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August 30, 2010

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

Re: Case 98-M-1343 – In the Matter of Retail Access Business Rules

Dear Ms. Brillling:

On or about August 17, 2010, a Petition for Rehearing was submitted by the Retail Energy Supply Association (“Petition”) seeking reconsideration of that portion of the *Order Concerning Remote Customer Access to Customer Account Information*, issued in this proceeding on July 19, 2010,¹ which directed that the costs associated with enhancement of the IVR systems be recovered solely from ESCOs. In accordance with 16(A) NYCRR Section 3.7(c) these comments are submitted by the Small Customer Marketer Coalition (“SCMC”) in reply to the Petition and are support of the relief sought therein.

In the Petition it is asserted correctly that allowing recovery of the IVR Enhancement System costs from the general body of ratepayers is consistent with the cost recovery determination made in the Retail Practices Order², reflects that the IVR program will provide material and discernible direct benefits to ratepayers, and is also consistent with the Commission’s funding

¹ Case 98-M-1343 – In The Matter Of Retail Access Business Rules, Order Concerning Remote Access to Account Information (issued July 19, 2010) (“Order”).

² Case 07-M-0458, Proceeding on Motion of the Commission to Review Policies and Practices Intended to Foster the Development of Competitive Retail Energy Markets, Order Determining the Future of Retail Access (issued October 27, 2008) (“Retail Access Order”).

determinations with respect to other aspects of the retail access platform infrastructure. These arguments are persuasive and reasonable and fully support reconsideration by the Commission of its previous cost recovery determination.

In this context, SCMC further opines that allowing recovery of these costs from the general body of ratepayers is entirely consistent with the retail access structure implemented under the auspices of the Commission and now in effect for more than a decade.

The retail access infrastructure developed in New York as codified in the UBP and prior Commission orders, is an EDI based model which as its initial entry point requires the provision of certain information by the ESCO to the utility to effectuate an enrolment of the customer and thereby allow the customer to migrate from utility to ESCO commodity service. It is through the transmission of data from the ESCO to the utility via the EDI mechanism that the enrollment of the customer is fully effectuated and placed in effect. Unless and until the requisite data associated with that data transfer is provided to the utility, a customer cannot be enrolled and any enrollment can be rejected by the utility. The key element in that data set is the customer's utility account number which acts as the inception point to the entire retail access customer enrolment process. Absent that utility account number, even if other information related to the customer is available, an enrollment cannot be completed and the customer's desire to move to retail access service cannot be translated into reality.³

This is the system codified in the UBP and applicable to the utility, the ESCO as well as the customer. Thus, regardless of the wishes, desires or efforts of the ESCO, unless and until the customer can produce the utility account number, neither the customer nor the ESCO can complete a retail access enrollment for that particular customer or in any other way modify the provision of commodity service consistent with the desires of the customer.

Under these circumstances it appears clear and unequivocal, that enabling the customer to obtain access to the utility account number is a critical component of the retail access infrastructure as well as the retail access platform which reflects those elements that are integral to the structure of competitive markets and form the platform that insures that competitive retail markets will remain open to competitors and consumers on a nondiscriminatory basis. Obviously, if the customer is unable to obtain access

³ UBP § 4(C)(1)(b); Case 98-M-0667, In the Matter of Electronic Data Interchange, Opinion and Order Approving EDI Data Standards and Data Protocols and Modifying the New York Uniform Business Practices for EDI Implementation (issued July 23, 2001), p.30.


to utility account information, the retail market remains closed to that customer and the ESCO is simply unable to compete with the utility.

Consequently, a program such as the enhancement of the IVR structure which improves the customer's ability to gain access to the utility account number is essential to maintaining a competitive market structure and is, indeed, part of the retail access platform that is integral to the structure of the retail competitive market in New York.

For these reasons, SCMC urges the Commission to reconsider its prior determination and allow recovery of the enhancement of the IVR systems to be implemented through the general body of utility rates.

Respectfully submitted,

Small Customer Marketer Coalition

By: 
Usher Fogel, Counsel

Cc: Service List (by electronic mail)