



Retail Energy Supply Association

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February 7, 2008

Via E-Mail and First-Class Mail

Hon. Jaclyn Brilling
Secretary
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223

Re: New York Public Service Commission Case No. 07-M-1514 -
Marketing Practices of Energy Service Companies by the
Consumer Protection Board and New York City Department
of Consumer Affairs

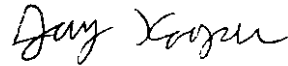
Dear Secretary Brilling:

The Retail Energy Supply Association ("RESA") submits this filing in response to the joint petition filed by the Consumer Protection Board ("CPB") and the New York City Department of Consumer Affairs ("DCA") in the above-referenced proceeding. Enclosed please find a RESA strawman proposal entitled "Statement of Principles for Energy Service Companies Marketing Retail Energy to Residential and Small Business Customers in New York State."

The purpose of the enclosed Statement of Principles is to address in a substantive and practical manner the concerns raised by the CPB and DCA. To be clear, in submitting the enclosed Statement of Principles, RESA does not waive its right to file formal comments in response to the State Administrative Procedure Act notice in the above-referenced proceeding nor from taking additional or different positions should RESA and other parties to this proceeding fail to reach a mutually-beneficial solution working off of the enclosed Statement. It is RESA's intention, however, that any agreed-upon principles that can arise out of the enclosed Statement would be made mandatory and binding on the ESCO community through their codification in the PSC's Uniform Business Practices.

Please contact me at (732) 750-7048 if you have any questions or concerns with respect to this filing. Thank you very much in advance for your attention to this matter.

Sincerely,



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Hess Corporation
Vice President and New York Chair
Retail Energy Supply Association
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On behalf of RESA

cc: RESA Membership List

The Retail Energy Supply Association (RESA) is a trade association of competitive retail electric suppliers throughout the New York, Mid-Atlantic, New England and Midwest regions. RESA's members include Commerce Energy, Consolidated Edison Solutions, Inc., Direct Energy Services, LLC, Gexa Energy, Hess Corporation, Integrys Energy Services, Inc., Liberty Power, Reliant Energy Retail Services, LLC, Semptra Energy Solutions LLC, Strategic Energy, LLC, SUEZ Energy Resources NA, Inc., and U.S. Energy Savings Corp. The views expressed herein represent the position of RESA as an organization but may not necessarily represent the views of any particular member of RESA.

Statement of Principles for Energy Service Companies Marketing Retail Energy to Residential and Small Business Customers in New York State

1. Introduction

This is a Statement of Principles for Energy Services Companies (“ESCOs”) marketing retail energy (natural gas and/or electricity) to residential and small business customers in New York (“Customers”).

2. Training of Marketing Representatives

ESCOs shall take reasonable steps to ensure that their training of marketing representatives includes:

- awareness of this Statement of Principles;
- awareness of the New York Uniform Business Practices (“UBP”);
- awareness of the Customer’s right to choose a retailer;
- knowledge of the ESCO’s products and services;
- knowledge of rates, payment options and the Customers’ right to cancellation;
- knowledge of the applicable provisions of Home Energy Fair Practices Act that pertains exclusively to residential consumers, which requirement may be fulfilled by referring the Customer to a toll-free number from which such information can be obtained;
- the ability to provide the Customer with a toll-free number from which the Customer may obtain information about the ESCOs’ mechanisms for handling billing questions, disputes, and complaints; and,
- knowledge of the requirements in this Statement of Principles concerning providing information to consumers whose primary language is not English.

3. Personal Contact With Customers

3.1 In-Person Contact With Customers

Representatives of ESCOs who contact Customers in person at a location other than the ESCO’s place of business for the purpose of selling any product or service offered by the ESCO will:

a. As soon as possible after contacting the customer, and before describing any products or services offered for sale by the ESCO:

(i) Produce identification which:

- indicates the full name of the marketing representative;
- shows a photograph of the marketing representative;
- does not depict or resemble the name or logo of a distribution utility;

- states the name of the ESCO represented by the marketing representative;
- includes the business address of the ESCO; and
- provides the ESCO telephone number for inquiries, verification and complaints.

(ii) Explain in plain language the name of the ESCO represented by the marketing representative and never represent that the marketing representative is an employee or representative of the Customer distribution utility, or that the ESCO is acting on behalf of the Customer's distribution utility. This requirement may be fulfilled through either (a) oral statements by the ESCO employee or representative, or (b) written materials left by the ESCO employee or representative that prominently identify the ESCO and clearly indicate that taking service from an ESCO will not affect the Customer's distribution service which will continue to be provided by the customer's distribution utility.

b. Representatives shall display the identification described in 3.1.a.(i) at any time when requested to do so by the customer.

c. A representative will leave the premises of a customer when requested to do so by the customer or the owner or occupant of the premises.

d. Representatives shall provide the customer with written information, upon request, or a website at which information can be obtained.

3.2 Telephone Contact With Customers

Representatives of ESCOs who contact customers by telephone for the purpose of selling any product or service offered by the ESCO will:

- Provide the first name and, on request, the operator identification number of the marketing representative making the telephone call;
- State the name of the ESCO on whose behalf the call is being made;
- Explain in plain language the name of the ESCO represented by the marketing representative and never represent that the marketing representative is an employee or representative of the Customer distribution utility, or that the ESCO is acting on behalf of the Customer's distribution utility. This requirement will be deemed to have been met through an oral statement by the representative, in plain language, prominently identifying the ESCO and clearly indicating that taking service from an ESCO will not affect the Customer's distribution service which will continue to be provided by the customer's distribution utility.
- State the purpose of the telephone call; and,
- Refer the call to a Representative who speaks the consumer's language, if such a Representative is available, if the Customer informs the Representative, or where it is apparent to the Representative, that the Customer's English language skills are

insufficient to allow the Customer to understand and respond to the information conveyed by the Representative. If a Representative fluent in the Customer's language is not available where the Customer informs the Representative, or where it is apparent to the Representative, that the Customer's English language skills are insufficient to allow the Customer to understand and respond to the information conveyed by the Representative, the Representative shall terminate the call.

4. Conduct

ESCOs will:

- not engage in misleading or deceptive conduct as defined by state (and/or federal) law and or regulations;
- not make false or misleading representations including misrepresenting rates or savings;
- use plain language, including words and images that facilitate customer understanding of ESCO products and services;
- provide the customer with written information, upon request, or a website at which information can be obtained;
- use reasonable efforts to provide accurate and timely information about services and products. Such information will include information about rates, contract terms and rights of cancellation;
- ensure that any product or service offerings that are made by an ESCO contain information that is designed to be understood by the customer. This shall include providing any written information to customers in the language in which the representative has substantive discussions with the customer or in which a contract is negotiated;
- promptly and fairly investigate customer inquiries and complaints concerning marketing practices; and
- cooperate with the PSC, the CPB and local law enforcement in investigations concerning deceptive marketing practices and practices proscribed by the UBPs.

5. Dispute Resolution

ESCOs will maintain an internal process for handling customer complaints and resolving disputes arising from marketing activities and shall respond promptly to complaints forwarded by the PSC, the CPB and enforcement agencies.

6. ESCO Performance Evaluation

The PSC would evaluate each ESCO's performance based on number of complaints and number of escalated complaints normalized based on the total number of customers served and the total number of customers enrolled in the reporting period.

7. New York Public Service Commission-Imposed Sanctions

For those ESCOs that have a consistent pattern of substantiated, consumer complaints and/or sales/marketing abuses based on appropriate objective parameters, the PSC would institute compliance sanctions. In determining the level of imposed sanctions, the Commission would consider the nature, circumstances, and gravity of the violation; and the ESCO's culpability and history of prior offenses. Before compliance sanctions are considered and/or enforced, the PSC would first notify the ESCO via written notification informing the ESCO of the alleged consumer protection violations, and requesting the ESCO to seek remedies or appropriate corrective action. Failure on the part of the ESCO to take corrective action within a timely basis would result in the imposition of PSC-imposed compliance sanctions. Possible sanctions for repeat violations might include:

- Suspension from ESCO referral and other PSC-approved retail programs;
- Suspension of ability to enroll new customers; and
- De-certification (loss of all customers and status as an ESCO).