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June 20, 2016

Via Electronic Filing

Hon. Kathleen H. Burgess
Secretary
Records Access Officer
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 112223

Re: Cases 15-M-0127, 12-M-0476, 98-M-1343: Comments of Robison Energy, LLC on the Staff Whitepaper on Express Consent, Performance Bonds or Other Security Interests, and Benchmark Reference Prices

Dear Secretary Burgess:

Enclosed please find the Reply Comments of Robison Energy, LLC (“Robison”) in the above referenced matters.

Should you have any questions or require any additional information, please contact me at (212) 590-0145 or via email at natarafeller@fellerenergylaw.com.

Respectfully Submitted,

By: /s/ Natara G. Feller

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Eligibility Criteria for Energy Services Companies)	Case 15-M-0127
)	
Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets In New York State)	Case 14-M-0476
)	
)	
In the Matter of Retail Access Business Rules)	Case 98-M-1343

**REPLY COMMENTS OF
ROBISON ENERGY, LLC**

Robison Energy, LLC (“Robison”) is a participant with the Impacted Energy Coalition (“Coalition”), and offers the following comments to supplement those submitted in the above-referenced proceeding by the Impacted ESCO Coalition. Robison and its product offerings exemplify the goals set forth by the Commission when retail markets were originally developed. Energy Related Value Added Services (“ERVAS”) are central to Robison’s business model. As a result of the ERVAS proposal described in the Benchmarking Whitepaper (issued May 4, 2016), along with the underlying restrictions around fixed-rate and variable-rate offerings, Robison’s continued success and participation in the energy retail market is threatened. The attached affidavit of Robison Co-President Dan Singer describes the impact the changes the Commission seeks to make to the retail energy markets will have on Robison. Robison urges the Commission to consider the likely adverse impacts and unintended consequence its Resetting Order (and related issuances) will have on local ESCOs, to the detriment of the retail energy markets and mass market customers.

State Supported Opportunities for Growth in Retail Power & Natural Gas Markets Induced Robison to Invest in its ESCO Line of Business

Robison has invested millions of dollars, increased staff, and spent considerable time and effort in entering the New York markets, and did so with the Commission’s encouragement. As stated by Mr. Singer, “*Robison’s choice to invest in the ESCO line of business was, in part, due to the infrastructure architecture designed by the Commission. Robison was induced to make investments and build its ESCO business in part by the incentives and structure supported by the Commission. Robison changed its business model over time under an energy-related value-added paradigm (commodity and legacy services) and now the Commission is pulling away that very same foundation with its proposed restrictions.*” (See D. Robison Affidavit, at 4). At present, Robison is deeply concerned with the potentially dire consequences that will result from implementation of the Resetting Order and the proposals contained in the Whitepaper May 4 Whitepapers.

Robison's Success Lies with its Unique Product Offerings and Services

As noted in Robison's previous comments, Robison's customers seek out Robison for the premium level, value-added services offered in addition to base electric or natural gas supply. Robison's customers are educated and understand that Robison may be more expensive than the utility's price and still choose to sign up (and remain enrolled with) Robison. Furthermore, Robison is integrally involved with the community of Westchester. Robison hires locally and is involved with local charities and community organizations and has been for decades. Robison does not advertise or otherwise represent to customers that its products are cheaper than the utility. Robison *does* assert that it provides services which could greatly reduce customers' energy consumption.

Robison's services include, but are not limited to, a free one-year service contract on heating equipment when the customers sign for natural gas; a free home energy performance review; discounted air-conditioning and plumbing services; 24/7 live call center for heating emergencies with technicians scheduled 24 hours per day to respond within 3 hours, day or night; and a full web and mobile site for ease of communication and account review.¹

Robison is concerned that the approach described in the Benchmark White Papers to decouple the price of the commodity and value-added service will adversely impact Robison's ability to continue marketing and serving customers for the following reasons:

- This approach fails to account for the difficulty in assigning a quantifiable value to services like around-the-clock customer service and the resulting peace of mind it affords customers.
- The currently outlined mechanism for allowing ESCOs to offer energy-related value-added services to the market by decoupling rates is flawed. It is difficult to decouple and price out each energy-related value-added component when the sum is more valuable than the individual parts.
- Though the Commission will not opine on the cost of energy-related value-added services, the obligation that the underlying price must still meet the proposed variable-rate/fixed-rate requirements is problematic. Given that it is difficult, if not impossible, to assign a numerical value to energy-related value-added services, this cost element cannot be properly fitted into the rate requirements of the Commission.

Instead, the Commission's stated goal of increased price transparency could more easily be achieved by telling customers that savings are not guaranteed at the outset, and providing customers with clear information on what is included with the product offering.

However, should the Commission continue to pursue a benchmark reference price for the fixed-rate commodity portion of the bill, Robison believes that the Commission should recognize the difference between companies whose primary focus is selling the commodity from those companies whose primary business is the value add service, and not the supply of the commodity should be recognized as different, when it comes to meeting the Reference Price. This distinction is warranted because the ERVAS based entities have longstanding relationships with their customers that is outside of the commodity sale alone. These customers must be granted continuation of their right to purchase commodity service from their ERVAS-based ESCO, even

¹ Case 15-M-0127, et al., "Comments of Robison Energy, LLC" June 6, 2016, at 4.

if the commodity portion of their bill exceeds the reference price, and conversely, such ESCOs should have the certainty that they will not be subject to the reference price.

For example, all of Robison's electric customers purchase other commodities and/or services from Robison, such as HVAC repair and then decide to bundle their services and receive electric and/or gas from Robison as well. Customers choose Robison not because they have the cheapest individual commodities or services, but because Robison bundles these commodities and services in a way that is attractive to educated consumers. As noted above, the rates charged by Robison might tend to be higher than the utility, but these customers happily do so knowing that they are receiving much more than just the bare commodity. Therefore, Robison proposes that the companies described herein be granted a 10%-20% buffer above whatever Reference Price is ultimately established by the Commission to account for the added value of the variety of services Robison provides its customers which are not offered by the typical ESCO. This buffer would protect New York customers' right to choose and ensure they have access to a variety of different energy service providers, including those who prioritize customer service over saving money.

To prevent "pure ESCOs" from taking advantage of this system, Robison recommends that in order to utilize this price buffer, an ESCO must have at least three (3) years' experience in both customer service and the ancillary industry, whether it be HVAC, plumbing, energy efficiency, etc.

Conclusion

Robison supports the Commission's objective to "address the unfair business practices currently found in the energy services industry and to ensure residential and small nonresidential commercial customers (mass market customers) are receiving value from the retail energy markets." However, any attempt by the Commission to address "unscrupulous" ESCOs should be narrowly tailored so as not to adversely impact companies with positive histories of compliance and who provide a real value to residential and small commercial customers in New York State.

Respectfully Submitted,

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DANIEL SINGER, being duly sworn, deposes and says:

1. I am the Co-President of Robison Energy, LLC (“Robison”), a New York energy service company (“ESCO”) providing power and natural gas to the local community in and around Westchester County. Robison is a member of the Impacted ESCO Coalition. I have worked at Robison since 1996, and my duties include but are not limited to, oversight of finance, product supply (including power and natural gas), human resources, information technology, and logistics. As such, I have personal knowledge of the facts and events set forth herein, except those stated upon information and belief.

2. I submit this affidavit in support of Robison’s comments and in response to the May 4, 2016 Staff Whitepapers on Benchmark Reference Prices.

Background & Entrance to ESCO Market

3. Robison is a New York-based, third-generation, family-owned energy company. Robison has operated in New York for nearly ninety years, serving all grades of heating oil, bio

fuels, natural gas, electricity, renewable sources of energy, HVAC services, and energy performance services to both residential and commercial customers in New York since 1927.

4. Robison is a registered New York limited liability company with headquarters in Westchester County, New York. Robison has been authorized to operate as an ESCO in New York since 1998. Robison currently has more than 200 employees working in various roles, including sales, human resources, marketing, finance, delivery drivers, service technicians and fleet mechanics. More than half of Robison's employees are members of various local trade unions including the International Brotherhood of Teamsters and Sheet Metal Workers. Robison also has contacts with outside vendors and sales representatives. We provide jobs to the local community as well as paid internships to local college students.

5. In 1998, Robison assessed that, as a heating oil supplier and HVAC service company, the idea of selling natural gas supply in combination with HVAC service to homeowners made perfect sense. Homeowners that buy heating oil, have always participated in a free market and choose their suppliers freely based on their own individual needs. Some heating oil customers choose to pay a little more for their product, but prefer the full service experience. Others shop for the lowest price. The market works perfectly; competition drives the price down and levels of service up. The notion that a natural gas customer could enjoy that same customer experience and choose a supplier based on their priorities greatly appealed to Robison's existing business model. Robison made the decision to pursue this opportunity and participated in the market deregulation since the debut of Phase I in 1998.

State Supported Opportunities for Growth in Retail Power & Natural Gas Markets Induced Investment in the ESCO Business

6. Since our entry into the New York energy retail market in 1998, the Commission has offered incentives to ESCOs to encourage market participation. As far back as August of

2004, the Commission issued two policy statements affirming the Commission's commitment to customer choice and outlined strategies to boost participation in competitive markets. ESCOs were encouraged to replicate Orange and Rockland Utility's Power Switch Program and encouraged to participate in programs allowing utilities to purchase the supplier's accounts receivables without recourse, eliminating the need to perform credit checks. In return, participating suppliers offered guaranteed discounts to participating customers and agreed to take all residential and small commercial customers referred by the utility.

7. Similarly, in 2005, the Commission approved and adopted the ESCO referral program. A referral program describes the enrollment by the utility with a participating competitive supplier who agrees to take all customers and provide a two-month guaranteed savings rate. At the end of the two-month period, the customer can return to default service without penalty, or continue on the supplier service.

8. Robison's participation in the Power to Switch program and ESCO referral program required Robison to add a considerable amount of staff to accommodate these new, assigned customers.

9. By the end of 2006, Robison was involved in two referral programs, absorbing all the associated costs as a result. Robison relied on Commission approval of these programs concerning their validity and longevity in its decision to invest in them. The Con-Edison website and other marketing materials induced Robison to believe that this was going to be a viable business and would justify its redirection of funds and resources from our existing business as well as personally secured money to the growth of an energy services company. By 2008, Robison had assumed all the costs of marketing to residential and small commercial customers and through these efforts had attracted thousands of customers.

10. Robison's choice to invest in the ESCO line of business was, in part, due to the infrastructure architecture designed by the Commission. Robison was induced to make investments and build its ESCO business in part by the incentives and structure supported by the Commission. Robison changed its business model over time under an energy-related value-added paradigm (commodity and legacy services) and now the Commission is pulling away that very same foundation with its proposed restrictions.

11. Robison currently has approximately 6,000 electrical and gas mass market customers in New York State. Robison invested millions of dollars in acquiring customers, and training and hiring staff to support these customers. Robison enjoys a strong relationship with its customers and employees, all of whom rely on the permanency of the deregulated markets.

Succeeding with a Commodity Plus Value Add Energy Related Service

12. Robison's customers seek Robison out for the premium level, value-added services received in addition to base electric or natural gas supply. Robison's customers are educated and understand that Robison may be more expensive than the utility's price and still choose to sign up with (and remain enrolled with) Robison.

13. Robison does not advertise or otherwise represent to customers that its products are cheaper than utility. Robison does assert that it does provide services which could greatly reduce their energy consumption. Robison's services include, but are not limited to:

- a. Free one-year service contract on heating equipment when the customers sign up for natural gas. This includes tune up and cleaning of furnace or boiler adding to the overall efficiency of the premises.
- b. Free Home Energy performance review.
- c. Discounted air-conditioning and plumbing services.

d. 24/7 live call center for heating emergencies with technicians scheduled 24 hours per day to respond within 3 hours, day or night.

e. Full web and mobile site for ease of communication and account review.

14. Robison's service department and call center are staffed 24/7 in the winter ready to respond to customers who have lost heat or hot water within hours. Likewise, Robison has seven (7) days per week service for air-conditioning in the summer. Service of this caliber has resulted in considerable customer loyalty who gladly pay higher prices for the security our service provides.

15. Robison has a positive and compliant relationship with the Commission and the Staff of the Department of Public Service ("Staff"). Robison's first priority is to ensure its customers are receiving optimal service. The Commission received zero (0) customer complaints in 2016, five (5) complaints in 2015 regarding Robison; none of which were related to pricing.

16. So long as ESCOs are transparent in terms of potential savings against the utility price, service provided under the customer service agreement and the ESCO remains true to those terms the customer agreement Customers should have the right to select energy-related value-added services commodity service provider. Limiting the customer's access to products and their ability to make informed decisions on which products are most suited to their individual needs is detrimental to the customer, and flies in the face of the retail power and natural gas markets developed over the past (almost) twenty years.

Ramifications of the Resetting Order

17. I support the Commission's goal of protecting customers against unscrupulous ESCOs, and ensuring that consumers are receiving true value added benefits, but am concerned

the approach described in the Benchmark White Papers, issued May 4, 2016, to decouple the price of the commodity and value added service will adversely impact Robison's ability to continue marketing and serving customers. The way in which ESCOs could offer energy-related value-added services to the market by decoupling rates is flawed. First, it is difficult to decouple and price out each energy-related value-added component when the sum is more valuable than the parts. Second, though the Commission will not opine on the cost of energy-related value-added services, the obligation that the underlying price must still meet the proposed variable rate /fixed rate requirements is problematic. Given that it is difficult, if not impossible, to assign a numerical value to energy-related value-added services, this cost element cannot be properly incorporated into the rate requirements of the Commission.

18. The ramifications of the Resetting Order and adoption of the proposals contained in the Whitepapers would be swift and devastating to Robison and would likely result in one or more of the following: (a) significant loss of customers and revenue, (b) forced layoffs, and (c) irreversible damage to business relationships with necessary partners such as vendors, financial institutions, and other third parties.

19. Robison currently has approximately 6,000 electrical and gas mass market customers in New York State. Robison invested millions of dollars in acquiring customers, and training and hiring staff to support these customers. Should the proposals contained in the Whitepapers be adopted by the PSC, Robison would be forced to lay-off a number of staff, including customer service personnel and HVAC technicians.

20. The May 4, 2016 Staff Whitepaper on Benchmark Reference Prices proposes a fixed price product the price of which "could be coupled with an energy related value added

product, the price of which would be bundled with the per unit commodity costs but separately disclosed in the customer disclosure statement, including the price of that product.”¹

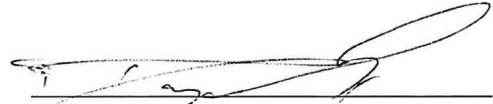
21. I am concerned with this approach for many reasons. First, this approach fails to account for the difficulty in assigning a quantifiable value to services like around-the-clock customer service and the resulting peace of mind it affords customers. The Commission’s goal of increased price transparency could more easily be satisfied by telling customers that savings are not guaranteed at the outset.

22. Second, the restrictions on the underlying commodity price alone could devastate Robison’s ability to continue offering products and services to retail natural gas and electric customers. Instead, Robison supports exceptions for energy-related value-add products that among other things, offer energy efficiency savings, and offer home heating emergency service and related services.

¹ Benchmark Reference Price Whitepaper, at 3.

Conclusion

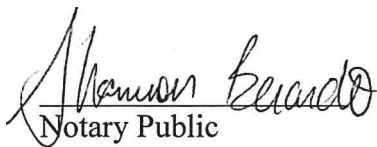
23. Robison supports the Commission’s objective to “address the unfair business practices currently found in the energy services industry and to ensure residential and small nonresidential commercial customers (mass market customers) are receiving value from the retail energy markets.” However, any attempt by the Commission to address “unscrupulous” ESCOs should be narrowly tailored so as not to adversely impact companies with positive histories of compliance and who provide a real value to residential and small commercial customers in New York State.



Daniel Singer
President
Robison Energy, LLC

Sworn to before me this

1st day of June, 2016



Notary Public

SHANNON BERARDO
Notary Public, State of New York
No. 01BE6163402
Qualified in Westchester County
Commission Expires March 26, 2019