

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2019-387-A

IN RE:)
)
RULEMAKING PROCEEDING FOR)
THE PURPOSE OF PROMULGATING A)
REGULATION TO HELP PREVENT)
THE POTENTIAL FOR MISLEADING)
ADVERTISEMENTS BY PROHIBITING)
THE SALE OF CUSTOMER DATA BY)
REGULATED UTILITIES ABSENT A)
CUSTOMER’S DIRECT CONSENT (See)
Commission Order No. 2019-877))
_____)

PETITION TO INTERVENE

Carri Grube Lybarker, Consumer Advocate for the State of South Carolina and Administrator of the South Carolina Department of Consumer Affairs (“Department”), respectfully petitions the South Carolina Public Service Commission (“Commission”) for permission to intervene in the above-referenced Docket pursuant to R. 103-825 of the Commission’s rules of practice and procedure. In support of this petition, Petitioner states as follows:

1. On November 27, 2019, the South Carolina Office of Regulatory Staff (“ORS”) filed a Petition for Rulemaking Proceeding with the Commission to determine appropriate parameters and standards regarding a utility’s use of customer data. The ORS Petition was filed in Docket No. 2019-367-A.
2. On December 18, 2019, in Docket No. 2019-367-A, the Commission issued Order No. 2019-877, approving the request by ORS to open a rulemaking for the purpose of promulgating a regulation to help prevent the potential for misleading advertisements by prohibiting the sale of customer data by regulated utilities, absent

a customer's direct consent. The Commission further ordered that this docket, Docket No. 2019-387-A, be opened for the purposes of this rulemaking proceeding.

3. The South Carolina Department of Consumer Affairs is the state's consumer protection agency and is responsible for administering and enforcing the Consumer Protection Code, S.C. Code Ann. § 37-1-101 *et seq.*, which includes a chapter entitled "Consumer Identity Theft Protection." *See* S.C. Code Ann. § 37-20-110 *et seq.* The Department also has the duty of implementing several additional statutes that place requirements on businesses and public bodies regarding the collection, maintenance and disposal of consumer data and when unauthorized access to such data occurs. *See* S.C. Code Ann. § 30-2-310; S.C. Code Ann. § 1-11-490; S.C. Code Ann. § 39-1-90. Further, Petitioner is familiar with federal laws governing the protection of consumer data and tracks national trends in this area.
4. The Department's Identity Theft Unit ("IDTU"), created in 2013, provides education and outreach to businesses and consumers in the area of consumer privacy and data security. Our efforts focus on increasing public awareness and knowledge about the importance of protecting personal information and how to protect against identity theft and scams. The IDTU also assists identity theft victims by guiding them through the process of mitigating and resolving their individual situations. During calendar year 2019, the Department delivered more than 100 presentations to nearly 4,000 South Carolina consumers on avoiding identity theft and scams. Based on these interactions, as well as Department research and experience, Petitioner shares the concerns of many consumers pertaining to the collection, use, aggregation, storage, and sharing of their personal information, particularly in light of the growing data brokering trend.
5. As Administrator of the South Carolina Department of Consumer Affairs, Petitioner shall assist all state and local agencies performing consumer protection functions in carrying out their legal enforcement responsibilities for the protection

of consumers and undertake activities to encourage industries to maintain “high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services.” S.C. Code Ann. § 37-6-117(d), (f); *see also* S.C. Code Ann. Regs. 28-3(K). Additionally, pursuant to S.C. Code Ann. § 37-6-604 (2018), Petitioner has discretion to provide legal representation of the consumer interest before state and federal regulatory agencies when such agencies undertake to enact regulations related to rates or prices for consumer products or services and may intervene as a party to advocate for the interest of consumers before the South Carolina Public Service Commission in such matters as the Consumer Advocate deems necessary and appropriate. It is through such provisions, and based on the experience of Petitioner as described herein, Petitioner does hereby petition to intervene as a formal party of record in Docket No. 2019-387-A.

6. Petitioner considers the above-referenced proceeding to be a matter substantially affecting the consumer interest in that the outcome of the proceeding directly impacts consumer data and privacy, including whether, and within what parameters, private companies can profit from the collection of such data. Petitioner fully supports placing limitations on the sale/access of consumer data as privacy is of great importance to consumers and an integral component of maintaining a healthy marketplace where mutual confidence between buyers and sellers exists; however, she has not fully developed her position on this matter. Petitioner reserves the right to set forth her position more fully as necessary and appropriate as this proceeding moves forward.

WHEREFORE, Petitioner, in order to represent the consumer interest of the State of South Carolina, requests for the Commission to grant this Petition to Intervene and make Petitioner a formal party of record, allowing Petitioner to actively participate in this proceeding.

Carri Grube Lybarker, Esquire
Administrator / Consumer Advocate

By: s/Carri Grube Lybarker
S.C. Department of Consumer Affairs
293 Greystone Blvd., Suite 400
P.O. Box 5757
Columbia, South Carolina 29250-5757
(803) 734-4233

January 15, 2020
Columbia, South Carolina