



National Energy Marketers Association*

National Marketing Standards of Conduct

The 21st Century Opportunity to Serve

The Social Compact that defined the 20th Century *Obligation to Serve* is evolving into a new 21st Century *Opportunity to Serve*. Utilities historically are “*Obligated to Serve*” consumers in exchange for a guaranteed return of and return on invested capital. Today, in many states, Energy Marketers compete for the “*Opportunity to Serve*” consumers of all sizes, incomes and load shapes, with no guarantees of profits, market share, or economies of scale. Implicit in today’s new *Opportunity to Serve* is the ability to compete with the best service, the best price, the best technologies, or any combination thereof.

No regulatory mandate to serve is needed to incent marketers to compete. NEM members are honored to serve consumers and to endorse and implement these *National Marketing Standards of Conduct*, as well as ethical business practices that protect the consuming public. Billions of dollars have been invested in good will, trade names, and business reputations. In a competitive energy market there is no profit in a tarnished reputation, ill will, or poor conduct. The bottom line is that the energy consuming public needs more competitive energy and technology choices. And, the new Energy Services and Technology Industry is honored to serve this public need. It is also in the public interest to transition utilities out of competitive markets in order to free their resources to invest in a reliable 21st Century infrastructure.

* The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM’s membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting, and power line technologies.



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Introduction

One of the most effective means of protecting the consumer is providing them the choice to do business with whom they want, and to purchase what they want, when they want it and not to force them to do business with any one entity. As consumers have been given the opportunity to shop for energy, without penalties and artificial constraints, the number of competitive suppliers and the number of competitive offers has increased in historic proportions. As the new Energy Services and Technology Industry has grown with remarkable speed, the members of NEM have implemented practical, straightforward and sensible safeguards to protect the consumer, protect their good names and reputations and to protect this burgeoning marketplace.

The National Energy Marketers Association (NEM) and its members affirm their commitment to adhere to the principles set forth in NEM's "Consumer Bill of Rights." All members of NEM endorse a zero tolerance policy for any fraudulent, illegal, or unethical conduct of any employee or agent. The most effective consumer protection rules are premised on the fundamental requirement of accurate, affirmative statements from marketers that disclose the attributes of contracted-for products and services and likewise require accurate, affirmative statements of marketer identification.

Marketing standards of conduct necessarily differ depending on the type of consumer being solicited and the attendant level of sophistication of that customer. However, the following list of business practices form a common basis for doing business in today's energy marketplace:

National Marketing Standards of Conduct

1. Suppliers and their agents shall comply with all applicable federal, state and local laws and regulations.
2. Suppliers shall not engage in *false, misleading or deceptive conduct* in dealings with consumers.
3. Suppliers shall not make *false, misleading or deceptive statements or representations* in dealings with consumers.
 - Consumers have the right to honest, accurate, and clear communications relating to energy marketing and sales activities. These communications include but are not limited to print, radio or television advertisements, mail, email, website claims, social media, telephone solicitations and person-to-person contacts.
4. Suppliers shall be *responsible for the conduct of their agents*.
 - An "agent" shall mean a person who conducts marketing or sales activities, or both, on behalf of a single licensed marketer or supplier, with respect to a given customer contact and/or within a given utility service territory. The term includes an employee, a representative, an independent representative, an independent contractor, or a vendor.

- Agents shall be trained about:
 - marketer rates and products which they are selling;
 - applicable federal, state and local laws, regulations and ordinances;
 - ethical and responsible sales practices.
 - Agents should be deemed appropriate for the type of contact they will be having with the public, which should include the use of comprehensive background checks for door-to-door sales agents.
 - Agents shall be courteous and professional.
 - Agents will respect the person and privacy of the consumer.
5. Suppliers shall utilize methods appropriate to the size and type of consumer when engaged in *door-to-door* (hours, agent and supplier identification), *telephonic* (hours, agent and supplier identification), *electronic and network sales and marketing*;

a. Door to Door

- An Agent shall only make sales calls during hours permitted under applicable law and in accordance with local ordinances.
- An agent shall produce and display identification that utilizes the marketer's legitimate trade name and logo as well as the agent's name, photo and identification number.
- Agent shall be able to provide a phone number that the customer can call to verify the Agent's identity.
- An agent shall identify the marketer which s/he represents upon the commencement of the sales call.
- An agent shall promptly and courteously leave the premises upon being requested to do so.
- An agent shall comply with any applicable do-not-knock lists.

b. Telephonic

- An agent shall comply with federal and state do-not-call list provisions.

- The agent shall identify the marketer upon whose behalf s/he is calling as well as the agent's first name upon commencement of the sales call. If the agent also has an identification number, the agent shall provide it immediately upon the consumer's request during the call.

c. Electronic Contracts and Digital Media

- Electronic contracts using digital media are binding contracts subject to applicable federal and state laws.
- Electronic signatures are binding signatures under federal and state electronic signature laws.
- All written or verbal contracts that are converted into digital media or electronic formats for use, storage and/or transmission to customers should be binding contracts, and in compliance with applicable federal and state electronic signature laws.
- The use of social media is permitted in accordance with applicable law.

d. Network/Relationship

- Independent representatives of network marketing companies shall not use either telemarketing or door-to-door sales techniques for the purpose of acquiring customers.
- A network marketing company shall ensure its independent representatives have received adequate training and information about the nature of the product and the terms and conditions of its sale as well as all market-specific regulatory compliance requirements.
- Network marketing companies shall establish and maintain a clear channel of accountability for the actions of its agents.
- Any marketing materials utilized by an independent representative of a network marketing company shall be pre-approved by such company.
- A network marketing company shall utilize a verifiable quality control process to ensure the integrity of consumer enrollments.

6. Suppliers shall provide *accurate information* to consumers about the *products and services being offered*.

- Suppliers shall provide the necessary documents and information that are required to be provided to the consumer under applicable law.

7. A Supplier's *agreement with a customer shall set forth all material terms*.
 - Rate, contract term, applicable early termination fees, rescission rights.
 - No cramming (unauthorized charges).
8. The sales presentation must be in the same language as the agreement with the consumer.
9. A Supplier's agreement with a customer shall be clear, plain and in a language that is understandable to the consumer.
10. Suppliers shall make *accurate representations regarding the relationship with the delivery utility*.
11. An individual consumer shall not be *enrolled* for competitive energy service unless s/he has expressed his/her *consent* to the Supplier to do so.
 - Consent may be in the form of a signed agreement, a telephonic enrollment, an electronic transaction, and/or any other method approved by law or regulation. Consent carries the additional right to rescind your acceptance within the number of days proscribed by law or regulation.
 - No slamming (unauthorized change of service).
 - The Supplier shall ensure that the applicable post sale verification process is correctly conducted with the consumer.
12. A Supplier shall *record, retain and honor* all valid written, verbal, or electronic contracts that exist between the Supplier and the consumer in accordance with all applicable state, federal and local requirements.
13. A customer shall be provided with the *contact information of the Supplier and the state regulatory authority*.
14. Suppliers shall promptly and timely *investigate and appropriately respond to consumer inquiries and complaints*.