

New York State Energy Marketers Coalition

August 27, 2012

VIA ELECTRONIC MAIL

Honorable Kimberly Harriman
Honorable Rudy Stegemoeller
Administrative Law Judges
New York State Department of Public Service
3 Empire Plaza
Albany, New York 12223-1350

Re: Case No. 12-E-0201 and 12-G-0202: Niagara Mohawk Power Corporation d/b/a National Grid – Electric and Gas Rates

Dear Judge Harriman and Judge Stegemoeller,

The New York State Energy Marketers Coalition ("NYSEMC")¹ wishes to voice its deep concern and objection to Information Requests No. 91 and 107 which have been made by the Public Utility Law Project of New York, Inc. ("PULP") in relation to the above listed Cases currently being considered by the New York State Public Service Commission ("Commission").

We believe that allowing the fulfillment of these requests would result in unrealistic and confusing price comparisons, a violation of utility billing agreement provisions, incorrect conclusions drawn as a result of reviewing any data provided as a result of this request, relevancy to the issues being reviewed and debated in this matter, and a disregard for the single most important component needed – *additional consumer education for an effective retail market*.

COMPARISON OF APPLES AND ORANGES

Simply put, NYSEMC believes it is a completely unrealistic comparison to view energy prices provided by a specific utility at a given point in time with those provided by competitive energy services companies ("ESCOs"), which offer differing products and services to consumers in the State of New York. We are mindful that certain ESCOs may charge higher rates than others in the competitive marketplace. However, we believe that simply trying to compare ESCO

¹ For purposes of this filing, the New York State Energy Marketers Coalition consists of Agway Energy Services, LLC, Energy Plus Holdings LLC, and Interstate Gas Supply, Inc., d/b/a IGS Energy.

prices to a utility default service would be confusing at best and misleading at worst. This would result in an “apples and oranges” comparison.

Unlike a utility, which can spread its ancillary and support costs to its entire rate base through distribution charges in ways that artificially lowers its “supply” rate, ESCOs provide pricing to customers that are complete and final. In other words the ESCO’s prices are all-in, whereas the utilities’ prices are not, resulting in a distorted comparison.

We are also deeply concerned that price information which is provided to utilities as part of its proprietary Billing Service Agreement between the ESCO and a utility is representative of a private transaction entered into with its customers, and should therefore not be disclosed under any circumstances.

Further, if the Commission were to consider price comparisons in this instance, considerable confusion would result on the part of consumers. Raw price information would not be able to indicate whether a given customer’s price was fixed, variable, or a combination thereof; whether the price was related to a renewable energy offering; or whether the price included any type of value-added product or service. Without this clear and complete interpretation, a fair and equitable comparison of pricing and value cannot be completed.

A number of ongoing price adjustments are factored into utility pricing (sometimes to the benefit of the customer; sometimes to their detriment). These ongoing factors are the subject of recurring rate cases and have continued impacts on utility pricing. While some may indicate that these adjustments are “minor,” the reality is that they have a measurable impact on customer bills nonetheless. In addition, there is a concern among ESCOs that a multitude of additional price influencers – merchant function charges, proper tax treatment for delivery only customers, etc. – require careful consideration in any price comparison.

By focusing on utility price comparison, ESCOs feel that they would be placed at a competitive and unfair disadvantage. This is a reasonable position, given that the price to compare has been clearly defined to be the utility’s default service rate, not another ESCO’s offer price, between which true competition could be measured and reviewed. While NYSEMC fully realizes that utilities need to remain in the default service position at this time, the fact is

that true competition within the State will not be fully realized until an alternative default supplier model is put into place.

CONSUMER EDUCATION IS CRITICAL

Probably the most important response which is needed at this time is additional consumer education. Although some may feel that shopping customers fully understand what it is that they have purchased, we believe a number of consumers may not remember the specific details of an energy product they purchased as long as a year ago. Some of us cannot recall within a few months how many minutes we have in our cell phone plan, and this is a common product purchased by a large percentage of the population. Similarly, many consumers purchase extended warranties for electronic appliances at the time of purchase, only to completely forget the details of what they bought within a year of purchase. In the same way, consumers who are now presented with multiple types of energy offers may not readily remember what exactly their ultimate purchase included, or what their motivation was when making the purchase, especially more than one year ago. Comparing fixed, renewable, and value added products to standard offer utility service does not provide any clarification to this consumer confusion.

A recent survey from KEMA² found that only 48% of residential consumers were aware of energy choice in New York State, compared with 77% in Pennsylvania. The study suggests that less than half of those who are aware of choice have actually switched suppliers, which aligns with the current New York State migration statistics.

We cannot emphasize enough the importance of consumer education. Most consumers do not understand how energy choice works; in fact, most do not understand how their existing utility bill works. This is not a criticism of the utility, whose role has been to focus on providing safe and reliable service. However, it is a clear indication that more education is needed.

Organizations such as the American Coalition of Competitive Energy Suppliers (“ACCES”)

² KEMA Second Annual Residential Power Choice Survey, <http://www.kema.com/news/pressroom/press-releases/2012/significant-market-potential-in-US-residential-electricity-markets-identified-by-DNV-KEMA.aspx>

can help. Specific content is available on the ACCES website³ to help consumers ask the right questions of potential suppliers, compare offers, and more fully understand the separate roles that utilities and competitive suppliers play in the market. For these reasons, NYSEMC strongly urges the Commission, PULP, and other parties to work closely with ACCES to help promote additional consumer education for the benefit of all.

CONCLUSION

For the foregoing reasons, NYSEMC strongly recommends the Commission deny PULP's request for price disclosure associated with Cases 12-E-0201 and 12-G-0202. We remain committed to working closely with the Commission and Staff, utilities, and consumer protection agencies to bring the benefits of a competitive retail energy market to consumers through transparent disclosure of complete information, which we believe can best be accomplished by continued education of the public, so that they can take control of their energy purchases.

Respectfully submitted,

New York State Energy Marketers Coalition
August 27, 2012



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³ ACCES website: www.CompetitiveEnergy.org

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