

November 18, 2016

VIA ELECTRONIC FILING

Hon. Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 12-M-0476 – Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State;
Case 98-M-1343 – In the Matter of Retail Access Business Rules;
Case 06-M-0647 – In the Matter of Energy Service Company Price Reporting Requirements;
Case 98-M-0667 – In the Matter of Electronic Data Interchange.

Dear Secretary Burgess:

Energy Efficiency for All¹ (“EEFA”) files this letter in reply to the notice soliciting comments published in the October 5, 2016 New York State Register, regarding the Public Service Commission’s September 15, 2015 Order on Rehearing and Clarification (the “September 2015 Order”) in the above-referenced cases.²

EEFA supports the moratorium against energy service companies (“ESCOs”) enrolling new low income assistance program participants (“APP”) and requiring them to de-enroll existing APP customers from their services. As further explained below, the Commission’s decision was rationally based on evidence that ESCOs have charged mass-market customers more than those customers would have paid to their respective utilities, and that ESCOs are unable or unwilling to ameliorate these defects at this time and should not be permitted to unjustly benefit from the taxpayer and ratepayer dollars that fund utility assistance programs.

As the Commission noted in its September 15th Order, APP customers continue to pay more for electricity and gas through ESCOs than they would have through their utilities.³ In its Order Taking Actions to Improve the Residential and Small Non-Residential Retail Access Market, the Commission directed ESCOS to either guarantee that APPs would pay less than what they would

¹ Energy Efficiency for All is a coalition that advocates for energy efficiency and complementary renewables in affordable multifamily housing and a just and inclusive clean energy transition for all New Yorkers, including low income, green workforce and environmental justice concerns.

² Case 12-M-0476, et al., Retail Access, Order on Rehearing and Clarification (Issued September 19, 2016).

³ *Id* at p. 5-6.

pay the utilities, or offer energy-related value-added services (“ERVAS”) as a condition of serving APPs.⁴ But, the ESCOs failed to meet either of these conditions. This is detrimental not only to low-income customers, who are seeing, at best, no reductions, and at worst, increases, on their utility bills, but also to the taxpayers and ratepayers who fund these assistance programs. The Department of Public Service Staff determined that, in approximately 30 months within the 2014-2016 time period, ESCOs collected almost \$96 million more from low income customers than what customers would have paid if they had been on utility service.⁵ Therefore, EEFA supports the moratorium.

However, EEFA continues to stress the critical importance of ensuring that low income customers—including those enrolled in utility assistance programs—engage in and enjoy the benefits of New York’s Reforming the Energy Vision (REV) model as it develops. As we have expressed in prior REV-related proceedings, low- to moderate-income customers (LMI) and the affordable multifamily sector continue to be underserved by the energy efficiency and renewable energy markets. The Commission has begun to address the market barriers to LMI customer engagement in these products and services, and this is a work in progress. As such, even with the moratorium in place, EEFA stresses that the Commission must ensure that LMI customers can participate in, and enjoy the potential bill-saving benefits of, the projects and programs being developed under REV, such as time variant pricing pilots, community distributed generation projects, and community choice aggregation programs.

Based on the foregoing, EEFA supports the moratorium against ESCO service until such a time as ESCOs address the Commission’s bill impact concerns, and looks forward to continuing to work with the Commission on empowering low- and moderate-income customers to reduce their bills through the clean energy programs and technologies coming on-line through REV.

Respectfully submitted,

[Signatures to follow]

⁴ Case 12-M-0476, *et al.*, Retail Access, Order Taking Actions to Improve the Residential and Small Non-Residential Retail Access Markets (issued February 25, 2014).

⁵ National Energy Marketers Association, *et al* vs. New York State Public Service Commission. New York State Supreme Court, County of Albany, Index No. 05680-16. Affidavit of Bruce Alch in Support of Respondents’ Answers and Memorandum of Law, dated October 25, 2016, par. 11.

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