

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Investigation)	
Into RPA Energy, Inc dba Green Choice)	Case No. 22-0441-GE-COI
Energy's Compliance with the Ohio)	
Administrative Code and Potential Remedial)	
Actions for Non-Compliance)	

**PREFILED TESTIMONY
OF**

**SAMANTHA BOERSTLER
RELIABILITY AND SERVICE ANALYSIS DIVISION
SERVICE MONITORING AND ENFORCEMENT DIVISION
PUBLIC UTILITIES COMMISSION OF OHIO**

STAFF EXHIBIT ____

September 30, 2022

1 1. Q. Please state your name and business address.

2 A. My name is Samantha Boerstler. My business address is 180 E. Broad
3 Street, Columbus, Ohio, 43215.
4

5 2. Q. By whom are you employed?

6 A. I am employed by the Public Utilities Commission of Ohio (PUCO or
7 Commission).
8

9 3. Q. What is your present position with the Commission and what are your
10 duties?

11 A. I am a Utility Specialist 1 in the Reliability and Service Analysis Division
12 (RSAD) of the Service Monitoring and Enforcement Department (SMED).
13 Under the direction of Nedra Ramsey, I am responsible for analyzing
14 competitive providers' compliance with the Ohio Administrative Code
15 (Ohio Adm.Code), monitoring the competitive retail electric and natural
16 gas service industry, recommending enforcement actions, and monitoring
17 the Energy Choice website.
18

19 4. Q. Would you briefly state your educational background and work experience?

20 A. I have a Bachelor of Arts degree in Social Science from Lake Erie College.
21 I also have an Associate of Applied Science in Business Management and
22 an Associate of Technical Studies in Information Technology from Eastern

1 Gateway Community College. I started working at the PUCO in September
2 2015 in the Commission's Consumer Services Division's (CSD) as a
3 Customer Service Representative. I was then promoted to a Customer
4 Service Investigator in October 2016. In that role I was responsible for
5 documenting customer inquiries and investigating customer complaints and
6 concerns to ensure compliance with Ohio Adm.Code rules and to help
7 resolve customer concerns/disputes. In December 2020 I was then
8 promoted to my current position as a Utility Specialist 1 in the RSAD of the
9 SMED.

10
11 5. Q. What is the purpose of your testimony in this case?

12 A. The purpose of my testimony is to support the "Staff's investigation and
13 analysis" section of the Staff Report of the investigation filed in this
14 proceed on June 10, 2022.

15
16 6. Q. What was your role in the investigation of RPA Energy, Inc dba Green
17 Choice Energy (RPA)?

18 A. I was tasked with analyzing the data from customer contacts taken by the
19 CSD's call center to identify any trends or issues of possible non-
20 compliance. I also reviewed all data provided by RPA from the data request
21 (DR) sent by Staff to RPA as a result of issues identified. Finally, I

1 reviewed the Energy Choice Ohio website looking into rate trends for the
2 time of the investigation.

3
4 7. Q. How many contacts, in total, were received regarding RPA?

5 A. From January 1, 2021, to July 20, 2021, the PUCO Call Center received 25
6 Customer contacts. Within the 25 customer contacts, 20 of them were
7 investigated by the call center and found that the enrollments date from
8 2019 to current.

9
10 8. Q. During your review of the customers contacts for RPA what did you
11 discover?

12 A. I discovered that there were patterns of unauthorized enrollments, and
13 misleading and deceptive practices.

14 An example of an unauthorized enrollment is PUCO case number
15 00698115. The customer received a letter from Duke Energy stating that
16 the account was being switched to Green Choice Energy. The customer
17 stated she lives alone and did not authorize the enrollment with the
18 company. I reviewed the call recording that was provided to Staff by RPA
19 and the recording of the customer when she contacted the PUCO. From this
20 review I noticed the voice of the person on the PUCO recording is not the
21 same voice on the recording provided by RPA. In another case, case
22 number 00696256, the customer disputed their enrollment with RPA

1 Energy. RPA provided Staff with a Third-Party Verification (TPV) and
2 signed contract. The information was reviewed with the customer at which
3 time he stated that he never signed the contract, nor did he complete the
4 TPV. Also, to note, the voice on the TPV was clearly not the customers.
5 An example of the misleading and deceptive practices I noticed after
6 reviewing many door-to-door solicitation complaints is that the
7 representatives posed as the utility or stated that they were working on
8 behalf of the utility. *See* case numbers 00679073, 00680143, 00693258,
9 00696256 and 00682929.

10 After reviewing RPA's sales calls, I determined that customers were not
11 informed of the variable rate they would be billed, but that the rate would
12 be based on market conditions. In those cases, customers were charged
13 rates as high as \$0.13/kWh. (Case numbers 00660823, 00671118,
14 00672275, 00693258 and 00664386). At the time, the average variable rate
15 posted on the Energy Choice website was \$0.08514 per kWh, and the
16 variable rates RPA was charging were at least two times higher.

17
18 9. Q. Within your findings would you say any customers were harmed by RPA's
19 acts and practices that did not comply with the Ohio Adm.Code, and if so,
20 how?

21 A. Yes, I found that customers were harmed by the practices of RPA. An
22 example of this is case number 00672275. RPA informed Staff that the

customer's husband "James" agreed to the enrollment of the account and provided Staff with the completed TPV and signed contract. The customer stated she lives alone, her husband "Donald" is deceased, and she did not know the person on the TPV. Due to the customer's account being enrolled without correct authorization she was charged \$646.07 more than she would have paid if she were on utility's default the price to compare rate. For October 2021 RPA charged her a rate of \$0.129501558 per kWh in addition to a \$5.00 Energy Charge. The price to compare at that time was \$0.0526 per kWh

Another example of a customer being harmed is case number 00660823. This customer was solicited via telephone and was never provided a rate, only that the enrollment would be a variable rate based on market conditions and a \$5.00 monthly service fee. During the TPV the customer was not informed of the \$5.00 monthly service fee, nor was he advised of the rate he would be billed by RPA. The only thing that was advised to him was that he would be billed a variable rate. The customer was with RPA for seven months and was refunded the difference of the rate charged by RPA from the utility price to compare, which totaled over \$1,500.00.

10. Q. What did you find in your review of RPA's responses to Staff's Data Request?

1 A. Per RPAs response 14,431 Ohio customers enrolled in the last 12 months
2 from June 2020 to June 2021. During the week of June 6, 2021, RPA
3 enrolled 699 customers' accounts.¹ There were many issues I found after
4 reviewing the information provided to Staff by RPA. When reviewing the
5 telemarketing sales script, I found that the sales representatives did not
6 follow the scripts, which led customers to be misled. The Door-to-door
7 script is not in compliance with the requirement in the Ohio Adm.Code,²
8 nor is it a complete script. When reviewing the TPV script, I found that
9 customers were not provided the correct unit of measurement for natural
10 gas, nor were customers provided complete information regarding the terms
11 and conditions of what RPA was offering.

12
13 11. Q. How did RPA representatives mislead customers to enroll with them?

14 A. Within the calls I reviewed, customers were informed that, "The reason for
15 the call today is to explain the 100% clean, renewable energy that RPA can
16 offer to customers in your state. What that means is that if you choose to
17 enroll with RPA as your supplier your electricity will be upgraded to 100%
18 renewable energy."³ I believe it is very misleading and can make a
19 customer believe that they will receive 100% green energy to their home,
20 which cannot happen. RPA purchases the electricity, which may be 100%

¹ DR 10a and 10e.

² See Ohio Adm.Code 4901:1-21-05 and 4901:1-29-05.

³ D.R. call folder 06-04-2021 000132838_5139321921.

1 green energy, that is then delivered to the electric distribution utility
2 (EDU). From there the EDU will distribute the electric to customer. The
3 EDU cannot control the type of electricity that gets delivered to each
4 customer.

5
6 12. Q. What issues did you find with RPAs door-to-door script?

7 A. In the door-to-door script, after the representative advises the customer that
8 “Your utility will continue to read your meters,” the script ends. Nowhere
9 in the script does the representative advise the customer of a rate or ask if
10 the customer wants to enroll with RPA.

11
12 13. Q. Can you explain the issues with RPAs TPV script?

13 A. Within the TPV script provided, the representatives are advised to inform
14 customers of the natural gas rate in Therms (Thermal British Units).⁴ No
15 natural gas company in Ohio uses Therms as their unit of measurement for
16 natural gas. CenterPoint Energy, Columbia Gas of Ohio and Duke Energy
17 use Ccf (100 cubic feet), and Dominion Energy Ohio uses MCF (1000
18 cubic feet). (Therms to Ccf: therms X 1.037=Ccf. Therms to Mcf: therms X
19 10.37= Mcf). Within the TPV script the customer is advised they will be

⁴ Ohio Adm.Code 4901:1-29-05(8)(c) and (d) require that offers marketed by competitive retail natural gas suppliers be in a price per Ccf or Mcf, whichever is consistent with the incumbent natural gas company’s billing format.

1 charged a \$5.00 monthly service fee on the variable rate. This is not
2 advised to the customer in the door-to-door script.

3
4 14. Q. Did you review any of the calls RPA provided to Staff in response to
5 Staff's DRs?

6 A. During the investigation, Staff requested all sales calls placed by RPA for
7 the week of June 6, 2021. Of the calls provided by RPA, I listened to 30
8 random calls.⁵ Within the calls I found many issues. Most, if not all, of the
9 recorded calls that RPA provided do not go with the scripts. In many of the
10 recordings the customers did not ask questions to the representative about
11 what they were enrolling into or what service RPA is providing. Based on
12 my experience, most customers ask those questions, and it is strange that
13 the customers in the RPA sales call recordings did not.
14 In many of the sales call recordings, RPA's representatives promised
15 customers a "lower rate" and "savings." In call 5138166994 of folder AGR
16 0531 to 0606, the representative advises the customer that RPA is
17 "currently at a price that is lower than the price to compare." During the
18 call the customer asks, "How much lower is this going to make my bill?"
19 The representative responds, "* * * Will lock in at \$0.1012. To give you an
20 idea last year in Aug there was an EIA energy Information administration

⁵ See Exhibit SB1.

1 website article that came out and you guys were at \$0.1206.” For June 2021
2 Duke price to compare for electric was \$0.0544 per kWh and for June 2020
3 it was \$0.0547 per kWh. I am unsure as to how someone could say RPA
4 has a lower rate than Duke Energy or that there would be savings.
5 Other issues I identified were several instances where the RPA
6 representative provided customers one rate during the sales call but then
7 advised customers of a different rate during the TPV. An example for this
8 would be 00013720_7404254358 of folder 06-04-2021. During the sales
9 call the customer is quoted a natural gas rate of \$0.383 per Therm. In the
10 TPV the customer is advised that the gas rate would be \$0.4625. Another
11 pattern I found is that the TPV did not disclose the \$5.00 monthly charge to
12 the customer. Other calls that provide one rate during the sales call but
13 another during the TPV are 003133048_5133208239,
14 009312588_5137516319, 009132614_5137616720,
15 00132847_6148798916, 00013720_7404254358.

16
17 15. Q. Within your testimony you stated RPA promised customers lower rates.
18 Based on your review of the market in Ohio would you find this statement
19 to be true? Why or why not?

20 A. This statement is not true. Using one of my examples earlier in my
21 testimony, call 5138166994, the customer was promised savings and
22 advised the rate they would be charged was \$0.1206 per kWh. When

1 looking at the market in Ohio for electric renewable rates, the average rate
2 from January 2021 to March 2022 \$0.060951 per kWh, with the lowest
3 variable rate being \$0.0279 per kWh. In many of the CSD call center cases
4 I reviewed, customers were promised savings but billed a rate over \$0.12
5 per kWh, such as case numbers 00660823, 00664386, and 00672275.
6 In case number 00660823, the customer was informed the variable rate
7 would be based on market conditions. This customer was with RPA for
8 seven months and the rate billed by RPA was as high as \$0.1395 per kWh.
9 Based on the Energy Choice Ohio website looking at the Ohio market from
10 January 2021 to March 2022, the average variable rate for renewable
11 energy was \$0.0724 per kWh.⁶
12

13 16. Q. Does this conclude your testimony?

14 A. Yes, this concludes my testimony, but I reserve the right to add additional
15 testimony.

⁶ See Exhibit SB2.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Prefiled Testimony of Samantha Boerstler** has been served upon the below-named counsel via electronic mail, this 30th day of September 2022.

/s/ Robert Eubanks

Robert Eubanks

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Call name

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003132135_9375651949.wav
003132135_9375651949_2.wav
006132887_2165072422_8.wav
006132887_2165072422_9
006132887_2165072422_10.wav
008132337_3308136951.wav
008132373_5134049427.wav
008132893_6142183697.wav
009132533_6142907099.wav
5132073086
5136920734
5138166994
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6144069408_202602125206
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Exhibit SB2[illegible]

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Case No(s). 22-0441-GE-COI

Summary: Testimony Prefiled Testimony of Samantha Boerstler, Reliability and Service Analysis Division, Service Monitoring and Enforcement Division, Public Utilities Commission of Ohio electronically filed by Mrs. Kimberly M. Naeder on behalf of PUCO