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August 26, 2024

VIA ELECTRONIC FILING

Honorable Michelle L. Phillips
Secretary to the Commission
New York State Department of Public Service
Three Empire State Plaza, 19th Floor
Albany, NY 12223

Re: Case 24-M-0324 – In the Matter of the Commission to Regulate Energy Services
Company Home Warranty Product Offerings.

Case 98-M-1343 – In the Matter of Retail Access Business Rules

**Comments of the City of New York on Department of Public Service Staff's
Whitepaper Regarding Energy Service Company Home Warranty Products**

Dear Secretary Phillips,

The City of New York (“City”) respectfully submits these letter comments in response to the July 24, 2024 notice soliciting comments on Department of Public Service (“DPS”) Staff’s Whitepaper filed May 29, 2024.¹ Specifically, the Whitepaper details DPS Staff’s findings and recommendations regarding home warranty products (“HWPs”) offered by or through energy service companies (“ESCOs”) and whether the value-added proposition is being upheld.²

As discussed in further detail below, the City supports DPS Staff’s proposal to strengthen consumer protections and prohibit the third-party ESCO HWP model from the New York retail marketplace. The findings identified in the Whitepaper implicate fundamental consumer protection issues such as a lack of product value, customer service, and questionable contract terms. Additionally, DPS Staff identified significant detrimental impacts related to the involvement of third-party home warranty service providers.

¹ Case 24-M-0324 – In the Matter of the Commission to Regulate Energy Services Company Home Warranty Product Offerings, Notice Soliciting Comments (issued July 24, 2024) (“Notice”).

² Case 24-M-0324 – Department of Public Service Staff White Paper on Energy Service Company Home Warranty Products (filed May 29, 2024).

The City has long supported and been a strong advocate for more stringent guidelines and Public Service Commission (“Commission”) oversight with respect to the marketing and sale of retail energy products to residential customers. The importance of safeguarding consumers against arbitrary and excessive energy costs is further amplified by energy affordability concerns identified by the Commission and currently being examined through related policy initiatives. The City strongly supports DPS Staff’s proposed regulatory compliance updates to address concerns surrounding ESCO HWPs.

1. The ESCO HWP Value Proposition Must Be Effective and Known

As a threshold question, the City strongly supports resolving whether there is any value to consumers enrolling in an ESCO HWP instead of directly signing up for home warranty services separate from their energy provider.³ In other words, should HWPs continue to be a permitted energy-related value-added service provided by ESCOs. Accordingly, the City suggests that ESCOs should be required to provide a comprehensive analysis, beyond the upfront cost of service, such as claim administration and consumer complaints, demonstrating the benefit and value received through an HWP.

The City submits that, to the extent any ESCO is permitted to continue offering HWPs in the New York marketplace, stronger consumer protections and oversight will be critical. Therefore, the City generally agrees with and supports DPS Staff’s proposal to adopt a structured compliance framework including registration, recordkeeping and quarterly reporting requirements by ESCOs to the Commission on such products.

2. The Costs and Terms of Service for ESCO HWPs Must Be Transparent

The City supports Staff’s recommendation that the ESCOs’ billing practices must separately disclose the cost of the HWP service contract from the cost of commodity supply. The importance of clarity on billing is further underscored by the high premiums currently charged to customers for enrollment in ESCO HWPs.⁴

The City agrees that effective standardization should also include uniformity in the terminology used. The City supports Staff’s proposal to adopt standardized, easy to understand contract language on key contract provisions and procedures. Consistent with Staff’s proposal, ESCO HWP service contracts should:

³ See Attachment to Notice, p. 3.

⁴ Whitepaper, pp. 7; 13.

- Clearly identify any fees associated with redeeming service under the home warranty agreement (*e.g.*, service fees, deductibles, per-claim cost limitations).
- Clearly outline the claim submission process.
- Clearly outline the consumer dispute resolution process.
- Clearly identify the name of the company fulfilling the service obligations under the contract.

3. The Third-Party ESCO HWP Model Should Be Prohibited

The City strongly supports DPS Staff’s proposal to prohibit ESCOs from offering HWPs through a third-party not subject to the authority of the Commission. As DPS Staff detailed in the Whitepaper, the third-party ESCO HWP model has, in practice, allowed ESCOs and third-party warranty service companies to evade accountability to consumers and obscured Commission oversight. The City agrees that, to the extent ESCOs are permitted to continue offering HWPs, any service obligations should be fulfilled by certified maintenance personnel directly employed by the ESCO and subject to oversight and audit by the Commission. One of the core purposes of the Commission is to institute appropriate consumer protections. Exercising its statutory authority over ESCOs, including the HWPs offered, is critical to conducting this core purpose and ensuring that customers pay just and reasonable rates for safe and adequate service.

For the reasons set forth herein, the City respectfully urges the Commission to adopt strong oversight mechanisms and limitations on HWPs offered by ESCOs in the New York retail marketplace.

Respectfully submitted,

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