



MICHIGAN

AIR CONDITIONING CONTRACTORS

ASSOCIATION

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March 28, 2019

Attn: Ms. Lacie Latimore
Michigan Public Service Commission
P.O. Box 30221
Lansing, MI 48909

Dear Ms. Latimore:

On behalf of the Michigan Air Conditioning Contractors Association, we would like to thank the Michigan Public Service Commission for accepting comments regarding the discussion on March 11, 2019. We represent a variety of residential and commercial HVACR members and these issues are important to our industry. That being said, we would like to offer our full support and agreement with the comments that MEECA has submitted.

As you know at the Rule Collaborative Meeting, many of the utilities brought up numerous reasons why it would be impractical and or difficult to offer the same information on the same terms and conditions, in the same form and manner, and contemporaneously, to all competitors of that affiliate or other entity within the corporate structure. However when contemplating the different positions and perspectives, please keep in mind the underlying Legislative framework in which made it legal for a regulated utility to choose to offer non-utility VAPS as an option; specifically the MPSC Staff should be mindful of:

A) Section 10ee(1) of 2016 PA 341, MCL 460.10ee(1); which states in relevant part:

Sec. 10ee. (1) The commission shall establish a code of conduct that applies to all utilities. The code of conduct shall include, but is not limited to, measures to prevent cross-subsidization, preferential treatment, and, except as otherwise provided under this section, information sharing, between a utility's regulated electric, steam, or natural gas services and unregulated programs and services, whether those services are provided by the utility or the utility's affiliated entities.

This first section makes it clear that the Code of Conduct is to include measures to prevent cross-subsidization, preferential treatment, and inappropriate information sharing. This section does not qualify or limit the application of this clear intent for the Code of Conduct on data privacy tariffs. In fact while the Michigan Public Service Commission included in Rule 9 of the Code of Conduct a compliance requirement with applicable data privacy tariffs, the term "data

privacy tariffs" is not even used in Section 10ee of 2016 PA 341, being the only enabling statute for VAPS. Therefore compliance with data privacy tariffs cannot be used to thwart or circumvent the letter or intent of the Code of Conduct.

B) Section 10ee(2) of 2016 PA 341, MCL 460.10ee(2); which states:

A utility may offer its customers value-added programs and services if those programs or services do not harm the public interest by unduly restraining trade or competition in an unregulated market.

This second section makes it clear that it is completely optional and voluntary if a utility chooses to offer VAPS. Hence if there is any Code of Conduct issue that is too complicated and or too costly for a utility to comply with, then the utility should choose to not offer the VAPS. Complicated and or costly for the utility and or its VAPS cannot be the justification for not following the letter and intent of Section 10ee(1) of 2016 PA 341 or the Code of Conduct adopted thereunder.

The other perspective that it is respectfully requested that the MPSC Staff be mindful of when trying to decide what is appropriate under Rule 9 of the Code of Conduct is the significant inherent advantage given to the utility when voluntarily choosing to offer VAPS. Section 10ee(3) and (8) of 2016 PA 341 allows the utility use ratepayer paid for assets and to cost share its expenses between the VAPS and the utility; hence the utility may purchase an asset with ratepayer provided funds and then let their VAPS use that asset as needed with only paying for the proportional use thereof. While it may be true that a VAPS competitor can rent a delivery vehicle for a day or week, such a VAPS competitor does not have the flexibility of proportional use allocation of trained personnel and specialized equipment. Not to mention that the VAPS may include the charges for their service on the monthly utility bill and also use the ratepayer paid for utility name and logo.

Therefore it is respectfully requested that the MPSC Staff implement Rule 9 in a manner that has the utility providing immediate notice to the MPSC when information is shared with its VAPS and allow a VAPS competitor to request that same information in a usable standardized format from the utility through a MPSC run website similar to what is currently done with informal utility complaints (located at:

https://www.michigan.gov/mpsc/0,4639,7-159-16368_16415---,00.html). Furthermore because the Michigan Public Service Commission chose not to include the requested public notification provision in the current Code of Conduct for when a utility is going to choose to offer its VAPS in certain zip codes, a VAPS competitor should be able to subscribe to the MPSC website to be notified when information for selectable zip codes are shared by an utility with its VAPS.

We are looking forward to further discussions on this matter and sincerely appreciate the Michigan Public Service Commission's welcoming of feedback.

Best Regards,



M.J. D' Smith
Executive Director