

Companies promise Maryland residents free electricity, but lock them into expensive contracts, advocate says



By SCOTT DANCE

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Energy companies are under scrutiny by Maryland regulators. (AMY DAVIS, Baltimore Sun)

Maryland's top utility customer advocate is accusing energy companies of routinely misleading customers to sell them expensive natural gas and electricity service, and is urging regulators to prosecute more bad actors after recently taking the unprecedented step of banishing one from the state. Energy salespeople often pretend they work for regulated utilities such as Baltimore Gas and Electric Co. and entice customers with offers of free electricity, only to lock them into contracts with surging prices and massive cancellation fees, the Office of People's Counsel alleges in a series of new complaints to the Maryland Public Service Commission. The solicitors actually work for private companies competing with BGE and each other in the state's deregulated energy market.

In some cases, advocates say residents have even suffered identity theft, with companies taking their utility account numbers and forging signatures. The allegations paint a troubling picture of an energy market Maryland lawmakers deregulated two decades ago, with the idea that loosening the reins and promoting competition would drive down prices. Instead, the complaints

suggest that because many residents understand little about the industry and their rights as consumers, they're often being charged gas and electric rates significantly higher than those BGE and other utilities levy.

"It's just simply wrong," said Paula Carmody, the people's counsel. "The transparency is not there."

The latest complaints target three companies — Smart Energy, Direct Energy and Maryland Gas and Electric — and the people's counsel plans to file a fourth complaint this month. The companies, and dozens of others authorized to sell energy in Maryland, buy natural gas and electricity on wholesale markets and sell it directly to consumers, while BGE and other utilities remain responsible for delivering it.

In regulatory filings and statements to The Baltimore Sun, the three companies named in complaints so far largely denied the allegations, and suggested Carmody's office is misconstruing some laws and regulations. The companies support consumer protection rules and "trust in the regulatory process to reach a fair outcome," said Matt White, president of the Retail Energy Supply Association.

The Public Service Commission delegated the complaints to administrative law judges, who are expected to hold hearings on the charges next year.

The allegations come amid the first case in which the commission revoked an energy supplier's license to sell in the state. The panel took that action in September against Smart One Energy, a company unrelated to Smart Energy, citing three cases in which Smart One enrolled customers in contracts to buy natural gas without their consent. A month earlier, the commission [fined the company \\$561,000](#), the largest penalty it has handed an energy supplier to date.

As the people's counsel pursues cases against the other suppliers for what Carmody said are similar violations of consumer protections, her office also is urging the commission to order Smart One to issue refunds to customers, most of whom were in Washington suburbs. In a request filed with the

commission last month, the people's counsel calculated that Smart One customers paid at least \$14 million more than what utility Washington Gas and Light would have charged them.

The findings underscore a pair of reports released last year, by the people's counsel and the Abell Foundation, that [found residents who opt to buy gas or electricity from energy suppliers often pay significantly higher rates](#) than they would if they continued to buy energy from BGE and other utilities. The Public Service Commission regulates the rates utilities charge for what is known as "standard offer" gas and electricity service, but other energy suppliers can charge whatever consumers will pay.

The retail energy industry stresses that customers always have a choice in the market, suggesting that shopping for energy is no different than comparing prices and contracts for cellphones, cable television or car insurance. And Carmody said some savvy consumers are shopping around to save money on their utility bills or to buy cleaner renewable energy.

But the people's counsel said the complaints show the competitive marketplace has mostly hurt consumers. In one of the complaints, the office suggests that a well-functioning competitive marketplace "relies on the ability of buyers to make rational choices about their purchases." When consumers lack information or are misled in sales calls, they "are unable to act rationally." "There is ultimately a real harm that these customers can suffer, in the form of paying more for gas and electricity supply than they should," Carmody said. "We're not seeing residential customers as a whole reaping the benefits of competition."

The people's counsel is raising the allegations six months after the commission's staff flagged consumer complaints about the companies in filings that offered a brief overview of wrongs customers claim they have suffered.

Carmody's office took those complaints and developed detailed cases against the companies, outlining various consumer protection laws and regulations it

says have been violated. The people's counsel complaints are based largely on recordings of sales calls.

In one call from Smart Energy, a salesperson offers six months of "price protection," telling the customer it would not "cost you a thing," and saying no contract was needed. But the people's counsel said that left out that the customer would be paying "well above the customer's utility price" and that "written contracts and signatures are required by law."

In documents filed with the commission, Smart Energy denied most of the allegations. In one case, officials acknowledged a customer sounded "confused" during a sales call and said they agreed to adjust the person's rate and retrain the sales agent. But they denied that the customer hadn't provided consent, and said a signed contract was not required by law under the circumstances of that sale.

"While we do not agree with all of the issues raised in this matter, we will work to resolve them amicably while we continue to focus on delivering a best-in-class customer experience," Smart Energy said in a statement. "We take very seriously the need to comply with all applicable consumer protection rules and regulations."

In other examples, the complaints focus on door-to-door sales, charging that Direct Energy and Maryland Gas and Electric agents failed to identify themselves as salespeople or explain that they were attempting to make a sale, nor did they provide customers with written contract terms, including cancellation forms and rules.

With Direct Energy, that included a cancellation penalty of up to \$200, which the people's counsel called "onerous" and "a means of extorting concessions" from customers.

Direct Energy officials said in a statement they disagree with the allegations and "continue to analyze" filings by the people's counsel and commission staff. "Direct Energy takes all complaints seriously and has worked with each customer that complained to come to a resolution," they said. "Over the next

few months during the hearing process, we will continue to support our business in Maryland and the residents that we supply with electric and natural gas services.”

The complaint against Maryland Gas and Electric also says more than 130 customers have accused the company of identity theft. The people’s counsel said the company used third-party sales agents to obtain utility account numbers, which it said the company then used to fraudulently tell utilities it had signed customers to gas or electric contracts. When customers buy energy from the companies, BGE and other utilities still handle their billing.

Officials with Maryland Gas and Electric parent company Vistra Energy said the company does not comment on ongoing regulatory actions, but added that the allegations took place before Vistra bought Maryland Gas’s previous parent, Crius Energy Trust, in July.

“Vistra and its subsidiaries always strive to do business the right way in fact, it is one of the company’s core values and MDG&E, as it is integrated into Vistra, will do the same,” the statement said.

Hearings on the allegations against Smart Energy and Maryland Gas and Electric have been scheduled for the spring, while a schedule for proceedings involving Direct Energy hasn’t been set.

At the end of the proceedings, the judges overseeing them can issue what is known as a proposed order, which would become a final order of the utility commission if there was no appeal, or unless the commission decided to modify or reverse the judge’s decision.

Commission Chairman Jason Stanek was not available for comment on the cases. Tori Leonard, a spokeswoman for the commissioners, said they are “committed to seeing the competitive energy marketplace grow and thrive, to the benefit of customers who can choose potentially lower rates, renewable energy and other incentives.

"By the same token," she added, "we will remain vigilant and take action when suppliers don't adhere to the protections in place for consumers."

Maryland must crack down on energy suppliers that entice people into bad, pricey contracts

By BALTIMORE SUN EDITORIAL BOARD

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Advocates say that third party utility companies are promising rates cheaper than BGE that turn out to be much more expensive. (Peggy Peattie/San Diego Union-Tribune)

The often aggressive pitches come in the mail or through sales people who canvas neighborhoods, knocking on doors looking for new customers.

Sometimes they call on the phone with their sly spiel. Switch your utility company, they say, and see hefty savings on your gas and electric bill.

Except Maryland's top utility customer advocate says too often these promises are empty. Instead of savings, customers are getting enticed into contracts that end up costing them more. Hefty fees, sometimes as much as \$150, await anyone who tries to get out of these so-called cost saving deals.

[Companies promise Maryland residents free electricity, but lock them into expensive contracts, advocate says »](#)

The Office of People's Counsel filed a series of complaints with the Maryland Public Service Commission, which regulates energy companies, on behalf of citizens who have gotten caught up in such scrupulous practices. It's a good thing because the commission seems to have fallen down on its enforcement duties.

The PSC must do a better job of investigating these companies accused of bad business practices and ban more of those who can't seem to follow the rules and appear determined to prey on unsuspecting customers, many of them

low-income and already struggling to pay their bills. A full investigation should be conducted on whether these companies are targeting the most vulnerable.

[Baltimore Gas and Electric customers would pay \\$8.53 more per month under proposed rate increase »](#)

Sky high utility bills from third party companies are costing Marylanders. Reports last year by the Office of People’s Counsel and the Abell Foundation found that deceptive marketing tactics had landed people with companies that charge them 50 to 75% more than they were paying prior. From 2014 to 2017, Maryland households paid tens of millions of dollars more per year in aggregate to third-party electricity suppliers — or about \$255 million more in all than if they had stayed with their previous company.

Based on the complaints by the people’s counsel, The Public Service Commission delegated concerns about three companies to administrative law judges, who plan to hold hearings next year.

The three companies named in complaints — Smart Energy, Direct Energy and Maryland Gas and Electric — have mostly denied the allegations, and said some laws and regulations are being misconstrued.

This brings us to another point. Perhaps, its time for the General Assembly to call for a study into whether deregulation has had the intended impact of increasing competition, expanding consumer choice and lowering utility prices. Under law passed in 1999, Marylanders still have their power delivered by BGE and other utilities, but can buy energy from BGE or from other private companies that own power plants or buy power from the grid on the wholesale market.

[People's Counsel: no change needed in way utility rate calculated »](#)

If there are loopholes in the law that allow unfair pricing the General Assembly needs to close them.

[The Abell Foundation in its report](#), provided several proposals to better protect consumers from predatory utility companies that we could get behind. For one, it said the PSC should be required to annually collect and report detailed billing data for consumers by zip code. This would help identify how many people are being overcharged. They also suggest that residential customers who want to use third party energy suppliers only be served by some form of aggregated supply that would ensure lower costs. Ohio and Delaware have such programs that guarantee savings to low-income households.

In addition, the Abell Foundation said that contracts with variable rates should not be permitted for residential customers. Consumers should be allowed to terminate third-party energy supply contracts without early termination fees, and utility bills should prominently display how much the consumer saved — or how much more they paid if there were no savings. We say take it a step further and require contracts to show how much or less bills *will* be. Lawmakers should also prohibit these third parties from price gauging.

Advocates also say that some overly aggressive companies won't take no for an answer and will sign up consumers without their permission. Identity theft is illegal, and salespeople who engage in this should be prosecuted for criminal activity.

If these companies aren't doing anything wrong, an investigation will confirm it. But lax enforcement means we don't know the extent of the problem. The PSC needs to do its job and get a handle on companies that may be preying on consumers with fake promises. Quite simply, the PSC needs to pay attention.