



EMPIRE NATURAL GAS CORPORATION

June 02, 2016

Via Electronic Filing

Hon. Kathleen H. Burgess
Secretary New York State Public Service Commission
Empire state Plaza
Agency Building 3
Albany, NY 12223-1340

Re: Cases 15-M-0127, 12-M-0476, 98-M-1343 – Notice Seeking Comments On Resetting Retail Energy Markets For Mass Market Customers.

Dear Secretary Burgess:

Empire Natural Gas Corporation (ENG) appreciates the opportunity to submit comments in response to the Commission's inquiry regarding performance bonds, reference pricing for Energy Service Company (ESCO) products, and express consent from ESCO customers. ENG has been operating for over 27 years, supplying natural gas and electricity to commercial, public, and industrial customers across Upstate New York. As a qualified small business and locally owned and operated, we offer a unique perspective to the industry as well as a wealth of experience.

1. Benchmark Reference Pricing for ESCO Products

ENG strongly believes that having a reference price in place for both natural gas and electricity would fall under the category of price controls. We are adamantly against any form of price controls and we stand up for a free market in order to promote competition in the market place. If a customer and an ESCO were to enter into a written gas or electric agreement signed by both parties then none of the above price indexes should apply. If reference pricing were to be required for a 12-month fixed price for natural gas and electric, ENG recommends that the benchmark should only be applicable to ESCOs who partake in telemarketing practices.

2. Performance Bonds or Other Security Interests for ESCOs

ENG is opposed to adding additional annual certification fees and layers to the existing security requirements. Currently, utilities already have mechanisms in place to require a deposit or bond from any ESCO when they deem it necessary under a required annual review. If the Commission ultimately decides that additional security measures should be put in place, then ENG strongly believes the added security requirements should be based upon the amount of complaints that are submitted into the

Public Service Commission by customers in regards to individual ESCOs. By doing so, good companies will not be penalized, and as a result will strengthen the energy market. Since security requirements represent an added cost to do business, companies will have an added incentive for good behavior.

In reference to the Staff Whitepaper on performance bonds released May 4th, 2016, multiple ESCOs had made recommendations towards performance bonds and other security interests. Direct Energy had recommended a two tier approach: \$1 million for ESCOs serving mass market customers who certify that they are not engaged in door-to-door or outbound telemarketing sales to mass market customers, and \$3 million for ESCO's serving mass market customers who do plan to use those sales channels. The Commission should consider that requiring such a large amount of security would only restrain small companies from entering into the market and would in turn cut competition in the marketplace.

In the Staff Whitepaper, the New York State Energy Marketers Coalition supported an initial and annual certification fee. In addition to the certification fee, it was also recommended that an ESCO should demonstrate financial assurance through resources such as letters of credit or posted bonds. The commission should not require any initial or annual certification fees because we feel it will not refrain new ESCOs with intent to use unethical business practices from entering into the market.

3. Express Consent From ESCO Customers

As directed by the Uniform Business Practices (UBP), express customer consent is required for a full service utility customer prior to enrollment with an ESCO, or when switching from one ESCO to another. Customer consent is also required for an ESCO to release customer information to the ESCO by the utility. ENG believes that ESCO's who have written contracts between them and a customer should be exempt from the recommended measures outlined by the Commission in the express consent white paper. A signed contract between the customer and the ESCO should be considered sufficient in regards to express consent.

Respectfully,



Marcel Barrows

President

Empire Natural Gas Corporation