

June 3, 2016

The Honorable Kathleen H. Burgess
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

secretary@dps.ny.gov

RE: **Case 15-M-0127** – In the Matter of Eligibility Criteria for Energy Service Companies
 Case 12-M-0476 – 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 98-M-1343 – In the Matter of Retail Access Business Rules
 **Reservation of Rights regarding Order Resetting Retail Energy Markets and Establishing
 Further Process (the “Resetting Order”)**

Dear Secretary Burgess:

On behalf of XOOM Energy New York, LLC (“XOOM”), I am submitting this letter to reserve all rights with respect to the claims, issues, and arguments in the pending litigation (Index No. 868-16) concerning the Resetting Order, 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, I write to make clear that XOOM’s participation in those ongoing administrative proceedings, including but not limited to collaborative meetings, technical conferences, comment submissions and rehearing positions, 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. XOOM’s participation in those administrative proceedings is without waiver of any of its rights, claims, and arguments, all of which are hereby expressly reserved.

Respectfully submitted,



Stephanie Kueffner
Associate Counsel
XOOM Energy, LLC, single-member manager of XOOM Energy
New York, LLC