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S.2106/H.3196 – TUE Committee -- SUPPORT

193rd General Court of the Commonwealth of Massachusetts

Testimony of Jenifer Bosco
National Consumer Law Center
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Dear Chair Barrett, Chair Roy, Vice Chair Pacheco, Vice Chair Haggerty, and Members of the Joint Committee on Telecommunications, Utilities and Energy:

Thank you for conducting this hearing on S. 2106 and H. 3196, An Act Relative to Electric Ratepayer Protections. My name is Jenifer Bosco, and I am a senior attorney at the National Consumer Law Center, where I focus on energy and utility matters that affect consumers. The National Consumer Law Center (NCLC) is a nonprofit organization that, since 1969, 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.

NCLC has been actively involved in advocacy for consumers who have been financially harmed by alternative (or competitive) energy supply companies. We have released a report¹ and issue briefs² which describe the common abusive sales practices and inflated prices which have harmed so many Massachusetts consumers, with a particular emphasis on the unfair and deceptive marketing that has targeted low-income consumers, older adults, and those with limited English language proficiency. Year after year, we observe the same problems in the non-utility competitive energy supply market:

- High utility bills for Massachusetts families, including energy contracts with temporary “teaser” rates followed by much higher prices
- Aggressive and deceptive marketing tactics, often targeted at immigrants and residents in communities of color
- Slamming (involuntary switching)

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

² NCLC, *Retail “Choice” in Electricity Markets: A Bad Deal for Consumers and the Climate* (March 2023), at <https://www.nclc.org/resources/retail-choice-in-electricity-markets-a-bad-deal-for-consumers-and-the-climate/>; NCLC, *Still No Relief for Massachusetts Consumers Tricked by Competitive Electric Supply Companies* (Oct. 2018), at <https://www.nclc.org/issues/consumers-tricked-by-competitive-electric-supply-companies.html>.

- Significant financial harm to low-income households, households with limited English proficiency, and elders
- Problems with services such as contracts with automatic enrollment provisions, high fees, and difficulties reaching customer service to exit the contract
- Greenwashing

Harmful financial impacts have been documented in Massachusetts and elsewhere. The Attorney General has determined that Massachusetts residential consumers paid \$525 million more to non-utility alternative supply companies than they would have paid to their distribution utilities for electric service from July 2015 through June 2021. Research done by NCLC, the Office of the Attorney General, and the Department of Public Utilities demonstrates that the practices of competitive suppliers increase the financial burden for consumers who already struggle with energy insecurity. The inflated rates charged to most customers who sign up with competitive energy supply companies worsen our energy affordability problems³ and undermine the Commonwealth's efforts to help families maintain vital electric service. Compounding the harm, the inflated prices put additional stress on all ratepayers who fund the low-income utility affordability programs as well as the general taxpayers who fund programs such as the Low Income Home Energy Assistance Program (LIHEAP).

Deceptive and abusive marketing practices in Massachusetts and in other states with competitive supply markets have been documented in numerous reports.⁴ For instance, we continue to hear of older adults, including those with dementia, who are pressured into signing up for competitive supply and later experience high utility bills. During the 2021 hearings on the previous versions of S.2106 and H.3196, this committee heard numerous stories of vulnerable Massachusetts residents who were lured by the deceptive promises of lower electric bills, but later found themselves stuck with overpriced utility service. Despite laws such as G.L. c. 93A and regulations that prohibit these sales practices, deceptive practices continue.

Inflated prices alone are a problem worthy of legislative action, but these high prices have the additional consequence of undermining the Commonwealth's climate goals. Building electrification is essential to achieving state and federal climate goals, and to support electrification, electricity must remain affordable.

³ See, e.g., NCLC, *Risks of Utility Shutoffs are Rising in Massachusetts* (April 10, 2023), available at <https://www.nclc.org/resources/risks-of-utility-shutoffs-are-rising-in-massachusetts/>.

⁴ See, e.g., Office of the Massachusetts Attorney General, *Consumers Continue to Lose Big: the 2023 Update to An Analysis of the Individual Residential Electric Supply Market in Massachusetts*, <https://www.mass.gov/doc/consumers-continue-to-lose-big-the-2023-update-to-an-analysis-of-the-individual-residential-electric-supply-market-in-massachusetts/download>; *Reform of Electricity Supply: CEP-Served Residential Retail Electric Market* (Prepared by Susan M. Baldwin and Timothy E. Howington on behalf of Maine Office of Public Advocate per 2021 P.L. ch.164 (LD 318)), February 1, 2023, available at <https://www.maine.gov/meopa/reports-and-testimony/retail-supply-stakeholder-group>; Susan M. Baldwin & Sarah M. Bosley, *Maryland's Residential Electric and Gas Supply Markets: Where Do We Go from Here?*, Maryland Office of the People's Counsel (Nov. 2018), <http://www.opc.maryland.gov/Portals/0/Publications/reports/APPRISE%20Where%20do%20we%20go%20from%20Here.pdf?ver=2019-09-11-075024-040>; Abell Foundation, *Maryland's Dysfunctional Residential Third-Party Energy Supply Market: An Assessment of Costs and Policies* (Dec. 2018), at https://www.abell.org/sites/default/files/files/Third%20Party%20Energy%20Report_final%20for%20web.pdf.

Further, while some non-utility competitive energy supply companies offer “green power” products, we note that these products are often overpriced as well, and may not deliver local or high-quality renewable energy. Marketers of overpriced green power products profit from customers’ legitimate interest in fighting climate change, without delivering the benefit that customers expect.⁵

Ending individual residential sales of competitive supply is the best and most effective solution for Massachusetts consumers. We do not need further data -- there is already ample information to show that consumers are being harmed, and that the most disadvantaged households in Massachusetts suffer disproportionate harm.

Massachusetts would not be alone in taking a strong approach by ending individual residential sales. Oregon’s electric system restructuring law allows for sales of competitive electric supply only to commercial and industrial customers, not to residential customers, thereby avoiding the significant problems that Massachusetts households have faced.⁶

In conclusion, NCLC strongly supports S.2106 and H.3196. NCLC agrees with the conclusions of members of this committee, the Governor, the Office of the Attorney General, the Mayor of Boston and many others – the non-utility competitive energy supply market cannot be adequately reformed and the General Court should pass S.2106 and H.3196. Households in Massachusetts have suffered harm in this market for too long, and reforms will not adequately protect individual residential consumers.

If you have questions regarding this testimony, please contact Jenifer Bosco, Senior Attorney, National Consumer Law Center, at jbosco@nclc.org or 617-542-8010.

Sincerely,

Jenifer Bosco, Senior Attorney
National Consumer Law Center

⁵ See, e.g., States of California, Connecticut, Delaware, Illinois, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, Oregon, Rhode Island, and Wisconsin; Commonwealths of Massachusetts and Pennsylvania; and District of Columbia, Comments to the Federal Trade Commission regarding the Green Guides, No. FTC-2022-0077-0987 (April 24, 2023), available at <https://www.regulations.gov/comment/FTC-2022-0077-0987>; Laurel Peltier, *Retail Energy’s Greenwashing: How Fictional Renewable Energy Certificates Became “100% Renewable” Electricity* (Sept. 2022), available at <https://static1.squarespace.com/static/5f3489173119d979768248eb/t/63af4cb09cd8f9321ba3bd9c/1672432816708/Retail+Energy+Greenwashing.pdf>.

⁶ Or. Rev. Stat. Ann. § 757.601.