COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Competitive Market Initiatives (Phase II)	)	D.T.E. 01-54

INITIAL COMMENTS OF DUKE ENERGY TRADING AND MARKETING, LLC

Duke Energy Trading and Marketing, LLC ("DETM") hereby files these comments on Phase II of the above-captioned initiative. DETM fully supports the goal of the 1997 Electric Restructuring Act, Mass. G.L. c. 164, to increase competitive choices for consumers in the retail electricity market. The Department of Telecommunications and Energy ("Department") took significant strides toward that goal in Phase I by expanding the information available to potential suppliers in the Customer Information Lists ("Information Lists"). More can be done, however, to increase the competitive retail options for all Commonwealth customers. To that end, DETM offers the following comments on why Customer Information Lists should include information about customers receiving service from competitive suppliers.

I. BACKGROUND

The Department began this initiative with an order directing distribution companies to take steps towards expanding competitive choices for "default service customers during the summer months." D.T.E. 01-54 ("Opening Order") at 5. One such step required distribution companies to provide competitive suppliers with Information Lists that disclosed the name, address, and rate classification for its default service customers. *Id*. at 6. These lists were only available to licensed competitive suppliers and were to be used solely for the marketing of electricity-related services. *Id*.

The Department discussed during Phase I the need for expanding the Information Lists to include information about all distribution company customers (both standard offer and default service) and additional information about those customers. D.T.E. 01-54-A ("Phase I Order") at 3. The Department also recognized the importance of balancing the critical need for customer information with a customer's privacy interest. *Id*. at 9. With these considerations in mind, the Department determined that Information Lists should include a distribution company's standard offer customers so that they "have the same opportunity to choose an alternative electricity supplier as default service customers." *Id*. at 23. It also directed distribution companies to add information about a customer's contact person and historic usage. *Id*. at 11-12, 17. Finally, to protect consumer privacy, the Department ordered the creation of an "opt-out" program where consumers could remove their names and information from the list. *Id*. at 12, 25. All of these measures were taken to "expand the range of competitive options that are available to consumers." *Id*. at 9.

II. COMMENTS

Over the last several months, the Department has repeatedly emphasized the importance of disclosing information to promote competition and competitive choice for Commonwealth consumers. Opening Order at 7; Phase I Order at 1. During Phase I, the Department greatly increased competitive options for standard offer and default service customers by including these groups on the Information Lists distributed to competitive suppliers and by giving competitive suppliers sufficient information to compete in the retail market. The question now is whether the customers of competitive suppliers should also reap the benefits of being included in the Information Lists. The Department should answer that question affirmatively for the same reasons these lists were required in the Opening Order and expanded during Phase I.

As the Department has recognized, Information Lists are critical in promoting retail competition, which in turn creates competitive choices for Commonwealth consumers. Some of the information, including names, addresses, and contact persons, allows suppliers to "effectively communicate with the persons responsible for making energy-related decisions." Phase I Order at 17. Other information, like meter read cycles, load profile, historic usage, and service delivery point, promotes competition by allowing suppliers to accurately forecast their costs, which in turn allows them to offer more competitive prices. *Id*. at 10, 17-18. Notwithstanding these benefits, the Department has recognized that it must carefully balance customers' privacy concerns. To that end, it has refused to disclose information about a customer's payment history or whether the customer receives tax exemptions or budget billing. *Id*. at 14-15, 19. The Department also protects consumers by implementing an "opt-out" program for consumers not wanting to participate in the market and by limiting disclosure of the information to licensed suppliers for the limited purpose of marketing electricity-related services. *Id*. at 11-12; Opening Order at 6.

Applying these standards and precedent, competitive suppliers should be required to generate and disclose Information Lists about their customers. The benefits derived from the disclosure of information by distribution companies applies with equal force to the disclosure of information by competitive suppliers. It gives all competitive suppliers an additional customer base to market their product and services and promotes competition as a whole in the market.

Balancing these benefits with the privacy protections available to other customers, the Department can be assured that customers of competitive suppliers will reap the same benefits from being included in the Information Lists as those being received by standard offer and default service customers. As discussed above, the increased information allows competitive suppliers to market their services more effectively and in a manner that optimizes competitive choice.

Customers of competitive suppliers should not be excluded from the benefits of greater competition and choice. To do so would be to assume that these customers no longer want the benefits of lower prices and better service. The Department should not make that assumption; it should allow the customers to "have the same opportunity to choose an alternative electricity supplier as default service [and standard offer] customers." *Id*. at 23. And, for those customers not wanting their information disclosed, they should be able to "opt-out" in the same manner as standard offer and default service customers. *Id*. at 12, 24-27. This would protect the privacy concerns of Commonwealth customers "by ensuring that they are provided with a reasonable opportunity to keep their usage information private." *Id*. at 13.

Finally, the disclosure of Information Lists by competitive suppliers is necessary for the longevity of a competitive retail market. As this initiative moves forward and more consumers move to competitive suppliers, their information will have to be disclosed to continue market competition. Otherwise, critical customer information will be available only to a few competitive suppliers with no incentive to disclose it. Such a situation would neither foster competition nor "expand the competitive options available to consumers." *Id*. at 1.

III. CONCLUSION

For the foregoing reasons, DETM requests that the Department direct the competitive suppliers to create Customer Information Lists in accordance with the rules for creating such lists, as set forth in Phase I Order, D.T.E. 01-54-A.

Dated: January 3, 2002

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing document and eight copies to Secretary Mary L. Cottrell, Department of Telecommunications and Energy, by overnight delivery service. I also served this filing via electronic mail to dte.efiling@state.ma.us, jeanne.voveris@state.ma.us, and the parties listed on the electronic mail service list, as set forth in the Hearing Officer's December 11, 2001, memorandum requesting initial comments for Phase II.

Dated at Washington, D.C. this 3rd day of January, 2002.

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M. Eric Eversole