

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 12-M-0476 - 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 98-M-1343 - In the Matter of Retail Access Business Rules.

CASE 06-M-0647 - In the Matter of Energy Service Company Price Reporting Requirements.

CASE 98-M-0667 - In the Matter of Electronic Data Interchange.

NOTICE FURTHER EXTENDING DEADLINES

(Issued May 23, 2017)

On December 16, 2016, the Commission issued its Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies.¹ Implementation of the prohibition was directed to begin 60 days after the effective date of the Order. By Notice Extending Deadlines issued January 25, 2017 (January 25, 2017 Notice), the Secretary extended the deadlines for implementing the prohibition until May 26, 2017. The Notice treated rehearing requests of the Impacted ESCO Coalition and the National Energy Marketers Association (NEMA) as requests for extensions of time, and granted those requests.

The January 25, 2017 Notice observed that there was potential litigation over the Prohibition Order. It found that "[i]n order to avoid the customer confusion that may arise in implementing the prohibition that may be subject to change pending the outcome of that litigation, it is appropriate to

¹ Case 12-M-0476 et al., Retail Access, Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies (issued December 16, 2016) (Prohibition Order).

delay the implementation of the Prohibition Order until a judgment can be had, at the very least, from Albany County Supreme Court.”² The Prohibition Order subsequently became the subject of an Amended Petition and Complaint, on which Albany County Supreme Court has not yet issued a decision.

By letter dated May 18, 2017, the Joint Utilities³ asked for a further extension of the deadlines for implementing the Prohibition Order. The Joint Utilities state that they are required to place blocks on low-income customer accounts and send letters to all low-income customers and need time to finalize, translate, process and deliver the letters, as well as to block customer accounts. They also observe that requests for waivers of the Prohibition Order from several ESCOs have yet to be decided, and additional time is needed to allow any ESCOs that may receive waivers to continue serving low-income customers. The Joint Utilities estimate that all these compliance efforts will take approximately two weeks. They request that the Secretary grant an additional delay, of the lesser of 120 days or two weeks following notice from the Secretary of an Albany County Supreme Court judgment, assuming the judgment permits the Commission to move forward with the Prohibition Order.

By letter dated May 23, 2017, the Impacted ESCO Coalition (Coalition) also requested a further extension for compliance with the Prohibition Order. They contend that a

² January 25, 2017 Notice at 2-3.

³ The Joint Utilities include: Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, and Niagara Mohawk Corporation d/b/a National Grid, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation.

further extension would allow for disposition of pending issues, avoid customer confusion and administrative difficulties, and provide time for compliance should judgment issue in the Commission's favor. The Coalition requests either an extension until July 31, 2017, or one of twenty-one days following a judgment from Albany County Supreme Court.

The fixed time periods for an extension proposed by the Joint Utilities and the Impacted ESCO Coalition do not seem justified in light of the time the Joint Utilities forecast as needed for compliance. Granting an extension in the alternative, as the Joint Utilities propose, may potentially create confusion. An extension tied to the date of any decision, as requested by both the Joint Utilities and the Impacted ESCO Coalition, also appears inappropriate, given the need to forecast what decision might be reached. Further, it is difficult to say what period of time is needed to accommodate any decision. A shorter extension of 30 days, to be extended as needed, accordingly is most appropriate. Therefore, the requirements of Ordering Clauses 1-3, and 5-11 of the Prohibition Order are further extended until June 26, 2017.

(SIGNED)

KATHLEEN H. BURGESS
Secretary