

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

In the Matter of the Retail Access Business Rules)

Case 98-M-1343

Comments of Family Energy, Inc.

Family Energy, Inc.¹ [hereinafter “Family Energy”] hereby submits these limited comments on the “Staff Proposal for Implementing Stronger Price Transparency for Consumers,” [hereinafter “Staff Proposal”] filed on March 26, 2024, to implement amendments to GBL § 349-d made by Chapter 482 of the Laws of 2023. These comments are being filed pursuant to the April 17, 2024, New York State Register Notice on the Staff Proposal. These limited comments are made for the purpose of highlighting what appears to be an inadvertent drafting error in Staff’s proposed modifications to the Uniform Business Practices (UBP). As explained in detail herein, Family Energy suggests that the drafting error be corrected by reinserting the introductory phrase “Additional terms and conditions applicable to residential customers and customers solicited via door-to-door sales include:” to the beginning of Section 5.B.5. as it appears in the currently effective version of the UBP.

GBL § 349-d sets forth the ESCO Consumers Bill of Rights. For the purposes of GBL § 349-d, a “customer” is defined as “any person who is sold or offered an energy services contract by an ESCO (i) for residential utility service; or (ii) through door-to-door sales.” Chapter 482 of the Laws of 2023 made two modifications to GBL § 349-d. The first change at GBL § 349-d(6) pertains to a customer’s express consent to a material change, and the second change at GBL §

¹ Family Energy, Inc. is a Business Corporation, incorporated in New York, and authorized by the Commission to serve electric and natural gas customers as an Energy Service Company.

349-d(7) pertains to the elements of a standard renewal notice. Chapter 482 made no change to the definition of a “customer” for the purposes of these protections.

In order to structurally implement the changes to GBL § 349-d into the UBP, “Staff proposes to make the material change and renewal provisions currently found at UBP §5.B.5.d. through 5.B.5.F their own section found at UBP §5.B.5. The remaining provisions of the existing UBP §5.B.5 would now be found at §5.B.6.” (Staff Proposal at p. 5). Existing UBP Section 5.B.5 currently begins with the introductory phrase - “Additional terms and conditions applicable to residential customers and customers solicited via door-to-door sales include:”. Under Staff’s proposed structural modifications to the UBP, that introductory phrase would appear at the beginning of new Section 5.B.6 but no longer appears in the beginning of revised Section 5.B.5. This omission from the verbiage in Section 5.B.5 seems to be an inadvertent drafting error.

The legislature did not modify the definition of “customer” in Chapter 482. Nor does Staff’s narrative explanation of its Proposal discuss or recommend a change in scope of “customers” to which revised Section 5.B.5 would apply. However, without the reinsertion of the phrase at the beginning of Section 5.B.5., the requirements set forth therein could be construed as applying to all customer agreements, rather than targeted to residential customers and customers solicited via door-to-door sales consistent with the statutory language and the existing UBP. No record has been developed to support an expansive change to the rules to include coverage of all customer agreements in such requirements. Such a change would also exceed the Commission’s authority as expressly set forth in the statute. Accordingly, it seems that the omission of the phrase from the beginning of revised Section 5.B.5. was an inadvertent drafting error.

For the foregoing reasons, Family Energy recommends that the introductory phrase “Additional terms and conditions applicable to residential customers and customers solicited via door-to-door sales include:” be reinserted at the beginning of the revised UBP Section 5.B.5.

Respectfully submitted,

s/Stacey Rantala

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