



NATIONAL HEADQUARTERS  
7 Winthrop Square, Boston, MA 02110  
(617) 542-8010

WASHINGTON OFFICE  
Spanogle Institute for Consumer Advocacy  
1001 Connecticut Avenue, NW, Suite 510  
Washington, DC 20036  
(202) 452-6252

[NCLC.ORG](http://NCLC.ORG)

January 10, 2020

Mark D. Marini, Secretary  
Department of Public Utilities  
One South Station, 5th Floor  
Boston, MA 02110

Re: Request of the Office of Attorney General, Office of Ratepayer Advocacy for Investigation into the Effect of the Individual Residential Supply Market on Low Income Ratepayer Assistance Programs, Pursuant to G.L. c. 164, §§ 1F, 76C, 124A, 124E, 124F, 124H; and St. 2005, c. 140, § 17.

Dear Secretary Marini:

We write this letter to strongly support the above-referenced request for an Investigation into the Effect of the Individual Residential Supply Market on Low Income Ratepayer Assistance Programs, which was submitted to the Department by the Attorney General on December 17, 2019. We urge the Department to open the requested investigation promptly and to devote adequate resources to thoroughly investigating the important issues raised by the Attorney General.

The National Consumer Law Center (NCLC) advocates for economic justice for low-income consumers, including utility consumers. As you know, NCLC has been actively involved in advocacy for consumers who have been financially harmed by alternative (or competitive) energy supply companies. In 2018, we released a report<sup>1</sup> which described the abusive sales practices and inflated prices which have harmed so many Massachusetts consumers. Based on our own investigation and that conducted by the Attorney General, it is clear that some competitive suppliers target their deceptive sales practices on low-income communities, the elderly and those with limited English proficiency, which should be of serious concern for the Department. For our part, NCLC, has been involved in proceedings before the Department as well as other advocacy efforts to reign in abusive competitive supply practices, on behalf of our low-income clients.

NCLC fully supports the Attorney General's request to investigate the three areas identified in the December 17 letter: the extent to which the individual retail competitive supply market has increased low-income ratepayers' bills, increased the portion of all customer bills that

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<sup>1</sup> National Consumer Law Center, *Competing to Overcharge Consumers: The Competitive Electric Supplier Market in Massachusetts* (April 2018), at <http://bit.ly/2H3ORJJ>.

funds low-income utility assistance programs, and weakened the overall effectiveness of the low-income assistance programs. We also support the Attorney General’s request to address these problems by restricting suppliers from enrolling individual low-income households, thereby protecting low-income consumers and preserving the essential programs that support vulnerable households. We urge the Department to take this step as soon as possible, to pause the enrollment of low-income customers while the Department conducts an investigation.

As explained by the Attorney General, adverse financial impacts have been documented in Massachusetts and elsewhere (see Appendix A, attached). The Attorney General has determined that Massachusetts residential consumers paid \$253 million more to alternative suppliers than they would have paid to their distribution utilities for electric service from July 2015 through June 2018. State-level research, complaints to the Department, and reports from consumers and their advocates all reaffirm that competitive supply prices increase the financial burden for consumers who already struggle with energy insecurity.

The low-income discount rate and the consumer protections described by the Attorney General are vital for low-income consumers. Discount rates for electricity currently range from 25% to 36%,<sup>2</sup> and even with these significant discounts, thousands of consumers continue to struggle to pay their utility bills. Tens of thousands of low-income gas and electric customers have their service disconnected each year, and suffer serious consequences as a result. The higher supply rates charged in the individual retail energy market can in effect erase these discounts for consumers.

The Arrearage Management Programs (AMPs) are an area of particular concern. These innovative programs are designed to encourage and assist customers who want to resolve arrears and return to a schedule of timely payments. Inflated utility prices will make it harder for these consumers to successfully complete the AMP.

We further note that other programs may be affected, even if the link is not as direct. Where LIHEAP-eligible customers have natural gas or electric heating systems, then LIHEAP payments to these customers will not go as far if the customers are paying prices to suppliers that exceed the prices they would have paid for basic service.

Other states, most notably our neighboring states of New York and Connecticut, have taken strong steps to protect low-income customers, in particular, from the deceptive and predatory practices in which competitive suppliers all too frequently engage.<sup>3</sup> While the Department has an open docket where it is considering additional steps to protect consumers in the competitive

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<sup>2</sup> The currently approved discount rates are as follows: National Grid Electric at 32% (DPU 18-150); Eversource Electric at 36% (DPU 17-05); Unitil Electric (Fitchburg Elec.) at 25% (see [https://unitil.com/sites/default/files/tariffs/E\\_dpu290\\_RD2.pdf](https://unitil.com/sites/default/files/tariffs/E_dpu290_RD2.pdf)).

<sup>3</sup> On December 12, 2019, the New York Public Service Commission took additional steps to protect that state’s consumers by prohibiting competitive supply sales to residential customers unless, *inter alia*, the offer “includes a guaranteed savings over the utility price.” NYPSC dockets 98-M-1343, 12-M-0476, 15-M-0127, Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process, at 108. (Dec. 12, 2019).

supply market,<sup>4</sup> Massachusetts is clearly lagging behind its neighbors in taking meaningful action that actually stops unfair and deceptive sales practices.

In conclusion, NCLC, Greater Boston Legal Services, and the undersigned organizations and individuals support the Attorney General's request to investigate the impact of the individual residential competitive energy supply market on low-income consumers, and to take immediate steps such as those undertaken in New York and Connecticut to protect these consumers from further financial harm. If you have questions regarding this letter, please contact Jenifer Bosco, Staff Attorney, National Consumer Law Center, at [jbosco@nclc.org](mailto:jbosco@nclc.org) or 617-542-8010.

Sincerely,

Action Inc. Energy Services

Cape Cod Council of Churches Hands of Hope Outreach Center

Central West Justice Center

Citizens for Citizens, Inc., Fall River, MA

City of Cambridge Fuel Assistance Program/DHSP

Community Action Agency of Somerville, Inc.

Community Action Pioneer Valley

Community Teamwork

Falmouth Service Center, Inc.

Greater Boston Legal Services, on behalf of its low-income clients

Harvard Council on Aging (COA), on behalf of its low-income clients

Heisler, Feldman & McCormick, P.C.

HomeStart, Inc.

Just-A-Start Corporation

Justice Center of Southeast MA

Justice Resource Institute, Inc.

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<sup>4</sup> DPU 19-07, Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market.

Legal Services Center of Harvard Law School

LEO Inc., Leading through Empowering Opportunities

Low-Income Energy Affordability Network (LEAN)

Massachusetts Association for Community Action (MASSCAP)

Massachusetts Communities Action Network (MCAN)

Massachusetts Energy Directors Association (MEDA)

Massachusetts Law Reform Institute (MLRI)

National Consumer Law Center, on behalf of its low-income clients

North Shore Community Action Programs, Inc.

Northeast Justice Center

Public Utility Law Project of New York

Quincy Community Action Programs, Inc.

Women's Empowerment through Cape Area Networking (WE CAN)

Worcester Community Action Council

*Individuals who work with affected communities:*

Norah Al-Wetaid

Carissa Aranda

Lina Arena-DeRosa, Director, Westwood Council on Aging, on behalf of low-income seniors

Leanne Dowd, Outreach Coordinator, The Senior Center in Shelburne, on behalf of low income seniors

Abby Escobar

Ellen Forman, LICSW, Manager, Community Resource Center, Massachusetts General Hospital (affiliation listed for identification purposes only)

Clarisa Guzman

Susan Harris

Tameika Jonson

Mary Knittle

Sandra Lyons, LICSW Social Work Consultant, Criterion-Boston Early Intervention Program  
(affiliation listed for identification purposes only)

Dominica Navarro, PHA, Healthy Baby/Healthy Child Program, Boston Public Health  
Commission

Karen Segreve, Outreach Counselor, Westwood Council on Aging, on behalf of low-income  
seniors

Anne Shumway, Social Worker, Member of Social Workers for Peace and Justice

Lisa Spencer, Deputy Director, SSCAC, Inc.

Eileen Velez

Veronica Wright, HCEC Coordinator, NeighborWorks Housing Solutions