

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. 8477

AND NOW, this 5th day of November, 2013, 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, under 26 *Del. C.* §1001(21),² "retail electric customer" or "customer" means a purchaser of electricity for ultimate consumption and not for resale in the State of Delaware; 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).

² 26 *Del. C.* §1001(21) provides as follows: "Retail electric customer" or "customer" means a purchaser of electricity for ultimate consumption and not for resale in this State, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

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, under Section 1.0 of the Supplier Rules, an "Electric Supplier" means an entity or person certified by the Commission that sells electricity to Retail Electric Customers,³ utilizing the Transmission⁴ and Distribution Facilities⁵ of an Electric Distribution Company;⁶ 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

³ Under 26 *Del. C.* §1001(21), "retail electric customer" or "customer" means a purchaser of electricity for ultimate consumption and not for resale in this State, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

⁴ Under 26 *Del. C.* 1001(26), "transmission facilities" means electric facilities located in Delaware and owned by a public utility that operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to customers (including any customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the customer.

⁵ Under 26 *Del. C.* §1001(9), "distribution facilities" means electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to customers, up through and including the point of physical connection with electric facilities owned by the customer.

⁶ Under 26 *Del. C.* §1001(12), "electric distribution company" means a public utility owning and/or operating transmission and/or distribution facilities in this State.

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 (October 23, 2012); and

WHEREAS, beginning in the first week of December of 2012, the Commission Staff ("Staff") began receiving numerous complaints about solicitations made by Starion, its agents, or both. These complaints were from customers, employees of Delmarva Power & Light Company ("Delmarva") and its affiliates, and customers of the Delaware Electric Cooperative ("DEC"); and

WHEREAS, Staff has contacted Starion regarding these complaints in an attempt to resolve ongoing issues about alleged misrepresentations made by Starion, its agents, or both, but Staff has continued to receive complaints as recently as October 23, 2013; and

WHEREAS, because of the number of complaints and the nature of the complaints, Staff recommends 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;

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

1. Pursuant to 26 *Del. C.* §§ 206, 209(a)(1), 212, 1012, and 1019 as well as 26 *Del. Admin. C.* §§ 3001-3.8 and 10.2, the Commission finds that it has the right and responsibility to

undertake an investigation into whether Starion, as a certificated electric supplier over which the Commission has jurisdiction, Starion's agents, or both have violated or are violating any Delaware laws, rules, regulations, orders, or other applicable laws.

2. The Commission hereby opens a docket to investigate the complaints regarding Starion, its agents, or both and the business practices of such company and its agents in soliciting Delaware customers.

3. The Commission delegates to Staff the responsibility to conduct this investigation. After appropriate public notice of the opening of this docket and time for all interested parties to send any comments or complaints regarding Starion, Staff shall 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.

4. Pursuant to 26 Del. C. §102A, Staff shall give public notice of this investigation by publishing notice in the form attached as **Exhibit "A"** in the legal classified sections of The News Journal and The Delaware State News newspapers on the following dates:

Friday, November 15, 2013 (The News Journal)

Friday, November 22, 2013 (The Delaware State News).

Staff shall file proof of such publications with the Commission as soon thereafter as is reasonably practicable but prior to the date set for any evidentiary hearing in this docket. In addition, Staff shall post on the Commission's website a notice in the form attached as **Exhibit "A"**.

5. No Hearing Examiner is designated for this matter at this time, but the Commission may later designate such person to hold evidentiary hearings as may be necessary to have a full and complete record concerning the alleged potential violations committed by Starion of Delaware laws, rules, regulations, orders, and any other applicable laws.

6. 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).

7. 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:

/s/ Dallas Winslow
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

EXHIBIT "A"

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**TO: ALL CUSTOMERS OF STARION ENERGY OF PA, INC. AND OTHER
INTERESTED PERSONS**

At its meeting on November 5, 2013, the Delaware Public Service Commission ("Commission") ordered that a docket shall be opened to investigate complaints regarding Starion Energy of PA, Inc. ("Starion"), its agents, or both and the business practices of such company and its agents in soliciting Delaware customers. The Commission delegated to its Staff ("Staff") the responsibility to conduct this investigation. After appropriate public notice of the opening of this docket and time for all interested parties to send any comments or complaints regarding Starion, Staff shall 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.

If you wish to send any written comments, concerns, or complaints regarding Starion or any of its agents, please send

such written comments or complaints to Staff **on or before December 31, 2013**. All such written comments, concerns, or complaints should be sent to the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware 19904, with attention to "PSC Docket No. 395-13." You may also send such written comments, concerns, or complaints via E-mail to psc@state.de.us with the subject line as "PSC Docket No. 395-13."

You are invited to review the Commission's Order regarding this investigation (Order No. 8477) to determine how your interests may be affected. You may review such Order on the Commission's website at <http://dep.sc.delaware.gov/>. If you would like to review the Commission's Order at the Commission's office, please contact Monica Hall at monica.hall@state.de.us to arrange a time for your review. You may also review a copy of the Commission's Order at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4th Floor, 820 North French Street, Wilmington, Delaware 19801. Please call (302) 577-5077 to arrange for a time to review the Commission's Order at that location.

If you wish to request copies of documents in this docket, please submit a Freedom of Information Act Request Form. This form may be found at <http://smu.portal.delaware.gov/cgi-bin/mail.php?foia-request&subj=DOS>. There is also a link to the Freedom of Information Act Request Form on the Commission's website, <http://dep.sc.delaware.gov/>. The Commission will respond

to your request in accordance with the Delaware Freedom of Information Act, 29 Del. C. ch. 100.

If you have a disability and wish to participate or to review the materials in this matter, please contact the Commission to discuss any auxiliary aids or services you might need to help you. You may contact the Commission in person, by writing, by telephone (including text telephone), by Internet e-mail, or other means. If you have questions about this matter, you may call the Commission at 1-800-282-8574 (toll-free in Delaware) or (302) 736-7500 (voice and text telephone). You may also send questions regarding this matter by Internet e-mail addressed to psc@state.de.us.