

NCLC's Report Urges the Massachusetts Department of Public Utilities and State Legislators to End Failed Competitive Electricity Market Experiment and Stop Harm to Consumers

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Download the full National Consumer Law Center report, including charts, at: <http://bit.ly/2H3ORJJ>

Boston - Deregulation of electricity sales in Massachusetts has led to a "wild west" for competitive energy supply (CES) companies who pressure residential customers to sign up for unfair and expensive electricity contracts, according to a new report from the National Consumer Law Center. "Electricity customers are fed up with aggressive salespeople who promise savings while pushing expensive and unfair electricity contracts onto Massachusetts households, and it is time for regulators and policymakers to step in and protect families," according to National Consumer Law Center attorney Jenifer Bosco, author of *Competing to Overcharge Customers: The Competitive Energy Supplier Market in Massachusetts*. "Consumers are losing money and seeing no benefit, while government agencies and even local police departments are burning through valuable resources to try to protect consumers and address the same problems over and over. Bad actors in this market continue to deceive elders, low-income families, and consumers who have limited English language proficiency."

NCLC's report comes on the heels of a comprehensive two-year analysis by the Massachusetts Attorney General, released last Thursday, showing that from July 2015 to June 2017 Massachusetts residential customers paid \$176 million more to the CES companies than if they stayed with their regulated utility. Nearly 500,000 Massachusetts residents are customers of CES companies. The Massachusetts Attorney General's Office has received more than 700 consumer complaints about CES companies over the past three years and has reached settlements with two CES companies, for a total of \$9 million returned to consumers and the Commonwealth for unfair and deceptive marketing practices.

Seemingly small overcharges for each customer can add up to millions of dollars, as demonstrated by the Attorney General's report and by data collected in Connecticut, Illinois, and New York. For the period of June 2016 through May 2017, Connecticut residential customers who purchased electricity through competitive supply companies paid nearly \$67 million more, and Illinois residential customers paid an extra \$152 million to CES companies compared to 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 million during the same period, compared to the prices charged by regulated public utility companies. Many of the same CES companies that overcharge customers in these other states also operate in Massachusetts, and some have been investigated by regulators or sued by consumers.

In addition to over 700 consumer complaints registered with the Massachusetts Attorney General, NCLC found that from August 1, 2015 through August 1, 2017, the Massachusetts Department of Public Utilities (DPU) received 1,198 consumer complaints about CES companies but to date has not reported any license revocations or suspensions. The DPU has had the authority to revoke or suspend supplier's licenses since the Massachusetts legislature deregulated its electric and gas utility companies in 1997 but the DPU did not adopt regulations for adjudicating enforcement actions until 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, Direct Energy, Spark Energy, Verde Energy USA, Clearview Electric 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. "The Department of Public Utilities has the authority and should immediately step up to stop the abusive practices," said Bosco.

Aggressive salespeople market competitive electric supply contracts by going door-to-door and by telemarketing. Especially troubling is the documented extent to which competitive electric 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. Vulnerable consumers are disproportionately harmed. According to the Massachusetts Department of Energy Resources, in September 2017, 50 percent of Massachusetts low-income families received their electricity via a CES company (including municipal aggregations) versus 42 percent of other residential customers. Higher bills for these consumers may also cause a portion of Massachusetts and federal low-income assistance funds to be gobbled up by the CES companies.

Unfortunately, the goals of the Massachusetts deregulation law — "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" — 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. States that have taken on these problems have not, even with increased consumer protections, found a way to operate a restructured electricity market without the deceptive marketing practices of bad actors or financial harm to residential customers.

Stopping Abusive Energy Sales Practices: Recommendations for Massachusetts

The Massachusetts DPU and Massachusetts legislators should lead the drive for strong consumer protections and a fair utility marketplace for residential customers by taking the following actions—

- **Reconsider the sale of competitive electricity supply to residential customers**

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

In the short term, the DPU, attorney general, other government agencies, and legislators should work together to:

- **Reform competitive electric supply contracts**

Prohibit contracts that lock customers into variable rates. Prohibit automatic reenrollment of contracts. Cap cancellation fees, which currently can exceed \$200. Provide better information

to consumers on their utility bills so they have information about the price, supplier and contract terms at their fingertips. Limit the ability of suppliers to sell to customers who are already struggling to pay their bills and may qualify for financial assistance.

- **Prohibit deceptive and aggressive marketing, and adopt comprehensive consumer protections against these abuses**
- **Give consumers an easy and binding way to lock their accounts and opt out of marketing**
- **Increase market transparency and boost state enforcement**

For a full list of recommendations, please see the report at: <http://bit.ly/2H3ORJJ>.