

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

In the interest of full disclosure, certain NRG licensed retail and wholesale entities have been the subject of legal and regulatory proceedings, which are summarized directly below with more detailed explanations following.

- Direct Energy, LP, Bounce Energy, Inc., and First Choice Power, LLC has been the subject of legal and/or regulatory proceedings in Texas.
- Direct Energy Business, LLC has been the subject of a regulatory proceeding with the California Public Utilities Commission and Public Utilities Regulatory Authority in Connecticut.
- Direct Energy Services, LLC has been the subject of legal and/or regulatory proceedings in Connecticut, Maryland, and Michigan.
- Gateway Energy Services Corporation (formerly known as ECONergy Energy Company, Inc.) had been the subject of legal and/or regulatory proceedings in New Jersey.
- Reliant Energy Northeast LLC d/b/a Reliant Energy, NRG Business Solutions, Reliant-NRG, NRG Residential Solutions, NRG Retail Solutions, NRG Home and NRG Business ("NRG") has been the subject of legal and / or regulatory proceedings in Illinois, Ohio, and Pennsylvania.
- Energy Plus Holdings LLC has been the subject of legal and / or regulatory proceedings in Connecticut.
- Reliant Energy Retail Services LLC (RERS) has been the subject of legal and / or regulatory proceedings in Texas.
- XOOM Energy Connecticut, LLC (XOOM) has been the subject of legal and / or regulatory proceedings in Connecticut.
- XOOM Energy Texas, LLC (XOOM) has been the subject of legal and / or regulatory proceedings in Texas.
- NRG Power Marketing LLC ("NRG PML") has been the subject of legal and / or regulatory proceedings in New England wholesale market.
- NRG has been the subject of legal and / or regulatory proceedings with FERC regarding MISO and PJM wholesale markets.

Direct Energy, LP: Texas

In August 2017, Direct Energy, LP agreed to pay an administrative penalty in the amount of \$70,000 under a settlement with Staff of the Public Utility Commission of Texas to resolve allegations of non-compliance with Public Utility Regulatory Act §§ 17.001(a) and 39.101(b)(6), as well as 16 Texas Administrative Code §§ 25.474, relating to selection of a retail electric provider; 25.475, relating to general retail electric provider requirements; 25.481, related to unauthorized charges, and 25.495, relating to unauthorized change of retail electric provider. Commission Staff

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

investigated a series of informal complaints relating to door-to-door sales vendors from January 1, 2014 through February 1, 2016. These complaints included both those received by the Commission's Customer Protection Division as well as by Direct Energy. Direct ceased door-to-door solicitations in Texas on December 1, 2016. Door-to-door sales re-commenced approximately a year later after some process improvements and continue today.

http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/47362_4_951957.PDF

In 2017, Direct Energy, LP received two separate Notices of Investigation from the Public Utility Commission of Texas related to demand response. The first allegation was due to an administrative error in submission of the baseline data for the demand response customer. The second allegation was due to gaps within a demand response customer's usage data that was supplied by the host utility. These separate investigations were combined by commission staff and both were settled with a warning from the Commission.

In 2019, Direct Energy, LP, Bounce Energy, LLC, and First Choice Power, LLC received Notices of Investigation from the Public Utility Commission of Texas (PUCT) related to (1) violations of PURA § 39.101 and 16 Texas Administrative Code (TAC) § 25.474, relating to selection of retail electric provider and § 25.475, relating to general retail electric provider requirements and information disclosures to residential and small commercial customers; and (2) violations of 16 TAC § 25.483, relating to disconnection of service. These separate investigations were combined by commission staff and, collectively, the parties agreed to pay an administrative penalty in the amount of \$250,000 under a settlement with Staff of the PUCT to resolve these allegations. The allegations were due to failure to modify a software system to correctly capture the rule requirements associated with enrollments made at retail locations, a delay in payment acknowledgements, and a policy related to the disconnection of customers after a second nonpayment (or bounced check).

Direct Energy Business, LLC: California (Penalty Assessment – Non-Compliance)

In July 2017, Direct Energy Business, LLC ("DEB") was notified by the Energy Division of the California Public Utilities Commission ("CPUC") that there was a deficiency in DEB's monthly compliance Resource Adequacy load forecast filing for September 2017 by 16.99 MW. The CPUC allowed a seven day extension to procure the required resources; however, we were unable to execute a contract for the deficiency with the only counterparty that had available supply in time to meet the CPUC's deadline. This resulted in the CPUC assessing a penalty of \$6.66/kWm, which equaled to \$113,000.

Direct Energy Business, LLC: Connecticut

PUCT Docket 19-02-13
Date of Resolution: New/Ongoing

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

On February 11, 2019, the Public Utilities Regulatory Authority opened the above-referenced docket to consider whether to issue a declaratory ruling finding that the alleged supplier practice of altering the price of business customers' fixed-price contracts violated the Connecticut Unfair Trade Practices Act (CUTPA). After conducting the investigation, the Authority did not issue such a declaratory ruling but rather, in a letter issued on July 19, 2019, referred the matter to the Department of Consumer Protection and the Attorney General on the grounds that "the Authority has reason to believe that Direct's...increases to business customers' fixed-price contracts may violate state law." The conclusion of this matter has no immediate impacts on Direct Energy. It will be up to the Department of Consumer Protection, the agency with the primary authority to enforce CUTPA, to determine whether further action is warranted. If so, it can seek the assistance of the Attorney General in taking any further action against Direct Energy.

Direct Energy Services, LLC: Connecticut

PUC Docket 13-07-17

Date of Resolution: May 1, 2019

In June 2013, the Connecticut Public Utilities Regulatory Authority ("PURA") opened an investigation into the trade practices of three electric suppliers in the state, which included Direct Energy ("Direct"). The PURA alleged that it had received numerous customer complaints regarding billing, slamming and quality of service against Direct. In October 2013, Direct answered a series of interrogatories issued by the PURA. PURA staff and the Office of Consumer Counsel propounded additional interrogatories in mid-2015, which Direct Energy has answered. After nearly six (6) years of regulatory review, PURA rendered a final decision in this proceeding in which in May 2019 that included a civil penalty of \$1.5 million, a prohibition of new residential sales for six months and a one-year marketing audit oversight process that concludes on November 17, 2020. As an outgrowth of the PURA final decision, Direct Energy has ceased sales via the door-to-door sales channel, instituted additional internal controls and enhanced its sales quality assurance and oversight process with the its Sales Quality Framework. The Sales Quality Framework is an internal audit control that regularly monitors our vendor/subcontractor sales and marketing activities for all applicable sales channels, i.e., web-based, door-to-door, outbound telemarketing, in-bound telemarketing, etc.

Direct Energy Services, LLC: Maryland

On May 15, 2019 Staff of the Maryland Public Service Commission (MDPSC) filed a complaint against Direct Energy Services, LLC (Direct Energy) that they had violated Maryland law. The MDPSC then issued a Letter order on May 17, 2019 requiring Direct Energy to file an answer to the complaint by June 18, 2019 and to appear before a hearing on July 17th. On June 18th, Direct Energy submitted evidence within its answer requesting the complete and immediate dismissal of the Staff complaint. Prior to the July 17th hearing, the MD PSC has delegated this matter to the Public Utility Law Judge Division for a finding of whether a pattern or practice exists as described above and a new docket, Case No. 9614, has been created for this matter. On May 6, 2021, the parties submitted a partial settlement agreement to the PULJ for review and further action in accordance with the settlement agreement. The one remaining issue to be determined is whether Direct Energy violated the Maryland

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

Telephone Solicitations Act. That determination will likely be reached in the next several months.

Direct Energy Services, LLC: Michigan

PUC Case U-18121

Date of Resolution: January 12, 2017

On January 12, 2017, the Michigan Public Service Commission ("MPSC") issued an order relating to a settlement with Direct Energy Services, LLC ("DES"). The terms of the settlement agreement is that DES agrees to: (1) pay a fine of \$35,000 to be paid to the State of Michigan within 30 days of the Commission order approving the agreement; (2) continue a moratorium on door-to-door sales that began on November 1, 2016, that shall continue for 90 days following the date of the order approving this agreement; (3) submit new training materials within 45 days of the order approving this agreement with actual training of DES' Michigan agents to be completed within 90 days; (4) present Michigan Agency for Energy (MAE) Staff by March 31, 2017 with technologies that enhance customer identification and consent, and secure enrollment processes; (5) implement the Whitepages process described in Attachment 1 to the settlement agreement; (6) meet monthly with the MAE Staff for a period of 12 months to discuss progress with compliance with this settlement agreement and any other related matter; (7) develop with MAE Staff a template for processing complaints; and (8) reopen this docket should the MAE State Response Division identify any reoccurrence of the unauthorized switching of any customers by DES salesperson, which may result in fines, permanent moratorium on door-to-door sales and telemarketing, and or potential license revocation.

Gateway Energy Services Corporation: New Jersey

Recently in 2018, Gateway Energy Services Corporation submitted a self-report compliance issue to the New Jersey Board of Public Utilities regarding variable rate pricing for some of its customers. In September 2018 Gateway settled the matter by paying a \$13,500 fine and agreed to additional reporting requirements to the agreed upon customer refunds. Direct Energy subsequently instituted the additional reporting requirements and internal controls.

Reliant Energy Northeast, LLC: Illinois

Subpoena to Reliant Energy Northeast d/b/a NRG Home from the Office of the Attorney General for the State of Illinois (September 2019) relating to NRG Home's sales and marketing practices. To date, the Illinois Attorney General has not filed any complaint against NRG Home.

Reliant Energy Northeast, LLC: Ohio

On December 8, 2020 – Staff of the Public Utility Commission of Ohio filed a Joint Stipulation it entered into with Reliant Energy Northeast LLC d/b/a NRG Business, NRG Home and NRG Retail Solutions ('NRG' or 'Company') to resolve concerns raised by Staff in a Notice of Probable Non-Compliance dated November 27, 2019 ('Notice Letter' or 'Notice'), which largely addressed alleged enrollment violations. NRG was

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

able to demonstrate that its sales performance program and enrollment process are designed to minimize enrollment errors and incentivize compliant sales agent behavior, as reflected in the Company's very low complaint to sales ratio. The Stipulation is not an admission or a finding of liability and represents a reasonable compromise between the parties, including forfeiture of a civil penalty. It was filed with the Commission with a recommendation to approve the settlement as being in the public interest. The Commission issued an order adopting the Joint Stipulation on March 24, 2021, see Case No. 20-1758-GE-UNC.

Reliant Energy Northeast, LLC: Pennsylvania

On September 29, 2020, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement ("I&E") and Reliant Energy Northeast LLC d/b/a Reliant Energy, NRG Business Solutions, Reliant-NRG, NRG Residential Solutions, NRG Retail Solutions, NRG Home and NRG Business ("NRG") filed a Joint Petition for Approval of Settlement to resolve issues related to an informal investigation initiated by I&E. I&E's investigation stemmed from informal complaints received by the Commission's Bureau of Consumer Services from residential customers related to the unauthorized enrollment of their accounts by NRG, several of which were self-reported by NRG to PUC Staff. I&E Staff was satisfied with NRG's sales performance program and was unable to identify any improvements to NRG's sales quality assurance program. Although NRG disputes or disagrees with the allegations levied by I&E, it agrees to the settlement terms as a compromise, including payment of a civil penalty. The PUC issued a Final Order approving the Settlement on March 25, 2021, see Docket No. M-2020-3006647.

Energy Plus Holdings LLC: Connecticut

On September 30, 2020 - the Prosecutorial Division of the Connecticut Public Utilities Regulatory Authority, Office of Education, Outreach, and Enforcement ("Prosecutorial" or "EOE") and Energy Plus Holdings, LLC ("Energy Plus") filed a Settlement Agreement to resolve issues regarding compliance with Conn. Gen. Stat. § 16-245d regarding properly conveying supply summary information to the electric distribution companies for display on customer bills. This Settlement Agreement was approved by the Public Utilities Regulatory Authority on November 4th, 2020 (Docket # 09-01-21). Energy Plus paid a civil penalty of \$282,200 to the State of Connecticut and will refund sixty-nine customers a total of \$5,888.50.

Reliant Energy Retail Services LLC: Texas

On October 12, 2018 Staff of the Public Utility Commission of Texas (the "PUCT") and Reliant Energy Retail Services LLC ("RERS") entered into a Settlement Agreement to resolve and conclude PUCT Staff's investigation of RERS relating to timely issuance of bills and providing bills electronically in accordance with PUCT rules. The Settlement Agreement is filed in PUCT Docket No. 48773 (available at: http://interchange.puc.texas.gov/Documents/48773_1_996113.PDF). The settlement was approved by the PUCT.

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

On July 13, 2020, Staff of the Public Utility Commission of Texas (the "PUCT") and Reliant Energy Retail Services LLC ("RERS") entered into a Settlement Agreement to resolve and conclude PUCT Staff's investigation of RERS relating to maintaining and producing authorization of verification and energizing customers on the agreed approximate start dates in accordance with PUCT rules. The Settlement Agreement is filed in PUCT Docket No. 51045 (available at: http://interchange.puc.texas.gov/Documents/51045_1_1075201.PDF). The settlement was approved by the PUCT.

XOOM Energy Connecticut, LLC: Connecticut

CT PURA, Docket No. 18-12-22. Suppliers in Connecticut are obliged to provide the supply rate for a customer's upcoming bill cycle to the local distribution utility for placement on a customer's bill. Due to widespread technical issues with the implementation of this requirement, the Public Utilities Regulatory Authority authorized suppliers who were found to be incorrectly conveying "next cycle rate" information on customer bills to participate in a voluntary amnesty program to remedy past issues. XOOM Energy elected to participate in this program and reported on its status. PURA thereafter audited certain customer bills and found additional issues. As a result, XOOM revised its amnesty plan and agreed to provide refunds in the amount of \$154,150 to 3,261 customers. PURA accepted the plan and did not impose any civil penalty.

XOOM Energy Texas, LLC: Texas

On October 16, 2019 Staff of the Public Utility Commission of Texas (the "PUCT") and XOOM Energy Texas, LLC ("XOOM") entered into a Settlement Agreement to resolve and conclude PUCT Staff's investigation of XOOM relating selection of a retail electric provider in accordance with PUCT rules. The Settlement Agreement is filed in PUCT Docket No. 50102 (available at: http://interchange.puc.texas.gov/Documents/50102_1_1037759.PDF). The settlement was approved by the PUCT.

NRG Power Marketing LLC: FERC

ISO-NE – On January 8, 2021, the Federal Energy Regulatory Commission ("FERC") approved a settlement agreement that NRG Power Marketing LLC ("NRG PML"), a subsidiary of NRG Energy, Inc., entered into to resolve FERC Enforcement Staff's investigation of offers submitted during the qualification period for the ISO-NE Forward Capacity Auction in 2016. The settlement was approved in a 2-1 vote. The FERC Chairman dissented on the basis that the investigation should have been terminated because NRG PML should not be penalized for reflecting a different expectation from that of the ISO-NE Internal Market Monitor in its forecast of future events submitted for independent review in the tariff-prescribed bid review process. Under the settlement, NRG PML agreed to pay a civil penalty of \$85 thousand and is subject to compliance monitoring.

NRG: FERC

Summary of U.S. and Canadian Legal and/or Regulatory Proceedings

South Central – On August 4, 2016, NRG received a document hold notice from FERC regarding conduct in the MISO and PJM markets. FERC Office of Enforcement Staff investigated potential violations of MISO rules involving bidding for the Big Cajun 2 facility, as well as other aspects of NRG’s operations in MISO. On August 18, 2020, FERC Office of Enforcement presented NRG with its preliminary findings. NRG responded to the preliminary findings on January 15, 2021. FERC has the authority to require disgorgement of profits and to impose penalties and NRG retains any liability following the sale of the South Central portfolio.