

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on February 5, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair  
Patricia L. Acampora  
Gregg C. Sayre  
Diane X. Burman

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.

ORDER GRANTING AND DENYING PETITIONS FOR REHEARING IN PART

(Issued and Effective February 6, 2015)

BY THE COMMISSION:

BACKGROUND

In the Order Taking Actions to Improve the Residential  
and Small Non-residential Retail Access Markets (February Order)  
issued on February 24, 2014 in these proceedings, the Commission  
took a variety of actions intended to assist residential and  
small non-residential customers who seek value in the retail  
energy markets in New York State. On March 27, 2014, four  
parties filed petitions for rehearing, reconsideration and/or

As correctly stated in the February Order, the Commission has authorized more than \$100 million annually for ratepayer-funded low-income discount programs administered by the utilities. These ratepayer funds augment taxpayer funds that provide financial assistance to utility customers through HEAP. The purpose of these important assistance programs is subverted if these significant ratepayer and taxpayer funds are merely passed through to ESCOs for comparatively higher priced gas and electricity, without any corresponding value for Assistance Program Participants. Further, diminishing the value of these financial assistance programs in relation to Assistance Program Participants' bills will make it more difficult for those consumers to pay their utility bills in full. The increased arrears and utility shut-offs that result are detrimental to both customers and utilities, and interfere with the Commission's interest in minimizing the unnecessary

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that it has received the necessary customer authorization to release the information to the ESCO.

termination of electricity and natural gas service to residential customers.

The conditions on ESCO provision of service to Assistance Program Participants are critical to ensuring that financial assistance provided to such customers is spent most efficiently. Given this important goal, the Commission upholds the conditions provided in the February Order, as modified below. ESCOs have no obligation to serve any customer, however, when an ESCO serves an Assistance Program Participant, the ESCO must satisfy at least one of two conditions. The ESCO must guarantee that the customer will pay no more, on an annual basis, than the customer would have paid as a full service customer of the utility,<sup>6</sup> or the ESCO must provide Assistance Program Participants with energy-related value-added products or services.

Regarding the provision of energy-related value-added services including fixed-rate products, it is important that all customers can take advantage of the opportunities to be created through the Reforming the Energy Vision (REV) initiative,<sup>7</sup> including advanced energy management products to enhance demand elasticity and more efficient use of energy, deeper penetration of renewable energy resources such as wind and solar, wider deployment of distributed energy resources, such as on-site power supplies, and storage. Similarly, all customers should have the opportunity to obtain energy at a reasonable fixed

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<sup>6</sup> If an Assistance Program Participant is only a customer of an ESCO for less than a full year, e.g., six months, the ESCO must guarantee that the customer will pay no more than he or she would have paid as a full service utility customer for the period in which the ESCO provided the customer's electricity and/or gas.

<sup>7</sup> 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Commencing Proceeding (issued May 8, 2014).

rate, which could assist customers in managing their energy bill. However, this alternative must be structured so as to ensure that Assistance Program Participants have access to these products in manner that does not dilute the effectiveness of the financial assistance programs. To that end, Staff will convene a collaborative of interested parties, within 60 days of the date of this order, to define the energy-related value-added products and services that must be provided to Assistance Program Participants to qualify for exemption from the price guarantee. The Staff-led collaborative shall submit a report of its proposals for Commission consideration within 180 days of the date of this order.

As stated in the February Order, ESCOs must know whether a customer is an Assistance Program Participant in order to comply with these requirements. ESCOs, upon marketing to a customer, must ask the customer if he or she is enrolled in a utility administered low income discount program or HEAP. If the customer indicates that he or she is enrolled in such a program, the ESCO must be able to confirm the customer's status at the time the ESCO is marketing to the customer.<sup>8</sup> A mechanism which allows an ESCO to quickly confirm that the customer is an Assistance Program Participant must be created. The Staff-led collaborative identified above will consider available technologies and mechanisms for implementing point-of-sale confirmation of a customer's Assistance Program Participant status. The collaborative's report shall include a proposal for an appropriate mechanism to allow ESCOs to confirm a customer's Assistance Program Participant status.

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<sup>8</sup> The ESCO must secure the customer's authorization before a utility can disclose the customer's Assistance Program Participant status.

As with any new requirements, there are specific concerns with existing customers and with customers who may become Assistance Program Participants. The collaborative should also consider how best to protect these customers and include appropriate proposals in its report.

Finally, an ESCO serving customers subject to the price guarantee may have to issue credits. Billing changes may be necessary to accommodate these credits. Because credits will not be issued until sometime after the initiatives described above are implemented, any necessary billing changes should be completed within the next six months. Any EDI changes that may be necessary to accommodate bill credits shall be developed by the EDI Working Group and will be effective upon the filing of a compliance filing that includes the appropriate EDI documentation within 60 days from the date of this Order. Any required testing by utilities and ESCOs must be completed, and the EDI transactions must be operational, within 120 days from the date of the compliance filing.

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The Commission orders:

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4. The Staff-led collaborative on certain aspects of ESCO provision of service to Assistance Program Participants shall submit a report, consistent with the discussion in the body of this order, to the Secretary within 180 days of the date of this order.

5. The documentation for the modifications to EDI identified in the body of this order shall be submitted to the Secretary as a compliance filing within 60 days of the date of this order. Without further Commission action, those EDI modifications shall be operable within 120 days of the date of the compliance filing.

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8. The Secretary in her sole discretion may extend the deadlines set forth in this order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to any affected deadline.

9. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary