

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE INVESTIGATION)
INTO THE MISLEADING SOLICITATION)
PRACTICES OF CERTAIN TELEMARKETERS) PSC DOCKET NO. 20-0451
ON BEHALF OF ELECTRIC SUPPLIERS)
(OPENED JULY 29, 2020))

ORDER NO. 9632

AND NOW, this 29th day of July 2020, the Delaware Public Service Commission (“Commission”) determines and orders the following:

WHEREAS, since the beginning of 2020, Commission Staff (“Staff”) and the Delaware Division of the Public Advocate (“DPA”) have been receiving an increasing number of complaints from residential electric customers in Delaware reporting that telemarketers who are not affiliated with Delmarva Power & Light Company (“Delmarva”) have called them using a caller ID that reads “Delmarva Power” (a practice known as “spoofing”)¹ and asked them to enroll in a discounted electric supply service, without readily disclosing which electric supplier² they represent; and

¹ The Federal Communications Commission describes “spoofing” as “when a caller deliberately falsifies the information transmitted to your caller ID display to disguise their identity. Scammers often ... spoof a number from a company or a government agency that you may already know and trust.” See <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id>.

² As defined in 26 *Del. C.* § 1001(14), 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.

WHEREAS, the Commission's *Rules for Certification and Regulation of Electric Suppliers* ("*Electric Supplier Rules*"),³ among other things: (i) prohibit electric suppliers and their agents from engaging in false, misleading, or deceptive conduct, including suggesting a relationship that does not exist with Delmarva Power;⁴ (ii) require telemarketers to start the solicitation call by stating the name of the electric supplier they represent;⁵ and (iii) provide that electric suppliers are responsible for any false, fraudulent, deceptive or unlawful marketing acts performed by their agents in the conduct of marketing or sales activities on behalf of the electric supplier;⁶ and

WHEREAS, because of the number of complaints and the difficulty in identifying on whose behalf the telemarketers are calling, Staff and DPA filed a Joint Petition on July 21, 2020 requesting that the Commission open a formal investigation into the complaints made regarding the alleged misleading telemarketing practices of electric suppliers or their agents in Delaware, including caller ID spoofing ("*Joint Petition*"); and

WHEREAS, Staff and DPA recommended that they jointly conduct the investigation;

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

³ 26 *Del. Admin. C.* § 3001.

⁴ 26 *Del. Admin. C.* §§ 3001-10.2.1, 10.2.4.

⁵ 26 *Del. Admin. C.* § 3001-11.7.3.1.2.

⁶ 26 *Del. Admin. C.* § 3001-10.3.

1. That pursuant to 26 *Del. C.* §§ 206, 212, 1012, and 1019 as well as 26 *Del. Admin. C.* § 3001-10.2, the Commission grants the Joint Petition and hereby opens this docket to investigate the complaints regarding the alleged misleading telemarketing practices of electric suppliers or their agents in Delaware, including caller ID spoofing, in soliciting Delaware customers.

2. That, as recommended, Staff and DPA will coordinate efforts to conduct this investigation. After conducting their investigation, Staff and DPA shall: (i) report back to the Commission on their recommendations regarding any alleged violations of Delaware laws, rules, regulations, orders, or other applicable laws and (ii) request from the Commission appropriate sanctions, if any, against any electric supplier found to have violated the *Electric Supplier Rules*, pursuant to 26 *Del. Admin. C.* § 3001-17.2.1.

3. That the certified electric suppliers in Delaware shall cooperate with Staff and the DPA regarding the investigation and, if any dispute arises regarding the investigation, may petition the Commission seeking resolution thereof.

4. That 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 or before Friday, August 14, 2020. Staff shall file proof of such publications with the Commission as soon thereafter as is reasonably practicable. In addition, Staff shall post on the Commission's website a notice in the form attached as **Exhibit "A"**.

5. That to the extent this investigation leads to findings of violations by any specific electric supplier or its agents, such electric supplier(s) may be charged the costs of this proceeding related to such supplier under the provisions of 26 *Del. C.* § 114(b)(1).

6. That 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:



Dallas Winslow, Chairman

/s/ Joann T. Conaway

Joanne Conaway, Commissioner

/s/ Harold B. Gray

Harold Gray, Commissioner

/s/ Manubhai C. Karia

Manubhai "Mike" Karia, Commissioner

/s/ K. F. Drexler

Kim F. Drexler, Commissioner

ATTEST:

Donna Nickerson, Secretary

EXHIBIT "A"

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**TO: ALL ELECTRIC CUSTOMERS IN DELAWARE RECEIVING
TELEMARKETING CALLS FROM THIRD-PARTY SUPPLIERS AND
OTHER INTERESTED PERSONS**

Since the beginning of 2020, the Delaware Public Service Commission (“Commission”) and the Delaware Division of the Public Advocate (“DPA”) have been receiving an increasing number of complaints from residential electric customers in Delaware reporting that telemarketers who are not affiliated with Delmarva Power & Light Company (“Delmarva”) have called them using a caller ID that reads “Delmarva Power” (a practice known as “caller ID spoofing”). According to the complaints, the telemarketer asks them to enroll in a discounted electric supply service, without readily disclosing on whose behalf they are calling.

At its meeting on July 29, 2020, the Commission opened a docket to investigate the complaints regarding these types of solicitation practices and your reports of such calls will assist in the investigation. **If you receive such a call, please report it to the Commission or the DPA. Please request from the telemarketer the name of the electric supplier they represent and the telemarketer’s agent identification number.**

PSC Docket No. 20-0451, Order No. 9632 Cont'd

After the call, please contact the DPA, at (302) 241-2555, or by filing a complaint with the DPA at this link: <https://publicadvocate.delaware.gov/>, or the Commission, at 302-736-7500 (or by e-mail addressed to psc@delaware.gov, with "Docket No. 20-0451" in the subject line).

In addition, if you wish to send any written comments or concerns regarding this topic, please send such written comments to Staff *on or before September 11, 2020*. All such written comments 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. 20-0451." You may also send such written comments, concerns, or complaints via e-mail to psc@delaware.gov with the subject line as "PSC Docket No. 20-0451."

You are invited to review the Commission's Order regarding this investigation (Order No. 9632) and other materials filed in the docket by going to DelaFile (<http://delafile.delaware.gov>), the Commission's file management system, and by searching for Docket No. 20-0451. If you would like to review documents at the Commission's offices, please contact Donna Nickerson at (302) 736-7500 or send an email addressed to donna.nickerson@delaware.gov. You may also review documents at the offices of the Division of the Public Advocate located at 820 North French Street, 4th Floor, Wilmington, Delaware 19801 or 29 South State Street, Dover, Delaware 19901. Please call either (302) 577-5077 or (302) 241-2555 to arrange for a time to review the documents at either of those locations.

If you wish to request copies of documents in this matter, please submit a Freedom of Information Act Request Form. The link to this form can be found on the Commission's website, <https://depsec.delaware.gov>, or by visiting this web address: <https://delafile.delaware.gov/Complaints/FOIA.aspx>. The Commission will respond to your request in accordance with the Delaware Freedom of Information Act, 29 *Del. C. ch.* 100.

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@delaware.gov with "Docket No. 20-0451" in the subject line. 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 email, or other means.