

ORDER NO. 89582

Complaint of the Maryland Office of
People’s Counsel Against SunSea
Energy, LLC

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9647

Issue Date: July 28, 2020

ORDER ESTABLISHING VIRTUAL EVIDENTIARY HEARING

1. On June 4, 2020, the Maryland Office of People’s Counsel (“OPC”) filed a Complaint against SunSea Energy, LLC (“SunSea”), pursuant to *Annotated Code of Maryland*, Public Utilities Article (“PUA”) §§ 2-204(a)(3), 3-102(a), 7-507(k), 7-507(p), and 7-603(a), and Section 20.07.03 of the Code of Maryland Regulations (“COMAR”). The Complaint alleges that on May 14, 2020, SunSea attempted to enroll Deputy People’s Counsel William F. Fields as an electric and gas retail customer through deceptive practices and other means prohibited under the PUA, the Maryland Telephone Solicitations Act, the Maryland Consumer Protection Act, and the Commission's consumer protection regulations contained in COMAR 20.59.07 and 20.53.07.
2. Specifically, the Complaint alleges, among other violations, that SunSea improperly solicited Mr. Fields by claiming falsely to be calling on behalf of a regulated utility; obtained a customer Choice ID number without consent; failed to include the supplier’s Maryland license number; failed to provide a contract prior to customer enrollment; failed to provide a contract summary prior to enrollment; and failed to state

the current requirements of the Renewable Portfolio Standard when making a renewable energy offer. OPC further claims that these types of improper marketing and contracting actions “extend to customers or potential customers other than Mr. Fields.”¹ OPC asks that the Commission issue an order directing SunSea to (i) provide evidence showing just cause as to why its license to provide electricity and electricity supply services should not be suspended or revoked, why the Company should not be precluded from soliciting additional customers, and why SunSea should not be subject to a civil penalty pursuant to PUA §§ 7-507 and 13-201; and (ii) respond to certain questions presented by OPC in its Complaint.²

3. On July 6, 2020, SunSea filed its Answer, where it generally denies the allegations that it committed fraud or engaged in deceptive marketing and enrollment practices. SunSea contends that no cause exists to suspend or revoke its license, to preclude the company from soliciting additional customers, or to impose a civil penalty. Although SunSea acknowledges that its contractor contacted Mr. Fields on May 14, 2020, SunSea contends that the caller was a “rogue agent”—only briefly employed by SunSea—whom the company “immediately terminated” upon learning of the allegations.³ SunSea also states that it has voluntarily ceased enrollment of Maryland customers pending the resolution of this matter.⁴

¹ Complaint at 6.

² *See id.* at 7-9.

³ Answer at 3.

⁴ The Commission accepts SunSea’s commitment to cease enrolling Maryland customers during the pendency of this proceeding.

4. The Commission finds that OPC's Complaint and the accompanying Affidavit of William F. Fields raise important issues of fact about whether SunSea violated applicable laws and Commission regulations with regard to Mr. Fields' allegations, and more broadly, whether SunSea has demonstrated a pattern and practice of violations with regard to other Maryland customers.⁵ Accordingly, the Commission orders (i) that SunSea respond to the questions presented by OPC in its Complaint and file the responses with the Commission within 15 days of this Order; (ii) that the parties may commence discovery in this proceeding regarding SunSea's compliance with applicable laws and regulations; and (iii) that following the Commission's regularly scheduled Administrative Meeting,⁶ which will be held virtually on October 7, 2020, the parties shall appear for a virtual evidentiary hearing⁷ to determine whether SunSea engaged in a pattern and practice of violating applicable Maryland laws and regulations. At that hearing, OPC may present evidence supporting its allegations in the Complaint.⁸ SunSea will also have the opportunity to show just cause as to why its license to provide electricity and electricity supply services should not be suspended or revoked, why it should not be precluded from soliciting additional customers, and why it should not be subject to a civil penalty pursuant to PUA §§ 7-507 and 13-201.

⁵ The FY2020 Complaint Reports maintained by the Commission's Consumer Affairs Division shows that SunSea has accumulated 29 customer complaints since December 2019. *See* <https://www.psc.state.md.us/wp-content/uploads/Retail-Supplier-Complaints-FY2020-January-June-4th-quarter-added.pdf>.

⁶ The Administrative Meeting commences at 10:00AM. Parties should be prepared for the evidentiary hearing to begin within 15 minutes after the conclusion of the Administrative Meeting.

⁷ The Commission will conduct the evidentiary hearing via virtual meeting on Webex.

⁸ As the complainant, the burden of proof rests with OPC to demonstrate that SunSea has engaged in a pattern and practice of violations.

5. In order to accommodate the virtual nature of the evidentiary hearing, all parties to this case are required to prepare and email an exhibit list along with pre-marked copies of any exhibits that they may introduce at the evidentiary hearing to Susan Howard by 12:00 noon on Friday, October 2, 2020, and copy the other parties.⁹ Please direct any questions about this process to Susan Howard at susan.howard@maryland.gov.

6. All parties to the case are also required to provide Susan Howard¹⁰ a list of individuals and any witnesses who will participate in the hearing by 12:00 noon on Friday, October 2, 2020. Otherwise, individuals may watch the livestream of the hearing on the Commission's YouTube channel.¹¹ Any questions about the hearing should be directed to Susan Howard.

IT IS THEREFORE, this 28th day of July, in the year Two Thousand Twenty, by the Commission,

ORDERED: (1) That SunSea respond to the questions presented by OPC in its Complaint and file the responses with the Commission within 15 days of this Order;

(2) That the parties may commence discovery in this proceeding regarding SunSea's compliance with applicable laws and regulations; and

(3) That following the Commission's regularly scheduled Administrative Meeting on October 7, 2020, the parties shall appear for a virtual evidentiary hearing to determine

⁹ Copies of exhibits that have been pre-filed in Case No. 9647 do not need to be e-mailed prior to the evidentiary hearing, but must be included on the party's exhibit list itself.

¹⁰ Participants will receive an email confirming participation and information on a mandatory test run to occur on Friday, October 2, 2020.

¹¹ You may access the Commission's YouTube channel via the "Watch PSC Proceedings" button on the lower left side of the Commission's home page, or via the following link to the YouTube channel: <https://www.youtube.com/c/MarylandPSC>.

whether SunSea engaged in a pattern and practice of violating applicable Maryland laws and regulations.

By Direction of the Commission,

/s/ Andrew S. Johnston

Andrew S. Johnston
Executive Secretary