

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

VINCENT PALMIERI, being duly sworn, deposes and says:

1. I am the Chief Operating Officer of East Coast Power & Gas, LLC (“East Coast”) which is a Petitioner in this action. I have worked at East Coast since 2014, and my duties include but are not limited to oversight of the daily operations of the ESCO which manages all functions internally, contrary to popular industry standards which outsource many operational functions. I also oversee all sales, marketing, risk, logistics, financing, hedging, analysis, human resources, operations and financial reporting. As such, I have personal knowledge of the facts and events set forth herein, except those stated upon information and belief.

Background & Entrance to New York ESCO Market

2. East Coast is a New York-based energy services company (“ESCO”) founded in 2008, serving natural gas, electricity and renewable sources of energy to both residential and commercial customers (“mass market 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 and 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.

3. East Coast is a registered New York LLC with headquarters in Bronx County, New York. East Coast has been authorized to operate as an ESCO in New York since 2008. East Coast currently has more than 14 employees working in various roles, including sales, human resources, marketing, and finance. East Coast also has contacts with outside vendors and sales representatives. We provide jobs to the local community as well as paid internships to local college students.

State Supported Opportunities for Growth in Retail Power & Natural Gas Markets Induced Investment in the ESCO Business

4. Since our entry into the New York markets in 2008, the Commission has offered, and continues to offer, incentives to ESCOs to encourage market participation. As far back as August of 2004, the Commission issued two policy statements affirming the Commission's commitment to customer choice and outlined strategies to boost participation in competitive markets. ESCOs were encouraged to replicate Orange and Rockland Utility's Power Switch Program and encouraged to participate in programs allowing utilities to purchase the supplier's accounts receivables without recourse, eliminating the need to perform credit checks. In return,

participating suppliers offered guaranteed discounts to participating customers and agreed to take all residential and small commercial customers referred to them by the utility. East Coast's decision to enter the New York market was strongly influenced by the Commission's positive attitude toward ESCOs.

5. Similarly, in 2005, the Commission approved and adopted the ESCO referral program. A referral program describes the enrollment by the utility with a participating competitive supplier who agrees to take all customers and provide a two-month guaranteed savings rate. At the end of the two-month period, the customer can return to default service without penalty, or continue on the supplier service.

6. East Coast's choice to invest in the ESCO line of business was, in part, due to the infrastructure designed by the Commission. East Coast was induced to make investments and build its ESCO business in part by 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) and now the Commission is pulling away that very same foundation with its proposed restrictions.

7. 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.

Succeeding with a Commodity Plus Value Add Energy Related Service

8. East Coast's customers seek East Coast out for the premium level, value-added services received in addition to base electric or natural gas supply. East Coast's customers are

educated and understand that East Coast may be more expensive than the utility's price and still choose to sign up (and remain enrolled) with East Coast.

9. East Coast does not advertise or otherwise represent to customers that its products are cheaper than the utility. East Coast does assert that it provides services which could greatly reduce their energy consumption.

10. East Coast's service department and call center are staffed 24/7 in the winter ready to respond to customers who have lost heat or hot water within hours. Likewise, East Coast has 7 days per week service for air-conditioning in the summer. Service of this caliber has resulted in considerable customer loyalty, even though East's Coast may charge higher prices for the security our service provides.

11. East Coast has a positive and compliant relationship with the Commission and the Staff of the Department of Public Service ("Staff"). East Coast's first priority is to ensure its customers are receiving optimal service. The Commission received 5 customer complaints in 2015 and 0 complaints in 2014 regarding East Coast.

12. As long as the customer agreement terms are transparent, the mass customers' freedom of contract and access to a variety of products and terms should be protected. So long as ESCOs are transparent on the agreement terms regarding any potential savings against the utility price, or service provided under the customer service agreement, Customers should have the right to select the product they want from the supplier they want. Rather than achieving its goals of transparency and price protection, the Commission's approach is more likely to result in limiting the customer's access to innovative products that are suited to their individual needs, which is detrimental to the customer.

Ramifications of the Resetting Order

13. I support the Commission's goal of protecting customers against unscrupulous ESCOs, and ensuring that consumers are receiving true value added benefits, but am concerned the approach described in the Benchmark White Papers, issued May 4, 2016, to decouple the price of the commodity and value added service will adversely impact East Coast's ability to continue marketing and serving customers. Moreover, the way in which ESCOs could offer energy-related value-added services to the market by decoupling rates is flawed. First, it is difficult to decouple and price out each energy-related value-added component when the sum is more valuable than the parts. Second, though the Commission will not opine on the cost of energy-related value-added services, the obligation that the underlying price must still meet the proposed variable-rate /fixed-rate requirements is problematic. Given that it is difficult, if not impossible, to assign a numerical value to energy-related value-added services, this cost element cannot be properly incorporated into the rate requirements of the Commission.

14. The ramifications of the Resetting Order and adoption of the proposals contained in the Whitepapers would be swift and devastating to East Coast and would likely result in one or more of the following: (a) significant loss of customers and revenue, (b) forced layoffs, and (c) irreversible damage to business relationships with necessary partners such as vendors, financial institutions, and other third parties.

15. East Coast currently has approximately 6,000 electrical 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. Should the proposals contained in the Whitepapers be adopted by the Commission, East Coast would likely lay-off a number of staff.

16. The May 4, 2016 Staff Whitepaper on Benchmark Reference Prices proposed structure for a fixed-rate and value-added product is very difficult to implement and could result in termination of value add services by East and other ESCOs. The Whitepaper states that a fixed price product “could be coupled with an energy related value added product, the price of which would be bundled with the per unit commodity costs but separately disclosed in the customer disclosure statement, including the price of that product.”¹ In other words, ESCOs would be required to separately breakdown the price of the commodity and value-add service, and disclose the same to the customer on their contract.

17. I am concerned with this approach for many reasons. First, this approach fails to account for the difficulty in assigning a quantifiable value to services like around-the-clock customer service and the resulting peace of mind it affords customers. If the Commission’s goal of increased price transparency, this goal could more easily be achieved by telling customers that savings are not guaranteed at the outset.

18. If the Commission ultimately does adopt any “price to beat” requirement for either variable-rate products (guarantee savings the utility price) or fixed-rate products (requirement to stay below the “Reference Price”), East Coast suggests identifying additional products (to the 30% renewable exception) for energy-related value-add products that achieve the goals of the Commission related to energy conservation and renewables. For example, among other things, East Coast suggests adopting exceptions for: energy efficiency saving products, home heating emergency service and heating/cooling equipment warranties, and green natural gas products. This is not an inclusive list, meant to only offer examples of the types of quality, consumer preferred products that would not be required to adhere to the proposed price

¹ Benchmark Reference Price Whitepaper, at 3.

caps for variable and fixed-rate products. East Coast will gladly work with the Commission to develop transparent and workable guidelines for doing so.

19. The Resetting Order's directives came as a complete shock to East Coast. There was no notice or opportunity to comment on the cumulative effect of the Order prior to the date on which the Resetting Order was to take effect. East Coast actively monitors the Commission's proceedings for compliance purposes, and this Resetting Order far exceeds the scope and nature of any proceedings and notices of rulemaking the Commission has issued thus far. The substance of the Resetting Order's requirements – and the original 10-day deadline for compliance – will almost certainly destroy a valuable industry from operating in this State, all as a result of the alleged misconduct of a small number of ESCOs.

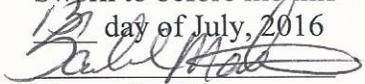
Conclusion

East Coast supports the Commission's objective to "address the unfair business practices currently found in the energy services industry and to ensure residential and small nonresidential commercial customers (mass market customers) are receiving value from the retail energy markets." However, any attempt by the Commission to address "unscrupulous" ESCOs should be narrowly tailored so as not to adversely impact companies with positive histories of compliance and who provide a real value to residential and small commercial customers in New York State.



Vincent Palmieri
Chief Operating Officer
East Coast Power & Gas, LLC

Sworn to before me this
13 day of July, 2016



Notary Public

Sandra I. Martinez
Notary Public, State of New York
No. 01MA5080632
Qualified in Bronx County
Commission Expires 10-15-2019