

New York State Public Service Commission

In the Matter of Eligibility Criteria for Energy Services Companies)	Case 15-M-0127
In the Matter of Retail Access Business Rules)	Case 98-M-1343

AARP Reply Comments

The Department of Public Service Staff (Staff) submitted proposed amendments to the Uniform Business Practices (UBP) regarding energy service companies (ESCOs). Initial comments on the Staff amendments were filed in these dockets by several other parties in September 2015, including initial comments from the Public Utility Law Project of New York (PULP). AARP is providing reply comments in support of certain initial comments.

AARP¹ joins other initial commentators in being generally supportive of Staff's proposals to improve eligibility requirements and other regulatory provisions governing ESCOs through greater standardization in certain retail access business practices.

However, AARP also shares the skeptical sentiments expressed by PULP regarding the workability of "self-regulation", and believes that the Commission should work within the boundaries of its existing statutory authority to establish essential minimum standards that protect consumers when they deal with ESCOs. Despite the concerns expressed in initial comments about the limitations of that authority, AARP urges the Commission to exhaust the authority that it does have to promote the public interest. For instance, the Commission can and should sanction ESCOs for violating UBP tariffs and disqualify offending ESCOs from eligibility to continue providing supplier service.

To the extent that the Commission needs further authority, the Commission should outline the legislative steps that need to be taken to fully protect consumers from fraudulent ESCO practices and to ensure just and reasonable electric rates.

¹ AARP, is an organization that helps people over the age of 50 to exercise independence, choice, and control in ways beneficial to them and to society as a whole. AARP members, need affordable, reliable utility service. Approximately 2.5 million AARP members reside in New York.

AARP is specifically supportive of Staff's proposal to restrict fixed price contracts and to standardize contracts in order to improve the ability of consumers to comparison shop in a knowledgeable way. AARP has actively promoted reform on this topic in Connecticut, a state which has recently banned "teaser" or variable rate contracts², and which is working to make its rules and contract provisions more transparent and consumer friendly³. AARP believes that these are crucial consumer protections and urges the Commission to advance similar reforms in the state New York.

AARP is supportive of PULP's comments with regarding to the definitions and new regulatory language contained in Staff's proposed amendments.⁴

But AARP also shares PULP's concerns that Staff's proposed amendments for improving the Uniform Business Practice rules may not be sufficient to truly protect those residential consumers who have experienced deceptive practices and who currently pay rates that are not "just and reasonable" as a result of ESCO activities throughout the state. In its initial comments, PULP has recommended that the Commission:

- (1) Open an evidentiary proceeding to investigate patterns and practices of overcharging, deceptive practices, and other abuses, potentially removing ESCOs from the market whose rates are determined to be unjust and reasonable or whose practices have been deceptive or abusive; and
- (2) Reform the contracts of those ESCOs that have proven to be overcharging, and to issue show cause orders against all ESCOs currently operating in New York State for whom overcharging comprises at least 50% of complaints from the period of 2012 – 2014, or for whom deceptive practices comprise at least 5% of their complaints from the period of 2012 – 2014.

AARP agrees that it would serve the public interest to grant this PULP request to open a separate proceeding and review ESCO activity in a broader context. In this way, the Commission can appropriately focus its efforts on protecting energy consumers by rooting out "bad actors" from operating within the state of New York.

² See, PURA Review of Variable Rates Pursuant to Public Act 15-90 An Act Concerning Variable Electric Rates (2015).

³ Interpretative Order issued by the Connecticut Public Utility Regulatory Authority in Docket No. 15-06-15.

⁴ See PULP's initial comments, pp. 14-27.

Finally, AARP is supportive of the initial comments made by several other parties calling for the consolidation of rules regarding ESCOs and DERs into one comprehensive set of regulations.

AARP appreciates this opportunity to comment.

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