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ESCOs Banned From Selling to Low-Income Customers in New York

— Investigation Finds Customers Overpaid ESCOs Hundreds of Millions of Dollars —

ALBANY — The New York State Public Service Commission (Commission) today announced that it will prohibit energy service companies, or ESCOs, from selling electricity and natural gas to low-income customers in New York. This decision follows the Commission's earlier actions to improve and enhance utility programs to help low-income customers manage their energy burden, which will provide low-income New Yorkers with $248 million in assistance each year.

"The State has a duty to protect low-income customers from unscrupulous business practices," said Commission Chair **Audrey Zibelman**. "New York helps customers with their energy bills by providing subsidy support and by making their energy bills more affordable while ensuring they have this essential service. We found that ESCOs were defeating the purpose of our low-income discount program by overcharging the very customers we are trying to help."

Low-income households represent about 30 percent of all electric and gas customers in New York State. It is estimated that there are about 173,000 low-income ESCO residential electric customers and about 108,000 low-income ESCO residential gas customers.

In its Order, the Commission determined that a prohibition on ESCO service to low-income customers is necessary to protect those customers who receive a subsidy on their energy bill, and to protect taxpayers and ratepayers who fund the programs that provide those subsidies. The ban is effective in 60 days after the order is issued.

Meanwhile, the Department will continue to evaluate the products and services to be offered to mass-market customers, including energy-related, value-added products or services, as part of its broader effort to ensure just and reasonable rates for retail access customers.

Earlier this month, the Department launched a review into substantial overcharges and deceptive marketing practices of the ESCO industry and its ability to cost effectively serve mass-market customers, which will include holding evidentiary hearings. Through this in-depth and detailed process, the Commission will be able to determine whether the broader ESCO markets, beyond the low-income sector, should be reformed because, as recent data strongly suggests, thousands of residential customers are paying too much and getting too little from their ESCO providers.

In mid-July, the Commission issued a temporary moratorium on the ability of ESCOs to sell electricity and natural gas to low-income customers pending further review and deliberation. In response, the

ESCO industry immediately sued the Commission, and blocked the temporary moratorium on procedural grounds.

Chair Zibelman said: "While the Commission is currently defending its July action in court, and has argued the ESCO's position is without merit, today's action effectively replaces the July Order, corrects any possible flaw in procedure, and furthers the Commission's tireless efforts to protect low-income consumers and millions of dollars in public assistance funds."

While implementing a broad prohibition on ESCO sales to low-income customers, the Commission provided a limited window to individual ESCOs that may be willing and able to provide guaranteed savings to these consumers. For those ESCOs who are capable of doing so, the Commission is allowing them to seek a waiver of the broad prohibition and will review the waiver application on an expedited track to determine if the ESCOs can satisfy the Commission's concerns.

The Commission is taking this critical action as Staff recently compiled data that indicates that for the 30 months ended June 30, 2016, New York State low-income customers who chose to take service from an ESCO paid almost $96 million more than residential customers that elected to take commodity supply from their utility for the same period. Similarly, the larger market of general residential and small commercial utility customers who took service from an ESCO paid approximately $817 million more than if they had continued to take commodity supply from their local utility.

Today's decision is the latest action to improve ESCO customer service protections. In February, the Commission strengthened the process for revoking ESCO eligibility to do business in New York if it is found in violation of state regulations. It also instituted a "do not knock" rule that provides energy customers with the same freedom from unwarranted intrusion as those registered for "do not call" protections and a company's ability to do business in New York could be revoked if they ignore local solicitation rules regulating door-to-door selling at a residence or place of business.

These steps follow a series of collaborative meetings with stakeholders to define the energy-related value-added products and services that must be provided to low-income customers, to consider available technologies and mechanisms for implementing point-of-sale confirmation of low-income customers, and to consider how best to protect existing low-income customers who are served by ESCOs.

Chief Consumer Advocate, **Michael Corso**, said: "Today's action protects our most vulnerable energy consumers from price gouging and deceptive marketing practices that unfortunately occur in the ESCO marketplace. Working with the staff of the Department and other parties, we will continue to evaluate ESCO business practices and products, and recommend other common sense reforms necessary to ensure that New Yorkers benefit from ESCO services."

The Commission is also further enhancing the low-income programs via the energy affordability program by expanding the number of participants and associated budgets from approximately 1.1 million participants and $130 million under the current program to approximately 1.65 million participants at $248 million.

The energy affordability policy approved in May is an important part of Reforming the Energy Vision, Governor Cuomo's comprehensive strategy to fight climate change and grow New York's economy by investing in clean energy technology and generating 50 percent of the state's electricity needs from renewable energy by 2030. The new policy will limit energy costs for low-income New Yorkers on average to no more than 6 percent of household income – much less than what many low-income customers are currently paying.

There are currently about 200 ESCOs eligible to provide electricity and natural gas in New York State. Approximately 13 percent of residential electric customers receive ESCO commodity service, while 16 percent of residential gas customers take ESCO service. There are about 7 million residential electric customers in New York State and roughly 4.5 million residential natural gas customers.

Today's decision may be obtained by going to the Commission Documents section of the Commission's Web site at www.dps.ny.gov and entering Case Number 12-M-0476 in the input box labeled "Search for Case/Matter Number". Many libraries offer free Internet access. Commission documents may also be obtained from the Commission's Files Office, 14th floor, Three Empire State Plaza, Albany, NY 12223 (518-474-2500). If you have difficulty understanding English, please call us at 1-800-342-3377 for free language assistance services regarding this press release.

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