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December 19, 2002

Hand Delivered

Hon. Janet H. Deixler
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case 99-M-0631 – In the Matter of Customer Billing Arrangements

Dear Secretary Deixler:

By a "*Notice Requesting Comments*", issued in this proceeding on November 13, 2001 ("Notice"), the Commission sought comments from interested parties concerning the appropriateness of the current method for allocation of customer payments under consolidated billing. The Notice incorporated a Staff proposal for a modified allocation methodology. Parties were directed to file their comments by January 2, 2002. In accordance with said Notice, the Small Customer Marketer Coalition[1] ("SCMC") submitted comments that addressed Staff's allocation proposal and presented an alternative approach that allowed for equitable proration of customer payments between the utility and the ESCO. By letter dated November 15, 2002, SCMC expressed its concern over the lack of action in this matter and urged the Commission to expeditiously conclude this rulemaking proceeding and issue a determination allowing for the proration of customer payments.

ECONnergy Energy Company, Inc. ("ECONnergy"), a member of SCMC, recently terminated the provision of competitive gas supply service to 676 customers on the KeySpan system who participated in the consolidated utility bill program. Service to these customers was discontinued because they had built up large overdue balances with ECONnergy, while all the time remaining

1 For purposes of this proceeding, SCMC includes Total Gas & Electric, Inc.; ECONnergy Energy Company, Inc.; Agway Energy Services, Inc.; Castle Power, Inc.; and SmartEnergy, Inc.

current on their bills with KeySpan. Essentially, under the existing payment allocation system, these customers have been able to game the system by making a monthly payment sufficient to meet the demands of the utility without submitting sufficient funds to provide compensation for the supply service rendered by ECONnergy. This situation arose due to the current payment allocation rules that require partial customer payments to be first allocated to all utility charges, both current and past due, and do not provide for proration of customer payments between utility and ESCO charges. With proration in place, ECONnergy would still be serving these customers because a portion of the customer payment would have been allocated to ECONnergy's charges; instead ECONnergy, due to financial necessity, was forced to discontinue service to these customers.

Often times, policy issues are analyzed in a rarefied and ivory tower manner, without a full comprehension of the real world, practical ramifications associated with the policy in question. It is time for the Commission to recognize that its continued delay in resolving the issue of proration is undermining the viability of competition throughout the State. The purpose of this submittal is to demonstrate to the Commission that ESCOs are currently terminating customers due to the inequitable nature of the current payment allocation policy, and this pattern is becoming more pronounced and serious each day the Commission fails to act. The undesirable outcome experienced by ECONnergy - - termination of 676 customers - - is the direct result of the continued inaction by the Commission with respect to issue of proration of partial customer payments. Obviously, this pattern of customer termination is repeated daily and continues to undermine the viability of the competitive retail access program.

In conclusion, we urge the Commission to act on this matter expeditiously before any further damage is inflicted on the evolving competitive retail market.

Respectfully submitted,

Small Customer Marketer Coalition

By: Usher Fogel
Usher Fogel, Counsel

UF/mac
cc: SCMC Members
Service List in Case 99-M-0631
Fred Carr