

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

In the Matter of Eligibility Criteria for Energy Services Companies)	
)	Case 15-M-0127
In the Matter of Retail Access Business Rules)	Case 98-M-1343

**REPLY COMMENTS OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEM)¹ hereby submits these limited reply comments to respond to the specific suggestions made by PULP in its September 25, 2015, comments filed in this proceeding. PULP suggested that ESCOs presence in the residential energy market has not been in the public interest; that the role of ESCOs in the marketplace should not be expanded, as contemplated in the REV docket; and that proceedings should be opened to investigate ESCO practices. The foundation upon which these suggestions are made is ESCO complaint data from 2012-14. NEM urges the Commission to reject PULP’s suggestions.

PULP’s suggestions should be rejected for the following reasons:

- PULP’s suggestions are outside of the scope of this proceeding. This proceeding was opened for the specific purpose of examining revisions to the Uniform Business Practices

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting, and power line technologies.

(UBP) with respect to eligibility requirements for ESCOs to participate in New York’s retail energy markets.

- PULP’s filing is merely a rehashing of PULP arguments filed in the Commission’s Retail Market Review case.² As admitted by PULP, the Commission received those comments, and upon consideration and review, the Commission came to a contrary conclusion.
- New York State has achieved an exceedingly low ESCO complaint rate³ given the millions of consumers that receive competitive electric⁴ and natural gas⁵ supply as well as the additional consumers that were contacted during the customer acquisition process. The Commission and the stakeholders are to be commended for all of their efforts over the years to identify, develop and implement robust marketing standards and consumer protection measures.
- One of the ways in which competitive businesses across industries distinguish themselves is through customer service and complaint handling. Striving for high customer satisfaction is an on-going goal and continuously evolving process. A dissatisfied ESCO customer has the right and ability to seek a different supplier. Similarly, given the high

² Case 12-M-0476.

³ Through August 2015, there were 830 escalated complaints out of 2.6 million otherwise satisfied customer accounts, one of the lowest complaint rates among any industry.

	August							
	2015	2014	2013	2012	2011	2010	2009	2008
Initial	3637	4633	2384	1733	1356	891	1444	2238
Escalated	830	936	289	186	145	120	298	435

NYPSC Office of Consumer Services, Monthly Report on Consumer Complaint Activity, August 2015, December 2014, December 2013, December 2012, December 2011, December 2010, and December 2009.

⁴ As of May 2015, there were 1,629,780 electric accounts shopping for electric supply. New York Electric Retail Access Migration Data for May 2015.

⁵ As of April 2012, there were 1,012,414 natural gas accounts shopping for natural gas. New York Natural Gas Retail Access Migration Data for April 2012.

costs of customer acquisition, ESCOs are acutely sensitive to their customers' needs and are incented to proactively address any concerns as they arise.

- Complaint increases observed in 2014 were during the period of the polar vortex. Extreme weather conditions, increased demand for natural gas, and infrastructure constraints combined to increase the wholesale price of electricity in the winter of 2014. The contributing factors to the price spikes in the wholesale electric market were beyond the control of competitive retail suppliers and the increases were of such magnitude that they were impossible for retailers to foresee or hedge against. Retail electric suppliers in turn had to pay the higher wholesale electricity prices, which price increases were reflected in the retail prices paid by consumers for variable rate products. Utility default service customers were not exempt from the effects of winter 2014 – they ultimately pay these higher prices, just not in as timely or as transparent a fashion as customers that purchased variable rate products from competitive suppliers. NEM members proactively worked with their customers to mitigate the impacts of winter 2014, through increased consumer communications, price reductions and rebates, and alternative price offerings. Competitive suppliers are exceedingly concerned with ensuring that their customers are satisfied, in order to engender goodwill and earn repeat business.
- The Commission has initiated proceedings against specific ESCOs for their marketplace conduct. NEM supports the Commission's exercise of reasonable oversight over marketplace actors and taking appropriate action, subject to due process and ESCO opportunities to correct misconduct, against those found to have engaged in violations of the UBP.

- Utilities in New York have so far been vested with the superior competitive market position of Supplier of First Resort. In other words, it is assumed a consumer begins as a utility commodity customer before they can shop for competitive alternatives. It is unfair and inapposite to posture ESCOs marketing and sales activities against utilities in view of this competitive disparity.

Conclusion

For the foregoing reasons, NEM urges the Commission to reject the suggestions set forth in PULP's comments.

Sincerely,

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