

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

In the Matter of Eligibility Criteria for Energy Services Companies))	Case 15-M-0127
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 14-M-0476
In the Matter of Retail Access Business Rules)	Case 98-M-1343

**COMMENTS OF
EAST COAST POWER & GAS, LLC**

Introduction:

On behalf of East Coast Power & Gas, LLC (“East Coast”) we submit these comments to memorialize for the record statements made at the June 15, 2016 meeting with Public Service Commission (“Commission”) Staff regarding the February 23, 2016 Reset Order. These comments are supported by the attached Affidavit of East Coast CEO, Vincent Palmieri.

East Coast is a New York based energy service company (“ESCO”) and participant with the Impacted ESCO Coalition. East Coast’s comments focus on a narrow set of issues that will have a profound impact on East Coast’s continued participation in the New York retail market. It is likely that the concerns raised by East Coast are shared by similarly situated ESCOs:

community based entities with low complaint levels and strong customer relationships throughout the State.

As described in more detail below, East Coast's position is that:

- Benchmark Reference Price should be re-formulated so as to better reflect the realities of the New York market and used as an educational tool for customers to compare products and pricing.
- Fixed-Rate Products must be recognized as energy-related value-added service ("ERVAs").
- Pricing of Commodity + ERVAs products should not be broken down into two pricing components on the customer disclosure statement.
- Performance Bonds must be proportional to the number of mass market customers an ESCO serves.

State Supported Opportunities for Growth in Retail Power & Natural Gas Markets Influenced Investment in the ESCO Business & Entrance to NY ESCO Markets

East Coast is a New York-based ESCO founded in 2008, serving natural gas, electricity and renewable sources of energy to over 6,000 residential and commercial customers in New York. East Coast operates behind National Grid – New York, National Grid – Long Island, Brooklyn Union Gas, Niagara Mohawk, Consolidated Edison, Central Hudson, and Orange & Rockland utilities. East Coast is a subsidiary of the East Coast Energy Group, a family-owned and operated business that has been a proud member of the New York Heating Association since 1993. East Coast has an illustrious history of exceptional service and value to homeowners and businesses. With the deregulation of energy markets in New York State, East Coast Energy Group formed East Coast to provide customers a cost effective, value-added and sustainable solution in managing their electricity and natural gas usage. East Coast is rated A+ with the Better Business Bureau and is the official energy provider of the New York Mets, the City of New York, the United Nations, and the NY/NJ Port Authority.

East Coast is a registered New York LLC with headquarters in Bronx County, New York. East Coast currently has more than fourteen (14) employees working in various roles, including sales, human resources, marketing, and finance. East Coast also has contracts with outside vendors and sales representatives, and provides jobs to the local community as well as paid internships to local college students.

East Coast's choice to establish its ESCO line of business was, in part, due to the infrastructure designed by the Commission. East Coast invested time and financial resources toward building its ESCO business in part because of the incentives and structure supported by the Commission. East Coast changed its business model over time under an energy-related value-added paradigm (commodity + legacy services).

East Coast currently has approximately 6,000 electric and gas mass market customers in New York State. East Coast invested millions of dollars in acquiring customers and training and hiring staff to support these customers. East Coast enjoys a strong relationship with its customers and employees, all of whom rely on the permanency of the deregulated markets.

Reference Price Formula

The Reference Price Formula ("Formula"), as outlined in the Whitepaper, must be amended. As noted by several parties in the Initial and Reply Comments on the Whitepapers the Formula is unworkable and overly vague. The existing Formula must be reworked to more accurately reflect the realities of the energy markets. For example, the Formula cannot accurately convey real-time market prices. Once a new formula is developed and agreed upon, the reference price may be used as a customer information tool, offering transparency in price and empowering the customer to make an informed decision.

While East Coast disagrees with the recommended approach of using “price to beat” formulas or utility prices, East Coast does support the Commission’s goal to provide mass market customers with increased pricing transparency. Instead of thrusting unknown rate caps on ESCOs, a sounder approach would be to require the ESCO to disclose whether its prices will beat the utility price, and if not, ESCOs should have the option to explain to the customer why any difference above reference price exists. For example, a value added service like boiler repair may result in an increase in the overall monthly price. Furthermore, ESCOs require certainty that they will not be subject to enforcement measures for charging above the reference price as a result of market conditions or other factors.

Customers may choose to pay a premium for specific customer experiences with an ESCO – and should not have their options unduly restricted. Customers must be afforded the continuation of their right to purchase commodity service from the ESCO of its choosing, without limitation.

Fixed-Rate Products

Fixed-rate products are value-added products, and must be recognized as such; fixed rate products require the ESCO assume inherent risks of committing to a fixed price over a long-term period. No utility offers fixed-rate products. As noted by Infinite Energy, fixed-rates have real value as an energy-related value-added service in their own right, not only as a means of price certainty and bill predictability, but also a supplement to budget billing as well.¹

In their joint comments, the Utility Intervention Unit (UIU) and the Attorney General of the State of New York (NYAG) recommend that “the Commission adopt a value-based

¹ Case 15-M-0127, et al, Infinite Energy’s Reply to Comments Filed June 6, 2016 by Other Interested Parties (June 6, 2016), at 1.

approach, wherein ESCO prices that exceed the utility's price are only just and reasonable to the extent that the ESCO product delivers customer value in excess of utility service"² and that value is quantified. This approach is flawed as it assumes that all value-added services have a quantifiable value. For instance, with regard to fixed rate products, how can an ESCO assign a value to price certainty and assumption of risk? East Coast agrees with Great Eastern - that this inability to assign a concrete value to these services is one of the reasons that the Commission Staff opted for a benchmark index as outlined in their Reference Price White Paper.³

The Commission long has recognized the value of fixed-rates as both a way to save money, and separately, as a value-added service which helps customers budget over an extended period of time. In its February 6, 2015 Order Granting and Denying Petitions for Rehearing, the Commission said: "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 initiative...all customers should have the opportunity to obtain energy at a reasonable fixed-rate, which could assist customers in managing their energy bill."⁴ Afterward, in a press release following the February 6, 2015 Order, the Commission stated: "As a result of the Commission's action today, when implemented, low-income consumers will be guaranteed that they will pay no more than if they had purchased energy from the local utility or these customers could opt to purchase valuable services from third-party companies, such as home-energy management capabilities or prices

² Cases 15-M-0127, et al., Joint Reply Comments of the Utility Intervention Unit and the Attorney General of the State of New York on the SAPA Notices Published on May 4, 2016 and on the Staff Whitepapers on Express Consent, Performance Bonds or Other Security Interests, and Benchmark Reference Prices, (June 21, 2016) at 3.

³ Cases 15-M-0127, et al., Great Eastern Energy's Reply Comments on Resetting Retail Energy Markets for Mass Market Customers (June 6, 2016), at 2-3.

⁴ Cases 12-M-0476 et al., Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small NonResidential Retail Energy Markets in New York State, Order Granting and Denying Petitions for Rehearing in Part (issued February 6, 2015), at 6.

fixed at reasonable levels.”⁵ Finally, the Commission has recognized fixed-rate products as value-add products that offer consumers predictability, and an opportunity to hedge their risk and avoid the impact of seasonal and unpredictable price swings.⁶

Financial Assurance/Performance Bond:

Any performance bond or financial instrument posting requirement must be proportional to the number of mass market customers the ESCO serves. However, East Coast supports the Commission’s position that all ESCOs, regardless of size, post a performance bond with the Commission and, regardless of the number of mass market customers, all ESCOs should post a minimum bond/financial security requirement at \$100,000. Essentially, the formula would be:

(# of MMC) multiplied by (\$Y) = FSR where:

MMC= Mass Market Customers

Y= Amount to be determined

FSR= Financial Security Requirement, which may not be less than \$100,000

This method is simple, reasonable, and equitable, and is well-suited to the Commission’s stated goal of protecting mass market customers.

The requirement of a set amount of \$1 million, or \$3 million for bonds, as suggested by other commenters, is excessive, unduly onerous to smaller ESCOs, and will likely have the consequence of squeezing smaller ESCOs out of the market. East Coast instead suggests that the Commission seek comments from stakeholders on developing Factor Y.⁷

⁵ “Commission Also Clarifies Rules Regarding Door-to-Door Marketing” NEW YORK STATE PUBLIC SERVICE COMMISSION (Feb. 5, 2015), at <https://otda.ny.gov/news/2015/2015-02-05.asp>.

⁶ Cases 15-M-0127, et al., Comments of the Impacted ESCO Coalition (June 6, 2016), at 5.

⁷ Cases 15-M-0127, et al. Reply Comments of the Impacted ESCO Coalition (June 20, 2016), at 7.

Conclusion:

For the foregoing reasons, East Coast Power & Gas, LLC respectfully urges the Commission to consider the points made above as it moves forward with achieving its goal of increasing price transparency for mass market customers.

Respectfully Submitted,

/s/ Natara G. Feller

Natara G. Feller, Esq.

Feller Energy Law Group, PLLC

159 20th St, Suite 1B

New York 11232

Phone: (212) 590-0145

Email: natarafeller@fellerenergylaw.com

Attorney for East Coast Power & Gas, LLC

Dated: July 14, 2016