



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Response to the Louisiana Public Service Commission
Request for Comments on Consumer Protection,
Public Policy and Environmental Issues

Docket No. U -21453

Comment of the Staff of the
Bureau of Consumer Protection of
the Federal Trade Commission⁽¹⁾

September 4, 1998

I. Introduction and Summary

The staff of the Bureau of Consumer Protection of the Federal Trade Commission (FTC) appreciates this opportunity to respond to the Louisiana Public Service Commission's (LPSC's) public notice inviting comments on the consumer protection issues set forth in the LPSC Staff Review and Recommendation (LPSC Staff Review). Louisiana is among a number of states investigating whether regulatory reforms in the electric industry will bring the benefits of competition (lower prices, improved service, and innovation) to its citizens and businesses. These benefits, however, will not be realized without strong consumer policies in place that recognize the unique consumer issues involved in a competitive electric industry.

The FTC is an independent administrative agency responsible for safeguarding the interests of consumers and

A. Billing, Credit and Collection Practices of Electric Service Providers

The LPSC Staff Review recognizes, and the experience from telecommunications deregulation has demonstrated, that consumer protection requires effective "anti-

practice to police and may present the possibility for consumer deception. Both of these concerns were addressed extensively in the staff's recent comment to the Public Utility Commission of Texas.⁽¹³⁾

D. Licensing or Registration of ESPs

As part of regulating ESPs, the LPSC may wish to consider imposing a licensing or registration procedure to further safeguard consumers. Such programs can vary from requiring simple filing of basic information such as company name, address, telephone number, and registered agent information, to imposing fees, bonding requirements, access to books and records, and evidence of financial soundness.⁽¹⁴⁾ A licensing or registration plan also may serve as a vehicle for enforcing standards of conduct imposed on ESPs in the state, including consumer protection standards, through forfeiture or prohibition on sales.⁽¹⁵⁾

E. Consumer Education

Consumer education is a vital consumer protection tool in a new retail market, and for the effective functioning of the electricity marketplace. Consumer surveys indicate that consumers' knowledge is very low about electricity usage, unit cost and fuel sources,⁽¹⁶⁾ as well as about deregulation in general.⁽¹⁷⁾ The FTC has not yet developed consumer education materials specifically for electricity, but has published generally applicable consumer materials, such as information on consumer credit and credit reporting, debt collection practices, and telemarketing. The LPSC may find it helpful, in any consumer education materials it may develop, to draw on or reference some of these general materials. The staff also would be pleased to assist in the development of new materials.

IV. Conclusion

Consumer protection issues in a newly deregulated industry, such as the electricity industry, play an important role in ensuring that consumers realize the full benefits of competition. Accordingly, we recommend that the LPSC consider

Commonwealth of Virginia, Joint Subcommittee Studying Electric Industry Restructuring, SJR-91 (July 9, 1998); the Public Utility Commission of Texas, Project Number 17549 (affiliate transactions) (June 19, 1998); the Maine Department of the Attorney General and Public Utilities Commission, "Interim Report on Market Power in Electricity" (May 29, 1998); the California Public Utilities Commission, Docket Nos. R.94-04-031 and I.94-04-032 (Aug. 23, 1995); and the South Carolina Legislative Audit Council (Feb. 28, 1994).

3. The staff of the Bureau of Consumer Protection raised the same issues in a comment filed previously with the Utah Public Service Commission. This comment can be accessed through the FTC's website < www.ftc.gov/be/advofile.htm > (V980016).

4. "Information Disclosure for Electricity Sales: Consumer Preferences from Focus Groups," Regulatory Assistance Project (March 19, 1997). A copy can be obtained from the Regulatory Assistance Project's website < www.rapmaine.org >.

5. The National Association of Attorneys General (NAAG) adopted a resolution in March 1997 supporting "the establishment of appropriate and adequate consumer safeguards [in] . . . the restructured retail electricity marketplace," including uniform disclosures in plain language of "price, duration of contract, quantities, and other material terms." The National Association of Regulatory Utility Commissioners (NARUC) and the New England Governors' Conference, Inc. also have issued resolutions supporting states' adoption of mandatory, uniform disclosure standards (NARUC in November 1996 and the Governors' Conference on June 3, 1997).

6. The feasibility of requiring disclosure of fuel source may depend on availability of tracking mechanisms through which sources of supply may be substantiated and verified. Likewise, reasonably reliable data for emissions must be available to substantiate any required disclosures. Other questions would be whether fuel source and emissions data would be based on historical or projected information, and the degree of precision required for such data.

7. The California proposal is available on the California Energy Commission's website <www.energy.ca.gov>; the New England proposal is available on The Regulatory Assistance Project's website < www.rapmaine.org/disclose.html >. The FTC staff takes no position on the merits of these proposals; they are referenced for information purposes only.

8. "Label Testing: Results of Mall Intercept Study," National Council on Competition and the Electric Industry (April 1998). A copy of this report can be obtained from the National Council on Competition and the Electric Industry's website <eetd.lbl.gov/nationalcouncil/publications.html>.

9. For ESPs that do not wish to incur the expense of maintaining and substantiating information for the label, the LPSC may wish to allow ESPs to report system average information or to indicate that ESP-specific information is not being supplied.

10. For example, some contract terms may be more suitable for required disclosure in a contract document, whereas in advertising, it may be advisable to require that only the one or two most important terms be disclosed.

11. For example, California, Illinois, and Massachusetts have enacted anti-slamming provisions in their electricity restructuring legislation. See Cal. Pub. Util. Code § 366.5; 815 ILCS § 505/2EE; Mass. Ann. Laws, Ch. 164 § 1F(8)(a).

12. The FTC's Privacy Online Report is available from the FTC's website <www.ftc.gov/privacy/reports.htm>.

13. This comment can be accessed from the FTC's website www.ftc.gov/be/advofile.htm . (V980013)

14. In designing a registration or licensing scheme, the cost and time required for an ESP to become registered or licensed should be reasonably limited, to avoid barriers to market entry and increased prices passed through to