



DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

ORDER NO. 76292

IN THE MATTER OF THE BEFORE THE
INVESTIGATION INTO AFFILIATED PUBLIC SERVICE COMMISSION
ACTIVITIES, PROMOTIONAL OF MARYLAND
PRACTICES AND CODES OF CONDUCT
OF REGULATED GAS AND ELECTRIC
COMPANIES. CASE NO. 8820

Before: Glenn F. Ivey, Chairman
Claude M. Ligon, Conunissioner
Susanne Brogan, Commissioner
Catherine I. Riley, Commissioner
J. Joseph Curran, III, Commissioner

Filed: July 1, 2000

prohibit discrimination in the provision of regulated services.

Some parties recommended that the Commission impose strict structural separation between utilities and all affiliates to advance these goals. Other parties suggested that the 8747 standards were sufficient to meet these goals and therefore, no changes were necessary. After analyzing the record in this case, the Commission has chosen a more moderate course than strict structural separation because it recognizes that certain economies of scale and scope can be beneficial to ratepayers. The Commission is aware that it must be vigilant in making sure that utilities and their affiliates do not overstep appropriate boundaries to disadvantage the ratepayers or harm the competitive markets. Furthermore, the Commission is mindful that compliance with the 8747 standards has been uneven at best. Consequently, the Commission has chosen to enhance the standards of conduct and broaden their applicability to non-core affiliate transactions in certain instances.

Standards of Conduct for Utilities in Transactions

With Core Service Affiliates

1. Neither a utility nor its core service affiliate(s) shall represent that any advantage accrues to a customer or others in the use of utility services as a result of that customer or others dealing with the core service affiliate(s). Neither a utility nor its core service affiliate(s) shall represent that their affiliation allows the core service affiliate(s) to provide a service & superior to that available from other suppliers.
2. Joint sales calls may not be initiated either by a utility or its core service affiliate(s) in order to avoid the appearance of favoritism. If a customer requests a joint sales call, joint calls may be conducted. If a customer enters into a contract with a core service affiliate, a joint call relating to that contract may be conducted.
3. Advertising material utilized by a core service affiliate of the utility may identify the core service affiliate's association with the utility. If the core service affiliate identifies its association with the utility, then each advertisement must state that the core service affiliate is "not the same company as the utility" and that the core service affiliate's "prices are not set by the Maryland Public Service Commission." If core service affiliates share the name or logo of the utility, the core service affiliate(s) must state the above disclaimer in any advertising material.
4. Joint promotions, marketing, and advertising between a utility and its core service affiliate(s) are prohibited.
5. A utility and its core service affiliate(s) shall operate from physically separate locations to avoid the inadvertent sharing of information.
6. A utility must not provide sales leads to its core service affiliate(s). It must refrain from speaking for or appearing to speak on behalf of its core service affiliate(s).
7. If a customer requests information from the utility about competitive core services, to the extent the utility responds to the request, it shall provide a list of all similar providers of that core service on its system. It shall not highlight or promote its core service affiliate(s) in any way.
8. A utility must process all requests for service by any provider in the same manner and within the same period of time as it processes requests for service from its core service affiliate(s).
9. A utility must apply all the terms and conditions of its tariff and other tariff provisions related to delivery of energy services in the same manner, without regard to whether the supplier is a core service affiliate.
10. A utility may not condition or tie the provision of regulated utility services to any other product or service.
11. A utility may not give any preference to its core service affiliate(s) or customers of its core service affiliate(s) in providing regulated utility services. The utility shall treat all similarly situated providers and their customers in the same manner as the utility treats the core service affiliate or the core service affiliate's customers.
12. Except upon the informed consent of the customer, a utility may not disclose any customer-specific information obtained in connection with the provision of regulated utility services. This requirement does not apply to the extent a utility makes a disclosure that complies with the Commission's Consumer Protection Orders, Nos. 75949 and 76110.

13. A utility must contemporaneously disclose any information provided to its energy marketing affiliate(s) to all non-affiliated suppliers or potential non-affiliated suppliers on the system with respect to its system, the marketing or sale of energy to customers or potential customers, or the delivery of energy to or on its system. Disclosure of such information must be made by a posting on the general alert screen of the utility's electronic bulletin board.

14. A utility must offer the same discounts, rebates, fee waivers, penalty waivers or other special provisions to all similarly situated non-affiliated suppliers or customers that it may offer its affiliate or customers of its affiliate. The utility must make such contemporaneous offers by making an appropriate posting on the general alert screen of its electronic bulletin board, or by some other appropriate fashion which insures an equal ability and time to utilize such offering.

Standards of Conduct for Utilities in Transactions

With Non-Core Service Affiliates

1. Neither a utility nor its non-core service affiliate(s) shall represent that any advantage accrues to a customer or others in the use of utility services as a result of that customer or others dealing with the non-core service affiliate(s). Neither a utility nor its non-core service affiliate(s) shall represent that their affiliation allows the non core service affiliate(s) to provide a service superior to that available from other suppliers.
2. A utility may not give any preference to its non-core service affiliate(s) or customers of its non-core service affiliate(s) in providing regulated utility services. The utility shall treat all similarly situated providers and their customers in the same manner as the utility treats the non-core service affiliate or the non-core service affiliate's customers.
3. Advertising material utilized by a non-core service affiliate of the utility may identify the non-core service affiliate's association with the utility. If the non-core service affiliate identifies its association with the utility, then each advertisement must state that the non-core service affiliate is "not the same company as the utility." If non-core service affiliates share the name or logo of the utility, the non-core service affiliate(s) must state the above disclaimer in any advertising material.
4. A utility may not condition or tie the provision of regulated utility services to any other product or service.
5. Joint promotions, marketing and advertising between a utility and its non-core service affiliate(s) are prohibited.
6. Except upon the informed consent of the customer, a utility may not disclose any customer-specific information obtained in connection with the provision of regulated utility services. This requirement does not apply to the extent a utility makes a disclosure that complies with the Commission's Consumer Protection Orders, Nos. 75949 and 76110.
7. A utility must offer the same discounts, rebates, fee waivers, or penalty waivers or other special provisions to all similarly situated non-affiliated suppliers or customers that it may offer its affiliate or customers of its non-core service affiliate.

Core and Non-Core Standards No. 1 have been modified to clarify the Commission's policy prohibiting any representation or suggestion that the relationship between a utility and its affiliate allows the affiliate to

provide a service that is superior to competitors. These standards further prohibit any representation or suggestion that an advantage accrues to a customer in the use of utility services as a result of dealing with the affiliate. This broad general non-discrimination provision reflects longstanding Commission policy and legal requirements, particularly § 7-505(b)(3).

Core Standard No. 2 prohibits joint sales calls because the Commission wants to prevent utilities from favoring their affiliates in ways that could be detrimental to the development of competitive markets. Moreover, the modifications to this standard clarify that the Commission will only permit joint sales calls upon the request of a customer. However, it does not prevent joint calls once a contract has been entered into between an affiliate and a customer.

Core and Non-Core Standard No. 3 continues to permit an affiliate to identify its association with a utility in its advertising materials. However, the Commission will now require appropriate disclaimers to protect the public from confusion. This is a modification to our previous standard because the Commission believes it is important that customers clearly understand that they are not dealing with the utility. The core

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