

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

Case 07-M-1514 – Petition of the New York State Consumer Protection Board and the New York City Department of Consumer Affairs Regarding the Marketing Practices of Energy Service Companies.

Case 08-G-0078 – Ordinary Tariff Filing of National Fuel Gas Distribution Corporation to establish a set of commercially reasonable standards for door-to-door sales of natural gas by ESCOs.

INITIAL COMMENTS OF CONSOLIDATED EDISON SOLUTIONS, INC.

Consolidated Edison Solutions, Inc. (“CES”) submits these initial comments in response to the *Notice Soliciting Comments on the Uniform Business Practices Phase 2 Working Group Reports*, issued in these proceedings on May 5, 2010.¹

In the Notice, the Commission solicited comments on certain questions that had arisen concerning implementation of retail access and the current provisions of the UBP. CES’ response to these questions are as follows:

¹ Case 98-M-1343 – In the Matter of Retail Access Business Rules, Case 07-M-1514 – Petition of the New York State Consumer Protection Board and the New York City Department of Consumer Affairs Regarding the Marketing Practices of Energy Service Companies, and .Case 08-G-0078 – Ordinary Tariff Filing of National Fuel Gas Distribution Corporation to establish a set of commercially reasonable standards for door-to-door sales of natural gas by ESCOs, *Notice Soliciting Comments on the Uniform Business Practices Phase 2 Working Group Reports* (issued May 5, 2010) (“Notice”).

Question: Should the term “verification agent” in Section 1, and the related statement in Section 5, Attachment A, be modified to require that the agent be an independent third party not affiliated with the ESCO and/or that the call with the marketing agent be terminated when the customer is transferred to the verification agent?

Response:

CES submits that the term "verification agent" is sufficient and should not be modified. The UBP requirements specify that for telemarketing enrollment, the customer's authorization has to be recorded². As long as ESCOs record and retain the customer's consent, consistent with the existing requirements, there is no need to have a third party entity independently verify the customer's authorization.

Question: Should ESCOs be required to solicit affirmative consent from customers for contract renewals where changes in the terms of the original contract occur? If so, what is the appropriate process in terms of the number and timing of notices provided to the customer prior to contract expiration?

Response:

Consistent with standard practices in other industries, ESCOs should be able extend contract terms by providing the customer notice of the new terms at least 30 days prior to their effective date. This approach provides customers the opportunity to shop with another supplier or return to the utility at the expiration of the existing contract. Only in instances when the ESCO is proposing to impose an early termination or other exit fee for the renewal term should the ESCO be required to obtain positive affirmation of the new terms.

² Section 5, Attachment 1 of the UBP provides that for an ESCO to "enter into a telephonic agreement with a customer to initiate service and begin enrollment" an ESCO or its agent "shall audio record" the critical provisions of the conversation with the potential customer.

Question: Should UBP Section 5.H.1 be amended to permit a customer, or the incumbent ESCO on behalf of the customer, to rescind a customer request to return to full utility service should the customer choose to remain with the incumbent ESCO?

Response:

Yes, the customer, or the ESCO acting on the customer's behalf should be able to rescind a request to return to utility service.

Respectfully submitted,

/s/ Stephen B. Wemple

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