

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

**CASE 15-M-0127 - In the Matter of Eligibility Criteria for Energy Service Companies.**

**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.**

**COMMENTS OF GREEN MOUNTAIN ENERGY COMPANY,  
RELIANT ENERGY NORTHEAST LLC D/B/A NRG HOME AND D/B/A  
NRG BUSINESS SOLUTIONS, ENERGY PLUS HOLDINGS LLC,  
ENERGY PLUS NATURAL GAS LLC AND INDEPENDENCE ENERGY  
GROUP LLC D/B/A CIRRO ENERGY ON THE PUBLIC SERVICE  
COMMISSION'S MARCH 8, 2017 NOTICE SEEKING COMMENTS ON  
REVISIONS TO THE UNIFORM BUSINESS PRACTICES**

Green Mountain Energy Company, Reliant Energy Northeast LLC d/b/a NRG Home d/b/a NRG Business Solutions, Energy Plus Holdings LLC, Energy Plus Natural Gas LLC, and Independence Energy Group LLC d/b/a Cirro Energy, all subsidiaries of NRG Energy, Inc. ("NRG") that operate in New York as energy service companies (collectively, "NRG ESCOs"), respectfully submit these comments in response to the Public Service Commission's March 8, 2017 Notice Seeking Comments on Revisions to the Uniform Business Practices ("Notice").

**Green Mountain Energy Company Petition**

The NRG ESCOs appreciate Staff's responsiveness to Green Mountain Energy Company's ("Green Mountain") October 7, 2016 Petition regarding marketing representative identification badge and business card requirements, specifically Staff's recognition of the need to protect the safety and privacy of ESCO agents interacting with prospective customers in public venues. The NRG ESCOs, therefore, fully support the proposed changes to UBP

§ 10.C.1.b.1 and § 10.C.1.d to omit the current requirement that identification badges include both the agent's first and last name, and replace it with the agent's first name and an unique employee identification number. As detailed in Green Mountain's Petition, displaying a unique employee identification number accompanied with the agent's first name will effectively accomplish the consumer protection objective of the UBPs while also protecting the agent's privacy.

Furthermore, because the spring season traditionally represents an increase in marketing activity in public venues such as farmers markets, fairs and festivals, and other outdoor events, it is appropriate for the Commission to approve and implement the proposed changes to identification requirements for marketing representatives in UBP § 10.C.1.b.1 and § 10.C.1.d as soon as possible and separate from the other changes to the UBP proposed in the Notice.

### **Other Proposed UBP Changes**

In addition to the changes proposed by Green Mountain to protect the privacy of ESCO agents, the March 8, 2017 Notice includes a significant number of other proposed changes to the UBPs being considered by the Commission. The NRG ESCOs support the comments filed by the Retail Energy Supply Association and urge the Commission to withdraw these additional proposed UBP changes and await the completion of the Track I and Track II proceedings in order to fully understand the retail energy market and holistically implement any necessary modifications to the UBPs.

By a December 2, 2016 "Notice of Evidentiary and Collaborative Tracks and Deadlines for Initial Testimony and Exhibits," the Secretary identified a Track 1 evidentiary hearing process to evaluate whether (1) ESCOs should be completely prohibited from serving their current products to mass-market customers, and (2) the regulatory regime, rules and UBPs

applicable to ESCOs need to be modified to implement such a prohibition, to provide sufficient additional guidance as to acceptable rates and practices of ESCOs, or to create enforcement mechanisms to deter customer abuses and overcharging. The Notice also identified a Track II collaborative process to determine whether new ESCO rules and products can be developed that would provide sufficient real value to mass-market customers such that new products could be provided to them by ESCOs in the future in a manner that would ensure just and reasonable rates.

These evidentiary and collaborative tracks are designed to effectuate the Commission's goals of achieving a comprehensive enhancement, reformation and rebranding of the retail energy markets in New York. Indeed, as part of these dual tracks, Staff will have the chance to identify and develop collaborative solutions targeted at the specific areas needing improvement in the retail electric and gas markets and present a full and complete recommendation to the Commission as to the nature and extent of needed UBP changes. This opportunity also aligns with the consumer energy market advancements being developed in the Reforming the Energy Vision program.

Because the proposed UBP changes are being considered now, as opposed to after completion of the evidentiary and collaborative tracks and the development of a full record of the retail energy market in New York, they are currently imprudent. Without the necessary record contemplated by the evidentiary and collaborative tracks, it is unclear the full extent and manner in which changes to the UBPs should be made. In this regard, many of the changes are not targeted at the real issues facing the retail market that need improvement. Rather, the currently proposed UBP changes fundamentally ignore the underlying root causes of the market's problems and are focused only on the symptoms, setting them up to fail at achieving the

Commission's goals of improving the retail energy market and advancing consumer protection.<sup>1</sup> Indeed, certain changes being proposed now could prove insufficient, overbroad or even unnecessary given the outcomes of the evidentiary and collaborative tracks.

Given the forgoing, the NRG ESCOs respectfully submit that it is premature for the Commission to implement the additional changes to the UBPs currently being proposed by Staff. The NRG ESCOs, therefore, encourage the Commission to temporarily postpone adopting further changes to the UBP until the evidentiary and collaborative processes have concluded and a holistic understanding of the retail energy market in New York, including its strengths, weaknesses and areas for improvement, has been achieved.

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<sup>1</sup> For example, concerns about marketing practices are most effectively addressed by raising the standards and qualifications for market participants. The reliance on certain sales channels, such as door to door and telemarketing, can be lessened by regulatory structure adjustments that provide for alternatives to the need for a customer's utility account number in order to complete an enrollment as well as giving customers greater freedom to choose energy supply providers when initiating service for their premise (so-called "Day One" switching). Issues about Purchase of Receivables (POR) insulating ESCOs from bad debt and the corresponding relationship to prices may be mitigated by allowing Supplier Consolidated Billing by which ESCOs can bill and collect distribution company charges as well as supply charges. Customer complaints about the market are likely to be reduced by making the customer experience convenient, less cumbersome and more consistent with consumer expectations in the age of Amazon.com consumerism.