



Senate Bill 31
Letter of Information

Public Service Commission Administrative Meeting

10:15 AM January 27, 2021
Sixteenth Floor Hearing Room, William Donald Schaefer Tower
6 St. Paul Street, Baltimore, Maryland 21202-6806
(410) 767-8000

Office of People's Counsel versus SunSea LLC Case No. 9647 Status Conference

SUMMARY OF PREVIOUS ACTION

On October 7, 2020, the Commission determined Sunsea Energy, LLC violated provisions of the Public Utilities Article and COMAR. SunSea was required to rerate and refund current and former customers it solicited over the phone for the entirety of customers' received service by SunSea. Refunds consisted of the difference between SunSea's supply charges and the applicable Standard Offer Service rate charged by the local distribution utility.

The Commission ordered SunSea to provide a copy of its standard contract for Maryland customers including a description of rate and all terms of service by October 16, 2020. Further, SunSea was ordered to detail the number and amounts of customer refunds by November 6, 2020.

On December 14, 2020, the Commission ordered the parties submit written testimony by January 20, 2021, and that following the Commission's regularly scheduled Administrative Meeting on January 27, 2021, the parties appear for a Status Conference to determine SunSea's compliance with Commission's directives and consider a civil penalty.

PSC MEETING SUMMARY - JANUARY 27, 2020

Chairman Stanek convened the meeting at 10:15 AM and reiterated that this was a review of compliance activities of SunSea and to determine a penalty amount if appropriate and that today was not an evidentiary hearing.

Katie Nash
301.524.9142/katie@energyadvocacy.com
www.energyadvocacy.com



Peter Woolson, on behalf of PSC staff, summarized staff's position that SunSea has met its obligations under the Commission's orders to date. Nevertheless, **staff recommends a substantial civil penalty and a revocation of SunSea's license (emphasis added).**

David Lapp, for OPC, stated this case is similar to other cases of unlawful practices. Pleas for mercy from SunSea that it was ignorant of the law are no excuse. Retail suppliers need to know the law and be held accountable. No leeway should be given.

Mr. Lapp further stated SunSea offers a "rogue vendor" defense, which is not acceptable as "rogue vendor" arguments enable infinite regulatory whack-a-mole. Strong deterrence is needed to discourage anti-consumer behavior.

Patrick O'Laughlin, on behalf of the OPC, stated that SunSea refunded 1,200 customers. 334 of those refund checks have been cashed. The total refund constituted roughly \$66,000. OPC was not able to cross check each refund, but a review showed a possible short-change of customers in refunds and some discrepancies. An outside audit should be conducted as a precedent that these matters are taken seriously and the Commission expects strict compliance. A \$2.5 million penalty is recommended.

Kevin Mosier, witness for OPC, was sworn in.

James McGee, representing SunSea LLC, summarized that SunSea has complied with Commission orders and that no further penalty is required. SunSea voluntarily ceased enrolling new customers in May. SunSea will not enroll any new telephone customers, which directly addresses the previous violations, and guards against "whack-a-mole" concerns stated by OPC. Refund checks and accounting of refunds were submitted to the Commission. SunSea is willing to file quarterly reports with the Commission with updates about cashed refund checks.

Jacob Adigwe, SunSea President, was sworn in.

Kevin Mosier, witness for OPC, summarized allegations that SunSea rates were not competitive and that advertised rates were deceptive.

Chairman Stanek addressed Jacob Adigwe, SunSea President, and inquired about remaining SunSea Maryland customers, personnel changes at SunSea following the complaint, changes of company address, OPC's concerns related to customer refund amounts, and SunSea marketing practices, rewards programs, and energy products.



Mr. Adigwe, SunSea President, stated no new Maryland customers have been enrolled since May, 2020, that 1,000 customers enrolled via telephone are no longer SunSea customers, and that SunSea has no remaining Maryland customers. Mr. Adigwe noted SunSea employee responsibility for compliance failures and stated several were let go as a result. Mr. Adigwe described the manual rerate recalculation that resulted in 1,200 customer refund checks and customer notices, described the multiple forms of evidence of customer refunds submitted to the Commission, detailed specific personnel involved in these processes, addressed marketing and rewards questions, and described SunSea's desire to continue operating in Maryland with a clean slate and in full compliance with state rules and regulations.

Commissioner O'Donnell inquired about SunSea's business model and marketing material moving forward, SunSea's first Maryland customers, refund rates to customers, thoughts on an independent audit, and why 300 SunSea customers were returned to SOS.

Mr. Adigwe stated future marketing is still under development and would be submitted to the Commission. Mr. Adigwe stated SunSea Maryland customers date back to September 2019, he would have no problem with an independent audit, and that returning customers to SOS was an internal decision out of a desire to start over in Maryland with a clean slate.

Commissioner Herman inquired about SunSea customers returned to SOS.

Mr. Adigwe replied that reverting customers to SOS was conducted in November 2020, that customers were notified of the change via phone, and that some could not be reached.

Commissioner Richard inquired about staff's allegations of deceptive rates and whether SunSea believes it was being competitive with other suppliers.

Mr. Adigwe replied that he does not track competitors' rates.

Commissioner Linton inquired with OPC about the differences in recommended civil penalties.

Kevin Mosier, witness for OPC, stated that the civil penalty number was based on the number and severity of the violations and attempt to follow Commission precedent, and that he would not object to a higher penalty amount.

Patrick O'Laughlin, on behalf of the OPC, stated that staff recommendation is too low. Based on violation calculations, there were some 1,400 different violation days, another 1,000 violations for



telephonically solicited customers, and failure to provide contract summaries following enrollment. \$1,000 per violation was justifiable, totalling over \$2 million.

Chairman Stanek summarized concerns about accuracy of customer refunds, that a correct total refund amount would be closer to \$300,000. He was pleased that SunSea would not object to an independent audit. Because it's unclear whether SunSea has complied with all directives, Chairman Stanek moved that an independent audit be conducted.

Patrick O'Laughlin, on behalf of the OPC, requested the audit include all solicitation contracts going back to the beginning of SunSea's operations in Maryland.

Chairman Stanek agreed and stated the independent audit be conducted by a Maryland based firm identified by February 16 and that the audit report be filed by April 1, 2021 barring an extension request by the parties. During that time, SunSea would continue to be barred from soliciting or marketing Maryland customers.

Chairman Stanek formally moved that the Commission order SunSea LLC at its own expense work with OPC and Commission staff counsel to identify a Maryland based independent auditor to conduct a full report on SunSea's compliance with the refund directive ordered by the Commission on October 7, 2020, to determine the accuracy of the refunds directed to customers by the Commission; additionally, the scope of the audit will include the review of all contracts executed by SunSea customers in the State of Maryland since SunSea Energy LLC was licensed to do business supplying electric and natural gas services to ensure full compliance with state law and regulations.

The motion was approved unanimously.

James McGee, representing SunSea LLC, inquired about the two components of the motion and whether this may require two separate firms with different specialities.

Chairman Stanek replied two firms could be hired if needed, but that a single firm would likely be able to do both. Chairman Stanek then stated he did not believe a decision regarding penalties should not be made until the audit was concluded.

The meeting was adjourned.