

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

CONSUMER AFFAIRS  
PUBLIC HEARING

STATE CAPITOL  
HARRISBURG, PENNSYLVANIA  
B-31, MAIN CAPITOL BUILDING

MONDAY, JUNE 18, 2018  
11:00 A.M.

BEFORE:

HONORABLE ROBERT GODSHALL, MAJORITY CHAIRMAN  
HONORABLE THOMAS CALTAGIRONE, MINORITY CHAIRMAN  
HONORABLE ALEXANDER CHARLTON  
HONORABLE BRIAN L. ELLIS  
HONORABLE RYAN MACKENZIE  
HONORABLE TINA M. DAVIS  
HONORABLE MARTY FLYNN  
HONORABLE ANITA A. KULIK  
HONORABLE ED NEILSON  
HONORABLE PAM SNYDER

*Pennsylvania House of Representatives  
Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

\* \* \*

(See submitted written testimony and handouts online.)

## P R O C E E D I N G S

\* \* \*

CHAIRMAN GODSHALL: The hour of 10:00 a.m. having arrived and passed, I call this hearing to order. Today's hearing will focus on the sales and marketing practices used by competitive electric generation and natural gas suppliers when targeting residential and small business customers.

As many of you know, for the last few years, I've been voicing my concerns about the content of postcards sent by suppliers to my home and community. I have one example that was sent by a supplier to my home, that I received blown up for today's hearing.

As you can see, the largest print says, notice of PP&L electric rate increase. And it goes on to state that if I do nothing, my rate will increase by 14 percent. The mailer states that I can save 25 percent over PP&L's rate and advertises a lowest qualifying rate of 6.37 cents per kilowatt.

However, when I called the number on the postcard, I was quoted a total rate of 8.99 cents. Most concerning to me is the following language: Action required to opt out of this rate increase. Call this number.

1           This type of marketing is, in my opinion,  
2 unacceptable. A person unfamiliar with shopping for  
3 an energy supplier can easily think this postmark  
4 came from PP&L, was not an advertisement, but a rate  
5 change notice and could obviously want to opt out of  
6 a 14 percent rate increase. Mailers like this are  
7 misleading, confusing, and based on complaints  
8 received by my office, can result in customers  
9 signing up for a service they do not want.

10           Additionally, based on my own experience  
11 in calling the supplier who sent this notice, it  
12 seems that few, if any, actually received the lowest  
13 qualifying rate. I don't know if anyone here today  
14 uses these types of postcards, but even if you do,  
15 advertisements like these deter shopping and firmly  
16 engrave a level of consumer distrust in the  
17 competitive retail electric and natural gas supply  
18 industry.

19           Advertisements like this one give a black  
20 eye to the natural gas -- the entire industry. I  
21 look forward to hearing the testimony today, and I  
22 hope to hear suggestions for solutions to improving  
23 the transparency. In my own case, as I remember, I  
24 am in the PP&L territory. I had a rate which was a  
25 little less than 6 cents at that point. It was in

1 the 5 cent bracket.

2 And when they say that you can save  
3 14 percent by signing up with us, it just plain  
4 isn't true. And unfortunately, these advertisements  
5 are placed on the PUC website. And I have talked  
6 about that with the PUC also. And the PUC is paid  
7 to do it.

8 If the PUC puts these on their website,  
9 unfortunately, there has to be some kind of  
10 responsibility by the PUC for placing them there  
11 without going into -- but these are happening all  
12 the time. That's the reason for this hearing.

13 So Mr. Chairman, do you have anything to  
14 say further?

15 If not, we have a supplier panel here  
16 today and the Retail Energy Association,  
17 Tony Cusati, AEP Energy, Mr. Dutton, and NRG Energy,  
18 Leah Gibbons. You can come up and we'll get  
19 started.

20 Whenever you're ready.

21 MR. CUSATI: Thank you, Mr. Chairman.

22 Good morning, Chairman Godshall,  
23 Chairman Caltagirone, members and staff of this  
24 Committee. I appreciate the opportunity to provide  
25 this testimony today at this public hearing on

1 competitive energy supplier sales and marketing  
2 practices.

3 My name is Tony Cusati, and I am the  
4 Chairman of the Pennsylvania State Electricity  
5 Caucus and the Pennsylvania State Natural Gas Caucus  
6 of the Retail Energy Supply Association. All of the  
7 20 RESA members are licensed electricity suppliers  
8 in the State of Pennsylvania and many are licensed  
9 natural gas suppliers, as well.

10 RESA is a broad and diverse group of  
11 retail energy suppliers who share the common vision  
12 that competitive retail energy markets deliver a  
13 more efficient, customer-oriented outcome than  
14 regulated monopoly utilities. RESA members are  
15 devoted to working with all stakeholders to promote  
16 vibrant and sustainable competitive retail energy  
17 markets for residential, commercial and industrial  
18 consumers.

19 In 1996, Governor Ridge signed into law  
20 the Electricity Generation Customer Choice and  
21 Competition Act, which restructured the State's  
22 electricity industry to provide the customer choice  
23 among heating electricity suppliers. Thus,  
24 consumers are no longer captive to a single  
25 monopoly-protected utility company for their

1 electric service.

2 Scores of retail suppliers now compete to  
3 provide energy products to households, churches,  
4 schools, universities, small businesses and  
5 manufacturers, offering innovative products and  
6 services specifically tailored to meet the customer  
7 needs and individual energy circumstances.

8 Currently, more than two million  
9 Pennsylvania electricity customers are served by  
10 competitive suppliers, including 1.7 million  
11 residential consumers. Competitive supply  
12 represents more than 65 percent of the total  
13 electricity demand here in the Commonwealth. Retail  
14 Competition has spurred economic development and job  
15 creation, as well.

16 The invitation to speak here today has  
17 asked the following questions:

18 (1) Is the language being used in  
19 marketing materials appropriate;

20 (2) Do we ensure these materials are not  
21 misleading;

22 (3) Is information related to  
23 PA PowerSwitch and PA GasSwitch and the level of  
24 coordination between the PUC and suppliers  
25 sufficient; and

1                   (4) Are statutory or policy changes  
2 needed to enhance the transparency and improve the  
3 competitive retail energy market in Pennsylvania?

4                   Let me first address, as a global matter,  
5 the principles under which all RESA members agreed  
6 to abide by as a condition of membership. As part  
7 of the Overall Statement of Principles, there is a  
8 section devoted to protecting the rights and  
9 privileges of the consumer.

10                  I have attached to my testimony Addendum  
11 Number 1, which details the consumer protection  
12 principles that RESA members have agreed to. I'll  
13 highlight a few of those protections that are the  
14 subject of this hearing.

15                  First of all, RESA members agree not to  
16 engage in unfair, deceptive or misleading practices;  
17 not to make false or misleading representations; use  
18 of plain language in their marketing materials;  
19 provide written information to the consumer; and the  
20 products and services being offered contain  
21 information designed to be understood by the  
22 customer.

23                  I need to stress that since consumer  
24 protections are important to RESA, the organization  
25 spent tireless hours debating the development of



1 these principles and the Consumer Education Guide  
2 that can be found on our website. It is not an area  
3 that we took very lightly.

4 Secondly, I'd like to point out that  
5 under Title 52 of the Pennsylvania Code, Chapter 111  
6 is devoted entirely to the marketing and sales  
7 practices for the retail residential energy market.

8 This chapter addresses the following  
9 points:

10 1. A supplier may not engage in  
11 misleading or deceptive conduct;

12 2. May not make false or misleading  
13 representations;

14 3. It shall provide the customer with  
15 written information about the products and services  
16 being offered;

17 4. It shall provide accurate and timely  
18 information about services and products;

19 5. And it shall ensure that the products  
20 and service offerings made by a supplier contain  
21 information, verbally or written, in plain language.

22 The point here is the Commission has the  
23 tools available and uses its authority to enforce  
24 the rules and does so when items such as these, in  
25 violation of the rules, are brought to their

1 attention, to be noncompliant. I know this to be  
2 the case because I have personally, on several  
3 different occasions, brought materials from  
4 competitors that appeared noncompliant and the  
5 Commission took the necessary steps to investigate  
6 and to resolve.

7 The message here is, continued  
8 enforcement of the existing rules should be the  
9 focus and not necessarily adding more rules. Adding  
10 additional rules to what is currently in place,  
11 without the continued enforcement of existing rules,  
12 just basically punishes the good actors in the  
13 marketplace while allowing bad actors to continue  
14 the bad behavior.

15 As for the specific issues that this  
16 Committee would like to address, let me state the  
17 following. The Commission rules are very specific  
18 that suppliers may not make false or misleading  
19 representations. Any marketing material that is  
20 thought to be non-compliant should be brought to the  
21 Commission's attention for proper disposition.

22 The Commission works very hard on the  
23 level of coordination between the PUC and suppliers  
24 on information related to PA PowerSwitch and PA  
25 GasSwitch. Improvements for a better shopping

1 experience are constantly being made to that  
2 website. Improvements to the competitive retail  
3 energy market are one of RESA's core principles.

4 For example, the improvement that the  
5 Commission is currently evaluating regarding  
6 supplier consolidated billing is, in RESA's opinion,  
7 an important next step in the evolution of the  
8 retail market. A positive outcome in that  
9 proceeding would not only improve customer relations  
10 and understanding of the products and services the  
11 customer agrees to purchase, it will also enhance  
12 the transparency and improve the competitive  
13 marketplace.

14 I hope these comments are helpful to the  
15 Committee and want the Committee to know that RESA  
16 stands and is available to assist in any follow-up  
17 issues that come as a result to this hearing.

18 MAJORITY CHAIRMAN GODSHALL: I appreciate  
19 that.

20 As you can see from the poster over there  
21 and what my staff has prepared, you know, if you're  
22 a PP&L customer, you can get a 14 percent rate  
23 reduction regardless of -- just plain -- and as I  
24 said earlier on, my rate was lower than their  
25 qualifying rate to begin with, you know. They're

1 just totally misleading.

2 And anybody seeing this, you know, if my  
3 rates are going to go up 14 percent, they'll  
4 automatically, they'll just sign up and that's the  
5 end of it.

6 MR. CUSATI: Well, chairman, you know, I  
7 cannot specifically address what a particular  
8 marketer has put into their marketing materials.  
9 It's not my -- I'm not in a position to do so.

10 What I can say is that if this is  
11 troubling to you and to other consumers, this should  
12 be brought to the attention of the Commission, and  
13 have them take whatever action they feel is  
14 necessary in conjunction with the rules that are in  
15 place at the Commission at this point.

16 MAJORITY CHAIRMAN GODSHALL: I have done  
17 that. And I think in the last meeting that the PUC  
18 had, there have been about five or six cases where  
19 they have gone back on suppliers with misleading  
20 information, unfortunately, which was posted on  
21 their website.

22 Okay. Next.

23 MR. DUTTON: Thank you, Majority  
24 Chairperson Godshall, Democratic Chairperson  
25 Caltagirone, staff and members of the Pennsylvania

1 House Consumer Affairs Committee.

2 I'm F. Mitchell Dutton, regulatory  
3 counsel for AEP Energy. I thank you for this  
4 opportunity to appear before you and share  
5 information regarding AEP sales and marketing  
6 practices.

7 AEP Energy serves nearly 430,000  
8 commercial, industrial, public sector and  
9 residential customers in 24 different utility  
10 territories across six states and the District of  
11 Columbia. In Pennsylvania, for calendar year 2017,  
12 AEP Energy served approximately 140,000 residential  
13 and business electric customers, paid approximately  
14 \$1.6 million in PA sales taxes, has performance  
15 bonds posted in excess of \$6.5 million with the  
16 Commonwealth and the Pennsylvania local distribution  
17 companies to ensure performance, and paid over  
18 \$6.7 million in income and State gross receipts tax.

19 In the interest of time, I will focus my  
20 remarks on suggested improvements. In Pennsylvania,  
21 AEP Energy only supplies retail electricity and does  
22 not, as of now, participate in the retail natural  
23 gas market. AEP Energy posts its Pennsylvania  
24 offers on the PA PowerSwitch website.

25 In our view, PA PowerSwitch is one of the

1 better search sites for competing electric supply  
2 offers. The site is well organized, easily  
3 navigated, transparent in selection criteria and  
4 discloses most of the information a residential  
5 customer would need to make an informed choice.

6 The following enhancements could be  
7 considered to the PA PowerSwitch website. For  
8 introductory or teaser fixed rate offerings of short  
9 duration that flip to a variable rate, require that  
10 the current month variable rate or a historical rate  
11 range of the variable rates be disclosed with the  
12 offer.

13 It is disingenuous to offer a below  
14 market fixed rate of short duration followed by a  
15 jump to a high variable based price. For variable  
16 rate offers which are not introductory, disclose  
17 both current applicable monthly variable rates and  
18 prior historical rates, as is already required to be  
19 available on the supplier's internet site and by  
20 telephone.

21 Additional information about suppliers'  
22 business, to aid the customers in selecting which  
23 supplier with whom to do business, such as an  
24 independent third party rating like the Better  
25 Business Bureau, and years in business could be

1 added to the website.

2 Advertising the existence of the PA  
3 PowerSwitch website as an independent,  
4 Commission-sponsored source of unbiased supplier  
5 information. There are supplier-sponsored websites  
6 that purport to post competing offers by ZIP code  
7 and pricing type, much like PA PowerSwitch, but are  
8 pay-to-play sites for select suppliers, which  
9 intentionally looks and feels like the PA  
10 PowerSwitch site.

11 Residential customers need to be informed  
12 about the PA PowerSwitch website to reduce this  
13 confusion. Additionally, it would be appropriate to  
14 explore whether these third party sites are  
15 confusing and misleading customers, such that  
16 requiring a disclosure of the nature of these sites  
17 should be adopted.

18 For any fixed monthly fee offer placed on  
19 the PA PowerSwitch, require an equivalent rate per  
20 kilowatt hour to be posted based on a methodology  
21 developed by consensus using reasonable residential  
22 electric consumption assumptions. PA PowerSwitch  
23 currently states that not all Pennsylvania  
24 PUC-licensed suppliers may be making offers on  
25 PA PowerSwitch, as it is each individual supplier's

1 business decision as to whether it makes offers on  
2 the website or not.

3 Some other State websites require every  
4 licensed supplier to post at least one offer on its  
5 website. The advantage of such a requirement is not  
6 only a more robust comparison shopping tool, but  
7 also a readily available regulatory check on offers  
8 being made and an easy means for constructive  
9 feedback to correct any non-compliance oversights.

10 One area that could improve the  
11 competitive retail energy market would be to  
12 encourage the use of supplier employees in the  
13 process of the customer enrollments, particularly  
14 the residential door-to-door sales solicitations.  
15 AEP Energy does not currently conduct residential  
16 door-to-door sales solicitations in Pennsylvania,  
17 but does do so in Ohio.

18 AEP Energy has historically used both  
19 third party vendors as a source for door-to-door  
20 sales agents and hired its own employees. In AEP's  
21 experience, the use of direct employees of the  
22 supplier in door-to-door activities results in an  
23 improved customer experience, a better trained,  
24 knowledgeable and experienced sales force, better  
25 compliance with sales scripts and enrollment



1 documentation, and fewer instances of customer  
2 slamming, misinformation, and misrepresentation than  
3 when a third party vendor is used to field  
4 door-to-door sales agents.

5           There is inherently greater  
6 accountability of and control by the supplier when  
7 direct employees are used than when a third party  
8 vendor relationship exists. Finally, supplier  
9 contracts with third party vendors, generally, are  
10 based on sales commission structure, where the third  
11 party vendor is only paid for customers who are  
12 enrolled for service.

13           Third party vendors tend to pass along  
14 this performance risk by paying their agents only on  
15 a commission basis, which encourages high pressure  
16 sales tactics for the contracted sales force and, by  
17 extension, for customers. For the foregoing  
18 reasons, door-to-door enrollments should only be  
19 conducted by agents employed by the supplier and not  
20 paid solely on a commission basis, but rather paid,  
21 in part, on an hourly or salary basis.

22           Thank you for the opportunity to share  
23 AEP's views about the competitive energy supplier  
24 sales and marketing practices. I would welcome any  
25 questions from the Committee members.

1 (Microphone not turned on.)

2 MAJORITY CHAIRMAN GODSHALL: I'm sorry.

3 Have you experienced any problems using  
4 direct sales, you know, direct sales people?

5 MR. DUTTON: Mr. Chairman, certainly in  
6 the start-up of our operations, yes. I mean, we had  
7 a learning curve to go through to get our training  
8 materials correct. They weren't perfect the first  
9 time.

10 MAJORITY CHAIRMAN GODSHALL: Right.

11 MR. DUTTON: We made mistakes in the  
12 start-up. What our experience, though, shows is  
13 that by paying our door-to-door sales agents on a  
14 commission, along with an hourly basis, and working  
15 very hard to try and retain them, that training can  
16 be enhanced through refreshers. And you're working  
17 with the same group of employees repeatedly to  
18 correct them when they make mistakes. It's not  
19 infallible, but it's -- in our experience.

20 MAJORITY CHAIRMAN GODSHALL: Nothing is  
21 infallible. Yes, I know.

22 MR. DUTTON: In our experience, it's a  
23 much better experience than the third party vendor  
24 construct.

25 MAJORITY CHAIRMAN GODSHALL: Thank you.

1 MS. GIBBONS: Good morning, Chairman  
2 Godshall, Chairman Caltagirone and the members of  
3 the Committee and staff. My name is Leah Gibbons.  
4 I'm the Director of Regulatory Affairs for  
5 NRG Energy.

6 And on behalf of NRG, let me start by  
7 thanking you for the opportunity to participate in  
8 the hearing today. Just to give you a quick second  
9 ant NRG, NRG has a leading competitive electric  
10 generation portfolio and a retail electricity supply  
11 platform. NRG owns and operates approximately  
12 25,000 megawatts of generating capacity and our  
13 retail business serves nearly three million  
14 customers across more than a dozen states, including  
15 here in Pennsylvania.

16 Our retail companies have more than 25  
17 years of combined experience with retail energy  
18 competition and customer service. And our northeast  
19 retail business is headquartered in Philadelphia.

20 I did submit written comments to the  
21 Committee for your review. In the interest of time,  
22 I will summarize those comments for you here today.

23 MAJORITY CHAIRMAN GODSHALL: Thank you.

24 MS. GIBBONS: Yes. Absolutely.

25 You know, in any discussion about

1 electric generation supplier sales and marketing  
2 practices, I think it's important to note that the  
3 PUC has aggressively worked to protect electric and  
4 natural gas consumers since the inception of the  
5 competitive market. And with the expiration of rate  
6 caps in 2010, the PUC recognized that greater  
7 numbers of suppliers would continue to come into  
8 Pennsylvania and offer consumers products and  
9 services.

10 So they initiated a process to develop  
11 comprehensive rules to govern the sales and  
12 marketing practices of electricity and natural gas  
13 suppliers. They adopted those rules in 2012, and  
14 they govern a wide range of issues, including  
15 hiring, training and conduct of agents, as well as  
16 the supplier's responsibility for its sales agents.  
17 It talks about requirements to obtain customer  
18 consent and to verify the customer's intent to  
19 enroll with a supplier and many more detailed pieces  
20 of consumer protection.

21 In short, I think the PUC has been  
22 recognized as a leader in protecting consumers while  
23 also ensuring the viability of the competitive  
24 market. I can tell you that commissions in  
25 Maryland, Delaware, D.C. and New Jersey have all

1 followed the Pennsylvania PUC's lead and actually  
2 adopted many of their rules, some of them verbatim.  
3 So they've been recognized as rules that are good at  
4 protecting consumers.

5 For our part, NRG takes very seriously  
6 our obligation to comply with the rules that are set  
7 forth by the Commission, and also to just follow  
8 good business practices that are encapsulated, in  
9 our case, in our own Code of Conduct and ethic  
10 standards.

11 Put simply, if we don't meet our  
12 customer's expectations or if a prospective customer  
13 has a negative experience when they interact with  
14 us, they're not going to either become our customer  
15 or maybe not remain our customer. And they may also  
16 voice their dissatisfaction with the Commission, and  
17 that is obviously something that we do not want to  
18 see happen. So we really work to make happy  
19 customers.

20 We prioritize ensuring the quality of our  
21 sales process and individual customer interactions  
22 so that customers choose us and stay with us. We  
23 focus on compliance in a few ways. First, on the  
24 products that we offer, we ensure they're compliant.  
25 Second, in the communications with our consumers.

1 And then third, through our actual sales process,  
2 what does that process actually look like.

3 We have a process in place to make sure  
4 that that's compliant, as well. We actually think  
5 that we have a best-in-class compliance and quality  
6 assurance program. And while in my written comments  
7 -- I've actually gone into quite a bit of detail for  
8 you in the written comments about how we do that, I  
9 will simply say here that our QA team is responsible  
10 for ensuring that all customer interactions are  
11 compliant, legal and result in a positive  
12 experience.

13 So all of that said, while the  
14 Commission's efforts to ensure transparency and  
15 improve the competitive market have been notable, as  
16 I mentioned, we do see room for more that can be  
17 done. Consumers continue, in our opinion, to be  
18 confused about who provides their supply service.

19 The primary contributing factor to that,  
20 in our view, is that when a customer chooses a  
21 competitive supplier, she continues to be billed by  
22 the regulated utility who delivers that electricity.  
23 The supplier's charges appear as a single line item,  
24 typically found on maybe even page 4 of that bill.  
25 And absent the close scrutiny of the bill by the

1 customer, that customer is likely to forgot that  
2 they even chose a competitive supplier.

3 Customers have expressed frustration over  
4 this issue, directly to the Commission through  
5 complaints. In a recent example that I was able to  
6 find on the Commission's website, a customer stated  
7 that he could not possibly have switched suppliers  
8 because he continues to get his bill from his local  
9 utility.

10 So to bring real transparency to  
11 consumers exercising their right to choose their  
12 supplier, in our view, the PUC should be encouraged  
13 to exercise their existing statutory authority and  
14 require supplier consolidated billing, what we like  
15 to call in shorthand SCB, to be adopted as another  
16 billing option, which would be in addition to the  
17 utility consolidated bill or a dual bill situation,  
18 which currently exists.

19 SCB would be offered by suppliers who  
20 elect to provide it. And it would be available to  
21 consumers who choose it. With supplier consolidated  
22 billing, the customers would receive a single bill  
23 from the supplier they select for both delivery and  
24 supply. And if you think about it, this is, in our  
25 experience anyway, what consumers expect. I mean,

1 we're all consumers in this room of everything in  
2 life. Right?

3 No matter what you think about a car, a  
4 soda, a pair of shoes, whatever you're buying, but  
5 when you buy those items, you do not get a bill from  
6 Fed-Ex, UPS or the U.S. Postal Service for that good  
7 or service that you purchased. No. You get a bill  
8 from whoever you bought it from, whether it's Home  
9 Depot or Amazon or whoever else is out there in the  
10 market selling something.

11 So it's part of a customer's natural  
12 expectation. It's how they conduct their everyday  
13 life. But in energy, we do it differently. They  
14 get that bill from that delivery company.

15 So you know, in our view, it would go a  
16 long way to bringing transparency. And in addition  
17 to bringing transparency to consumers, supplier  
18 billing also forces suppliers to be much more  
19 accountable to their customers because they're much  
20 more visible. You can't hide on page 4 as a single  
21 line on a utility bill if you're the one providing  
22 the bill. You're right out in front, and the  
23 customer knows exactly who you are.

24 That makes you much more accountable to  
25 that customer. There will be no doubt in their mind



1 who to call if they are dissatisfied or unhappy in  
2 any way. You'll be front and center.

3 Customers want the sing bill. And in our  
4 view, it should be coming from the electricity  
5 supplier that's providing that service to them.

6 The PUC actually held an En Banc hearing  
7 last Thursday on this topic and has scheduled  
8 another hearing for July 12th. They are taking  
9 comments and hearing directly from parties on the  
10 merits of supplier billing. It's an issue that is  
11 not new to the Commission.

12 Competitive billing was actually included  
13 in the restructuring settling agreements that were  
14 agreed to by the utilities and ratepayer advocates  
15 among others, and which were approved by the  
16 Commission 20 years ago when the market first  
17 opened.

18 It was also endorsed again in 2012 when  
19 the Commission noted that supplier billing should be  
20 made available as a billing option as part of a  
21 vibrant and competitive market. It's really a  
22 natural and necessary next step, in our view, to  
23 bringing transparency to consumers and to moving  
24 Pennsylvania toward the robust competitive retail  
25 energy market that was envisioned over 20 years ago.

1           So we would urge the Committee to  
2 encourage the Commission to complete this task that  
3 it has endorsed over the last 20 years and direct  
4 that supplier consolidated billing be implemented as  
5 yet another option that's available to suppliers and  
6 to consumers that choose it.

7           I will stop there. Thank you very kindly  
8 for your time. I look forward to answering any  
9 questions.

10           MAJORITY CHAIRMAN GODSHALL: I just want  
11 to say thank you.

12           As you look here, you know, when you --  
13 I'm in PP&L territory. I have no -- being totally  
14 honest. I don't know who my present supplier is,  
15 but I shop. You know, and so I don't know who that  
16 person is unless I go back on my bill.

17           MR. GIBBONS: Right.

18           MAJORITY CHAIRMAN GODSHALL: And people  
19 don't look at their bill every month. If it goes up  
20 gradually or lower, it's -- and when you see a  
21 14 percent rate increase, you know, you begin to  
22 wonder. So that's -- I'm being totally honest.

23           MS. GIBBONS: No. And it's interesting,  
24 you know, when you first put up the example,  
25 Mr. Chairman, I looked at it pretty closely and

1 carefully. And I could honestly tell you, a piece  
2 like that would not come out of our compliance  
3 review procedure.

4 MAJORITY CHAIRMAN GODSHALL: Well, I  
5 would hope.

6 MS. GIBBONS: It just wouldn't come out.  
7 But I think, you know, the response you heard from  
8 my colleagues here, I think it is -- the right thing  
9 to do with that is to flag that to the Commission  
10 and express a concern because that's what they're  
11 there for, to hear those concerns.

12 And in my experience, I think the  
13 Commission has not hesitated to go after suppliers  
14 for corrective action when they have identified, you  
15 know, problems. So at least in my experience, I  
16 think you can search their press release, the press  
17 release site on their website, and find plenty of  
18 examples of suppliers that have felt the wrath of  
19 the Commission in terms of trying to make corrective  
20 -- take corrective action, but I think that is  
21 exactly the right thing to do.

22 MAJORITY CHAIRMAN GODSHALL: Well, as I  
23 said earlier, there were about five or six, I  
24 believe, in the last meeting that this action was  
25 taken, you know, against people.

1                   A question from Representative Neilson.

2                   REPRESENTATIVE NEILSON: Thank you,  
3 Mr. Chairman.

4                   Thank you, ladies and gentlemen, for your  
5 testimony here today.

6                   During your testimony, Mr. Cusati, you  
7 stated that you made a complaint to the Commission,  
8 and you believe they took the proper steps and you  
9 said it was handled. The question here is --  
10 multiple.

11                   How did they handle it?

12                   Were they forced to -- those customers  
13 that they misled and gained through that false  
14 mailing -- were they forced to take care of those  
15 customers and put them back with the original  
16 supplier?

17                   Did they get compensated for their  
18 trouble, for going through the trouble?

19                   You know, I mean, like the Chairman said,  
20 a 14 percent increase, I mean, you can see how  
21 misleading that is. Because our concerns are here,  
22 to make sure the consumers are taken care of. If  
23 you can answer that, that would be super.

24                   MR. CUSATI: I can answer one of the  
25 three parts, Representative, they did handle it in a

1 way that they should have and that was that they did  
2 contact the supplier. They did make the supplier  
3 make changes to their marketing material. But as  
4 far as any compensation or customer follow-up, I'm  
5 not sure. I don't have the details behind what --

6 REPRESENTATIVE NEILSON: Changes to the  
7 marketing material --

8 MR. CUSATI: Yeah.

9 REPRESENTATIVE NEILSON: -- do you  
10 believe that's enough?

11 I mean, does that go far enough?

12 Because that doesn't -- the consumers  
13 that were already scammed, that doesn't help them at  
14 all. And that's our job as legislators. I mean,  
15 we're talking about putting more stringent rules on  
16 them.

17 MR. CUSATI: Yeah, I don't disagree with  
18 you. I agree that they should have -- if there was  
19 action to be taken, they probably have taken that  
20 action and they should have. But I don't have the  
21 details behind that, to be honest with you.

22 REPRESENTATIVE NEILSON: Because that's  
23 important for us prior to making new regulations on  
24 what we do moving forward. Because if --

25 MR. CUSATI: I agree. I absolutely

1 agree.

2 REPRESENTATIVE NEILSON: Thank you,  
3 Mr. Chairman.

4 MAJORITY CHAIRMAN GODSHALL: Following up  
5 on his comment. Like in Philadelphia, where he's  
6 from, you've got 1.4 million people and they're not  
7 all college graduates, they're not all high school  
8 graduates -- neither are they in Montgomery County.  
9 I'm not being derogative, but they get things in the  
10 mail like this and, you know, it's -- they look at  
11 it.

12 MS. GIBBONS: I will second what Tony  
13 said to you. I think that, you know, I think this  
14 is what the Commission is there to do, right. I  
15 think part of the issue -- so I can't speak to that  
16 specific example of --

17 REPRESENTATIVE NEILSON: I mean, any type  
18 like that because what I'm saying is, do you get a  
19 six-month suspension, no new customers for a year?

20 I'm trying to figure out what the proper  
21 action here is to do.

22 MS. GIBBONS: Right.

23 REPRESENTATIVE NEILSON: Because it's not  
24 fair to any of the suppliers statewide if you have  
25 one that's putting out a postcard misleading like

1 that, where the rest of you can't.

2 MR. CUSATI: Right.

3 MS. GIBBONS: We agree with you. I mean,  
4 I think we're making great pains to do things right.  
5 And sometimes even mistakes happen. I can't speak  
6 to having done anything, you know, we have not put  
7 out any misleading information that I'm aware of,  
8 ever.

9 But if a mistake happens, for example,  
10 which is the closest I can get to saying, well, how  
11 would we fix that? What would happen?

12 You might have a mistake happen where  
13 maybe the wrong price gets printed on something. If  
14 we were to do that, we would make it right and go  
15 back to all of the customers that got that  
16 communication and there would be a clarification.  
17 So there are things suppliers can do.

18 We would probably do that on our own  
19 initiative because we strive to make sure our  
20 materials are accurate and what we intended.

21 MAJORITY CHAIRMAN GODSHALL: And you want  
22 to continue in business.

23 MS. GIBBONS: And you want to continue in  
24 business.

25 MR. CUSATI: Absolutely. Absolutely.

1 MS. GIBBONS: Absolutely. So I think if  
2 a supplier -- if it's pointed out to that supplier  
3 that they did something misleading, the corrective  
4 action on the back end can be the same as if they  
5 had made a mistake. You can go back and look at,  
6 well, how many customers did that touch, who was it,  
7 how many of them signed up, what did they get, okay,  
8 go pay them the difference if there was something --

9 REPRESENTATIVE NEILSON: Mistakes and  
10 misleading are two different things.

11 MS. GIBBONS: One hundred percent agree.  
12 I'm only trying to explain to you kind of like what  
13 would your --

14 REPRESENTATIVE NEILSON: Yes. I want to  
15 go after the bad people here, not the good people  
16 like yourself. And that's what we're trying to do.

17 Maybe you can supply the Chairman -- I  
18 know, Mr. Dutton, you supplied us with some added  
19 changes that you would like and stuff we can do.

20 MR. DUTTON: Yes, that's right.

21 REPRESENTATIVE NEILSON: Making them  
22 employees and stuff like that on direct sales  
23 because I live in the city. I mean, you know, I  
24 probably have five, six people down my street a week  
25 going for our suppliers and cable and this and that.



1 I mean, they're always selling some kind of energy  
2 or some kind of cable down the thing.

3 So if you could, supply the Chairman with  
4 any added suggestions that you could put in writing  
5 to the Chairman. This way, when we go to craft the  
6 bill, maybe we can utilize all of your suggestions.

7 And I know you had some other suggestions  
8 on how we bill. That's going to be another subject,  
9 so we'd like to stay with this one today, if we may.

10 Thank you, Mr. Chairman. I have nothing  
11 further.

12 MAJORITY CHAIRMAN GODSHALL: Thank you.

13 If there are no other questions, we'll  
14 keep on going.

15 Tanya McCloskey. We're right on  
16 schedule.

17 Thank you very much for your testimony.

18 So we're right in your ball game. We're  
19 trying to be responsible here.

20 MS. McCLOSKEY: Wonderful. Great.

21 Thank you very much, Chairman Godshall,  
22 Chairman Caltagirone and members of the House  
23 Consumer Affairs Committee.

24 Thank you for having me here today to  
25 speak on the important topic of the sales and

1 marketing practices of competitive retail suppliers.  
2 Pennsylvania's retail electric and natural gas  
3 markets have been in full scale operation for almost  
4 a decade, with a large number of competitive  
5 suppliers and hundreds of potential offers to  
6 residential customers.

7           The Commission has engaged in numerous  
8 regulatory initiatives to both enhance the  
9 competitive retail markets and to address concerns  
10 that have arisen in the competitive markets,  
11 including providing regulations and guidance  
12 regarding the sales and marketing practices of  
13 competitive suppliers.

14           The Commission and my office have also  
15 engaged in extensive consumer education about  
16 shopping for competitive electric and natural gas  
17 supply. My office also provides monthly electric  
18 and natural gas Shopping Guides that compare prices  
19 charged by utilities and competitive suppliers on an  
20 apples-to-apples basis.

21           Our Shopping Guides can be mailed to  
22 consumers or viewed on our website. In calendar  
23 year 2017, we mailed approximately 900 Shopping  
24 Guides and received over 49,000 hits on these Guides  
25 on our website.

1           Despite our efforts at regulation and  
2 education, the electric and natural gas retail  
3 markets continue to be affected by incidents of  
4 confusing advertising material that often misleads  
5 consumers about savings, oral representations during  
6 the sales process that are misleading and high  
7 pressure sales tactics that push consumers, often  
8 those most vulnerable, into signing up for  
9 competitive service out of mistake or  
10 misunderstanding, and sometimes out of fear of  
11 losing their service.

12           In considering this issue, it is  
13 important to recognize the essential nature of  
14 electric and natural gas service. Electricity, in  
15 particular, is essential to the health, welfare and  
16 safety of residential customers and communities. An  
17 electric bill has a major impact on most households'  
18 finances.

19           Customers go to great lengths to pay  
20 their utility bills and look for ways to reduce  
21 their monthly bill. This is particularly the case  
22 for senior citizens living on a fixed income and our  
23 low-income consumers. This desire to control the  
24 cost of their utilities makes consumers particularly  
25 interested in marketing and advertising that

1 suggests savings from selecting a competitive  
2 supplier.

3           There are certain marketing avenues that  
4 seem to draw the most complaints to our office and  
5 may be most susceptible to potential abuse.  
6 Door-to-door marketing and telemarketing, which rely  
7 heavily upon oral sales representations, seem to be  
8 the two channels where the most complaints are found  
9 and where enforcing the requirements of the  
10 Commission's regulations and other Pennsylvania  
11 statutes is most challenging.

12           A recent public input hearing in Erie,  
13 Pennsylvania regarding a proposal by Pennsylvania  
14 Electric Company for a retail market enhancement  
15 adder drew hundreds of customers to oppose the  
16 default rate adder and to discuss their concerns  
17 about retail choice.

18           I provide a quote from the administrative  
19 law judge's recommended decision where she  
20 summarized the concerns about the unscrupulous sales  
21 tactics, the high pressure sales tactics and the  
22 dishonesty that customers experienced. While this  
23 testimony is from the Erie area, these are concerns  
24 that my staff hears from across the Commonwealth,  
25 both through our Call Center and during our outreach

1 events.

2           These are also the concerns that were  
3 present in the testimony of hundreds of customers  
4 that participated in the complaints that were filed  
5 by my office and the Office of Attorney General  
6 against several EGSs following the Polar Vortex of  
7 2014.

8           From the cases that my Office pursued  
9 along with the Office of Attorney General and from  
10 our continued work with consumers in this area, my  
11 office remains concerned about the sales and  
12 marketing practices of many EGSs and NGSS in  
13 Pennsylvania. The advertisements and oral  
14 statements made during the sales contact often  
15 emphasize savings in a manner that leads the  
16 consumer to mistakenly believe that their monthly  
17 bills will be lower, both immediately and over a  
18 period of time.

19           Many times, the advertisements and oral  
20 statements suggest an affiliation with the local  
21 utility or an endorsement by the local utility that  
22 does not exist. While disclaimers are present on  
23 many of these written advertisements, the  
24 disclaimers are often in very small type and hard to  
25 follow.

1 More problematic are the oral  
2 representations that are made during the sales  
3 contact in a door-to-door marketing or telemarketing  
4 sales approach. The oral communications and  
5 representations typically form the basis of the  
6 consumer's opinion as to whether to enroll with the  
7 competitive supplier. Consumers often view the  
8 formal enrollment process with its fine print and  
9 lengthy terms and conditions to be outside of the  
10 decisionmaking process.

11 This is even more the case where the  
12 Disclosure Statement, required by the Commission's  
13 regulations, and the actual terms and conditions are  
14 provided to the customer after the enrollment, as is  
15 often the case. Addressing the potential for these  
16 misrepresentations is a far broader task that  
17 implicates many operational processes and controls  
18 of the sales forces of the EGSs and NGSs.

19 Issues that we found when we investigated  
20 the cases arising from the Polar Vortex included the  
21 inadequacy of training of sales agents, the  
22 structure of the compensation system for the sales  
23 agents, the lack of rigorous monitoring and review,  
24 the enrollment of customers before they received  
25 disclosure statements and terms and conditions, and

1 the potential inadequacy of the third party  
2 verification processes of enrollment.

3           Failings in each of these areas  
4 contribute to sales and marketing practices that  
5 consumers find confusing, misleading and  
6 unscrupulous. I do not wish to paint with too broad  
7 a brush as there are many EGSS and NGSS that comply  
8 with all Commission regulations, provide full and  
9 accurate disclosure, provide good training for the  
10 sales force, monitor the performance of agents for  
11 compliance and provide good consumer service.

12           Unfortunately, though, abuses continue,  
13 particularly with door-to-door marketing and  
14 telemarketing, and these abuses continue to harm  
15 both the individual customers and the retail choice  
16 market as a whole. This is a challenging area to  
17 address, as it is difficult to oversee hundreds of  
18 suppliers producing hundreds of advertisements, with  
19 potentially hundreds of agents spread out across the  
20 Commonwealth conducting door-to-door marketing, and  
21 with hundreds of telemarketers making phone calls or  
22 robocalls throughout the course of the day and  
23 night.

24           Enforcement can also be challenging, as  
25 it often depends upon individual customers to come

1 forward. But there are means to address these  
2 issues, some of which are already embedded in the  
3 Commission's regulations and Commission actions, and  
4 others of which may require additional laws,  
5 regulations or authority.

6 As an initial matter, I must urge that we  
7 continue to support our strong default service model  
8 in the electric industry and our natural gas  
9 purchasing practices in the natural gas industry.  
10 Pennsylvania's default service and natural gas  
11 purchasing models ensure that all customers receive  
12 the benefit of competition from access to the  
13 wholesale markets for electricity and natural gas.

14 As a recent Kleinman Center Report on the  
15 retail electricity market found, residential  
16 customers on default service in 2016 had the  
17 potential to save \$818 million compared to the  
18 pre-restructuring inflation adjusted generation and  
19 transmission costs. The Study also found that  
20 during the full implementation of restructuring,  
21 from 2011 to 2014, statewide average annual retail  
22 electricity rates to residential customers from  
23 competitive suppliers were higher than the  
24 residential utility default service rates.

25 The General Assembly may wish to ensure



1 that the Commission has clear authority to fully  
2 oversee sales and marketing practices. As I've  
3 mentioned, the Commission has regulations regarding  
4 sales and marketing practices and periodically holds  
5 Supplier Workshops to review these regulations with  
6 competitive suppliers, as well as to discuss other  
7 issues that have arisen.

8 It should be made clear, though, that the  
9 Commission has the full authority to ensure  
10 compliance with these regulations. It may also be  
11 time to further review and update these regulations,  
12 particularly in light of the lessons learned in the  
13 Polar Vortex.

14 I've also provided a number of areas of  
15 possible improvement. The four areas that I would  
16 mention today -- I have a longer list, but I'll only  
17 mention four. One is that requiring sales and  
18 monitoring compliance programs that are rigorous,  
19 approved by the Commission and subject to audit by  
20 the Commission, providing clear authority for the  
21 Commission to conduct audits of training programs  
22 and sales performance for compliance with the  
23 regulations, providing clear authority beyond civil  
24 penalties to ban door-to-door marketing and  
25 telemarketing by a competitive supplier or an agent

1 of that supplier for violations of the Commission's  
2 regulations or other applicable laws and requiring  
3 that low-income customers in the Utility Customer  
4 Assistance Program pay no more to a competitive  
5 supplier than they would to the utility.

6 Consumers need good information, fair  
7 marketing and full disclosure to make the right  
8 choices about their energy needs. The sales and  
9 marketing activities of competitive suppliers may  
10 need closer monitoring to meet these standards, as  
11 well as to ensure compliance with the Commission's  
12 regulations and customer expectations.

13 Thank you again for having me here today.  
14 I look forward to your questions.

15 MAJORITY CHAIRMAN GODSHALL: Thank you.  
16 I appreciate your testimony. You know, I don't  
17 care, truthfully, if it's somebody at my door or if  
18 it's somebody on the telephone or whatever, when I  
19 get something like this in the mail, you know, it's  
20 going to be a 14 percent rate increase because I'm  
21 in PP&L territory, you know, one is as effective as  
22 the other.

23 I got two of those and, you know, I had  
24 no idea who I was with. And I checked and so forth,  
25 but that's just the way it is.

1 MS. McCLOSKEY: You're correct. I mean,  
2 folks get this in the mail and they have -- they see  
3 what you're seeing there about the 14 percent  
4 increase.

5 MAJORITY CHAIRMAN GODSHALL: Right.

6 MS. McCLOSKEY: In the door-to-door, they  
7 hear the same thing, as well, and under a high  
8 pressure sales tactic. They're also hearing that  
9 same information, which is incorrect or misleading.

10 MAJORITY CHAIRMAN GODSHALL: Well, I  
11 heard this and --

12 MS. McCLOSKEY: Quickly.

13 MAJORITY CHAIRMAN GODSHALL: Yes, very  
14 directly.

15 MS. McCLOSKEY: Yes. Absolutely.

16 MAJORITY CHAIRMAN GODSHALL: Are there  
17 any questions from any of the Committee?

18 Seeing none, thank you very much for your  
19 testimony.

20 MS. McCLOSKEY: Thank you very much.

21 MAJORITY CHAIRMAN GODSHALL: Okay.

22 Finally, Gladys Brown, Chairman of the  
23 Pennsylvania Utility Commission.

24 Do you want to introduce your --

25 CHAIRPERSON BROWN: Good morning,

1 Chairman Godshall, Chairman Caltagirone and members  
2 of the Consumer Affairs Committee and staff, as  
3 well. My name is Gladys Brown. I'm the Chair of  
4 the Pennsylvania Public Utility Commission, and I  
5 have with me Dan Mumford, who is our Director of the  
6 Office of Competitive Market Oversight. And he will  
7 be here with me to answer any questions that I am  
8 unable to answer.

9 You've heard many people testifying  
10 today. Many of them were able to give part of the  
11 testimony that is in the written material that I  
12 have given you, so I will just take the opportunity  
13 to condense what I was going to present to you today  
14 even more --

15 MAJORITY CHAIRMAN GODSHALL: That's fine.

16 CHAIRPERSON BROWN: -- even more so than  
17 what I was going to present to you today.

18 MAJORITY CHAIRMAN GODSHALL: Okay.

19 CHAIRPERSON BROWN: So I think,  
20 generally, your focus has been on the safeguard for  
21 the consumers, especially with the competitive  
22 marketplace. And I just want to highlight to you  
23 some of the safeguards that we have put in place.

24 What I've heard also is information or  
25 concerns about door-to-door marketing. And

1 regarding that, we believe that the -- we know that  
2 the personal safety of individuals and the security  
3 of the home are of paramount importance to us.  
4 Accordingly, our regulations require suppliers,  
5 before putting an agent on the street, to first  
6 obtain and review a criminal history record from the  
7 Pennsylvania State Police and from every other state  
8 in which the potential agent resided for the last 12  
9 months.

10 Additional safeguards are included in the  
11 Commission's door-to-door marketing regulations to  
12 protect against misleading behavior. These rules  
13 include agent training standards. Agents are  
14 required to be trained in the following criteria.  
15 That includes:

- 16 1. The ethical sales practices;
- 17 2. The supplier's products and services;
- 18 3. The customer's right to cancel  
19 contracts; and
- 20 4. And the customer confidentiality.

21 Many of the rules that apply to  
22 door-to-door sales also apply to telemarketing.  
23 Telemarketing sales agents are required to identify  
24 themselves, the supplier they work for, and state  
25 that they are not working for the utility. Further,

1 the agent may not say or suggest to a customer that  
2 they are required to choose a competitive energy  
3 supplier. All telemarketing sales transactions are  
4 to be verified by someone other than the agent. And  
5 suppliers are required to adhere to the state and  
6 federal Do Not Call lists.

7 There are additional safeguards and  
8 protections in place to help ensure that consumers  
9 understand and consent to a switch in supply  
10 service. When a customer enrolls with a supplier,  
11 they receive a written disclosure statement that  
12 outlines the terms and the conditions, including the  
13 price, the type of the product, the length of the  
14 contract, and any fees such as cancellation fees.

15 Importantly, the disclosure statement  
16 provides for a three-business-day rescission period  
17 during which the customer can cancel the agreement  
18 without any type of penalty. We also require a  
19 contract summary to be provided in recognition that  
20 customers may not always read a detailed disclosure  
21 statement.

22 This requirement is one of the reforms  
23 that we had looked at in the wake of the Polar  
24 Vortex. We also recognize rules must be continually  
25 examined, and the market evolves. And we've seen

1 that with some of the questions that you've been  
2 asking.

3 So in December of 2017, the Commission  
4 launched a rulemaking to again consider the electric  
5 supplier disclosure rules. We asked parties to  
6 comment on the need to do more to explain variable  
7 pricing, explain the introductory price, place  
8 restrictions on early termination fees, and to  
9 explain new product types arising in the market,  
10 such as time-of-use products.

11 Comments were received in these proposals  
12 in late May, and we expect to soon have comments  
13 from the Independent Regulatory Review Commission.  
14 While we have robust rules and procedures in place  
15 to oversee marketing and sales, we also understand  
16 that compliance monitoring and enforcement are  
17 essential elements to ensure the rules are  
18 effective. Any consumers that encounter  
19 inappropriate marketing or enrollment practices are  
20 urged to contact our Bureau of Consumer Services to  
21 communicate any of their concerns and also possibly  
22 file a formal or informal complaint with us.

23 Also, our office of Competitive Market  
24 Oversight -- or OCMO as we call it, with our many  
25 acronyms -- is in regular contact with electric and

1 natural gas utilities to gather informal reporting  
2 on any supplier marketing concerns. That same  
3 office also receives informal reports from local  
4 officials, legislators, consumers, natural gas and  
5 electric utilities and other agencies. Our OCMO  
6 staff will then contact the suppliers in question to  
7 address any concerns and potentially refer matters  
8 to the Commission enforcement staff if there is a  
9 serious compliance problem.

10 And I think you have heard that from the  
11 EGSs that were up here testifying earlier. More  
12 formally, from time-to-time, the Commission alerts  
13 or reminds suppliers of the marketing rules and our  
14 expectations through the use of orders or  
15 secretarial letters and other formal notices.

16 A recent example is our December 2017  
17 Secretarial Letter that was served on all suppliers  
18 providing guidance on a number of door-to-door,  
19 telemarketing, and direct mail matters. The  
20 Commission also maintains its efforts to educate the  
21 retail energy marketplace through our PaPowerSwitch  
22 website. In 2010, the Commission started this  
23 website with the goal of educating consumers on the  
24 electric shopping process and providing them with  
25 the tools needed to shop in the convenience of their



1 homes and their businesses. We believe that this  
2 has been a successful venture. Also, hearing the  
3 testimony of one of the EGSs that other states  
4 around us have also used or looked into our  
5 PA PowerSwitch.

6 Building on the success in 2016, the  
7 Commission launched its new standalone website for  
8 the natural gas retail market, which is Pa  
9 GasSwitch. And that closely mirrors the design and  
10 construct of the PA PowerSwitch, further enhancing  
11 the ability of online natural gas shopping customers  
12 to access and to evaluate matters online.

13 Whether on PA PowerSwitch or PA  
14 GasSwitch, competitive offers and pricing  
15 information are posted and maintained by the  
16 suppliers. Therefore, consumers can see changes to  
17 supplier offers in real time. The Commission incurs  
18 regular and ongoing costs of \$75,000 a year to  
19 administer both websites. These costs include  
20 website maintenance, weekly e-mail rate alerts to  
21 over 36,000 subscribers, website hosting, website  
22 analytic reports, consumer education and other  
23 resources expended by the Commission to support our  
24 administration of the website.

25 These expenditures are funded through the

1 fees recovered from EGSSs and NGSSs. So I would just  
2 conclude there with my testimony and say that I  
3 would be happy to answer any questions. As I stated  
4 earlier, I do have Dan Mumford also here with me to  
5 answer any questions.

6 MAJORITY CHAIRMAN GODSHALL: Thank you  
7 for your testimony.

8 One of the things that I've talked to you  
9 directly about was the posting on your website,  
10 which the companies, I believe, pay to do. But I  
11 really feel that when you post something on your  
12 website, and you're paid to do it, that you have  
13 some responsibility pertaining to the accuracy of  
14 what is posted.

15 And that's something that I -- I grew up  
16 on a farm and I live on a farm, so I'm not a lawyer,  
17 but I would think there's some responsibility, you  
18 know, there for the PUC. When something like this  
19 comes out -- and like I said, on the poster over  
20 there, there are a lot of people that just  
21 automatically think what they read or what they see.  
22 And I really believe that the accuracy -- and as you  
23 say, you're spending \$75,000 right now to administer  
24 the websites, but at the same time, if you post it,  
25 the accuracy is part of your responsibility to see

1 that that is accurate, or else it shouldn't be  
2 posted. I really feel that way.

3 CHAIRPERSON BROWN: Chairman Godshall,  
4 you and I have had those conversations --

5 MAJORITY CHAIRMAN GODSHALL: Yes.

6 CHAIRPERSON BROWN: -- and I do  
7 understand your concern. Our OCMO Office constantly  
8 looks at different notices such as that, which are  
9 not on our website. Those types of notices are not  
10 on our website. What is on our website is the offer  
11 that the EGS or the NGS would be offering. So it  
12 really would be the price.

13 And you are correct that in most cases,  
14 it's for new persons that are signing on for the  
15 first time or have come back after a while. It's  
16 not for someone that is a continuing customer, but  
17 examples like that, that you have placed there, are  
18 not on our website, per se, but we also --

19 MAJORITY CHAIRMAN GODSHALL: I hope.

20 CHAIRPERSON BROWN: -- we also do receive  
21 the information that you and other consumers have  
22 sent to us, and we do look at that. We do take it  
23 very seriously. I don't want you to think that we  
24 don't.

25 MAJORITY CHAIRMAN GODSHALL: Thank you.

1                   Any questions?

2                   It looks like no other questions. So  
3 thank you very much for your testimony. I do  
4 appreciate, as I said, that I saw in your last  
5 meeting there were a number of companies that got  
6 hammered a little bit. And I wouldn't care if they  
7 get dismissed, you know, really, if they put  
8 misleading advertising out there, from operating in  
9 Pennsylvania, so whatever.

10                  But I appreciate that and say thank you  
11 very much.

12                  CHAIRPERSON BROWN: Thank you,  
13 Chairman Godshall.

14                  MAJORITY CHAIRMAN GODSHALL: I would like  
15 to thank the presenters for their testimony and for  
16 their questions.

17                  The hearing is adjourned.

18                  Thank you.

19                  (Whereupon, the hearing concluded at  
20 12:01 p.m.)

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CERTIFICATE

I hereby certify that the proceedings are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

*Tracy L. Markle*-----

Tracy L. Markle,  
Court Reporter/Notary