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## Staff Report of Investigation

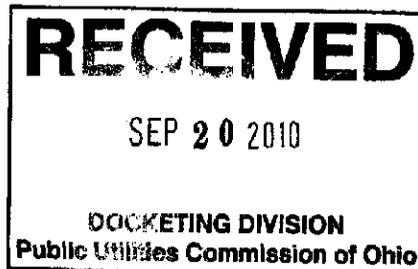
In the Matter of the Application of Commerce )  
Energy, Inc. d/b/a Just Energy for Certification )  
as a Competitive Retail Natural Gas Provider. )  
)

Case No. 02-1828-GA-CRS

### A Report by the Staff of the Public Utilities Commission of Ohio

### Investigation of Just Energy's Compliance with the Minimum Service Requirements for Competitive Retail Natural Gas Service Suppliers

September 20, 2010



**Ohio** | **Public Utilities  
Commission**

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## Summary

In February of 2010, following Columbia Gas of Ohio's (CGO) transition to a Standard Service Offer (SSO) rate, staff noted an increasing number of inquires and complaints to the Commission's call center (call center) from consumers alleging that competitive retail natural gas service (CRNGS) suppliers were attempting to enroll them with questionable marketing practices in possible violation of Rule 4901:1-29-05, Ohio Administrative Code (O.A.C.), pertaining to marketing and solicitation.

In a March 8, 2010 e-mail sent to all CRNGS marketers, Commission staff (staff) put them on notice that any marketing tactics that could imply that CGO was no longer in the distribution gas business or that the consumer's failure to select a marketer could mean loss of gas service, would be a potential violation of O.A.C. 4901:1-29-05 (C) relating to unfair, misleading, deceptive, or unconscionable acts or practices.

Despite the March 8, 2010 e-mail, staff noticed an increasing number of consumer contacts to the call center complaining of statements and behaviors employed by CRNGS representatives and/or agents conducting door-to-door solicitation, that were both misleading and deceptive, as well as, potentially in violation of Commission rules.

In response to ongoing consumer inquires and complaints to the call center regarding these questionable marketing practices, staff issued a second email to all CRNGS suppliers on March 24, 2010, again putting them on notice that questionable marketing practices could be a violation of Commission rules and strongly suggesting that they review their marketing materials and sales scripts.

During this same time period staff noted an increasing number of consumer calls regarding one CRNGS suppliers, Just Energy (JE), which alleged questionable door-to-door marketing tactics. Staff began an internal review of JE consumer contacts to the call center, which revealed a pattern of misleading information being provided to consumers from JE solicitors, including the following: misrepresenting themselves as employees of other suppliers; misrepresenting themselves as representatives of the local utility; and misrepresenting themselves as representatives from the Public Utilities Commission of Ohio (PUCO).

Staff discussed the reported deceptive and misleading behavior on the part of JE's solicitors during a conference call with JE on March 31, 2010. At that time, staff advised JE representatives that these practices were in probable violation of the Minimum Service Requirements for CRNGS suppliers<sup>1</sup>.

Despite JE's assurances that this behavior would be dealt with, consumer complaints continued with a significant rise in the number of calls in April alleging misleading and deceptive practices by JE's solicitors. On April 20, 2010, staff issued JE a Letter of Probable Non-Compliance (PNC), identifying five actions the company needed to

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<sup>1</sup> Chapter 4901:1-29, O.A.C.

address related to marketing and soliciting. In response to the PNC letter, Staff met with JE representatives on April 28, 2010 to discuss the company's response. JE supplied staff with the materials requested in the letter, and staff agreed to send consumer contacts containing questionable behavior to JE on a weekly basis. It was also agreed that staff and JE would establish a monthly conference call to discuss consumer contact issues.

JE representatives met with staff on June 21, 2010, and denied staff claims of rule non-compliance, countering that the number of complaints received by the call center were statistically minor compared to the size of its Ohio customer base.

The month following the June meeting showed little decrease in the number of consumer contacts alleging marketing abuse to the call center. JE's primary, if not exclusive method for selling natural gas contracts in Ohio is through direct door-to-door sales. Staff believes that a significant cause of on-going complaints of misrepresentation and deceptive marketing tactics on the part of JE solicitors relates to their compensation being primarily commission-based and the apparent lack of in-state supervisory oversight.

Though JE solicitors obtain some training before engaging in direct sales, their compensation is based upon the sale of natural gas contracts and there appears to be little in-state oversight to ensure compliance with the Minimum Service Requirements for CRNGS suppliers or even the company's own compliance matrix.<sup>2</sup> In addition to questionable marketing practices, staff investigation identified a number of areas that "JE's Natural Gas Fixed Price Program (Customer Agreement)" is out of compliance with Rule 4901:1-29, O.A.C.

## **II. Background**

JE is a certified competitive retail natural gas supplier<sup>3</sup> currently operating in the Columbia Gas of Ohio (CGO) and Dominion East Ohio (DEO) service territories serving residential, small commercial, large commercial and industrial customers. On January 8, 2009, pursuant to Rule 4901:1-27-10, O.A.C., Commerce Energy, Inc. (d/b/a Commerce Energy of Ohio) notified the Commission of a material change in ownership. Effective December 11, 2008, Commerce Energy was acquired by Commerce Gas and Electric Corporation, a wholly owned subsidiary of Universal Energy Group Ltd. On July 2, 2009, the Universal Energy Group, Ltd. was acquired by the Just Energy Income Fund, resulting in Commerce Energy of Ohio d/b/a Just Energy (JE) Ohio.

JE markets retail natural gas through direct sales, and its solicitors are compensated through sales commissions and incentives based upon a series of factors including accuracy of consumer enrollment information and customer retention. All sales are

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<sup>2</sup> JE independent contractor Compliance Matrix Ohio Market (Appendix A).

<sup>3</sup> See Case Number 02-1828-GA-CRS CRNGS Certificate Number 02-023(4) effective September 17, 2008 through September 17, 2010.

telephone-verified by company representatives and each customer telephone interaction is electronically recorded.<sup>4</sup>

As delineated above, in February of 2010, staff learned of an increasing number of inquiries and complaints to the call center from consumers alleging that CRNGS solicitors were attempting to enroll CGO customers with questionable marketing practices in possible violation Rule 4901:1-29-05 Marketing and solicitation, O.A.C. Staff issued two e-mails to all CRNGS solicitors (March 8, 2010 and March 24, 2010), indicating that their practices may violate Commission rules and suggested that they review their marketing materials and sales scripts.

Notwithstanding the two email notices, staff noted an ongoing pattern of consumer complaints against CRNGS solicitors JE in apparent violation of Rule 4901:1-29-05, O.A.C., pertaining to marketing and solicitation and Rule 4901:1-29-06, O.A.C., customer enrollment. On April 20, 2010, staff issued JE a PNC letter stating that since the beginning of 2010, the call center had received 25 consumer contacts specifically alleging misleading, deceptive, and unconscionable marketing practices by JE solicitors<sup>5</sup> and citing JE for violation of Rule 4901:1-29-05, O.A.C. Upon request, JE provided staff with its "independent contractor" training materials on April 27, 2010.

Staff reviewed the training materials and "independent contractors" scripts, and determined that JE solicitors' performance in the field was often in conflict with their own training materials and out of compliance with commission rules. On April 28, 2010 staff met with JE representatives and advised them that consumer call center contacts concerning JE would continue to be monitored for a period of ninety days.

To assist the company in its efforts to comply with the Minimum Service Requirements for CRNGS suppliers, staff sent JE the most egregious consumer contacts weekly and set up a monthly conference call to review them with company representatives. In response to specific allegations of misrepresentation and deception, JE representatives asserted they were unable to identify the specific door-to-door solicitor because they were unable to pinpoint the location solicited when the information was forwarded weekly. Overall, staff felt the company's efforts to require their solicitors to comply with the Minimum Service Requirements were ineffective, and the company was advised that an investigation may be commenced in order to achieve compliance specifically with the rules against deceptive and unfair sales practices.

After being advised that an investigation may be ordered, JE and its counsel met with staff on June 21, 2010. Company representatives assured staff that they took allegations of deceptive and unfair sales practices by their "independent sales contactors" seriously<sup>6</sup> and attempted to refute claims of non-compliance with commission rules, claiming that the complaints against them were statistically minor

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<sup>4</sup> Just Energy 2009 Annual Report pg. 44 (Appendix B).

<sup>5</sup> Note: The total number of consumer contacts from January to April concerning JE was 214.

<sup>6</sup> Effective March 15, 2010 JE required its independent sales contractors to sign a "distributor certification document" (Appendix C).

compared to their overall customer base. The company further lamented its past violations in other states had "followed" them everywhere they operated.<sup>7</sup> Staff agreed to continue to send the most flagrant call center contact information to JE daily. As staff continued to monitor the daily customer contacts, a steady and consistent pattern of behavior emerged that demonstrated JE's continued failure to comply with the Minimum Service Requirements for CRNGs suppliers, despite the numerous efforts of staff to assist the company.

### **III. Staff Investigation and Findings**

JE considers its solicitors as "independent contractors" selling commodity natural gas on 100% commission. Though JE solicitors receive some training, there appears to be little or no instate oversight of these solicitors who are paid exclusively through the sale of JE's "Natural Gas Fixed Price Program (Customer Agreement)". JE trains its solicitors over a two day period, and in addition to the training materials provided to staff, JE provided a compliance matrix outlining penalties for solicitors who do not adhere to the company's code of ethics.

Despite the existence of the JE's compliance matrix, there appears to be little if any routine instate supervisory oversight related to its enforcement. In fact, enforcement of the compliance matrix appears mainly dependent upon customer complaints to the company. One consumer stated that after agreeing to sign up with JE, that the JE solicitor actually placed the call to the third party verification (TPV) service for them, remained on-site while the customer verified the sale and told the consumer what to say during the TPV call. This scenario is coercive and in no way complies with the requirements of Rule 4901:1-29-06(6)(b), O.A.C., which requires verification of a door-to-door sale by an independent third party verifier.

Additionally, the JE "Natural Gas Fixed Price Program (Customer Agreement)"<sup>8</sup> contains statements that are not in compliance with Minimum Gas Service Requirements for CRNGS. Specifically, statements such as paragraph #14 which state that JE can "require you to submit to final binding arbitration under the American Arbitration Association rules." This statement is in conflict with Rule 4901:1-29-08(B)(4), O.A.C., that states "(i)f a customer disputes the retail gas supplier's or governmental aggregator's (and/or its agents), report, the retail natural gas supplier or governmental aggregator shall inform the customer that the staff is available to mediate complaints(.)"

Likewise paragraph #21 of the "Natural Gas Fixed Program (Customer Agreement)" states that "(t)he contents of Just Energy's marketing materials do not form part of the

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<sup>7</sup>Just Energy Income Fund 2009 Annual Report pg.49: May 12, 2009 Just Energy Illinois signed a settlement agreement with the Illinois Attorney General requiring Je to comply with several consume safeguards and pay up to \$1.0 million to a limited number of customers in settlement of claims. New York Attorney General Case No. AOD #08-84: June 25, 2008 New York Energy Savings Corp., d/b/a U.S. Energy Savings signed an Assurance of Discontinuance with the New York Attorney General including waiving over \$100,000 in termination fees and paying 4100,000 in penalties and costs. U.S. Energy savings now does business as JE (Appendix D).

<sup>8</sup> JE Natural Gas Fixed Price Program (Customer Agreement)(Appendix E).

agreement and were not relied on by you(.)." This statement is in conflict with Rule 4901:1-29-05(A), O.A.C., which states "(e)ach retail natural gas supplier and governmental aggregator that offers competitive retail natural gas service to customers shall provide, in marketing materials that include or accompany a service contract, sufficient information for customers to make informed cost comparisons(.)"

Finally Rule 4901:1-29-06 (6)(a), O.A.C., requires CRNGS suppliers engaged in door-to-door sales of residential customers to provide an "acknowledgement form" to the customer that asks specific questions about the sale including:

- Did the representative state he/she was representing [retail natural gas supplier or governmental aggregator] and was not from the natural gas company;
- Did the representative explain that by signing the enrollment form you were entering into an agreement/contract for [retail natural gas supplier or governmental aggregator] to supply you natural gas?
- Did the representative explain the price for natural gas under the contract you signed is \$\_\_\_\_\_ per [ccf or mcf, which ever is consistent with the incumbent natural gas company's billing format] plus sales tax?
- Did the representative orally explain you right to cancel?
- Did the representative leave two completed right to cancel notices with you?

JE's "Natural Gas Fixed Price Program (Customer Agreement)" contains a section entitled "Essential Agreement Information" buried within the document that is not a separate acknowledgement form and does not comply with the requirements of Rule 4901:1-29-06 (6)(a), O.A.C.

### **Deceptive Sales Practices**

Section(C) of Rule 4901:1-29-05, O.A.C, entitled "Marketing and solicitation" states that:

No retail natural gas supplier or governmental aggregator may engage in marketing, solicitation, sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a competitive retail natural gas service.

Staff investigated complaints relating to JE by compiling records of the consumer contacts. During a review of 169 consumer contacts from March 1 through July 21, 2010, staff identified 70 contacts in which consumer provided specific, detailed information claiming some form of deceptive, misleading, or unconscionable practice by JE's door-to-door solicitors, in order to obtain them as customers. These claims fall into three broad categories:

- (1) **Deception/misrepresentation of company identification:** the Consumer contacts to the call center alleged that a JE solicitor claimed that he or she was either another gas marketer or affiliated with another gas marketer, was with the PUCO, or with a government agency such as a city.
- (2) **Misleading information:** Consumer contacts to the call center alleged that a JE solicitor promised discounts, prices that the consumer never received, and/or savings. JE solicitors allegedly told customers that other gas marketers' rates were going to increase. JE solicitors also allegedly asked consumers to sign the JE solicitors' clipboard to "verify" that the consumer wanted to remain with their current gas company or to "show my boss that I met my quota of doors knocked on."
- (3) **Unconscionable practice:** Consumer contacts to the call center indicated that JE representatives were aggressive and deceptive in their attempts to enroll consumers, including elderly consumers and consumers that spoke little English, which they had to sign up instantly or lose their gas service. There also were allegations of fraud in which a JE solicitor signed the consumer's name to the company's paperwork.

Of the 70 call center contacts in which consumers reported some form of deception/misrepresentation of identity, misleading information, or unconscionable marketing practice, the calls can be categorized as follows:

Deception/misrepresentation of company identification	15
Misleading information	34
Unconscionable practice	21

**(1) Deception/misrepresentation of company identification**

Staff's investigation into the numerous consumer complaints supports the position that JE's solicitors engaged in a pattern of deceptive marketing by claiming to be affiliated with the local gas distribution company or a government agency.

This pattern is illustrated by the following examples:

- A consumer reported that a JE solicitor claimed that they are working for DEO and were checking with consumers to see if they were "getting the best price available".<sup>9</sup>
- A consumer reported that a JE solicitor told a potential customer he was with the gas company and asked to see his bill. The representative had in his

<sup>9</sup> Call Center complaint # EHEL03301003 (Appendix F).

possession a clipboard of DEO papers. When the customer asked if he was with DEO, the representative said yes.<sup>10</sup>

- A consumer reported she mistakenly signed up with JE after the solicitor told the consumer he was from CGO and that the consumer would be locked in to the rate offered for 5 years except for an increase due to the BP spill.<sup>11</sup>
- A consumer reported that the JE solicitor claimed he was "government" and wanted to make sure that DEO was not over charging. When the customer stated that she was not interested the solicitor refused to leave and insisted on seeing her gas bill.<sup>12</sup>

## **(2) Misleading information**

Staff's investigation into the numerous consumer complaints supports the position that JE's door-to-door solicitors have engaged in a consistent pattern of inducing consumers into contracting with JE by providing misleading information, such as statements that the distribution gas company prices will increase, offering upgrades, stating different gas rates at different times or promising savings. However, JE's customer agreement specifically states "does not guarantee financial savings." This pattern is demonstrated by the following examples:

- A consumer reported that a JE solicitor told him that rates with CGO were going to sky rocket and that he needed to switch.<sup>13</sup>
- A consumer reported that a JE solicitor told a consumer that DEO prices were going up \$4.00 a month and to keep from going over \$10.50 the solicitor needed the consumer's account number.<sup>14</sup>
- A consumer reported that the JE solicitor gave her a different rate than what was stated in the TPV.<sup>15</sup>
- A consumer reported that the JE solicitor stated he was with the gas company and was there to save him money.<sup>16</sup>
- A consumer reported that the JE solicitor stated that the company is a natural gas supplier and by switching to the company he represents the consumer could save money on his gas bill every month.<sup>17</sup>

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<sup>10</sup> Call Center complaint # KCAL042810HR (Appendix F).

<sup>11</sup> Call Center complaint # JHEN0629109M (Appendix F).

<sup>12</sup> Call Center complaint # PCUM070610LG (Appendix F).

<sup>13</sup> Call Center complaint # PBOC032210BD (Appendix F).

<sup>14</sup> Call Center complaint # JLIT040210BE (Appendix F).

<sup>15</sup> Call Center complaint # TJUN040810MS (Appendix F).

<sup>16</sup> Call Center complaint # DDRE051410AT (Appendix F).

<sup>17</sup> Call Center complaint # SGEO031110DS (Appendix F).

These examples clearly demonstrate a consistent pattern of behavior intended to induce consumers into signing contracts with JE by providing them with misleading information regarding the state of their existing natural gas utility services.

**(3) Unconscionable Practice**

Staff's investigation into the consumer complaints to the call center demonstrates a disturbing trend of unconscionable practices by JE door-to-door solicitors. These practices include a consistent pattern of intimidating, aggressive sales tactics toward consumers, including senior citizens and consumers that speak little English, as well as allegations of solicitors signing the consumers' names to company paperwork without consent.

This pattern is illustrated by the following examples:

- A consumer reported that the JE solicitor used too high pressure tactics and told the consumer that she had to sign up right then or she would lose her gas.<sup>18</sup>
- A consumer reported that her trailer park has signage that states no solicitation and that JE solicitors are badgering residents, most of which are senior citizens, to sign a five year contract.<sup>19</sup>
- A consumer reported that the solicitor was fast talking and used high pressure sales tactic and making themselves appear to be from CGO.<sup>20</sup>
- A consumer reported that a JE solicitor became pushy and insulting after he told the solicitor that they were satisfied with their supplier.<sup>21</sup>
- A consumer reported that JE solicitor insisted upon coming inside his home to look at his bill.<sup>22</sup>
- A consumer's daughter reported that the JE solicitor looked through her elderly mother's documents, talked her into cancelling her PIPP account and signed her name to a JE contract.<sup>23</sup>
- A consumer reported that the JE solicitor was forceful, demanding, and intimidating.<sup>24</sup>

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<sup>18</sup> Call Center complaint # BJAC030410C1 (Appendix F).

<sup>19</sup> Call Center complaint # PTAY030910CV (Appendix F).

<sup>20</sup> Call Center complaint # BRHO0310106D(Appendix F).

<sup>21</sup> Call Center complaint # SBAI04141060(Appendix F).

<sup>22</sup> Call Center complaint # DCOO061510RH(Appendix F).

<sup>23</sup> Call Center complaint # PZIE0621108Z(Appendix F).

<sup>24</sup> Call Center complaint # BSCA071410FU (Appendix F).

- A consumer reported she was intimidated by the JE solicitor who was very pushy and intimidating.<sup>25</sup>
- A customer reported the JE solicitor was rude, started yelling and chastising her for not wanting to save money on her bill and would not take "no" for an answer.<sup>26</sup>
- A consumer with limited English speaking ability reported that the JE solicitor advised that the only way she could remain with CGO was to sign his letter and include her account number.<sup>27</sup>

These examples clearly demonstrate that JE's solicitors are engaging in coercive sales tactics in order to intimidate or frighten customers into contracting with JE for services. The above consumer reports demonstrate a pattern of deceptive inducement to contract on the part of the representatives of JE.

From an analysis of these contacts, staff found numerous violations of Rule 4901:1-29-05, O.A.C. In addition, after review of JE's marketing and training materials, we found violations of Rule 4901:1-29:06, O.A.C., pertaining to customer enrollment.

Having recently reviewed the details of the consumer contacts received since the issuance of the PNC letter, staff continues to receive reports of the same misleading, deceptive, and unconscionable practices that led to the issuance of the letter. This pattern of behavior continues despite an ongoing effort by staff to work with JE through monthly conference calls to review the customer contacts received by the call center. Though initially staff sent the company the details of consumer contacts that alleged misleading and deceptive practices and behavior on a weekly basis, with little change in nature of the complaints, staff started sending such details to JE on a daily basis beginning June 22, 2010.

In the three months since the issuance of the PNC letter, complaints received by the call center regarding JE continued to be one of the highest received, if not the highest, for all CRNGS suppliers in Ohio.

#### **IV. Recommendations**

After investigating numerous consumer allegations that JE's solicitors were providing misleading information, misrepresenting their identity, and engaging in the unauthorized switching of a customer's natural gas service ("Slamming"), staff has found several apparent violations of the marketing and solicitation provisions of the Commission's Minimum Standards for CRNGS. These violations represent a consistent pattern of

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<sup>25</sup> Call Center complaint # NACK071510R6 (Appendix F).

<sup>26</sup> Call Center complaint # TMCC0720103T (Appendix F).

<sup>27</sup> Call Center complaint # NSIK041210TG (Appendix F).

behavior by the solicitors of JE that involve a substantial and ongoing harm to Ohio consumers.

Since the issuance of the PNC letter, while JE's call rate has dropped slightly, the number of consumer contacts for JE continues to be high. The above consumer reports demonstrate a pattern of deceptive sales practices by JE, which are fostered by non-compliant sales policies and a lack of supervisory oversight of the JE solicitors.

As a result of staff's findings and the ongoing potential harm to consumers, staff respectfully recommends that the Commission do the following:

- (1) Immediately suspend under Rule 4901:1-27-12(C), O.A.C., JE's operating certificate, specifically all advertising, offers, or contracts to provide any new competitive retail natural gas service to existing customers or potential customers during the suspension unless the Commission orders otherwise. or in the alternative, order JE to appear before the Commission to "show cause" as to why the Commission should not suspend JE's advertising, offers, or contracts to provide any existing or potential customers competitive retail natural gas service during the suspension or until such time as the Commission sees fit.
- (2) Order JE to appear before the Commission to "show cause" as to why the Commission should not permanently rescind its certificate to operate in Ohio under Rule 4901:1-27-12 (E), O.A.C.
- (3) Order JE to comply with the requirements of Rules 4901:1-29-05, Marketing and Solicitation and 4901:1-29-06 Customer Enrollment, O.A.C., and work with staff to initiate an in state quality control program for all JE solicitors which included in state supervision and oversight.
- (4) Order JE to comply with the requirements of Rule 4901:1-29-06 (D) (6) (a), O.A.C., and utilize a separate customer acknowledgement form that is not part of the "Natural Gas Fixed Price Program (Customer Agreement)" when engaged in direct door-to-door solicitation.
- (5) Order JE to comply with Rule 4901:1-29-08(B)(4), O.A.C., which states that "(i)f a customer disputes the retail gas supplier's or governmental aggregator's (and/or its agents), report, the retail natural gas supplier or governmental aggregator shall inform the customer that the staff is available to mediate complaints(.)" and order JE to remove language in paragraph #14 of the "Natural Gas Fixed Program (Customer Agreement)" stating that JE can require customers to submit to final binding arbitration under the American Arbitration Association rules.

- (6) Order JE to comply with Rule 4901:1-29-05(A), O.A.C., which states that "(e) ach retail natural gas supplier and governmental aggregator that offers competitive retail natural gas service to customers shall provide in marketing materials that include or accompany a service contract, sufficient information for customers to make informed cost comparisons," and remove language in paragraph #21 of the "Natural Gas Fixed Program (Customer Agreement)" that states that "(t) he contents of Just Energy's marketing materials do not form part of the agreement and were not relied on by you."
- (7) Order JE to comply with the requirements of Rule 4901:1-29-06(b), O.A.C., and initiate an independent third party verification process not otherwise affiliated with JE, for 100% of all customers enrolled by door-to-door solicitation for the next twelve months. The verification process may not occur with the potential customer while in the presence of a JE solicitor.
- (8) Order JE to work with the staff to send a letter/post card to all current customers who signed a "Natural Gas Fixed Price Program (Customer Agreement)" from April 1, 2010 to the present through JE's door-to-door marketing solicitors. The letter/post card must provide the customer an opportunity to opt out of the above customer agreement without any early termination fee.
- (9) Order JE to pay forfeitures in compliance with Rule 4901:1-34-06(E) (2), O.A.C., or in an amount to be determined by the Commission.

# **Appendix A**

## Compliance Matrix Ohio Market

The compliance database incorporates all logged feedback (e.g., allegations of misrepresentation, pressure tactic as well as positive feedback) and all investigative notes and responses related to logged feedback.

Classification	Description	Penalty	Fine
Disputed Signature, Falsified Contracts or Fraud	Customer states they did not sign an agreement and investigation determines it is valid	Terminate	\$500
IC Cell Phone Use	Contractor utilizes his/her cell phone to conduct the verification call	Terminate	\$125
Misrepresentation - Nature/Purpose	Customer states the contractor failed to clearly explain the nature/purpose of the visit	1 <sup>st</sup> - \$50, warning letter 2 <sup>nd</sup> - \$75, warning letter 3 <sup>rd</sup> - \$100, warning letter 4 <sup>th</sup> - Termination	1 <sup>st</sup> - \$50 2 <sup>nd</sup> - \$75 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
Misrepresentation - Price	Customer states the contractor failed to clearly and/or accurately explain the price/unit as set out in the agreement		
Misrepresentation - Identity	Customer states the contractor failed to identify and introduce him/herself as an independent Contractor working on the behalf of JE		
Misrepresentation - Utility Affiliate	Customer states the contractor failed to state that s/he is not affiliated with the named local utility		
Misrepresentation - Term	Customer states the contractor failed to state the term/length of the program as set out in the agreement		
Misrepresentation - Savings	Customer states the contractor guaranteed or promised a consumer immediate savings		
Language Barrier	Customer states they were unable to fully comprehend the agreement in which they entered due to a language barrier	1 <sup>st</sup> - \$50, warning letter 2 <sup>nd</sup> - \$75, warning letter 3 <sup>rd</sup> - \$100, warning letter 4 <sup>th</sup> - Termination	1 <sup>st</sup> - \$50 2 <sup>nd</sup> - \$75 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
FPRC Coaching	Contractor is heard coaching the customer through the verification process	1 <sup>st</sup> - \$50, warning letter 2 <sup>nd</sup> - \$75, warning letter 3 <sup>rd</sup> - \$100, warning letter 4 <sup>th</sup> - Termination	1 <sup>st</sup> - \$50 2 <sup>nd</sup> - \$75 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
Unauthorized Signature - Commercial	Customer states that someone other than the business owner or authorized employee entered into the agreement	1 <sup>st</sup> - \$50, warning letter 2 <sup>nd</sup> - \$75, warning letter 3 <sup>rd</sup> - \$100, warning letter 4 <sup>th</sup> - Termination	1 <sup>st</sup> - \$50 2 <sup>nd</sup> - \$75 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
Unauthorized Signature - Minor	Customer states the contractor allowed a minor (<18) to enter into the agreement		
Unauthorized Signature - Residential	Customer states that someone other than the account holder, spouse or power of attorney entered into the agreement		
Solicitation - No Permit	Customer states the contractor did not have a permit to market in the city/town	1 <sup>st</sup> - \$50, warning letter 2 <sup>nd</sup> - \$75, warning letter 3 <sup>rd</sup> - \$100, warning letter 4 <sup>th</sup> - Termination	1 <sup>st</sup> - \$50 2 <sup>nd</sup> - \$75 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
Solicitation - Restricted Area	Contractor has received clear direction from head office not to market in the city/town	1 <sup>st</sup> - \$50, warning letter 2 <sup>nd</sup> - \$75, warning letter 3 <sup>rd</sup> - \$100, warning letter 4 <sup>th</sup> - Termination	1 <sup>st</sup> - \$50 2 <sup>nd</sup> - \$75 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
Solicitation - Name on No Solicitation List	Customer states they registered on JE's No-solicitation list but was visited by contractors.		

**Compliance Matrix**  
**Ohio Market**

Category	Description	Penalty	Resolution
Tiered Pricing-Commercial	Contractor provided a rate/unit outside the commercial tiered pricing guidelines	1 <sup>st</sup> - Warning letter, commission claw back 2 <sup>nd</sup> - \$100, meeting with CCR, warning letter, commission claw back 3 <sup>rd</sup> - Suspension, \$100, warning letter, commission claw back 4 <sup>th</sup> - Termination	1 <sup>st</sup> - warning 2 <sup>nd</sup> - \$100 3 <sup>rd</sup> - \$100 4 <sup>th</sup> - \$125
Pressure Tactics	Customer states the contractor would not take no for an answer; customer felt pressured and/or uncomfortable with the way contractor was trying to acquire the sale	2pts.	See Pts. Table
Rude/Unprofessional	Customer feels the contractor was rude and/or abrasive during presentation		
Brochure & Contract Requested; not left with customer	Customer states the contractor did not leave a copy of the brochure & contract as requested		
Terms and Conditions not left with customer	Customer states the contractor did not leave them with a copy of the signed contract		
Solicitation -Sign Posted	Customer states the contractor ignored the "No Solicitation" notice/sign posted		
Solicitation-Senior	Contractor solicited to a senior citizen		
Positive Feedback	Customer felt the contractor's presentation warranted a positive feedback	Certificate	N/A

**Compliance Matrix**  
**Ohio Market**

**POINT THRESHOLD CONSEQUENCE SCHEDULE**

Points	Contractor Type	Consequence
5	Independent Contractor	Presentation Review by Distributor
	Independent Contractor	Field Shadowing
	Independent Contractor	Formal Warning Letter
	Independent Contractor	\$50 Compliance Contribution Cost
	Regional Distributor	\$75 Compliance Contribution Cost
	National Distributor	\$75 Compliance Contribution Cost
10	Independent Contractor	Presentation Review by Distributor
	Independent Contractor	Meeting with Head Office
	Independent Contractor	Field Shadowing
	Independent Contractor	Formal Warning Letter
	Independent Contractor	3 day Suspension of Marketing Activity
	Independent Contractor	\$100 Compliance Contribution Cost
	Regional Distributor	\$125 Compliance Contribution Cost
National Distributor	\$125 Compliance Contribution Cost	
15	Independent Contractor	Presentation Review by Distributor & Meeting with Head Office
	Independent Contractor	Final Warning Letter
	Independent Contractor	5 day Suspension of Marketing Activity
	Independent Contractor	\$100 Compliance Contribution Cost
	Regional Distributor	\$125 Compliance Contribution Cost
	National Distributor	\$125 Compliance Contribution Cost
20	Independent Contractor	Termination of Agreement

**Please note the following:**

1. All commissions paid for contracts acquired through 'bad faith' are subject to claw backs
2. CCR will exercise the authority to apply points and/or further disciplinary action outside the proposed IC compliance matrix when necessary
3. The above consequences are cumulative based on a 12 month rolling complaint history from IC start date
4. Complaints not eligible for a consequence under the four or three strike rule will be kept on the contractor's compliance record and monitored for trending purposes. Points, when necessary, will be assessed to these complaints in case of trending (receiving more than one allegation of the same or similar nature).

# **Appendix B**

MANAGEMENT'S DISCUSSION AND ANALYSIS

furthermore, may also be exposed to penalties by the LDCs. The inability or failure of Just Energy to manage and monitor these balancing risks could have a material adverse effect on its operations and cash flow. In addition, for certain commercial customers, Just Energy bears the risk of fluctuation in customer consumption. Just Energy monitors consumption and has a balancing and pricing strategy to accommodate for the estimated associated costs.

**Operational risks**

**Information technology systems**

Just Energy operates in a high-volume business with an extensive array of data interchanges and market requirements. Just Energy is dependent on its management information systems to track, monitor and correct or otherwise verify a high volume of data to ensure the reported financial results are accurate. Management also relies on its management information systems to provide its independent contractors with compensation information and to electronically record each customer telephone interaction. Just Energy's information systems also help management forecast new customer payments and their energy requirements, which help ensure that the Fund is able to supply its new customers' estimated average energy requirements without exposing the Fund to the spot market beyond the risk tolerances established by the Risk Management Policy. The failure of Just Energy to install and maintain these systems could have a material adverse effect on the operations and cash flow of Just Energy.

**Reliance on third party service providers**

In all jurisdictions in which Just Energy operates, the LDCs currently perform billing and collection services except as follows: in the Province of Alberta and State of Texas, where Just Energy is required to invoice and receive payments directly from its customers; in Illinois, where Just Energy is responsible for collection of defaulted amounts; in British Columbia, where Just Energy is required to invoice and receive payments from certain commercial customers and in Ontario, where Just Energy would be responsible for collection of defaulted amounts in respect of certain large volume users in one utility territory. To date, no defaults have been experienced in this last category. In 2008, Just Energy entered into a five-year agreement with EPCOR for the provision of billing and collection services for all of Just Energy's customers in Alberta which was amended and extended in December 2008. Pursuant to the amended agreement, EPCOR will continue to provide billing and collection services for AESLP until November 30, 2011, with respect to AESLP's existing customers. In the late summer of 2009, Just Energy intends to begin billing and collection services directly for all new customers signed and renewed customers. If the LDCs cease to perform these services, Just Energy would have to seek a third party billing provider or develop internal systems to perform these functions. There is no assurance that the LDCs will continue to provide these services in the future.

**Outsourcing and offshoring arrangements**

Just Energy has outsourced arrangements, predominantly to support the call centre's requirements for business continuity plans and independence for regulatory purposes. Contact data input is also outsourced. Some of the outsourcing contracts are offshore. As with any contractual relationship, there are inherent risks to be mitigated and these are actively managed, predominantly through quality control measures and regular reporting.

**Competition**

A number of companies (Direct Energy, Superior Energy and MX Energy) and incumbent utility subsidiaries compete with Just Energy in the residential, commercial and small industrial market. It is possible that new entrants may enter the market as marketers and compete directly for the customer base that Just Energy targets, slowing or reducing its market share. If the LDCs are permitted by changes in the current regulatory framework to sell natural gas at prices other than cost, their existing customer bases could provide them with a significant competitive advantage. This may limit the number of customers available for marketers including Just Energy.

**Dependence on independent sales contractors**

Just Energy must retain qualified independent sales contractors despite competition among Just Energy's competitors. If Just Energy is unable to attract a sufficient number of independent sales contractors, Just Energy's customer additions and renewals may decrease and the Fund may not be able to execute its business strategy. The continued growth of Just Energy is reliant on distribution channels, including the services of its independent sales contractors. There can be no assurance that competitive conditions will allow these independent sales contractors, who are not employees of Just Energy or its affiliates, to achieve these customer additions. Lack of success in these marketing programs would limit future growth of the cash flow of Just Energy.

Just Energy has consistently taken the position that its independent sales contractors act independently pursuant to their contracts for service, which provide that Just Energy does not control how, where or when they provide their services. On occasion, an independent contractor may make a claim that they are entitled to a benefit pursuant to legislation even though they have entered into a contract with Just Energy that provides that they are not entitled to benefits normally available to employees, and Just Energy must respond to these claims. Just Energy's position has been confirmed by regulatory bodies in many instances, but Just Energy is

# Appendix C

**Compliance Matrix**  
**Ohio Market**

**Distributor Certification Document**

Attached is the Compliance Matrix effective as of March 15, 2010 which was put together to comply with business and regulatory policies and to ensure that Just Energy's guidelines are communicated. In light of this, you are required to review this package, sign where indicated below and return this document to Just Energy's head office.

I certify that I have reviewed and have received direction on the content of the attached Compliance Matrix. I further understand that I am obligated to abide by all legal and regulatory requirements as set out in the Regional Distributor Agreement I have executed with Just Energy Marketing Corp.

\_\_\_\_\_  
Distributor Name (Printed)

\_\_\_\_\_  
Distributor Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Name (Printed)

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

# Appendix D

## MANAGEMENT'S DISCUSSION AND ANALYSIS

Just Energy did not make any changes to the design of its internal controls over financial reporting during the year ended March 31, 2009, that would have materially affected or would reasonably likely to materially affect the Fund's internal controls over financial reporting.

It should be noted that a control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, including instances of fraud, if any, have been detected. These inherent limitations include, among other items, (i) that management's assumptions and judgments could ultimately prove to be incorrect under varying conditions and circumstances; (ii) the impact of any undetected errors; and (iii) controls may be circumvented by the unauthorized acts of individuals, by collusion of two or more people, or by management override.

The design of any system of controls is also based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

#### Corporate governance

Just Energy is committed to transparency in our operations and our approach to governance meets all recommended standards. Full disclosure of our compliance with existing corporate governance rules is available on our website at [www.justenergy.ca/en](http://www.justenergy.ca/en) and will be included in the Fund's May 15, 2009 management information circular. Just Energy actively monitors the corporate governance and disclosure environment to ensure timely compliance with current and future requirements.

#### Outlook

On April 22, 2009 Just Energy announced that it entered into a definitive agreement to acquire by way of plan of arrangement (the "Arrangement") all of the outstanding common shares of the Universal Energy Group Ltd. ("UEG"), a TSX listed marketer of deregulated natural gas and electricity. The Arrangement will provide for a share exchange through which each outstanding share of UEG will be exchanged for 0.58 of a share (the "Exchangeable Shares") of a subsidiary of the Fund. Each Exchangeable Share will be exchangeable into one Just Energy trust unit at any time at the option of the holder for no additional consideration. The transaction is expected to close in early July and is subject to certain conditions including approval of UEG shareholders, compliance with the Competition Act, approval of Just Energy's lenders and satisfaction of other customary approvals. The transaction would require the issuance of approximately 21.1 million Exchangeable Shares increasing the diluted units of the Fund to 132.6 million.

The Fund has entered into support agreements (the "Support Agreements") with holders of 51% of the outstanding shares of UEG. These Support Agreements require these holders to, among other things, (i) vote or cause to be voted, the holder's UEG securities in favour of the proposed Arrangement at the UEG meeting; (ii) not to exercise any dissent rights or other rights available to delay, upset or challenge the Arrangement; (iii) not to sell or otherwise dispose of the holder's UEG securities; (iv) not to solicit or otherwise knowingly encourage any other acquisition proposal of UEG; (v) to refrain from taking or causing to be taken any actions that would reduce the likelihood of the Arrangement being successfully completed; and, with respect to certain holders, (vi) to enter into an escrow agreement at closing under which 60% of the holder's Exchangeable Shares shall be escrowed as of closing and released as to 50% on the first anniversary of the closing date and as to 50% on the second anniversary of the closing date.

Management believes that the acquisition of UEG will be immediately accretive to both gross margin and distributable cash per unit despite the transition costs of merging the operations. The full benefit of the acquisition will not be seen until fiscal 2011 when the savings from elimination of administrative overlap will be fully realized.

The UEG acquisition brings a total of 14 U.S. state marketing licenses which will provide an option for accelerated entry into attractive American markets. UEG currently supplies over 580,000 ACEs in Ontario, British Columbia, Michigan, California, Ohio, Pennsylvania, Maryland and New Jersey.

UEG operates a very successful home services business renting and selling water heaters and related products. This business will be merged with the Newton water heater business and management believes the growth of this business will accelerate significantly. UEG also owns a 66.7% interest in Terra Gasin Fuels, a 150-million-litre-capacity ethanol plant located in Helle Plains, Saskatchewan. The plant is currently making repairs to its facility to move to full capacity production. Management does not currently expect that ethanol will form a long-term segment of Just Energy's business.

On February 7, 2008, the Attorney General for Illinois filed a complaint against JE Illinois (the "Illinois AG Complaint"). The Illinois AG Complaint alleged that independent sales agents used deceptive practices in their sale of Just Energy contracts to Illinois customers. On May 12, 2009, a settlement of the action was reached subject to court approval. Under this settlement, JE Illinois will comply with several consumer safeguards, many of which JE Illinois has practiced for more than a year. In addition, \$1.0 million will be paid to a limited number of customers in settlement of claims.

**THE ATTORNEY GENERAL OF THE STATE OF NEW YORK  
BUFFALO REGIONAL OFFICE**

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**In the Matter of  
New York Energy Savings Corp. Doing  
Business as U.S. Energy Savings**

**AOD # 08-84**

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**ASSURANCE OF DISCONTINUANCE  
PURSUANT TO EXECUTIVE LAW § 63(15)**

1. Pursuant to the provisions of § 63(12) of the Executive Law, and Article 22-A of the General Business Law, ANDREW M. CUOMO, Attorney General of the State of New York ("OAG"), caused an inquiry to be made into New York Energy Savings Corp. doing business as U.S. Energy Savings. Based upon this inquiry, the Attorney General makes the following findings.

**FINDINGS OF THE ATTORNEY GENERAL**

**Introduction**

2. New York Energy Savings Corp. is a foreign Delaware corporation with its principal operating office located at 6345 Dixie Rd., Ste. 200, Mississauga, Ontario, Canada. New York Energy Savings Corp. is a wholly owned subsidiary of U.S. Energy Savings Corp., a Delaware corporation, which is a wholly owned subsidiary of Ontario Energy Commodities, Inc., an Ontario corporation, which is a wholly owned subsidiary of Energy Savings Income Fund, a trust under the laws of the Province of Ontario. New York Energy Savings Corp. does business in New York State under the assumed name of U.S. Energy Savings.

3. Energy Savings Income Fund, through its wholly owned companies, Inter alla, sells natural gas to residential consumers.

4. Beginning in 1996, the Public Service Commission began permitting private companies to compete with regulated utilities to sell the commodity of natural gas directly to New York residential consumers (referred to herein as "consumers"). The

companies, called "energy service companies" or "ESCOs" must first apply to, and be deemed eligible by the New York State Department of Public Service to sell natural gas to consumers.

5. ESCOs sell natural gas to consumers but use the existing distribution system owned, operated or managed by the local regulated utility ("local utility"), sometimes referred to as the regulated distribution utility. National Fuel Gas Distribution Corporation, whose service territory includes Western New York, is an example of a regulated distribution utility. Consumers who purchase natural gas from an ESCO may continue to receive gas bills from the distribution utility on a consolidated utility bill. The consolidated utility bill contains charges for the distribution and consumption of natural gas

6. When a consumer contracts with an ESCO to provide natural gas, the ESCO makes arrangements to switch services directly with the distribution utility. The switch to the ESCO will not take place until the distribution utility next reads the consumer's meter. This process may take over 30 days. Thus, the consumer may not receive a consolidated utility bill reflecting the switch to the ESCO, and showing the amount to be paid to the ESCO, for up to 60 days or more from the date the consumer entered into the agreement with the ESCO.

#### **Sale of Natural Gas to Consumers**

7. New York Energy Savings Corp. doing business as U.S. Energy Savings (referred to herein as "U.S. Energy Savings") is an approved ESCO.

8. In Western New York, U.S. Energy Savings sells to consumers four- and five-year contracts called the "Natural Gas Price Protection Program Agreement" ("Agreement"). Pursuant to the Agreement, consumers pay U.S. Energy Savings a fixed price for natural gas that is "locked in" for the term of the Agreement.

9. U.S. Energy Savings began selling Agreements in New York State in 2005.

10. The fixed price consumers pay to U.S. Energy Savings includes a premium for locking in the price of natural gas as compared with the price charged by the regulated utility. For example, in April 2008, National Fuel charged consumers about \$1.18 per Ccf (Centum cubic feet) for natural gas. U.S. Energy Savings charged consumers who signed up in that month between \$1.33 and \$1.41 per Ccf (depending on the day of sign-up).

11. According to U.S. Energy Savings, consumers pay the premium to lock in the rate and protect themselves against the volatility of the price of natural gas.

12. The Agreement allows consumers to cancel it at any time prior to midnight of the third business day after the date of signing the Agreement ("cancellation period").

13. The Agreement provides that consumers who cancel the Agreement after the cancellation period may be charged "liquidated damages in the amount of 10 cents per Ccf for each Ccf of customer's Future Consumption." The Agreement provides no further information on what the consumer could expect as a typical cancellation fee.

#### **Use of "Independent Contractors" to Sell Agreements Door-to-Door**

14. U.S. Energy Savings sells its Agreement to consumers by, inter alia, soliciting door-to-door using what it calls "independent contractors." The OAG expresses no opinion on whether the door-to-door salespeople are independent contractors for purposes of New York law but uses the term in this Assurance of Discontinuance ("Assurance") solely for purposes of reference.

15. To recruit and train independent contractors, U.S. Energy Savings enters into contracts with distributors. The independent contractors, however, contract directly with U.S. Energy Savings to sell Agreements.

16. U.S. Energy Savings pays independent sales contractors a commission

for each valid Agreement sold. Only U.S. Energy Savings, or the individual contractor, has authority to terminate independent contractor contracts.

17. Some political subdivisions require that persons who solicit door-to-door must first obtain a permit or a license. On at least one occasion, the U.S. Energy Savings independent contractors failed to obtain the required permits or licenses.

#### **Consumer Complaints**

18. The OAG has received many consumer complaints regarding the sales practices of U.S. Energy Savings through its independent contractors, some of which are set forth below.

19. Some consumers complained that they thought that the U.S. Energy Savings independent contractor was affiliated with the local utility.

20. Some consumers complained that U.S. Energy Savings independent contractors promised them immediate savings on their natural gas bills, and were surprised to discover when they received their first bill that they were paying a higher rate for natural gas to U.S. Energy Savings than they paid to the local utility.

21. Some consumers complained that U.S. Energy Savings independent contractors promised them that they would be locking in a price for natural gas that was lower than what was being charged by the local utility, and were surprised to learn that they were paying a higher rate for natural gas to U.S. Energy Savings than they paid to the local utility.

22. Some consumers complained that U.S. Energy Savings independent contractors promised that they could continue being billed in equal monthly amounts based on an estimate of annual billing, sometimes referred to as budget billing or a level payment plan, but were billed for actual or estimate usage for the billing period. The failure to maintain customers on budget billing was caused by a communication problem between U.S. Energy

and National Fuel Gas during the switch over process.

23. Some consumers complained that when they tried to cancel their Agreements during the cancellation period, they were unable to get through on the telephone number provided by U.S. Energy Savings to speak to a consumer services representative, or were put on hold for interminable periods.

24. Some consumers complained that U.S. Energy Savings independent contractors did not disclose to them that there was a termination fee if they canceled the Agreement outside of the cancellation period.

25. Some consumers complained that U.S. Energy Savings independent contractors did not disclose to them what they could expect to pay as a termination fee if they canceled the Agreement outside of the cancellation period.

26. Some consumers who tried to cancel the Agreement outside of the cancellation period were surprised to learn that the cancellation fee would be in the hundreds of dollars.

27. By reason of the foregoing, the Attorney General finds that the independent sales contractors working with U.S. Energy Savings have engaged in business practices which violate New York General Business Law Article 22-A and New York Executive Law § 63(12).

28. In response to the concerns expressed by the OAG with respect to consumers who sought to cancel Agreements outside of the cancellation period, U.S. Energy Savings agreed to cancel over 1,000 Agreements without the requirement that the consumer pay a termination fee, a waiver of over \$100,000.00 in termination fees.

**IT NOW APPEARING THAT U.S. Energy Savings desires to settle and resolve the investigation without admitting or denying the Attorney General's findings, the Attorney**

General and U.S. Energy Savings hereby enter into this Assurance of Discontinuance.

**AGREEMENT**

29. **IT IS HEREBY AGREED** by and between the parties that this Assurance is limited to business activities in New York State and shall be binding on and apply to New York Energy Savings Corp. doing business as U.S. Energy Savings and its distributors, and U.S. Energy Savings Corp., Ontario Energy Commodities, Inc. and Energy Savings Income Fund, and, for each company, its officers, directors, employees, servants, agents, trustees, and assignees and any successors in interest or any person acting under their direction and control (hereinafter referred to collectively as "U.S. Energy Savings").

30. **IT IS FURTHER UNDERSTOOD** that U.S. Energy Savings agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Assurance or creating the impression that this Assurance is without factual basis. Nothing in this paragraph affects U.S. Energy Savings' (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorney General is not a party.

31. **IT IS FURTHER UNDERSTOOD** that Assurance is not intended for use by any third party in any other matter and is not to be construed as an admission of liability of any sort by U.S. Energy Savings (or any of its affiliates or any of their employees, officers or directors). U.S. Energy Savings acknowledges that the OAG has received and investigated consumer complaints without admitting to the substance of those complaints.

32. **IT IS FURTHER UNDERSTOOD** that U.S. Energy Savings' training materials for distributors and independent sales contractors will cover the substantive requirements of this Assurance but need not make specific reference to it.

33. **IT IS FURTHER UNDERSTOOD** that U.S. Energy Savings will send to

each new residential customer a welcome letter that, *inter alia*, explains, in a form approved by the OAG, the cancellation period described in paragraph 43 *infra*, and the early termination fee described in paragraph 46 *infra*, and invites the consumer to contact U.S. Energy with concerns about the independent sales contractor's sales practices including whether the consumer felt unduly pressured to sign the Agreement, or the independent sales contractor promised that the consumer would realize immediate savings by signing the Agreement, which letter must be sent before the consumer receives a bill with U.S. Energy Savings as the commodity supplier.

#### **VERIFICATION**

34. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will verify its Agreements with consumers, either by recorded call or in writing. With respect of recorded calls, U.S. Energy will record the entire call from its inception with the consumer. The verification letter or script must confirm that the consumer: (i) is requesting that U.S. Energy Savings become its commodity supplier; (ii) is aware that U.S. Energy Savings is not affiliated with the local utility; (iii) is aware that U.S. Energy Savings may assess an early termination fee if the consumer terminates the Agreement after the cancellation period; and (iv) has not been promised (except in such cases where savings is promised) a gas rate less expensive than that offered by the local utility.

35. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings' independent sales contractors may not participate in the verification portion of the verification call, but may engage in the opening of the call by providing data to the verification company's representative and the end of the call by receiving the verification code.

36. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy, for a two-year period, must retain the verification records described in paragraph 34 *supra*, whether in writing or obtained orally, and, when such verification has not been retained, U.S. Energy

may not charge the consumer an early termination fee.

#### **INDEPENDENT SALES CONTRACTORS**

37. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings, or its distributor, will develop an application form to be used by it or its distributors that must be completed by persons applying for the position of independent sales contractor. Among other things, except as may be prohibited by law, the application form must elicit information with respect to criminal convictions for misdemeanors and felonies. Where the applicant has been convicted of a misdemeanor or felony, U.S. Energy Savings will evaluate and make any employment decisions about the applicant in accord with the New York State Human Rights Law and the New York State Corrections Law.

38. **IT IS FURTHER UNDERSTOOD AND AGREED** that, before permitting an independent sales contractor to perform services engaging the public in person, U.S. Energy Savings will either: (a) ask for, and attempt to contact, two references (business or personal) from the independent sales contractor, or (b) conduct a background check. No independent sales contractor will be permitted to perform services engaging the public in person until at least one reference has been contacted or a background check has been performed. U.S. Energy Savings will evaluate any information obtained pursuant to this paragraph, and make any employment decisions based thereon, in accord with the New York State Human Rights Law and the New York State Correction Law.

39. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings, or its distributor, will (i) determine in what geographic areas its independent contractor will be soliciting, (ii) determine if a permit or license is required to solicit door-to-door in such geographic area, (iii) require that independent contractors obtain a permit or license when required, and (iv) immediately terminate independent contractors who fail to do so on more

than one occasion.

40. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will: (i) review all written consumer complaints regardless of the source, (ii) render a written response within 30 days of receipt of the complaint unless the complainant has not provided sufficient contact information and the complainant is not a customer of U.S. Energy, (iii) associate the complaint to an independent contractor wherever possible, and (iv) where a complaint is associated with an independent contractor, maintain a copy of the complaint and the response thereto for a period of two years after receipt of the complaint.

41. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will immediately terminate its contract with any independent sales contractor who, on more than two occasions in any twelve month period, is determined by U.S. Energy Savings: (i) to have failed to identify and introduce himself/herself as an independent sales contractor or sales representative of U.S. Energy Savings; or (ii) to have failed to state that s/he is not affiliated with the named local utility; or (iii) to have promised a consumer immediate savings (unless the U.S. Energy Savings rate is lower than the consumer's then-current retailer rate or the then-current utility rate); or (iv) to have failed to state the term of the Agreements and the price of natural gas charged by U.S. Energy Savings.

42. **IT IS FURTHER UNDERSTOOD AND AGREED** that, for a twelve-month period, U.S. Energy Savings will not re-engage an independent sales contractor whose agreement was terminated if such termination was for a violation of a matter itemized in the paragraph 41 *supra*.

#### **CANCELLATION OF AGREEMENTS AND TERMINATION FEES**

43. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will allow consumers the right to cancel their Agreements without termination fees

anytime from the date that the consumer signs the Agreement up to 30 days of the date of the first natural gas bill where U.S. Energy Savings is the gas supplier ("30-day cancellation period").

44. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will disclose this 30-day cancellation policy in clear and conspicuous print on the front side of its Agreements.

45. **IT IS FURTHER UNDERSTOOD AND AGREED** that, to the extent that it is not inconsistent with paragraph 46 *infra*, U.S. Energy Savings will retain its residential cancellation matrix in effect at the time of this Assurance but need not publicize it.

46. **IT IS FURTHER UNDERSTOOD AND AGREED** that, except as set forth in paragraph 36 *supra*, any termination fee assessed by U.S. Energy Savings when a consumer cancels an Agreement outside of the 30-day cancellation period shall not exceed its liquidated damages, but such termination fee may not exceed \$5.50 per month remaining on the Agreement, or such lower amount as represents the profit anticipated from the Agreement, provided however that the limitation of \$5.50 per month shall expire three years after the date this Assurance is fully executed.

47. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy will not assess an early termination fee on consumers who request to cancel Agreements within 60 days of the date of the Assurance.

48. **IT IS FURTHER UNDERSTOOD AND AGREED** that, within 120 days of the date of the Assurance, U.S. Energy Savings will report to the OAG (i) the name, address and account number of consumers who cancel Agreements pursuant to paragraph 47 *infra*, and (ii) the termination fees waived by U.S. Energy calculated using the methodology described in paragraph 27 *supra*.

## **BUDGET BILLING/LEVEL PAYMENT PLAN**

49. **IT IS FURTHER UNDERSTOOD AND AGREED** that, at the time that it enters into Agreements with consumers, U.S. Energy Savings will offer consumers the option of budget billing or level payment plans.

## **RECORD RETENTION**

50. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will retain for at least two years any written complaints concerning its independent sales contractors.

51. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will retain (and create if necessary) records of every consumer complaint, and the response thereto, and retain such records for at least two years.

52. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will retain records of applications for the position of independent sales contractor and reference and background check results for at least two years.

53. **IT IS FURTHER UNDERSTOOD AND AGREED** that U.S. Energy Savings will make available to the OAG, at the OAG's request, the records required to be maintained by this Assurance.

## **PENALTIES AND COSTS**

54. **IT IS FURTHER UNDERSTOOD AND AGREED** that concurrent with the execution of this Assurance, U.S. Energy Savings shall pay to the Attorney General's Office, as costs, the sum of \$100,000 by check made payable to the State of New York, with AOD # 08-84 referenced thereon, and delivered to Andrew Cuomo, Attorney General of the State of New York, 107 Delaware Avenue, 4<sup>th</sup> floor, Buffalo, NY, Attention: James M. Morrissey, Assistant Attorney General.

55. **IT IS FURTHER UNDERSTOOD AND AGREED** that concurrent with the execution of this Assurance, U.S. Energy Savings shall pay to the Attorney General's Office, pursuant to GBL § 350-d, the sum of \$100,000 by check made payable to the State of New York, with AOD # 08-84 referenced thereon, and delivered to Andrew Cuomo, Attorney General of the State of New York, 107 Delaware Avenue, 4<sup>th</sup> floor, Buffalo, NY, Attention: James M. Morrissey, Assistant Attorney General.

**MISCELLANEOUS**

56. **IT IS FURTHER AGREED AND UNDERSTOOD** that all correspondence to the Attorney General shall include AOD # 08-84 and shall be delivered or mailed to the following address:

Office of the Attorney General of the State of New York  
Attn: James M. Morrissey, Assistant Attorney General  
107 Delaware Avenue-4th floor  
Buffalo, New York 14202

57. **IT IS FURTHER UNDERSTOOD AND AGREED** that any payments and all correspondence related to this Assurance must reference AOD # 08-84.

58. **IT IS FURTHER UNDERSTOOD AND AGREED** that acceptance of this Assurance by the Attorney General shall not be deemed or construed as an approval by the Attorney General of any of the activities of U.S. Energy Savings.

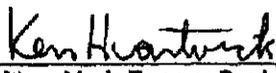
59. **IT IS FURTHER AGREED AND UNDERSTOOD** that nothing contained in this Assurance shall be construed to limit the rights of a person or an entity who is not a party to this Assurance with respect to any of the matters contained herein. Notwithstanding the foregoing, in no event shall this Assurance be construed to limit the rights of U.S. Energy Savings in connection with any action commenced by any party other than the Attorney General.

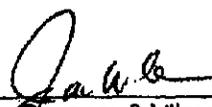
60. **IT IS FURTHER AGREED AND UNDERSTOOD** by U.S. Energy Savings that, in the event of any violation of this Assurance, including violations by its distributors and independent contractors, the Attorney General may commence an action or proceeding, under General Business Law Article 22-A and Executive Law § 63(12), and that evidence of a violation of the Assurance shall constitute *prima facie* proof of violation of the applicable laws in any civil action or proceeding thereafter commenced by the Attorney General.

61. **IT IS FURTHER AGREED AND UNDERSTOOD** that, in the event that the New York State Public Service Commission issues rules or regulations that U.S. Energy deems more permissive than the provisions of this Assurance, U.S. Energy may apply to the OAG for relief with respect from such provisions.

**IN WITNESS WHEREOF**, the undersigned subscribe their names.

Dated: Buffalo, New York  
June 25, 2008

  
\_\_\_\_\_  
For New York Energy Savings Corp. DBA U.S.  
Energy Savings

  
\_\_\_\_\_  
For Connors & Vilaro, attorneys for New York  
Energy Savings Corp. DBA U.S. Energy Savings

Consented to: 7/14/08

ANDREW M. CUOMO  
Attorney General of the State of New York

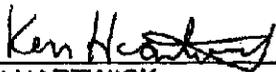
By:   
\_\_\_\_\_  
JAMES M. MORRISSEY  
Assistant Attorney General

**CORPORATE ACKNOWLEDGMENT**

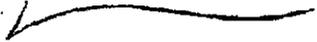
PROVINCE OF ONTARIO )  
  :SS  
COUNTY OF YORK        )

KEN HARTWICK being duly sworn, depose and say:

I am the Chief Executive Officer and President of New York Energy Savings and  
have authority to execute the foregoing Assurance of Discontinuance, and have authority to  
bind the above-referenced company to this Assurance. I have executed the aforesaid  
instrument with the consent and authority of the above-referenced company and those  
responsible for the acts of said entities and duly acknowledge same. I subscribed my name  
understanding the provisions thereof and entered into it knowingly and willingly.

  
\_\_\_\_\_  
KEN HARTWICK

Sworn to before me this  
25<sup>th</sup> day of June, 2008.

  
\_\_\_\_\_  
Notary Public

# Appendix E



**General Terms and Conditions**  
**(Residential and Small Commercial Customers)**

**1. Key Defined Terms. Agreement:** collectively, the Customer Agreement (front page), these General Terms and Conditions, and any attached Schedule. **Breach:** you will be in Breach if you (i) violate a term of this Agreement or your LDC's rules; or (ii) switch to another retail gas supplier, including the LDC. **Customer:** the account holder named on the Customer Agreement, also referred to as "I", "my", "you" and "your". **Future Use:** our reasonable calculation of your anticipated gas consumption for the remainder of the Term. **Gas:** the natural gas commodity that we will supply to your Location(s). **Just Energy:** Commerce Energy, Inc. d/b/a Just Energy. Also referred to as "we", "our" or "us". **Local Distribution Company:** your local natural gas distribution utility, Columbia Gas of Ohio, which owns and/or controls and maintains the distribution system required for delivery of natural gas to your Location, also referred to as "LDC". **Location:** each natural gas account(s) on the Customer Agreement and any attached schedule relating to your premises; each is a separate "Location" bound by this Agreement. **OCC:** Ohio Consumer's Counsel. **Price:** as set out on the Customer Agreement, the Natural Gas Price. **PUCO:** the Public Utility Commission of Ohio. **Small Commercial Customer:** a Customer that uses less than 5,000 Ccfs of Gas annually, or is otherwise accepted by Just Energy to qualify under this Agreement.

**2. Notice of Appointment of Just Energy as your Agent.** You give us the exclusive right to act as your agent in making all supply and delivery arrangements with your LDC and others so that we may provide your full Gas consumption requirements to the Location. You agree, now and throughout the Term, that you: (a) are not, and will not be, bound by an agreement for your Location with a gas supplier other than us; and (b) will not cancel or modify our appointment as your exclusive agent. Your LDC may charge a fee to switch to Just Energy.

**3. Acceptance, Verification.** This Agreement is conditional upon our acceptance. Our acceptance is at our sole discretion and depends, in part, on whether: (a) your LDC accepts our request to enroll you; (b) we can verify your information by recorded phone call (or other means acceptable to us); (c) you are creditworthy; and (d) you are not already enrolled with us (existing customers can only enter into this Agreement if it is a "re-contract", as reflected by a capital letter "R" in the upper right corner of the Customer Agreement). You consent to the recording of phone calls related to this Agreement. After acceptance, you will receive notice of confirmation from your LDC.

**4. Term.** The Term of this Agreement begins on the "Start Date" and expires on the "Expiration Date" (if no selection is made, it is deemed the longer of the available options). **Start Date:** the day we begin supplying gas to your Location under this Agreement. If you are a new Customer, the estimated Start Date will begin within 60 days from signing the Agreement. If however, your Location is currently enrolled under an existing agreement with us (and this is a re-contract), the Start Date is the day following the end of your current agreement. The Start Date may be delayed (for reasons such as the Agreement being improperly completed, not submitted to Just Energy, not implemented by the LDC, etc.) at our discretion. **Expiration Date:** our last day of gas supply to your Location under this Agreement (it will be 5 years from the Start Date), plus any time needed to obtain a final meter read. A new Term will begin if you choose the Blend & Extend Option or if this Agreement is renewed.

**5. Renewal.** This Agreement may be renewed with new Terms and Conditions. We will send you notice of renewal between 45 and 90 days in advance of your Term Expiration Date. To renew, you must provide us with affirmative consent according to the instructions contained in the renewal notice. If you do not respond to the renewal notice this Agreement will continue on a month to month basis, and you may cancel without penalty at any time.

**6. Charges (and Credits) under this Agreement.** We will supply you with Gas for the Location, as applicable. You agree to pay for all the related charges, plus taxes. **6.1 Gas Charge.** Your Gas consumption, in Ccf, multiplied by your Gas Price. You understand that at any given time, the LDC's Gas Price may be lower or higher than your Gas Price. **6.2 LDC Charges.** These charges relate to the LDC's costs for pipeline transportation, storage, balancing and delivery costs. For consumers who purchase their gas supply from a LDC, the costs associated with LDC Charges, as well as additional costs, are recovered through the LDC's gas charge. You understand that upon entering into this Agreement, the LDC Charges: (i) will be itemized as a separate line item on your gas bill; (ii) are charged to you based on your total usage in each billing period; and (iii) are subject to change (the underlying rates are filed by the LDC with the PUCO). **6.3 Taxes.** You will pay all lawful taxes that may apply to the charges.

**7. Billing, Payment.** Your LDC will bill you on our behalf, but we have the right to bill you directly. You agree to pay all amounts on your bill by the stated due date. If you fail to do so, then we will charge you a late payment fee, currently set at 1.5% per month. If we correct a billing error, you will receive a check or invoice for any applicable credit or debit. If we are charged a billing fee from your LDC as a cost for billing you, we may pass it through to you. You may request from us up to 24 months of your payment history for services rendered by Just Energy without charge. **Budget Billing:** You can request to be billed under the budget billing (level payment) plan if offered by your LDC. You should contact your LDC for more information.

**9. Blend & Extend Option.** You can request this option if, in the future, your Price for gas differs from the price we are offering to new customers, for Agreements like yours. To qualify, your Term must be 5 years and your request must be made at least 6 months prior to the Expiration Date. If we accept your request, we will offer you a new blended Price (based on a weighted average of your Price and the future posted price) and a new Term. All terms of this Agreement except for the Price and Term will remain the same. You can request this option once per 5 year period. Contact us for details.

**10. Ending this Agreement Early, Default.** If this Agreement ends early, for any reason, you must still pay all amounts charged to you up to the early end date. **Your Right to Cancel:** You can end this Agreement, without having to pay an Early Termination Fee, within 7 business days of the date of the confirmation notice of this Agreement sent to you by your LDC. You may also cancel within 30 days after receiving your first bill without penalty by contacting Just Energy. To rescind enrollment, you may contact your LDC by phone at 1.800.344.4077. You may cancel without exit fees if you move outside the territory of your incumbent LDC or if the incumbent LDC does not permit portability of the Agreement. We reserve the right to request documentation or proof of such a move. If this Agreement has already been processed by your LDC, then it may take between 1-3 additional billing cycles for cancellation to take effect. **Our Right to Cancel:** We may end this Agreement, at no cost to us, if: (a) required/allowed by law; (b) the LDC is unable to service your Location; (c) a legislative or regulatory change materially alters our ability to perform this Agreement; (d) you move; or (e) you commit a "Breach". You will be given 15 calendar days' prior notice. **Automatic Termination:** this Agreement will automatically terminate if: (a) the requested service location is not served by the incumbent LDC; (b) you move outside the incumbent LDC's service area to an area not served by us; or (c) we return you to the incumbent LDC sales service according to the terms of this Agreement.

**11. Early Termination Fees.** You understand that in order for Just Energy to be able to supply Gas to its customers, we enter into long term supply arrangements with suppliers of Gas to meet the forecasted consumption of its customers. If this Agreement ends early due to your Breach (see para. 1), you must pay us liquidated damages in the amount of \$100 (the "Early Termination Fee") for each location subject to this Agreement. You agree that the Early Termination Fee is a genuine pre-estimate of the damages we would suffer and not a penalty or other type of charge. You understand that it may take us 1-2 billing cycles to complete the switch back to default supply.

**12. Customer Information, Credit Review.** You authorize us, for the duration of the Term, to access, use and update information about you (including contact, billing and credit history, and consumption information), and to obtain it from and provide it to your LDC and our service providers. You agree to Just Energy obtaining a credit report and investigating your credit rating, credit history and LDC bill payment status and history. We are not obligated to accept, or continue performing, this Agreement if you do not meet our credit requirements. We will send you a letter by regular mail if we do not accept this Agreement for credit reasons. You may cancel our right to obtain or use your information at any time but, if you do, we have the right to end this Agreement and charge you the Early Termination Fee if after the 7 day rescission period. We will use your information to perform our obligations (including to establish and collect money for your account, supply you with Gas, meet our contractual obligations with others, for law enforcement purposes, to comply with Governing Law and to collect past due amounts) and to communicate with you about other products and services offered by Just Energy and our affiliates and business partners. Just Energy will not release your social security or account number without your written consent except where such release is required by court order or by a commission order or rule. You will promptly notify us in advance of any change to your information that is relevant to this Agreement (the LDC may also advise us of any such change) and agree that incorrect Customer Information can be corrected.

**13. Limitation of Liability.** Our liability under this Agreement is limited to direct actual damages. We are not liable for incidental, consequential, punitive, or indirect damages, lost profits or lost business or for any act or omission of your LDC relating to the supply of or delivery of Gas to your Location(s).

**14 Disputes. Binding Arbitration.** Both parties will, in good faith, use reasonable efforts to resolve a dispute under this Agreement. If your complaint is not resolved after you have called Just Energy, or general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1.800.686.7826 (toll free) or for TTY at 1.800.686.1670 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.puco.ohio.gov](http://www.puco.ohio.gov). We can require you to submit to final, binding arbitration under American Arbitration Association rules. To avoid being in Breach, you must still pay all undisputed sums by their due date. Residential customers may also contact the Ohio Consumers' Counsel (OCC) for assistance with complaints and utility issues at 1.877.742.5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).

**15. Consumer Protections.** If you are a new customer and Just Energy has processed your agreement for service and it has been approved, your LDC will send you a confirmation notice to confirm your decision. You have seven (7) business days from the postmark date of that notice to rescind and cancel this Agreement without penalty. You do not need to give us a reason for canceling during this seven (7) day period. To cancel this Agreement, you must contact your LDC. You can call Columbia Gas of Ohio at 1.800.344.4077. The services provided by Just Energy are subject to the Terms and Conditions of this Agreement. We will not disclose any personal information, such as your social security number and/or account number(s), without your affirmative written consent, except where such release is required by court order or Public Utilities Commission of Ohio (PUCO).

**16. Amendment, Assignment.** We may amend this Agreement by sending you written notice. Unless required by Governing Law (including, for example, a LDC service change, administrative fee change, change in law, or other regulatory order), you will have 30 days to reject the amendment, in writing. We will not amend the Term or Price without your consent. We may assign all or any part of our interest in this Agreement, including to another retail natural gas supplier, without your consent. You cannot assign your rights or obligations without our consent.

**17. Moves.** You will give us 45 days notice before you move or change your Location (each, a "move"). If you move, we may, in our sole discretion: (a) end this Agreement; or (b) apply this Agreement to your new Location provided your new Location (1) is within the State of Ohio; (2) is in a LDC service territory that permits the portability of the Agreement; and (3) requires Gas service. If the latter, then: (i) your new Location will be a Location bound by this Agreement; (ii) you authorize us to deal with your LDC in this regard; and (iii) if Governing Law requires that you give us additional written authorization at the time of the move, you will have the option of providing it to us or paying the Early Termination Fee.

**18. Inability to Perform.** You accept that certain events beyond our control, including force majeure events declared by our direct or indirect suppliers, may affect our ability to supply Gas at your Price. If this happens, we may, without liability: (a) temporarily supply them to you at the market price available to us; or (b) suspend this Agreement until as soon as we are reasonably able to resume performance. This Agreement will otherwise remain in full effect.

**19. Notice.** We will send notices to your billing address (as may be amended from time to time). At our discretion (if, for example, there is a fault with regard to your billing address), we may instead send notices to your service address (as may be amended). When providing us with notice, you must send it to our address listed on the Customer Agreement, in a manner by which you will be able to give proof of delivery upon request. If a change in Governing Law necessitates that a group of customers be given a general notice, we may give it by posting it on our website at [justenergy.com](http://justenergy.com).

**20. Governing Law.** The laws of the State of Ohio govern this Agreement.

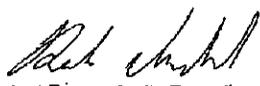
**21. Miscellaneous.** The Agreement contains the entire agreement between Just Energy and you, the Customer, concerning the supply of Gas to the Location, as applicable. This Agreement may not be contradicted by any prior or contemporaneous oral or written document and can only be amended if agreed to by Just Energy's head office in a written notice to, or recorded telephone call with you. You give us permission to deliver pre-recorded phone messages to you concerning your account. The contents of Just Energy's marketing materials do not form part of the Agreement and were not relied on by you. Electronic signatures are equivalent to original signatures. If any part of this Agreement is deemed unenforceable, we can make the minimal changes for it to be legal and enforceable. If this Agreement is not implemented within 12 months of signing, it will be deemed terminated at no cost to either you or us. During the Term, if changes in Governing Law result in certain costs or credits being shifted from your LDC or other similar or regulatory bodies (such as the OCC) to Just Energy, or vice versa, these costs or credits will be passed through to you at no markup. This Agreement benefits and binds the parties and their respective successors and assigns. No delay by us to exercise our rights will constitute a waiver of such rights.

**22. Emergency.** In an emergency situation relating to your gas supply, call your LDC: Columbia Gas of Ohio: 1.800.282.0157.

**23. Utility Contact Information.** You can reach Columbia Gas of Ohio at the following number: 1.800.344.4077.

**24. Public Utility Commission of Ohio Contact Information.** You can reach the PUCO phone at 1.800.686.7826; by the Internet at [www.puco.ohio.gov](http://www.puco.ohio.gov); or by mail at 180 East Broad St., Columbus, OH 43215.

**25. Just Energy Contact Information:** You can contact Just Energy at 1.866.587.8674 weekdays from 9:00 a.m. to 7:00 p.m. Eastern Standard Time, and Saturdays from 10:00 a.m. to 6:00 p.m.

  
Just Energy, by its Executive Chair

# Appendix F

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**

**Details of Referenced Consumer Contacts**

**Footnotes 9 - 27**

Call Center Contact 9

**Commerce Energy, Inc.**  
**Misleading information / materials**  
3/30/2010 9:27:47AM Investigation

**Edna Helmick**  
1237 Hulett Ave  
Eastlake, 44095  
Residential  
(440) 946-5791  
EHEL03301003

Has NOPEC for gas though DEO. Just Energy representative came to house and said he was working with DEO to see if they are getting the best price available. She told him she is with NOPEC. He repeated himself and kept filling out the paper. He then called and told her to say Yes to the three questions. He told her to keep the paper and after checking further into it call back. Arnold Taylor CSR ID #: 100873 / Ack # 177674. Verified she did not say yes to the questions. Advised they can't legally switch her without that. Advised watch for DEO letter just in case.

Call Center Contact 10

**Commerce Energy, Inc.**  
**Competition Issues / Inquiries**  
4/29/2010 1:14:06PM investigation

**Kevin Callahan**  
445 S Dana Ave  
Lima, 45804  
Residential  
(419) 227-0748  
KCAL042810HR

**DESCRIPTION OF ISSUE/CONCERN:**

Received email from customer:

An employee of Just Energy came to my door and said he was with the gas company and asked to see my bill. He had a clipboard with Dominion papers on it and when I asked him if he was with Dominion he said yes. It was after I showed him my bill that I noticed his name tag said Just Energy and he started a sales pitch. I think this is a deceptive practice and should be stopped.

Call Center Contact 11

**Commerce Energy, Inc.**  
**Posed as Utility**  
**Misleading Information**  
6/29/2010 8:32:29AM Investigation

**Joann Hensley**  
117 S Patterson St.  
Carey, 43316  
Residential  
(419) 396-3269  
JHEN0629109M

Caller mistakenly signed up w/ Just Energy last night after representatives claimed that they were from Columbia Gas. She was told that it would be locked in for 5 years except for an increase due to BP spill. Customer wants to stay with Columbia Gas. Just Energy Representative was: Jessica ID#12114

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**  
**Details of Referenced Consumer Contacts**  
**Footnotes 9 - 27**

Call Center Contact 12

**Commerce Energy, Inc.**

**Misleading information / materials**

7/7/2010 11:11:35AM Investigation

Patricia Cummings

10287 Tallmadge

Diamond, 44412

Residential

(330) 654-7609

PCUM070610LG

**COMPLAINT DESCRIPTION:**

2 men came to my door from Justenergy and stated that they were with the Government making sure that dominion wasnt over charging me and when i told them i wasnt interested they insisted they needed to see my gas bill... they called a supervisor who tried to inform me that i had changed survinces which i have not agreed to I want to let u know that they are goind door to door and harassing people to change..

They did leave me a paper Justenergy.com PO Box 2210, Buffalo, New York 14240-2210 1-866-587-8674

Phone Number 1-888-548-7690 Fax Number

Sincerely Patricia Cummings

Call Center Contact 13

**Commerce Energy, Inc.**

**Billing Dispute**

**Misleading Information**

3/22/2010 1:00:20PM Investigation

Patricia Boch

327 Bartlet St

Bremen, 43107

Residential

(740) 569-9500

PBOC032210BD

He believed sales person (Aaron Russell) and they LIED to him and his mother just to close a sale. He regrets not researching himself, but it's rare for him to have a man stand in his face and lie in order for a person to sign up with them with a program that is not going to be financially beneficial. He and his mother are both on fixed incomes. He is now on a 5yr contract. He was told that rates with CGO were going to sky rocket and he needs to switch. Called Columbia gas and he has already paid 172.91 more in the two billings he has been billed so far at 0.90 per ccf. Advised customer I would contact company regarding his issue. I will request that he is released out of contract with no penalties.

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**

**Details of Referenced Consumer Contacts**

**Footnotes 9 - 27**

Call Center Contact 14

**Commerce Energy, Inc.**

**Misleading information / materials**

4/2/2010 8:28:41AM Investigation

John Litebody  
1223 Dartmouth Ave SW  
Canton, 44710  
Residential  
(330) 453-7340  
JLIT040210BE

States that someone came to his door & states that they pretended to be deo. Customer states that the representative said that DEO was going up \$4.00 a month & to keep from going over \$10.50 that he needed his account#. Customer states that he was a little skeptical but agreed because he thought it was DEO. Customer states that the more he has thought about it he seen the name of just energy he thinks on representative jackets & thinks he got scammed & now wants to cancel this. Customer states that he tried contacting DEO but they are closed because of holiday. Customer states that he does not want switched over & wants this stopped. Customer states that this company is going around pretending to be DEO. Customer would like this looked into

Call Center Contact 15

**Commerce Energy, Inc.**

**Misleading information / materials**

4/8/2010 2:19:00PM Educational Reference

Tammy Juncry  
1906 Clyde Rd  
Madison, 44057  
Residential  
(440) 428-5197  
TJUN040810MS

Wants to report a JE representative at her home last night providing misleading info to get her to sign up. She has called JE to make sure she isn't switched and she was told she was not listed for enrollment. Inv c/b if they appear on her bill. She said the representative gave her different rates than was stated in the TPV and she even admitted she was just saying what the company told her to say and she really didn't know how the program works.

## Staff Investigation of Just Energy's Marketing and Solicitation Practices

### Details of Referenced Consumer Contacts

#### Footnotes 9 - 27

##### Call Center Contact 16

###### **Commerce Energy, Inc.**

###### **Posed as Utility**

###### **Misleading Information**

5/25/2010 11:35:34AM Investigation

Donald Drennan  
206 Belvedere Ave  
Columbus, 43223  
Residential  
(614) 274-8998  
DDRE051410AT

I want to file a complaint against Just Energy for fraudulent door to door sales practices. They come to the door saying things like, "I'm from the gas company. I'm not selling anything. I'm here to reduce your gas bill". They should not be allowed to sell their service this way. It's insulting and bothersome.

I called the cust - spoke w Donald Drennan - discussed the gas choice program - cust states that someone from Just Energy did contact him - cust states that he just felt like it was insulting that the person with Just Energy that came to his door - would try and state that he was with his gas co and was there to save him money - cust states that he felt like the person with Just Energy was trying to say that anyone living in that neighborhood was stupid - cust states that is just how he felt - adv the cust that his comment has been noted.

##### Call Center Contact 17

###### **Commerce Energy, Inc.**

###### **Cancellation Issues**

3/11/2010 2:50:12PM Investigation

Shawn George  
1205 Country Vw Apt 1B  
Toledo, 43615  
Residential  
(937) 902-4863  
SGEO031110DS

In December, a woman representing Just Energy came to my door telling me that their company was a natural gas supplier and told me that I could save money on my gas bill every month by switching to them as my supplier. She did not ask if I was interested in the service, she just immediately proceeded to take down my information to process the switch. After reviewing my most recent bills, I discovered that not only was I not saving money with Just Energy, I was paying almost twice as much for the gas as I was before. She used extremely misleading sales tactics to get me into a 5-year contract with the company. Upon finding out the new price on my gas bill, I immediately called to cancel my service. I was told that there would be a \$100 cancellation charge because I was outside of the 7 day cancellation window, which is absurd, but I canceled anyway, as I have no desire to do business with this company any longer. I would like to see this company fined and these cancellation charges refunded to any customers affected by these scam artists.

Adv cust of co resp. and I reviewed the contract and reviewed the TPV. During the TPV he stated he did rec a copy of the signed contract & other material. States the co mislead him, the rep said they would save \$ but ended up not. Asked cust what did the rep support that claim with. States she didn't just made that statement. Adv he should have inquired and asked to support that statement. States yes he should have, she was just very misleading and unprofessional. Adv during the TPV the verifier asked him to rate the rep and he gave the rep a "10" rating...the best. States he was put in an uncomfortable position because the rep was standing right there. Adv the co isn't going to drop the contract nor reimburse for anything other charges. Adv closing case, cust thanked me.

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**

**Details of Referenced Consumer Contacts**

**Footnotes 9 - 27**

Call Center Contact 18

**Commerce Energy, Inc.**

**Misleading information / materials**

**3/4/2010 2:42:14PM Educational Reference**

**Bonnie Jacobs  
870 E Florida Ave  
Youngstown, 44502  
Residential  
(330) 783-0824  
BJAC030410C1**

caller states is retired, on disab. someone came from door from just energy. Feels too high pressure tactics used. Told her she had to sign up right then or she would lose her gas. Wanted to file complaint. Wanted # for company to complain also.

Call Center Contact 19

**Commerce Energy, Inc.**

**Quality of Customer Service**

**3/9/2010 3:06:20PM Educational Reference**

**No Name  
1000 W Main St  
West Jefferson, 43162  
Residential  
(614) 879-9595  
PTAY030910CV**

Prop Mgr.

Customer calling on behalf of her residents - 126 lots.

Issue:

She has signs in the front of teh park stating No Solicitation. States that the door-to-door salesmen are badgering her residents to sign a 5-yr contracts for \$0.99 per ccf. Many res' are senior citizens. Salesmen are demanding to see COH bills and then take all the information off the bills while they have them.

BBB has a rating for this company of "F". She demands that they stay out of her park. Advised we cannot make them stay out of the park. Advised to contact atty - since it's a civil matter. Discussed safety precautions when dealing w/ marketers (acct number, etc.) Advised the res' have 7 days to rescind the contract without penalty.

Call Center Contact 20

**Commerce Energy, Inc.**

**Posed as Utility**

**Misleading Information**

**3/10/2010 2:44:33PM Educational Reference**

**Bessie Rhodes  
7127 Tall Timber Trl  
Enon, 45323  
Residential  
(937) 864-9036  
BRHO0310106D**

customer is stating that Just Energy is out canvassing their neighborhood. Fast Talking and High Pressuring Sales. They are making themselves appaer to be from CGO, and customer wanted it brought to our attention

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**

**Details of Referenced Consumer Contacts**

**Footnotes 9 - 27**

Call Center Contact 21

**Commerce Energy, Inc.**

**Quality of Customer Service**

**4/15/2010 8:02:34AM Investigation**

**Stuart Bailey**

**2759 7th St**

**Stow, 44224**

**Residential**

**(330) 802-9355**

**SBAI04141060**

I was at my mom's apartment on Tuesday, April 13 when a sales representative from Just Energy knocked on her door. I answered the door and he quickly asked if I was the energy account holder for this residence. I asked him what this was concerning, he said that he wanted to guarantee price protection for energy rates and then said he had just wasted his breath on me because I was not the account holder. I glanced at his clipboard and he had a stack of old, crumpled up Dominion gas bills fastened to his board. I told him we already were satisfied with our energy supplier, he then became very sarchastic, pushy, insulting, and began mocking me. I abruptly ended the conversation. I researched the company when I got home and found several articles where this particular company has been sued by other states including Illinois for fraud. Why are they still licensed in the state of Ohio? This company has already been convicted of fraud. I am willing to file a formal complaint.

Call Center Contact 22

**Commerce Energy, Inc.**

**Misleading information / materials**

**6/15/2010 3:38:12PM Educational Reference**

**Dorothy Cooper**

**720 Gator St**

**Kenton, 43326**

**Residential**

**(419) 675-3229**

**DCOO061510RH**

Customer states the door to door solicitation was persistent and insist on coming inside her home and to look at the bill. She feels he was just to personal and she plans to cancel the service. I advised his concerns are documented on record.

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**

**Details of Referenced Consumer Contacts**

**Footnotes 9 - 27**

Call Center Contact 23

**Commerce Energy, Inc.**

**Cancellation Issues**

**6/21/2010 5:30:25PM Investigation**

**Mary Lou Lepre**

**1315 W 102 Down**

**Cleveland, 44102**

**Residential**

**(440) 895-9919**

**PZIE0621108Z**

**\*\*Notes edited by D.P. on Monday, June 21, 2010 5:30 PM\*\***

A female representative from JE came to the elderly customers door (Mary Lou Lepre), looked through her documents, signed the customers name to the paperwork and talked to her into cancelling her PIPP and enrolling with JE. Customers daughter (Patricia Ziegler) is very upset about this. She has contacted DEO and cancelled the switch but it is very disturbing to her that the JE representative would come into a total strangers house, look at her bills, go through her papers and advise her to get off an income based pymt program which the customer needs to afford service just to get her to enroll with JE. The representative obviously knew about PIPP and that she could not be on it if she were to sign on with JE. Caller states this company needs to be watched and possibly removed from the Ohio market as complaints continuously come in about their solicitation misrepresentation and behavior.

LM advising the switch has been cancelled prior to it taking place so there are no penalties to worry about. Thanked her for alerting us to this situation and we are closely monitoring JE's sales practices.

Call Center Contact 24

**Commerce Energy, Inc.**

**Misleading information / materials**

**7/14/2010 1:19:30PM Educational Reference**

**Bob Scaduto**

**14 W Crosier St**

**Akron, 44311**

**Residential**

**(330) 808-0970**

**BSCA071410FU**

CASE ID: BSCA071410FU

Re: Bob Scaduto

(330) 808-0970

**Notes:**

caller states he was approached on 7/10 at 7pm by 2 men claiming to be from Just Energy. states the men were very forceful and demanding and intimidating. they demanded that he had to show them his gas bill and started yelling at him when he refused. caller is paster of local church and is afraid for elderly in his neighborhood- door to door reps would not leave customer's house until he said he was calling the Police. caller states he did not get any info off of the badge the men were wearing and could not provide any names or descriptions other than it was 2 black young men.

**Staff Investigation of Just Energy's Marketing and Solicitation Practices**

**Details of Referenced Consumer Contacts**

**Footnotes 9 - 27**

Call Center Contact 25

**Commerce Energy, Inc.**

**Cancellation Issues**

**7/15/2010 1:33:07PM Educational Reference**

**Nancy Ackerman  
485 County Line  
Bremen, 43107  
Residential  
(740) 569-7582  
NACK071510R6**

Caller said she signed up with Just Energy because she felt sorry for them because it was hot out. She then said they were very pushy and she was intimidated. She hasn't been switched, DEO has confirmed that she is not being switched and the request has been canceled in their system. I said I can register her complaint.

Call Center Contact 26

**Commerce Energy, Inc.**

**Quality of Customer Service**

**7/20/2010 1:18:32PM Educational Reference**

**Tracy McCombs  
339 Harris St  
Kent, 44240  
Residential  
(330) 931-6340  
TMCC0720103T**

Company is constantly sending out representatives up to 3 times a week. Yesterday, after 4:30pm, someone came by and would not take "no" for an answer. The worker was rude and was yelling at customer and chastising her for not wanting to save money on her bill. Customer now has put up a note at her door urging anyone coming to her door re: changing her gas service, that she was not interested. There is a specific representative who has been there 6 times in the past 3 weeks.

Call Center Contact 27

**Commerce Energy, Inc.**

**Misleading information / materials**

**4/13/2010 8:26:01AM Investigation**

**Neinna Sikora  
7305 Beresford Ave  
Parma, 44130  
Residential  
(440) 845-2536  
NSIK041210TG**

Caller has a very strong accent and limited English speaking ability. Customer was switched to Just Energy without her knowledge. Sales Representative of Just Energy came by her home and advised her that the only way that she could remain w/ Columbia Gas was to sign this letter and include her acct#. Now her rate is higher than the CGO SSO rate. She has spoken w/ CGO and been informed of her rate. Customer is very upset and wants to be changed back to CGO SSO. Sending for investigation to request that Just Energy cancel this account and return customer to the CGO SSO rate.