



COMMONWEALTH OF PENNSYLVANIA

July 23, 2020

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**RE: Supplier Door-To-Door and In-Person Marketing Moratorium Proclamation of
Disaster-COVID-19 / Docket No. M-2020-3019254**

Dear Secretary Chiavetta:

Enclosed please find the Answer and Verification, on behalf of the Office of Small Business Advocate (“OSBA”), to the Petition of Direct Energy Business, LLC, Direct Energy Services, LLC, and Direct Energy Business Marketing, LLC for Clarification or Modification of Prior Order, filed July 13, 2020, in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Supplier Door-To-Door and In-Person	:	
Marketing Moratorium Proclamation of	:	Docket No. M-2020-3019254
Disaster-COVID-19	:	

**ANSWER OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

I. Introduction

On July 13, 2020, Direct Energy Business, LLC, Direct Energy Services, LLC, and Direct Energy Business Marketing, LLC (collectively, “Direct Energy”) filed its Petition for Clarification, or Modification or Prior Order (“*Petition*”) with the Pennsylvania Public Utility Commission (“Commission”).

In accordance with 52 Pa. Code Section 5.572(e), the Office of Small Business Advocate (“OSBA”) files this answer to Direct Energy’s *Petition*.

II. Answer

On June 4, 2020, the Commission entered an Order, concluding, as follows:

The moratorium on in-person sales and marketing activities for all jurisdictional electric generation suppliers and natural gas suppliers is lifted as it pertains to activities at retail businesses open as a result of the Governor’s directives regarding the yellow and green phases. Suppliers engaging in in-person sales and marketing activities at retail businesses must comply with all relevant orders and guidance of the Governor and the Secretary of Health. Suppliers are also required to report their intent to resume in-person sales and marketing activities at retail businesses to OCMO and BCS as set forth herein. This Order does not impact the moratorium on all other door-to-door, public event or in-person sales and marketing activities.

Order, Supplier Door-to-Door and In-Person Marketing Moratorium; Proclamation of Disaster Emergency – COVID-19, Docket No. M-2020-3019254 (Order entered June 4, 2020), at 11-12.

On July 16, 2020, the Commission entered another Order at the same docket number, concluding, as follows:

We conclude that the changes in circumstances identified by StateWise, SFE, and IGS do not warrant rescission of the portions of the Commission's March 16, 2020 Emergency Order establishing a moratorium on door-to-door, public event, and in-person sales and marketing activities, as modified by the June 4, 2020 Order. The portions of the Emergency Order that remain in place continue to be necessary to ensure the protection of customers and supplier employees by minimizing social contact in response to the COVID-19 pandemic.

Order, Supplier Door-to-Door and In-Person Marketing Moratorium; Proclamation of Disaster Emergency – COVID-19, Docket No. M-2020-3019254 (Order entered July 16, 2020), at 18.

Direct Energy acknowledges that Governor Wolf renewed the Proclamation of Disaster Emergency by another 90 days on June 3, 2020. *Petition*, at 4, Paragraph 10.

Direct Energy requests the following relief, in its *Petition*:

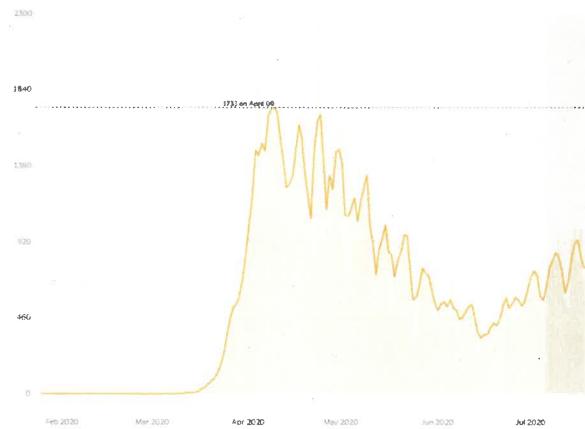
Direct Energy is seeking to resume its in-person sales and marketing activities of commercial, industrial and governmental customers operating businesses that are open as a result of the Governor's directives regarding the yellow and green phases. Thus, while NRG or other competitive energy suppliers may be reopening sales and marketing activities aimed at residential customers in particular retail establishments, Direct Energy is seeking to enter businesses for purposes of in-person sales and marketing activities with employees or representatives, such as energy managers, of various types of establishments

Petition, at 6, Paragraph 16.

John Hopkins University & Medicine has been tracking daily confirmed new cases for all 50 states, including the Commonwealth of Pennsylvania. A graph of the new cases in the Commonwealth may be accessed at this URL:

<https://coronavirus.jhu.edu/data/new-cases-50-states/pennsylvania>

The graph of the Commonwealth new cases, current as of 3:00 am EDT on July 23, 2020, is set forth below.



As the John Hopkins graph shows, in early June new cases were on the decline. However, new cases have significantly increased in July.

The John Hopkins graph also demonstrates a critically important point about the COVID-19 pandemic – it is an ever-changing phenomenon. The Governor’s Proclamation remains in effect. There is no vaccine for SARS-CoV-2, nor is there an effective treatment for the resulting COVID-19.

Furthermore, a simple review of any current news outlet will document how the SARS-CoV-2 virus is significantly, and unpredictably, affecting all of the 50 states. This includes the reverse-quarantine that the Commonwealth has implemented on 19 states (requiring an individual to quarantine for 14 days). This also includes the intense debate over the efficacy and necessity of wearing facial masks.

Direct Energy filed its *Petition* during a time when SARS-CoV-2 has not been defeated, many states are seeing a resurgence in the number of new cases, and the entire country is suffering the negative economic impacts of this pandemic.

The OSBA acknowledges the arguments raised in the *Petition*, but forthrightly admits that it prefers to err on the side of caution. Once the scientific data shows material improvement in the number of new cases, or a vaccine is developed, or effective treatments are confirmed, the Direct Energy *Petition* would be appropriate. However, that time is not now. The OSBA notes that, concurrent with the issuance of the July 16th Order, there has also been an uptick in infection rates in some areas of the Commonwealth that have required further remedial action on the part of the Governor, the Secretary of Health and/or local officials in the impacted areas.¹ To that end, there have been, and continue to be, modifications in the reopening plan in an effort to keep people within the Commonwealth safe and to deter the spread of COVID-19. Consequently, the OSBA respectfully requests that the Commission follow its decision in its July 16th Order and deny the *Petition* without prejudice.

¹ See, <https://www.post-gazette.com/news/health/2020/07/02/COVID-19-coronavirus-Allegheny-County-Western-Pennsylvania-cases-deaths-data-pandemic-200/stories/202007020115>. See also, <http://www.mcall.com/coronavirus/mc-nws-coronavirus-wolf-press-wednesday-20200715-syc2mc7xonajvjl4kvatt4q-story.html>.

III. Conclusion

The OSBA respectfully requests that the Pennsylvania Public Utility Commission deny Direct Energy's *Petition* without prejudice.

Respectfully submitted,

/s/ Steven C. Gray

Steven C. Gray
Attorney ID No. 75338
Senior Supervising
Assistant Small Business Advocate

For:

John R. Evans
Small Business Advocate

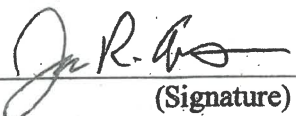
Office of Small Business Advocate
555 Walnut Street
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Harrisburg, PA 17101

Dated: July 23, 2020

VERIFICATION

I, John R. Evans, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 07/23/20


(Signature)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Supplier Door-To-Door and In-Person	:	
Marketing Moratorium Proclamation of	:	Docket No. M-2020-3019254
Disaster-COVID-19	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email ONLY upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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DATE: July 23, 2020

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