Distribution Adjustment to be collected over 24 months beginning December 1, 2015, as a result of an accumulated deferred income tax adjustment.

Sample Bill

\* Source: <https://www.eversource.com/content/ct-c/residential/my-account/billingpayments/about-your-bill/understanding-my-bill>

## ENDNOTES

<sup>1</sup> Customers of the Massachusetts gas companies National Grid, Eversource, Unitil, Liberty Utilities, Berkshire Gas, Columbia Gas and Blackstone Gas are also able to buy their natural gas from competitive energy suppliers and have it delivered by the LDCs just listed. However, there is much less data and information available regarding whether the prices the CES offer are higher or lower than the prices offered by the LDCs, and whether these gas CES are engaging in unfair and deceptive sales practices. Therefore, this paper focuses primarily on the electric CES.

<sup>2</sup> Customers can also choose a competitive natural gas supplier. 220 Code Mass. Regs. 14.00. Competition in the gas market is newer in Massachusetts and is still limited to a small number of residential customers, so we do not have data yet about customer problems with competitive gas supply, although it would not be surprising to see the same problems emerge.

<sup>3</sup> An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protections Therein (or the “Electric Restructuring Act”), Ch. 164 of the Acts of 1997.

<sup>4</sup> This report focuses on individual consumers and their direct interactions with competitive electric supply companies, but does not address “municipal aggregation” or “community choice aggregation.” Another Massachusetts law allows cities and towns to contract with electricity suppliers to purchase electricity through community choice aggregation, and residents of the municipality may accept the service or opt out. M.G.L. c. 164, § 134 (“Any municipality or any group of municipalities acting together within the commonwealth is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries . . .”). While customers in these municipal aggregation cities and towns may at times pay slightly more for their electricity than if they remained customers of the LDC, we are not aware of unfair or deceptive sales practice in those municipalities, nor that customers end up paying substantially more than the prices offered by the LDC.

<sup>5</sup> Mass. Dept. of Energy Resources, 2017 Electric Customer Migration Data, available at <https://www.mass.gov/service-details/electric-customer-migration-data>.

<sup>6</sup> Connecticut takes a different approach, and posts detailed complaint information on a state website. See Conn. Dept. of Energy & Environmental Regulation, Public Utilities Regulatory Authority, Complaints Scorecard, available at [www.ct.gov/pura](http://www.ct.gov/pura).

<sup>7</sup> The Massachusetts Office of the Attorney General received over 700 complaints from residential electricity customers about competitive electric supply companies from 2014 through 2017. Massachusetts Attorney General's Office, *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts* (March 2018).

<sup>8</sup> In addition, an internet search for customer complaints and reviews yields many results from Massachusetts and elsewhere. For media accounts of Massachusetts consumer complaints, see, Fox 25 News, "AG's office investigates power supply company after complaints over questionable tactics" (Dec. 10, 2015), available at <http://www.fox25boston.com/news/fox-25-investigates/ags-office-investigates-power-supply-company-after-complaints-over-questionable-tactics-1/9570281>; Boston Globe, "Electricity Switching Risky for Households" (Oct. 19, 2014), available at <https://www.bostonglobe.com/business/2014/10/18/for-households-switching-power-suppliers-means-lots-risk-small-rewards/tCiAsYU4Hq5TjZsMFR9uVO/story.html>; Beware of aggressive door-to-door sales people, police warn, Sudbury.com (Sept. 17, 2014), <https://www.sudbury.com/police/beware-of-aggressive-door-to-door-sales-people-police-warn-251819>

<sup>9</sup> Requests for public documents may be made pursuant to the Massachusetts Public Records Law, M.G.L. c. 66, §10.

<sup>10</sup> Mass. Dept. of Public Utilities, Letter to NCLC and Data Summary attachment (Oct. 13, 2017).

<sup>11</sup> In 2016, DPU reported that 78 competitive suppliers are licensed in Massachusetts. Dept. of Public Utilities, 2016 Annual Report, available at <http://archives.lib.state.ma.us>.

<sup>12</sup> 220 CMR 11.07; 220 CMR 14.06.

<sup>13</sup> Dept. of Public Utilities, 2016 Annual Report at 2.

<sup>14</sup> 940 CMR 19.00 *et seq.*

<sup>15</sup> Mass. Office of the Attorney General, Press Release, Electricity Supplier to Pay \$4 Million Over Alleged Deceptive Marketing and Sales That Overcharged Consumers (January 6, 2015).

<sup>16</sup> In the Matter of Spark Energy, L.P., Assurance of Discontinuance Pursuant to G.L. 93A § 5, Suffolk Superior Ct. (March 11, 2008).

<sup>17</sup> The Commonwealth’s Cross-Motion to Compel Starion Energy, Inc. to Comply with the Civil Investigative Demand, In Re Civil Investigative Demand No. 2017-ETD-08 Issued by the Office of the Attorney General, Civ. Action No. 2017-SUCV-01972, Suffolk Superior Ct. (July 6, 2017).

<sup>18</sup> Competitive Supplier and Electricity Broker Frequently Asked Questions, <http://www.mass.gov/eea/energy-utilities-clean-tech/electric-power/electric-market-info/frequently-asked-questions.html#22> (website updated Jan. 28, 2016) (“22. **Are there any special requirements regarding enrolling customers who do not speak English?** Yes. If a customer does not speak English, the TPV [third party verification] or LOA [Letter of Authorization] must be completed in the customer’s language and the customer must sign a contract in that same language.”) (bold in original). The information is posted on the website of the Massachusetts Department of Energy and Environmental Affairs.

<sup>19</sup> In addition to complaints filed through other channels, NCLC has been contacted by consumers with similar complaints. And, like other consumers, NCLC staff members themselves have received similar solicitations.

<sup>20</sup> 940 CMR 19.04 (“It is an unfair or deceptive act or practice for a retail seller of electricity to make any material representation to the public or to any consumer, either directly or through any type of marketing or agreement, or through the use of any misleading symbol or representation, which the seller knows or should know has the capacity or tendency to deceive or mislead a reasonable consumer, or that has the effect of deceiving or misleading a reasonable consumer, in any material respect, including but not limited to representations relating to:

. . . (b) the business relationship between any retail seller of electricity and any distribution company.”)

<sup>21</sup> This type of misrepresentation is a problem in other states as well as in Massachusetts. Maryland, for example, has adopted regulations with detailed rules aimed at preventing salespeople from claiming to be utility company representatives. Md. Code Regs. 20.53.08.04.

<sup>22</sup> See D.T.E. 01-54-A, Order Opening Investigation into Competitive Market Initiatives, at 6-7 (June 29, 2001); D.T.E. 01-54-A, Order Re Competitive Market Initiatives, at 17-18 (Oct. 15, 2001).

<sup>23</sup> For example, for Eversource customers this information about how to opt out, including a link to the on-line form, is available at the bottom of the page at

<https://www.eversource.com/Content/ema-c/residential/my-account/choose-competitive-alternate-supplier>

<sup>24</sup> D.P.U. 17-05, NSTAR Electric Co. and Western Massachusetts Electric Co., each d/b/a Eversource Energy, Ex. ES-RDP-9 at 25 (Jan. 17, 2017).

<sup>25</sup> D.P.U. 17-05, NSTAR Electric Co. and Western Massachusetts Electric Co., each d/b/a Eversource Energy, Initial Brief of Retail Energy Supply Association (July 21, 2017).

<sup>26</sup> D.P.U. 17-05, Order Establishing Eversource's Revenue Requirement at 747 (Nov. 30, 2017).

<sup>27</sup> CES companies are called "competitive electric supply companies" in Massachusetts, but may go by different names in other states, such as energy supply companies or ESCO's in New York, alternative retail electric suppliers or ARES in Illinois, electric suppliers in Delaware and Ohio, or third party suppliers in New Jersey.

<sup>28</sup> Conn. Office of Consumer Counsel, OCC Fact Sheet: Electric Supplier Market, June 2016 Through May 2017 (June 14, 2017).

<sup>29</sup> Conn. Office of Consumer Counsel, OCC Fact Sheet: Electric Supplier Market, January 2017 Through December 2017 (Feb. 6, 2018).

<sup>30</sup> Office of Retail Market Development, Illinois Commerce Commission, 2017 Annual Report at 33-34 (June 2017).

<sup>31</sup> N.Y. Public Service Commission, Case Nos. 12-M-0476, 98-M-1343, 06-M-0647, and 98-M-0667, Order Adopting a Prohibition of Service to Low-Income Customers by Energy Service Companies (Dec. 16, 2016), available at <http://www.dps.ny.gov>. The Public Service Commission may grant a temporary waiver to allow an ESCO to market to low-income customers, but only if the ESCO can show that low-income customers will pay no more than they would have paid for service from the regulated public utility. See, e.g., NY Pub. Svc. Commn, Case Nos. 12-M-0476, 98-M-1343, 06-M-0647, and 98-M-0667, "Order Approving Waiver and Authorizing Utility Expense Reduction, LLC to Serve Low-Income Customers" (Dec. 14, 2017).

<sup>32</sup> *Nat. Energy Marketers Assn. v. N.Y. State Pub. Svc. Commn.*, 60 N.Y.S.3d 760 (Sup. Ct., Albany Cty. 2017).

<sup>33</sup> Delaware Public Service Commission, Docket N. 15-1693, In the Matter of the Review of Customer Choice in the State of Delaware, Comments of the Division of the Public Advocate (April 29, 2016).

<sup>34</sup> Pa. Pub. Utility Commission, Docket C-2014-2427655, Initial Decision, *Comm. of Pennsylvania v. Blue Pilot Energy, LLC*, (July 7, 2016).

<sup>35</sup> *Robert Lougy v. Palmco Power NJ, LLC*, Docket No. MER-C-33-14, Final Consent Judgement (Sup. Ct. NJ, May 23, 2016).

<sup>36</sup> *The People of the State of Illinois v. Palmco Power IL, LLC*, No. 2017CH00099, Complaint for Injunctive and Other Relief (Ill. Cir. Ct., 7<sup>th</sup> Dist., March 9, 2017).

<sup>37</sup> Mass. Office of the Attorney General, *Are Residential Consumers Benefiting from Electric Supply Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts* (March 2018).

<sup>38</sup> This area generally includes the greater Boston metropolitan area and Cape Cod. <https://www.eversource.com/content/ema-c/about/about-us/about-us/communities-we-serve>.

<sup>39</sup> NCLC was able to obtain eighteen months of data from 2015 and 2016, including January –December 2015 and the latter half of 2016, but not the complete data for 2016.

<sup>40</sup> Commonwealth Magazine, “Electricity Consumption on the Rise” (May 24, 2016). Massachusetts households tend to consume less electricity than the national average of 897 kilowatt hours per month. U.S. Energy Information Administration, Frequently Asked Questions (Nov. 7, 2017), <https://www.eia.gov>.

<sup>41</sup> Conn. Office of Consumer Counsel, OCC Fact Sheet: Electric Supplier Market, June 2016 Through May 2017 (June 14, 2017); Office of Retail Market Development, Illinois Commerce Commission, 2017 Annual Report at 33-34 (June 2017); N.Y. Public Service Commission, Case Nos. 12-M-0476, 98-M-1343, 06-M-0647, and 98-M-0667, “Order Adopting a Prohibition of Service to Low-Income Customers by Energy Service Companies (Dec. 16, 2016), <http://www.dps.ny.gov>.

<sup>42</sup> This report documents and addresses concerns and problems with competitive energy supply companies that market their services to individual households. The report does not address municipal aggregation.

<sup>43</sup> Ch. 164 of the Acts of 1997, Sec. 1.

<sup>44</sup> Ch. 164 of the Acts of 1997, Sec. 1(k) (“long-term rate reductions can be achieved most effectively by increasing competition and enabling broad consumer choice in generation service, thereby allowing market forces to play the principal role in determining the suppliers of generation for all customers”).

<sup>45</sup> Prices and terms posted at [www.energyswitchma.gov](http://www.energyswitchma.gov) on Oct. 11, 2017, for Eversource NStar territory, with example usage of 575 kWh per month.

<sup>46</sup> For example, see the brief of the Office of the Attorney General filed during the investigation of Starion Energy, which describes one customer who was charged a rate of 9.99¢ per kilowatt-hour for the first two months of a CES contract, but the price more than doubled over several months to 21.47¢ per kilowatt hour, while the LDC charged a rate of 9.257¢ per kilowatt hour. *The Commonwealth’s Consolidated Memorandum Opposing Starion Energy, Inc.’s Motion to Modify the Civil Investigative Demand and Supporting the Commonwealth’s Cross-Motion to Compel Starion Energy, Inc. to Comply with the Civil Investigative Demand*, C.A. No. 2017-SUCV-01972 (Sup. Ct., Suffolk Cty., July 6, 2017).

<sup>47</sup> See, e.g., *Mirkin v. Viridian Energy, Inc.*, 2016 WL 3661106 (D. Conn. July 5, 2016) (denying Viridian Energy’s motion to dismiss breach of contract claim, where contract stated variable rates would be based on wholesale market conditions, but noting differing results in other cases).

<sup>48</sup> Review of terms posted at [www.energyswtichma.gov](http://www.energyswtichma.gov), for National Grid territory, viewed on Oct. 11, 2017. Adera Energy offered a contract with a cancellation fee of \$200. Oasis Energy offered a 24 month contract with a cancellation fee of “\$12 per month remaining on term.”

<sup>49</sup> N.Y. Pub. Svc. Commission, Case Nos. 15-M-0127; 12-M-0476, 98-M-1343, “Notice of Evidentiary and Collaborative Tracks and Deadline for Initial Testimony and Exhibits” (Dec. 2, 2016).

<sup>50</sup> N.Y. Pub. Svc. Commission, Case Nos. 12-M-0476, 98-M-1343, 06-M-0647, and 98-M-0667, “Order Adopting a Prohibition of Service to Low-Income Customers by Energy Service Companies (Dec. 16, 2016), available at <http://www.dps.ny.gov>, upheld by *Nat. Energy Marketers Assn. v. N.Y. State Pub. Svc. Commn.*, 2017 NY Slip Op 27223, Supreme Court of N.Y., Albany County (June 30, 2017).

<sup>51</sup> Mass. Office of the Attorney General, *Are Residential Consumers Benefiting from Electric Supply Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts* (March 2018).

<sup>52</sup> 42 U.S.C. §§ 8621 – 8630.

<sup>53</sup> Arrearage Management Programs (AMP) are programs that are offered by utility companies, with oversight from the state. AMPs are a type of payment program to help residential customers catch up on overdue utility bills. National Consumer Law Center, [Helping Low-Income Utility Customers Manage Overdue Bills through Arrearage Management Programs \(AMP\)](https://www.nclc.org) (Sept. 2013), <https://www.nclc.org>.

<sup>54</sup> “(4) On and after October 1, 2015, no electric supplier shall (A) enter into a contract to charge a residential customer a variable rate for electric generation services; or (B) automatically renew or cause to be automatically renewed a contract with a residential customer and, pursuant to such contract, charge such customer a variable rate for electric generation services.” Conn. Gen. Stat. Ann. § 16-245o.

<sup>55</sup> Conn. Gen. Stat. Ann. § 16-245o(h)(7).

<sup>56</sup> See website of the Retail Energy Suppliers Association at [www.resa.org](http://www.resa.org), viewed on October 11, 2017.

<sup>57</sup> For a discussion of high rates, poor contract terms, and other problems associated with negative option contracts, see Federal Trade Comm., Negative Options, A Report by the staff of the FTC’s Division of Enforcement (Jan. 2009).

<sup>58</sup> The Federal Cable Television Consumer Protection and Competition Act, 47 U.S.C. § 543(f).

<sup>59</sup> M.G.L. c. 164, §1F(7).

<sup>60</sup> Regulations promulgated under M.G.L. c. 164, §§1A-1F.

<sup>61</sup> M.G.L. c. 93A.

<sup>62</sup> M.G.L. c. 164, §1F(7); D.P.U. 16-156-A – Competitive Supply Interim Guidelines, Section 8 (4).

<sup>63</sup> D.P.U. 14-140, Second Revised Door-to-Door Marketing Proposal (June 27, 2017).

<sup>64</sup> D.P.U. 14-140, Second Revised Door-to-Door Marketing Proposal (June 27, 2017).

<sup>65</sup> Pennsylvania and Maryland have similarly general reporting requirements for notification prior to door-to-door marketing of competitive supply, and both states require the notification to include a general description of the geographic area. Md. Code Regs. 20.53.08.06; 52 Pa. Code §111.14(a).

<sup>66</sup> D.P.U. 16-156-A, Order Establishing Final Interim Guidelines for Competitive Supply Investigations and Proceedings at 42 (July 6, 2017).

<sup>67</sup> 940 CMR 19.00.

<sup>68</sup> DTE 01-54 and DTE 01-54-A.

<sup>69</sup> D.P.U. 17-05, Petition of NSTAR Electric Company and Western Massachusetts Electric Company, Each d/b/a Eversource Energy, *Reply Brief of the Office of the Attorney General* at 102, fn. 41 (Aug. 18, 2017) (noting that “The AGO’s recommendation that the Department adopt the proposed tariff language at issue here should not be interpreted as a recommendation that the Department continue to allow competitive suppliers to access customer identifying information without those customers’ affirmative assent. Although the proposed tariff language is a reasonable interim measure, the time is right for the Department to reconsider the general rule in a separate, general proceeding that would include input from all stakeholders.”).

<sup>70</sup> D.T.E. 01-54-A, Order Opening Investigation into Competitive Market Initiatives (June 29, 2001); D.T.E. 01-54-A, Order Re Competitive Market Initiatives (Oct. 15, 2001).

<sup>71</sup> D.T.E. 01-54-A, Order Re Competitive Market Initiatives at 26 (Oct. 15, 2001).

<sup>72</sup> D.T.E. 01-54-A, Order Re Competitive Market Initiatives at 26 (Oct. 15, 2001) (“After the initial opt-out period described above, it is appropriate for distribution companies to use periodic bill inserts and messages to remind customers of their ability to opt-out.”).

<sup>73</sup> D.P.U. 17-05, NSTAR Electric Co. and Western Massachusetts Electric Co., each d/b/a Eversource Energy, Ex. ES-RDP-9 at 25 (Jan. 17, 2017).

<sup>74</sup> D.P.U. 17-05, NSTAR Electric Co. and Western Massachusetts Electric Co., each d/b/a Eversource Energy, Initial Brief of Retail Energy Supply Association (July 21, 2017).

<sup>75</sup> See D.P.U. 17-05, NSTAR Electric Co. and Western Massachusetts Electric Co., each d/b/a Eversource Energy, Initial Brief of the Low-Income Weatherization and Fuel Assistance Network and Massachusetts Energy Directors Association (July 21, 2017) (describing several legal actions taken to remedy abuses by competitive supply companies).

<sup>76</sup> <http://www.ripuc.org/utilityinfo/electric/compfaq.html>.

<sup>77</sup>The DPU must file an annual report with the legislature which is to include “the total number of unauthorized switches, enforcement procedures undertaken by the department against such slamming tactics, so-called, the total amount of dollars returned to customers, the total amount of dollars collected in civil penalties pursuant to subsection (c), and the overall impact of the provisions of this section.” M.G.L. c. 164, §1F(8)(f).

<sup>78</sup> The legislature provided that “[t]he department shall promulgate rules and regulations to provide retail customers with the utmost consumer protections contained in law,” including but not limited to licensing, regulation, and other powers enumerated at M.G.L. c. 164, §1F.

<sup>79</sup> Conn. Dept. of Energy & Environmental Regulation, Public Utilities Regulatory Authority, Complaints Scorecard, available at [www.ct.gov/pura](http://www.ct.gov/pura).

<sup>80</sup> See, Conn. Public Util. Regulatory Authority, Docket No. 06-10-22.

<sup>81</sup> 220 CMR 11.07; D.P.U. 16-156-A – Competitive Supply Interim Guidelines, Section 8.

<sup>82</sup> M.G.L. c. 164, §1F(8)(e).

<sup>83</sup> 220 CMR 11.07; D.P.U. 16-156-A – Competitive Supply Interim Guidelines, Section 8.

<sup>84</sup> Mass. Dept. of Public Util., Letter to NCLC and Data Summary attachment (Oct. 13, 2017).

<sup>85</sup> M.G.L. c. 164, §102C.

<sup>86</sup> M.G.L. c. 164, §§1B, 1C, 1D, 1E, 1F and 137.

<sup>87</sup> See, D.P.U. 16-156 (“Investigation by the Department of Public Utilities on Its Own Motion to Establish Interim Guidelines for Competitive Supply Formal Investigations and Proceedings”), Reply Comments of the Office of the Attorney General (Oct. 25, 2016) (noting in part that “the Department’s authority to investigate Competitive Supply Companies and take necessary remedial action is separate and distinct from the AGO’s investigative authority under M.G.L. c. 93A and enforcement authority under M.G.L. c. 164, § 102C(a).”).

<sup>88</sup> Massachusetts Office of the Attorney General, Press Release, Electricity Supplier to Pay \$4 Million Over Alleged Deceptive Marketing and Sales That Overcharged Consumers (January 6, 2015); In the Matter of Spark Energy, L.P., Assurance of

Discontinuance Pursuant to G.L. 93A § 5, Suffolk Superior Ct. (March 11, 2008); The Commonwealth's Cross-Motion to Compel Starion Energy, Inc. to Comply with the Civil Investigative Demand, In Re Civil Investigative Demand No. 2017-ETD-08 Issued by the Office of the Attorney General, Civ. Action No. 2017-SUCV-01972, Suffolk Superior Ct. (July 6, 2017).

<sup>89</sup> Ch. 164 of the Acts of 1997, Sec. 1.



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