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5/31/2012

BY E-MAIL AND REGULAR MAIL

Jaclyn A. Brillling, Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

In re: CASE 12-M-0113 - Complaint of Metro Eleven Hotels, LLC Regarding
Alleged Slamming by Just Energy: Supplemental Submission re New
York State Attorney General Settlements

Dear Secretary Brillling:

I am submitting this to supplement the record of the “slamming proceeding” herein to reflect that fact that Just Energy has been the subject of two investigations by, and settlements with, the New York State Attorney General’s office for consumer fraud. These settlements were entered into under Just Energy’s former name, U.S. Energy Savings. These settlements are evidenced by the three documents annexed hereto:

- a. A Wikipedia article on Just Energy noting that “in July 2008, the Attorney General of New York state brought action against U.S. Energy Savings (now Just Energy) for deceptive sales practices
- b. A press release from the Attorney General dated July 14, 2008 entitled “Attorney General Cuomo Stops WNY Natural Gas Provider from Deceiving Consumers by Misrepresenting Service Contracts;” and
- c. A press release from the Attorney General dated November 10, 2009, entitled “Attorney General Cuomo Reaches Agreement with WNY Natural Gas Provider After Consumer Complaints.”

¹ New York State address: 179 East Little Neck Road North, P.O. Box 818, Babylon, N.Y. 11702

This information substantiates that Just Energy has a long history of deceptive door-to-door sales practices in New York State.

Respectfully submitted,

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Just Energy

Just Energy Group Inc.

Type	Public
Industry	Energy Marketing
Founded	1997
Headquarters	Mississauga, Ontario, CA Houston, Texas, USA
Key people	Rebecca MacDonald (Executive Chair) Ken Hartwick (CEO)
Products	Natural Gas, Electricity
Employees	1,000+ (December 2011) ^[1]
Website	www.je-un.ca ^[2]

Just Energy Group Inc. (formerly Just Energy Income Fund and previously to that Energy Savings Income Fund) is a natural gas and electricity retailer operating in markets across North America.

Operations

Just Energy is a publicly traded company (TSX:JE, NYSE:JE) and serves 1.8 million customers collectively under its affiliate companies Just Energy, Hudson Energy, Commerce Energy, Tara Energy, Amigo Energy, National Home Services, Momentis, Hudson Energy Solar and Terra Grain Fuels.

Just Energy's business involves the sale of natural gas and/or electricity supply to residential and commercial customers under long term fixed price, price-protected or variable-priced contracts and green energy products. Just Energy is the largest competitive green energy retailer in North America and was the Green Energy Provider of Super Bowl XLV. To date, the company has invested over \$50 million in green projects across North America.

The company derives its margin or gross profit from the difference between the price at which it is able to sell the commodities to its customers and the related price at which it purchases the associated volumes from its suppliers.

Markets

Just Energy supplies natural gas and/or electricity in New York, Indiana, Illinois, Texas, Massachusetts, Ohio, Michigan, California, Maryland, Georgia, Florida, New Jersey and Pennsylvania in the United States, and Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia in Canada.

Products and services

Through their fixed-price or price-protected programs, Just Energy customers offset their exposure to changes in the price of these essential commodities. Variable rate products allow customers to maintain competitive rates while retaining the ability to lock into a fixed price at their discretion.

The company's green energy programs are designed to help customers reduce the environmental impact of their everyday energy use. Through their JustGreen natural gas and electricity supply programs, Just Energy purchases carbon offsets or renewable energy credits on customers' behalf. The credits relate to a specific amount of greenhouse gas reductions or green energy production to offset up to 100% of the negative environmental impact of

a customer's everyday energy use. JustGreen is available as a complement to Just Energy's commodity-based programs.

The JustClean program is available to customers who are not enrolled in the company's natural gas or electricity based programs. JustClean provides the option for consumers to go green without having to change their current energy supplier. JustClean subscribers help to offset the negative environmental impact associated with their daily home energy use and also help to support local green projects.

Through National Home Services, Just Energy rents ENERGY STAR qualified energy efficient water heaters, furnaces and air conditioners. Through its subsidiary Terra Grain Fuels, Just Energy produces and sells wheat-based ethanol. In August 2011, Just Energy launched Hudson Energy Solar, a solar project development platform in New Jersey.

Name Change

In 2009, the company undertook a rebranding campaign from Energy Savings Income Fund and U.S Energy Savings, Ontario Energy Savings, Alberta Energy Savings to Just Energy Income Fund across all of its Canadian and U.S. markets. After changes in income trust tax laws in Canada on January 1, 2011, the company became a corporation and today is known as the Just Energy Group.

Growth & Acquisitions

The company has experienced double digit growth in every year since its inception. In April 2010, the company expanded its marketing distribution channel and launched a new network marketing arm under the brand, Momentis. The company completed the acquisition of Toronto-based direct energy marketer Universal Energy Corporation on July 1, 2009.^[3] From that acquisition, Just Energy gained National Home Services.^[4] Universal Energy board member Frank Klees was then given a seat on the board of its Exchange corporation.^[5] In May 2010, Just Energy acquired Hudson Energy Group, an energy marketer in the U.S. commercial sector. In August 2011, Just Energy announced a deal to acquire Fulcrum Retail Holdings LLC, a privately held electricity provider operating in Texas^[6]

Controversies

In June 2003, the *Toronto Star* reported that both Direct Energy and the Ontario Energy Savings Corp., a subsidiary of the Energy Savings Income Fund, had been charged with fraud as a result of its agents having forging energy contracts and had been fined. Ontario Energy Savings Corp. defended these charges by stating that the forgery was a result of individual agents, and not indicative of the way the company conducts business.^[7]

In January 2007, the *Toronto Star* reported that agents of the Ontario Energy Savings Corp. had been misrepresenting themselves as a public company while involved in sales, and had breached a number of the regulations of the Ontario Energy Board established to protect customers. It also speculated that the prices the OESC was attempting to charge in order to ensure a fixed price on energy were based on unrealistic projections of how much energy prices would rise in the next five years.^[8]

In July 2008, the Attorney General of New York state brought action against U.S Energy Savings (now Just Energy) for deceptive sales practices.^[9]

In April, 2010, the CBS2 Chicago reported that Just Energy^[10] was ordered to pay a \$90,000 fine for violation of the Alternative Gas Supplier Law. The Illinois Commerce Commission completed an independent audit of the company's sales practices.^{[11][12]}

Financial Results

Highlights for the three months ended December 31, 2011 include gross residential customer equivalent additions through marketing of 310,000 and net additions of 115,000, up from 238,000 and 45,000 in the second quarter. Total customer base was up 10% over the previous year. Over the past 12 months, green takeup was 33% of new residential customers, who purchased an average of 87% as green supply. ^[13]

Just Energy was listed and began trading on the New York Stock Exchange on January 30, 2012 (NYSE:JE).

The company is not BBB accredited. It holds an A- rating.

References

- [1] "Energy Savings Income Fund" (<http://www.esif.ca>). . Retrieved 2008-12-04.
- [2] <http://www.je-un.ca>
- [3] <http://ca.us.biz.yahoo.com/iw/090702/0515852.html?.v=2>
- [4] <http://www.nationalhomeservices.ca/>
- [5] <http://investing.businessweek.com/businessweek/research/stocks/private/board.asp?privcapId=30823371>
- [6] "Just Energy Group Inc. Announces Agreement to Acquire Fulcrum Retail Holdings LLC" (<http://www.reuters.com/article/2011/08/25/idUS144744+25-Aug-2011+MW20110825>). *Reuters*. August 25, 2011. .
- [7] Spears, John (June 21, 2003). "Energy marketers fined over forgeries". *Toronto Star*.
- [8] Shop around before you sign energy contract (<http://www.thestar.com/article/176481>) by *Toronto Star*. Retrieved 19 October 2008
- [9] <http://www.ag.ny.gov/press-release/attorney-general-cuomo-stops-wny-natural-gas-provider-deceiving-consumers>
- [10] <http://www.youtube.com/watch?v=TK6RollB2sQ>
- [11] Energy Company Fined \$90,000 By State Regulators (<http://cbs2chicago.com/local/just.energy.ruling.2.1641927.html>)
- [12] ICC Fines Just Energy For Deceptive Marketing Practices (MS Word Document) (<http://www.icc.illinois.gov/downloads/public/JustEnergyOrder041510f.doc>)
- [13] <http://www.justenergygroup.com/SiteResources/ViewContent.asp?DocID=32&v1ID=&RevID=973&lang=1>

External links

- Just Energy Group website (<http://www.justenergygroup.com>)
- Just Energy website (<http://www.justenergy.com>)
- Just Energy Contractor Careers website (<http://www.justenergynation.com>)

Article Sources and Contributors

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Attorney General Eric T. Schneiderman

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Attorney General Cuomo Stops Wny Natural Gas Provider From Deceiving Consumers By Misrepresenting Service Contracts

BUFFALO, N.Y. (July 14, 2008) – Attorney General Andrew M. Cuomo announced today an agreement with a private natural gas seller whose sales personnel deceived Western New York customers into entering into service contracts and paying more for services.

The Attorney General's settlement with U.S. Energy Savings, which sells gas to residential consumers in place of the local utility, requires the company to waive hundreds of thousands of dollars in residential consumer termination fees and pay \$200,000 in costs and penalties to the state. The settlement also implements a series of comprehensive reforms in order to ensure that customers are given accurate, up-front information regarding their service agreements by the company's sales staff.

"With New Yorkers facing tough economic times and the price of energy at an all-time high, no one – especially hard-working families – can afford to be duped by energy companies using high pressure sales tactics," said Attorney General Cuomo. "This settlement will protect New York consumers and ensure this company complies with the law. The agreement will also provide Western New York homeowners peace of mind when they are solicited by a natural gas provider."

Energy service companies (ESCOs) like U.S. Energy Savings began competing with regulated utilities in 1996 to sell natural gas directly to consumers in New York state. ESCOs, however, are not regulated like utilities and have become the subject of many consumer complaints.

Since 2005, U.S. Energy Savings sold 4- and 5-year "Natural Gas Price Protection Program Agreements" to Western New York and New York City residents door-to-door via independent contractors. Attorney General Cuomo's office received hundreds of consumer complaints that sales contractors promised immediate savings on utility bills, but the price of gas was actually more than the price charged by the local utility because the price was locked in for a multi-year period.

U.S. Energy Savings' agreements allowed consumers the right to cancel service within three business days, but that period expired long before consumers received their first bill (usually between 30 and 60 days). When consumers, surprised by the increase in their gas bills, sought to cancel their agreement beyond the three-day window, U.S. Energy Savings required that they pay a termination fee that equaled \$600 or more.

The Attorney General's investigation also uncovered multiple untrue claims made by U.S. Energy's outsourced sales personnel, including that the company was affiliated with the local utility, and consumers could continue being billed at a set amount each month based on the estimated annual billing (only later to find out that they were being billed for actual or estimated usage for the billing period). Additionally, when consumers tried to cancel their Agreements, they were often unable to contact the company or were put on hold for interminable periods.

The Attorney General's settlement requires – for the first time – an ESCO to allow consumers the right to cancel their agreements without termination fees any time from the date that the consumer signs the agreement to up to 30 days after the date of the first natural gas bill where U.S. Energy Savings is listed as the gas supplier. Further, the settlement limits the amount that U.S. Energy may charge as a termination fee to no more than \$5.50 per month remaining on the contract.

After Attorney General Cuomo's Office brought these concerns to U.S. Energy Savings, the company agreed to waive termination fees for over 300 consumers and allowed them to cancel their

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agreements. In addition to forgiving these fees and paying \$100,000 in costs and \$100,000 in penalties, under the Attorney General's agreement, U.S. Energy Savings must:

- Provide every new customer a letter that clearly states the cancellation period and early termination fee and invites consumers to contact U.S. Energy with concerns about sales practices.
- Verify all details and qualifiers of its Agreements with consumers either by recorded call or in writing
- Obtain background and/or reference checks for all potential sales contractors
- Review all consumer complaints and provide a response within 30 days of receipt
- Terminate any independent contractor who misleads consumers
- Waive termination fees for any consumer who cancels an agreement within 60 days of this settlement

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The case was handled by Assistant Attorney General James Morrissey of the Buffalo Regional Office with assistance by Senior Fraud Representative Karen Davis, under the supervision of Assistant Attorney General In-Charge Russell Ippolito.

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Attorney General Eric T. Schneiderman

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Attorney General Cuomo Reaches Agreement With Wny Natural Gas Provider After Consumer Complaints

BUFFALO, N.Y. (November 10, 2009) - Attorney General Andrew M. Cuomo announced today that his office reached an agreement with a Western New York gas provider after consumers complained about the company using deceiving tactics.

New York Energy Savings Corporation, d/b/a U.S. Energy Savings, has agreed to change both the name of the company and the color scheme of uniforms so that consumers will not think that the company is affiliated with the local regulated utility. The new agreement also implements a \$50 cap on cancellation fees for consumers who cancel contracts after 30 days. Previously, the energy service company (ESCO) was found to be charging some consumers more than \$600 in such fees.

“Representatives of this company went door to door, and were often mistaken for employees of the local utility,” said Attorney General Cuomo. “Consumers ended up signing contracts under that false belief, and that’s when the complaints started. To make an informed choice for an energy provider, homeowners must have all facts. This agreement will make sure this company changes its methods so homeowners know what they are signing up for.”

In 2008, Attorney General Cuomo’s Office reached a settlement with U.S. Energy Savings, requiring the company to waive hundreds of thousands of dollars in residential consumer termination fees and pay \$200,000 in costs and penalties to the state. The settlement also implemented a series of comprehensive reforms to ensure that customers are given accurate, up-front information regarding their service agreements by the company’s sales staff.

The Attorney General’s Office recently began receiving additional complaints from consumers who indicated that the name of the company and the dark blue color scheme of the representatives’ uniforms misled homeowners to think they were affiliated with the local regulated utility. Cuomo’s office promptly amended its 2008 agreement with the company requiring the company to stop using the name “U.S. Energy” and to change its representatives’ uniforms from dark blue to green to avoid confusion.

The Attorney General’s original settlement required - for the first time - an ESCO to allow consumers the right to cancel their agreements without termination fees any time from the date that the consumer signs the agreement to up to 30 days after the date of the first natural gas bill where U.S. Energy Savings is listed as the gas supplier. To further protect consumers, the amended agreement requires the company to implement a \$50 cap for its early termination fees for consumers who cancel contracts after 30 days.

ESCOs began competing with regulated utilities in 1996 to sell natural gas directly to consumers in New York state. ESCOs, however, are not regulated like utilities and have become the subject of many consumer complaints.

Consumers who believe they have been subjected to deceptive business practices by an ESCO or any other business may contact the Attorney General’s Buffalo Regional Office at 716-853-8404.

More information about the original settlement with U.S. Energy Savings can be found at www.ag.ny.gov/media_center/2008/jul/july14a_08.html.

The case was handled by Assistant Attorney General James Morrissey of the Buffalo Regional Office with assistance by Senior Fraud Representative Karen Davis, under the supervision of Assistant Attorney General In-Charge Russell Ippolito and Deputy Attorney General for Regional Affairs J.

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David Sampson.

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