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Office of People's Counsel Wins Case With Big Implications For Maryland Retail Energy Market

(April 1, 2021) -- Siding with the Office of People's Counsel, the Maryland Public Service Commission issued an order yesterday finding that retail supplier SmartEnergy Holdings, LLC, engaged in unfair, false, misleading and deceptive marketing, advertising, and trade practices, in violation of State consumer protection laws and Commission regulations. In finding that the supplier violated the Maryland Telephone Solicitation's Act (MTSA), the order also agreed with OPC's appeal and reversed a public utility law judge's proposed opinion that the MTSA did not apply to the supplier's inbound calls from consumers. That MTSA ruling affords energy consumers the consumer protections of the MTSA and sets an important precedent for other suppliers engaged in telephone sales.

“This order means that retail suppliers must think twice before ignoring Maryland laws and regulations in signing up new customers,” said Acting People's Counsel David S. Lapp. “Maryland consumers will get immediate relief from wrongful overcharges, believed to be in excess of \$1 million.”

The order agrees with OPC that alleged contracts SmartEnergy used to sign up customers are invalid and therefore that the customers should receive a refund of the amounts they paid above the default rate they otherwise would have paid their utility. The customers also will be

returned to their utility's default service. The Commission reserved for later OPC's requests for civil penalties and revocation of SmartEnergy's license to operate in Maryland, stating that those sanctions will depend on SmartEnergy's cooperation with the refund requirements. SmartEnergy has been barred from signing up new Maryland customers since December of last year.

“We are pleased with this order and applaud the Commission for taking action to protect Maryland's consumers,” Lapp said. “The Commission should continue to work to protect the market from those retail suppliers that flout Maryland law and ensure that consumers get relief when their rights are violated.”

The Maryland Office of People's Counsel is an independent state agency that represents Maryland's residential consumers of electric, natural gas, telecommunications, private water and certain transportation matters before the Public Service Commission, federal regulatory agencies and the courts.