



July 12, 2016

Hon. Kathleen H. Burgess
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, NY 122223

RE: Cases 15-M-0127, 12-M-0476, 98-M-1343: Notice Seeking Comments on
Resetting Retail Energy Markets for Mass Market Customers ("Notice")

Dear Secretary Burgess,

The Illinois Energy Professionals Association ("ILEPA") respectfully submits this letter to caution any decision by the NYS Public Service Commission ("PSC") to require the disclosure by Agents, Brokers and Consultants ("ABCs") of their commissions and fees...as doing so would likely discourage competition in the retail energy market in the State of New York. As discussed further in this letter, the State of Illinois developed a regulatory structure to license ABCs that maintained the balance of a healthy competitive retail energy market with strong consumer protections.

The Illinois Energy Professionals Association ("ILEPA") is an Illinois Not-For-Profit Corporation established in 2007 to advocate on issues impacting ABCs within the industry and governmental jurisdictions in Illinois. As a primary tenant of its advocacy efforts, ILEPA supports the continued responsible development of the Illinois competitive energy markets and reasonable, competitively-neutral consumer protection measures.

ILEPA was recently made aware of comments before the PSC, urging the regulation of ABCs in New York, to include the full disclosure of ABC commissions and fees as part of that regulatory framework. The issue of "remuneration" disclosure, and its impact on the competitive energy market, has previously been debated and addressed in Illinois...where ABCs are regulated pursuant to 220 ILCS 5/16/115C. When Illinois first enacted the ABC Licensure Law in 2007, it required all licensed ABCs to disclose their total remuneration. However, over time, this component was seen as hindering the competitive energy market in Illinois.

In 2010, ILEPA advocated for a change within the ABC licensure statute to: (a) revise certain contract disclosures (from a focus on commissions to actual total electricity supply cost on a per-kilowatt hour basis) to ensure involved business consumers will receive the information they need to make an informed decision on an "apples-to-apples" basis among competing energy supply choices; (b) require all third-party marketers to disclose that they are not employed by the utility; (c) provide for the protection of propriety information in ICC filings; and (d) give the ICC appropriate discretion on penalties for first-time violates.

These changes, approved unanimously by the Illinois General Assembly and signed into law as Public Act 96-1385, were negotiated and agreed to by consumer advocates, industry



representatives, and government regulators as the proper policy changes to balance both the need for a robust and healthy competitive energy market with strong, competitively-neutral consumer protections. The new law ensured the involved business consumers receive the information necessary to make an informed decision on an “apples-to-apples” basis among competing energy supply choices, and will also ensure the viability of the third-party marketing channel by fostering competitive neutrality.

ILEPA views ABCs as a vital component to a healthy competitive energy market in any territory to enhance competition and market transparency, and make retail choice more accessible to more potential consumers. Conversely, overreaching and burdensome regulations (such as requiring the disclosure of total remuneration) will only weaken the competitive marketplace and the innovations that would otherwise be achieved.

We appreciate your time and consideration of this letter, and again respectfully request that PSC consider the statutory disclosures required of ABCs in Illinois as a favorable alternative to maintain and enhance the competitive energy markets in New York.

Sincerely,

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