

May 31, 2016

VIA FED EX

Secretary Kathleen H. Burgess
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

2016 JUN -1 PM 3:45
PUBLIC SERVICE
COMMISSION
EXECUTIVE OFFICE
ALBANY

Re: Reservation of Rights Regarding Case 15-M-0127, 12-M-0476, 98-M-1343
Order Resetting Retail Energy Markets and Establishing Further Process (the
“Resetting Order”)

Dear Secretary Burgess:

As you know, our firm represents National Energy Marketers Association, BlueRock Energy, Inc., Bounce Energy NY, LLC, Direct Energy Business Marketing, LLC, Direct Energy Business, LLC, Direct Energy Services LLC, Energetix, Inc., Gateway Energy Services Corp., North American Power & Gas, LLC, NYSEG Solutions, Inc., Residents Energy, LLC, and Verde Energy USA New York, LLC (the “Companies”) in pending litigation (Index No. 868-16) concerning the Resetting Order.

We write on behalf of the Companies to reserve all rights with respect to the claims, issues, and arguments in the pending litigation, including those issues that were covered by the Temporary Restraining Order and Stay (the “TRO”) entered by the Court on March 4, 2016. In light of the Commission’s decision to proceed with administrative proceedings during the pendency of the TRO, we write to make clear that the Companies’ participation in those ongoing administrative proceedings, including but not limited to collaborative meetings, technical conferences, comment submissions and rehearing petitions, is without prejudice to any of the issues raised in the pending litigation and/or reserved for the courts to determine, including the scope of the Commission’s jurisdiction and the propriety of the Resetting Order. The Companies’ participation in those administrative proceedings is without waiver of any of their rights, claims, and arguments, all of which are hereby expressly reserved.

Respectfully submitted,

/s/ Jason Cyrulnik
Jason Cyrulnik

cc: Kimberly A. Harriman (via email)
Jonathan Feinberg (via email)