

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE INVESTIGATION)
INTO THE SOLICITATION PRACTICES OF)
STARION ENERGY PA, INC.) PSC DOCKET NO. 395-13
(FILED OCTOBER 24, 2013))

ORDER NO. 8829

AND NOW, this 15th day of December, 2015, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, as defined in 26 *Del. C.* §1001(14),¹ an "electric supplier" is subject to regulation by the Commission pursuant to 26 *Del. C. ch.* 10 and includes any broker, marketer, or other entity certified by the Commission that sells electricity to retail electric customers utilizing the transmission and/or distribution facilities of a nonaffiliated electric utility; and

WHEREAS, pursuant to 26 *Del. C.* §1012(b), the Commission has adopted rules and regulations with respect to electric suppliers and electric supply service to protect customers after the implementation of retail competition. Such rules and regulations are set forth in 26 *Del. Admin. C.* §3001 (the "Supplier Rules"); and

WHEREAS, on October 23, 2012, the Commission granted Starion Energy PA, Inc. ("Starion") its certification to act an "Electric Supplier" via Order No. 8236; and

¹ Under 26 *Del. C.* 1001(14), an "electric supplier" means a person or entity certified by the Commission that sells electricity to retail electric customers utilizing the transmission and/or distribution facilities of a nonaffiliated electric utility, including: ... Any broker, marketer or other entity (including public utilities and their affiliates).

WHEREAS, since receiving its certification from the Commission, Starion has been selling electricity to retail electric customers in the State of Delaware; and

WHEREAS, at all times relevant to this Order, Starion has been subject to Delaware law, the Supplier Rules, and the provisions of Order No. 8236; and

WHEREAS, beginning in the first week of December of 2012, the Commission Staff ("Staff") began receiving complaints about solicitations made by Starion, its agents, or both; and

WHEREAS, because of the number of complaints and the nature of the complaints, the Commission issued Order No. 8477 which opened a formal investigation into the consumer and business complaints made against Starion and the alleged improper actions of the company via its solicitation of potential Delaware customers; and

WHEREAS, the Commission also delegated to Staff the responsibility to conduct this investigation and directed that Staff either (i) prepare a written report into its findings and report back to the Commission on its recommendations regarding any alleged violations of Delaware laws, rules, regulations, orders, or other applicable laws or (ii) prepare and file with the Commission a formal complaint regarding Starion's alleged violations of Delaware laws, rules, regulations, orders, or other applicable laws; and

WHEREAS, pursuant to 26 Del. C. §102A, Staff published public notices of this investigation by posting notices on the Commission's website and in the legal classified sections of The News Journal and The Delaware State News newspapers in November of 2013. Staff

received no written comments or complaints in response to the published legal notices or the legal notice posted on the Commission's website; and

WHEREAS, Staff has conducted its investigation into the complaints against Starion and has recommended in its report to the Commission dated November 25, 2015, that the Commission close this docket. This report is attached as Exhibit "A"; and

WHEREAS, Staff has notified the Division of the Public Advocate (the "DPA") that it has concluded its investigation and has recommended that the Commission close this docket. In response the DPA has notified Staff that it is not opposed to the closing of this docket;

**NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Based on the affidavits of publication which were filed in this docket, we find that appropriate notice was given to the public about our investigation into complaints made against Starion regarding its alleged improper solicitation practices of potential Delaware customers.

2. Based on Staff's report, which is attached as Exhibit "A", we further find that insufficient evidence exists at this time to pursue a formal complaint against Starion for any alleged improper solicitation activities in the State of Delaware. Our finding does not preclude us from taking any future action if we receive any additional complaints about Starion or if we are presented with additional facts regarding Starion's conduct or any alleged violations

of Delaware laws, rules, regulations, orders, or other applicable laws committed by Starion.

3. Starion is hereby placed on notice that the costs of this proceeding will be charged to it under the provisions of 26 Del. C. §114(b)(1).

4. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary

EXHIBIT "A"

STAFF'S REPORT REGARDING THE INVESTIGATION
INTO THE SOLICITATION PRACTICES OF STARION ENERGY PA, INC.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF DELAWARE

IN THE MATTER OF THE INVESTIGATION INTO)
THE SOLICITATION PRACTICES OF STARION) PSC DOCKET NO.
395-13
ENERGY PA, INC. (FILED OCTOBER 24, 2013))

REPORT FROM THE DELAWARE PUBLIC SERVICE COMMISSION STAFF ON
THE INVESTIGATION INTO THE SOLICITATION PRACTICES OF STARION
ENERGY PA, INC.

Dated: November 25, 2015

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I. BACKGROUND

On August 31, 2012, Starion Energy PA, Inc. (“Starion”) filed an application with the Delaware Public Service Commission (“Commission”) for an Electric Supplier Certificate (“ESC”) in the State of Delaware in accordance with the Electric Utility Restructuring Act of 1999, 26 *Del. C.* § 1001 et al. (the “Act”), and the Commission’s Rules for Certification and Regulation of Electric Suppliers, 26 *Del. Admin C.* § 3001 (the “Supplier Rules”)². On October 23, 2012, the Commission entered Order No. 8236 certifying Starion as an Electric Supplier.

In the first two weeks of December 2012, Commission Staff (“Staff”) received over one hundred calls from customers and employees of Delmarva Power & Light Company (“Delmarva Power”) and its affiliates and customers of the Delaware Electric Cooperative (“DEC”) regarding solicitations by Starion or an agent of Starion. Based on the nature and volume of calls received Staff contacted Starion in order to ascertain whether a formal investigation was necessary. At the time the Commission began receiving calls, it was difficult to ascertain whether the calls were coming from a certified Electric Supplier and whether or not the solicitor was trying to obtain financial information unrelated to retail Electric Supply Service, therefore callers were directed to contact the Delaware Department of Justices’ Consumer Protection Unit (“CPU”).

Delmarva Power, the CPU, and Staff all contacted Starion separately to obtain more information about Starion’s telemarketing practices.

II. INFORMAL INVESTIGATIONS

A. CPU

After receiving approximately 45 complaints, the CPU contacted Starion on or about December 17, 2012. Starion entered into a voluntary cease and desist agreement (the “Agreement”) on December 18, 2012. The CPU was able to ascertain that StartelDM, LLC (“Startel”) was a telemarketing firm that was soliciting customers on behalf of Starion. The CPU received over 48 complaints from Delaware consumers, alleging that they were solicited by Starion or Startel which purported to be either Delmarva Power or DEC asking to provide their utility account number to save 15% on their bills. By entering into the Agreement, Starion agreed to not solicit business from, or otherwise contact, Delaware consumers for a period of 20 days in order to allow the CPU to complete its investigation.

On January 11, 2013, the CPU notified Staff that it was closing its investigation for jurisdictional reasons, as Staff had begun its investigation into Starion’s telemarketing practices.

B. DELMARVA POWER

Representatives of Delmarva Power spoke with representatives of Starion concerning the amount and nature of complaints they received during the first two weeks of

² Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

December. As a result of those conversations Starion agreed to listen to recordings of calls made by Startel. On December 17, 2012, Starion reported that it found no instances of Startel representing themselves as Delmarva Power in the more than two dozen calls listened to. Starion also agreed to refine their marketing data so as not to call customers of the DEC. Starion stated that Startel would update the training of their representatives to prevent customer confusion in the areas where the service territories of Delmarva Power and the DEC overlap.

C. STAFF

During the second week of December 2012, the Commission began receiving calls from Delaware consumers regarding telemarketing calls they received from Starion. Customers also stated that they were being solicited by Startel. Consumers alleged that Startel representatives had stated that if the customers were to enter into a program with Delmarva Power, they could save 15% on their electric supply service. Some of the complaints regarding Startel also alleged that representatives had asked for banking account information in order process a refund owed to Delmarva Power customers. Staff thought this may have been a phishing scheme and directed consumers to contact the CPU. At this time, the relationship between Starion and Startel had not been established. The phone number provided for Startel by the consumers rang busy constantly and Staff was unable to obtain a phone number or address by conducting an internet search.

Staff first contacted Starion via email on December 11, 2012 regarding complaints it had received. The nature of the complaints was that Starion representatives had been saying that Starion is offering service in conjunction with or through a program with Delmarva Power. The customers stated that they had been lead to believe that Starion was the same company as Delmarva Power or a part of Delmarva Power and were not made aware that choosing to do business with Starion would mean that Delmarva Power would no longer provide their electric supply service. Staff's email reminded Starion of the Supplier Rules regarding deceptive marketing practices.

On December 14, 2012, Staff contacted Starion via certified mail. The letter requested information about the Broker(s) Starion was using to solicit customers in Delaware and reminded the company that all Brokers were required to obtain an ESC prior to commencing service in Delaware. On December 26, 2012, Starion confirmed that they had begun soliciting customers in Delaware on December 10, 2012 and that StartelDM, LLC was the telemarketing company utilized to make the calls.

On January 9, 2013, Staff issued thirteen (13) interrogatories to Starion for the purpose of determining whether any additional action by the Commission was necessary for resolution of the complaints received during the prior month. Staff received Starion's response on February 4, 2013. Based on those responses, Staff issued four (4) additional

interrogatories to Starion. The response to one of those interrogatories was received on March 28, 2013 along with a request for additional time to answer the remaining three. Staff received the responses to the outstanding questions on April 3, 2013.

From December 2012 – March 2013, the Commission’s complaint investigator had received approximately a dozen complaint calls which led to a total of seven (7) complaints that required investigation. The complaints were from Delmarva Power customers whose electric supply service had been switched to Starion. As of April 11, 2013 all complaints had been resolved.

Staff corresponded with Starion about the complaints and a meeting was held on July 17, 2013 with Starion and representatives from the Division of the Public Advocate (“DPA”). Staff continued its informal investigation throughout 2013.

III. FORMAL INVESTIGATION UNDER DOCKET 395-13

Calls to the Commission decreased, but the complaints did not go away completely. Because of the number of complaints and the nature of the complaints, Staff requested that the Commission open a formal investigation into the consumer and business complaints made against Starion and the alleged improper actions of the company via its solicitation of potential Delaware customers. On November 5, 2013, the Commission entered Order No. 8477 opening Docket No. 395-13 to investigate the solicitation practices of Starion.

Notice of the investigation was posted in The News Journal on November 15, 2013 and in The Delaware State News on November 22, 2013. The notice was also posted on the Commission’s website.

Staff issued several interrogatories to Starion and responses were received and reviewed by Staff. The last of the exchanges occurred in February 2014. The interrogatories sought to obtain information about the methods of solicitation used in Delaware, the materials used in soliciting Delaware consumers, training of those soliciting on behalf of Starion, and Starion’s complaint resolution process.

During the investigation Staff became aware of investigations in other states regarding Starion. Staff is unaware of Starion’s authority being revoked or suspended in any of those states.

IV. STAFF'S FINDINGS AND RECOMMENDATION

Staff finds that Starion immediately discontinued using Startel, which had not received an ESC. Starion did cooperate with Staff and the DPA to address the complaints and concerns about its marketing practices.

Staff received a total of fourteen complaints between January 3, 2013 and August 14, 2014 regarding Starion. The August 14, 2014 complaint involved a past due bill and was resolved on September 8, 2014.

The DPA began handling consumer complaints in November 2014 and reports that no complaints have been received regarding Starion.

Based on the lack of sufficient evidence; resolution of the previous complaints; and absence of complaints over the last twelve months, Staff recommends that this docket be closed. The Public Advocate, David Bonar, is in agreement with Staff.