

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

In the Matter of Eligibility Criteria for
Energy Service Companies

Case 15-M-0127

Proceeding on Motion of the Commission
to Assess Certain Aspects of Residential
and Small Non-Residential Retail Energy
Markets in New York State

Case 12-M-0476

In the Matter of Retail Access Business Rules

Case 98-M-1343

COMMENTS ON WHITEPAPERS

The New York State Public Service Commission's ("PSC") Order dated February 23, 2016 addressed some concerns with respect to energy service companies ("ESCOs") in the retail energy business in New York State. More specifically, it stated that the main goal of the PSC is to address unfair business practices in the energy services industry and to ensure that mass market customers are receiving value from the retail energy markets. The PSC Staff released Whitepapers addressing a benchmark reference price, performance bonds and express consent.

As background, U.S. Energy Partners LLC ("USEP") is an ESCO with its office located in Buffalo, NY. USEP began in 2003 and serves residential customers, as well as commercial customers. Over the years, our customers have saved tens of millions of dollars as compared to what the customers would have paid as a customer of a utility for bundled service. USEP has always aimed at providing a sound value proposition to its customers.

USEP supports the PSC's goal of addressing the unfair business practices in this industry. Pursuant to PSC's Notice Seeking Comments on the Whitepapers, USEP offers its opinion below.

Benchmark Reference Prices

The Staff Whitepaper on Benchmark Reference Prices states that for month-to-month variable rate products, there is no reference price, but the ESCOs are "required to offer the price guarantee with respect to the utility commodity price as articulated in the Reset Order." The Reset Order provides that an ESCO must provide either a guaranteed savings or offer a 30% green product to mass market customers. Under the guaranteed savings provision, a customer will "pay no more than" what the customer would have paid as a customer of the utility. The "pay no more than" language is not specifically defined in the Order. In the collaborative meetings with staff there was some discussion and clarification as to what "guaranteed savings" means in the context of customer's

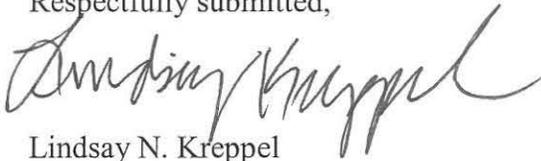
utility bill, which includes supply charges and delivery charges. When an ESCO provides a “guaranteed savings,” the customer must compare the total customer expense inclusive of all ESCO charges and all utility charges, compared to the total expense that he or she would pay to the utility for bundled utility service. This means that the utility’s price must consider all charges or credits such as the Merchant Function Charge (“MFC”), any supply reconciliation credit or charge (such as the Electricity Supply Reconciliation Mechanism “ESRM” on the National Grid system).

USEP suggests that the Commission Order should specify that the comparison for savings should be on the total expense. Otherwise, when a customer merely compares an ESCO’s supply price to a utility’s supply price, they could wrongly conclude on the best supply option. This is a common error. We have seen many situations where customers, customer service representatives at the utilities, and the press have wrongly concluded that ESCOs were “overcharging” when their supply price was higher than the utility posted price, but after consideration of charges or credits, the expense of purchasing from the ESCOs was less than purchasing from the utility.

Accordingly, USEP recommends that the Commission Order specify a “bottom line,” total expense comparison.

Thank you for your consideration on your matter.

Respectfully submitted,



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