



Gas marketing company called pyramid

Consumer advocates make charge, but company says it sells gas with legal multilevel strategy

By [M.B. Pell](#) and [Margaret Newkirk mnewkirk@ajc.com](#)
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Rebecca Bigbie asked a crowd in a hotel conference room in Peachtree City recently to imagine making \$4,000 a month whether or not they did anything to earn it.

She asked them to imagine taking their families on a cruise. She said they could make \$2 million in a year selling natural gas for Stream Energy.

“Can you fail your way to \$22,000 a month?” asked Bigbie, an executive director with Ignite, Stream Energy’s marketing arm. “That’s what I did.”

Bigbie confided to the audience: When an Ignite representative initially approached her, she did not have the \$325 joining fee. But “I said, what’s another \$325?” and added the fee to her credit card debt.

Nods rippled across the audience.

It’s a scene that has played out in Georgia hundreds of times since 2007.

But if the offer sounds too good to be true, that’s because it is, two consumer advocates say. Most who sign up as sales directors will lose money, they say.

A Texas lawsuit claims it’s more than just a bad deal, it’s illegal. The suit alleges that Stream sells energy as cover for a sophisticated pyramid scheme designed to take money from the vast majority of sales recruits and funnel it to the top.

The Texas case is in early stages and Stream is vigorously defending itself. A similar lawsuit filed in Georgia by the same attorney was dismissed this year on procedural grounds. However, a Texas appellate court recently declined to dismiss the Texas case on the same issue.

Paul Thies, senior director of communications for Stream, adamantly denied the company is a pyramid scheme. He said Stream uses a legitimate multilevel marketing strategy, like Avon, paying its sales force on their own sales as well as those of the salespeople they recruit.

Scott Clearman, the lawyer suing Stream, says the state’s weak consumer-protection laws have left Georgians vulnerable.

The agency responsible for certifying Stream to sell natural gas, the Georgia Public Service Commission, said it is charged with protecting natural gas customers, not salespeople, and Stream's rates and services have been similar or better than other gas companies. Regulating Stream's agreements with sales directors is the job of the Governor's Office of Consumer Protection, said Mike Nantz, director of PSC's consumer affairs division.

The governor's consumer office said it looked at Stream at the request of the PSC. "For all we could tell, Stream complied and was within the law," said spokesman Bill Cloud.

Some consumer experts say regulatory agencies often struggle to distinguish between multilevel marketing and pyramid schemes.

Since the company's founding in Texas in 2005, Stream says, more than 172,000 people signed up as Ignite directors — independent contractors who sell gas to customers and recruit more directors. These directors collectively paid at least \$51 million to join. The company says it has more than 400,000 energy customers. That includes at least 20,000 gas customers in Georgia, according to the PSC.

Stream would not say how many Ignite directors live in Georgia.

It's possible to be both a Stream customer and sales director, but it's not clear how many customers are sales directors too.

Robert FitzPatrick, who runs a watchdog group called Pyramid Scheme Alert, examined the most recent income disclosure from Stream's website for The Atlanta Journal-Constitution. Fitzpatrick has served as an expert witness in pyramid cases.

Fitzpatrick said his calculations show 90 percent of Stream's sales force lost nearly all their investments; 8.5 percent made no profit; only 1 percent made what he said amounts to minimum wage-level income and fewer than 0.1 percent earned substantial income.

"It's like a chain letter," he said.

Asked about Fitzpatrick's analysis, Thies said the company makes clear to prospective associates that success depends on their efforts.

"It is true that a large number of people may or may not make their money back," Thies said. "The business model itself does not dictate your level of success."

Perry Betts, of Ringgold, a plaintiff in the Georgia suit, saw a good opportunity when he was introduced to the company by a woman from his church. His "eyes are a little more open now," he said, and he realizes he cost the one man he recruited into sales hundreds of dollars and could have "victimized" friends and family, all because he thought selling gas had to be well regulated.

"It seemed to me if they were approved by the state as a provider, they had a stamp of approval from the regulators," Betts said. "I don't know any other way to look at it. They weren't selling cookies."

Selling like Mary Kay

Multilevel marketing strategies are increasingly common nationally and include household names like Mary

Kay. They are legal under federal and state law.

However, Federal Trade Commission officials generally distinguish multilevel marketing from illegal pyramid schemes by explaining that pyramid schemes promise consumers or investors large profits based primarily on recruiting others to join their program, not based on profits from sales of goods to the public.

Stream says its focus has always been selling a real product — energy.

The company was licensed by Georgia to sell gas in 2008. But even before it was approved to market gas, Ignite directors began recruiting in the state, PSC records show. Ignite sales pitches swept through neighborhoods, churches and companies.

“They were holding ‘revival’ meetings all over Georgia, promising to make millionaires out of anyone willing to take a few ‘simple’ steps to gain financial freedom,” said Cynthia Cornelius, then head of PSC consumer affairs, in an e-mail to the AJC.

That’s how Stream came to Peachtree City, with its concentration of Delta employees.

In web presentations and lavish rallies, including one with a performance by Cirque du Soleil, Ignite offers tips like how to focus on FRANK — friends, relatives, associates, neighbors, and kids — and how to avoid the “Valley of Death.” That’s when a director scares off a prospective recruit by saying too much too soon.

There was a covert element in the early days, as seen in complaints to the PSC. One forwarded an e-mail advertising an Ignite “webinar,” but warned the company was in its “quiet period” and did not have permission to market gas.

“Please do not randomly forward this email,” it said. “Send the link only to personal contacts and make sure no one contacts the PSC.” Stream blamed rogue directors, who were disciplined.

Ignite’s high-ranking directors sell the company as God’s work, according to training material; in an online audio clip, one executive director likened marketing Stream energy to Harriet Tubman’s work freeing slaves. To appeal to the more materialistic, the training material advertises unlimited bonuses with the potential for “geometric growth to infinity.”

Some participants say Stream serves them well.

Mike Hubbard, a Peachtree City resident, said he likes the “recession proof” income he gets on gas sold to his customers and to those of directors he signed up — between 50 cents and \$3 a month per customer.

Hubbard paid the standard \$300 to join plus \$25 a month for an Ignite website.

The pilot who recruited Hubbard, meanwhile, got a bonus of \$100 to \$325, once Hubbard signed the required number of customers, according to the range of bonuses in Stream’s promotional material. Bigbie, at an even higher level, received a bonus of \$75 to \$225.

And so the bonuses flow.

Regulatory dispute

The PSC referred inquiries about Stream's marketing strategy to the governor's consumer office in 2008, said Cornelius, who headed the PSC consumer division. She said her staff "tried to engage" that office, "just couldn't get [them] to bite."

But the governor's consumer office did investigate, Cloud said, and found that Ignite implied it had permission to market gas before it did; did not explicitly describe the duties of directors, and omitted a required opt-out provision in contracts.

Stream and Ignite signed a letter of understanding, admitting no wrongdoing and promising to follow the law.

The company also agreed to a year of monitoring. During that time, Cloud said, the office received no complaints "of consequence" and Stream seemed to follow the agreement.

The consumer protection agreement didn't address whether Ignite emphasizes recruiting more than sales.

Cloud said his office will investigate the matter again, due to issues raised by the AJC.

Customers make it legal

Ignite directors are not shy about discussing the importance of recruiting.

Presley Swagerty, a top-ranking director known as "The Coach," said he made \$117,000 in one month, and \$10 of it came from energy customers, according to a website run by several Ignite directors.

In Peachtree City last month, Bigbie said that, even though leadership says it's about the residual income from energy customers, "60 to 80 percent of your check is bonus money" from recruiting new directors.

Still, "customers make this legal," she said.

Stream's Thies disputed Bigbie's and Swagerty's claims. He said 68 percent of 2010's payout to the sales force was for commissions on energy customers. The remaining 32 percent, he said, was bonuses paid for recruiting directors who obtained a set number of customers. It's four or less, according to company literature.

"No Ignite associate has ever been paid simply for the act of associate recruitment," he said.

Yet, FitzPatrick, the pyramid expert, said that misses the point.

"Would it be worth your time to sell just the gas?" FitzPatrick asks. "Most people would say 'no,' that's not how you make money. Then what are you selling if you recruit someone into the same business you're not making money from? You're selling a seat on a chain."

Still, some participants say the model works for them. Among them: Randy Hedge, a top-ranking Ignite director known as "The Cowboy."

"I don't care if they call it an octagon, a parallelogram, a rectangle," Hedge told an audience in 2006. "They're sending me a check."

Marketing in tiers

Here's what the Federal Trade Commission's Bureau of Consumer Protection says about multilevel marketing and pyramids:

"Multilevel or "network" marketing plans are ways to sell goods or services through distributors. Typically, these plans promise that if you sign up as a distributor, you'll get commissions not only from the sales you make, but also from the sales of the people you recruit to become distributors."

Not all multilevel marketing plans are legitimate. Some are pyramid schemes. It's best not to get involved in plans where the money you make is based primarily on the number of distributors you recruit and your sales to them, rather than on your sales to people outside the plan who intend to use the products.

Joining a pyramid is risky because the vast majority of participants lose money to pay for the rewards of a few people at the top.

Pyramid schemes are sometimes confused with Ponzi schemes, such as the one that got Bernie Madoff sent to prison. The Securities and Exchange Commission describes a Ponzi scheme: "A Ponzi scheme is an investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors."

The price of gas

Once licensed in 2008 to sell gas in Georgia, Stream Energy set a price that was among the lowest in the state.

Its rates have since drifted toward the middle, compared with the other nine marketers in Georgia, but have generally remained below most providers'.

Stream has posted natural gas prices with the state Public Service Commission for 32 months.

Here's a summary of their pricing in that time:

Cheapest

May and September 2008, January and February 2009

Highest-priced

March 2010

The value of experience

This is not the first venture into multilevel marketing by Stream executives. Chris Domhoff, a founder of Ignite, and other executives helped run Excel Communications, according to a lawsuit filed in Texas against Stream.

Excel was founded in 1988 to market long-distance phone service in the newly deregulated telecommunications industry and became one of the largest resellers of communications services in the country. The company was purchased in 2002 by VarTec, which filed for bankruptcy in 2004.

Along with the executives, some top sales associates at Excel also now work for Ignite. High-level director

Presley Swagerty — the Coach — used the same back story for both companies, telling recruits for Excel and Stream that he was a high school basketball coach with bills piling up before each company changed his life.

Meet our reporters

Margaret Newkirk has covered Georgia's utility and energy industry since 2002. Her coverage includes award-winning stories on problems at a Cobb County electric cooperative and in the state gas market. She came to the AJC from the Akron Beacon Journal in Ohio, where she was lead investigative reporter.

M.B. Pell, The Atlanta Journal-Constitution's consumer watchdog reporter, joined the AJC in October. Pell moved to Atlanta with his wife and son from the Washington, D.C, area where he worked for the Center for Public Integrity, a nonprofit, nonpartisan, investigative news organization.

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