

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 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.

NOTICE SOLICITING COMMENTS ON THE UNIFORM BUSINESS PRACTICES  
PHASE 2 WORKING GROUPS REPORTS

(Issued May 5, 2010)

On October 27, 2008, the New York State Public Service Commission issued an Order which adopted modifications to the Uniform Business Practices (UBP). The modifications enhanced oversight of Energy Service Companies (ESCOs) marketing activities and established standards, enhanced enforcement remedies and increased residential consumer protections including improved consumer disclosure requirements.

The Commission also directed that a Phase 2 of the proceeding be commenced, consistent with the body of the Order. A technical conference was convened by New York State Department of Public Service Staff on November 13 and 14, 2008 to discuss the UBP revisions and Phase 2 issues. At that time, the following working groups were formed to focus on specific areas: ESCO Referral at Customer Service Initiation; Reverse Slamming; ESCO Consolidated Billing; Price Reporting Requirements; Direct Marketing and Provision of Customer Lists; Provision of Tax Data; 18-a Assessment; and, Customer Complaint Rate. The status of the working groups and other related issues were discussed at a subsequent technical conference on July 8, 2009.

We now seek comments on the following working group reports: Customer Complaint Rate; Provision of Tax Data; ESCO Referrals; Reverse Slamming; and, Customer Lists. The Working Group reports can be accessed on the Department's Web

site at: <http://www.dps.state.ny.us/ubr.htm> “Comments Sought on UBP Phase 2 Working Group Reports”).

In addition, the Commission seeks comments from interested parties with respect to the following questions:

1. 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?
2. 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?
3. In the single retailer model, should the single retail provider be required to provide to the distribution utility and/or pending ESCO the same customer credit information that the distribution utility is currently required (Section 4.4) to provide to the pending ESCO?
4. 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?
5. Are there additional modifications to the UBP that should be considered?

Interested parties may submit comments on the Working Group reports and/or responses to the questions set forth above by July 6, 2010, to the Secretary at [secretary@dps.state.ny.us](mailto:secretary@dps.state.ny.us). Those unable to submit electronically may mail or deliver comments to Hon. Jaclyn A. Brillong, Secretary, Public Service Commission, Three Empire State Plaza, Albany, New York 12223-1350. Reply comments may be filed with the Secretary by August 20, 2010. The Secretary may, at her sole discretion, extend these deadlines.

Anyone on the service list or wishing to be added to the service list, may also consent to receive electronic service of all commission issued documents. To do so, you may email a letter to the Secretary at [secretary@dps.state.ny.us](mailto:secretary@dps.state.ny.us) consenting to receive

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electronic service of issued documents. Please understand that if you agree to electronic service, you will be sent the issued document(s) immediately and you will *not* receive paper copies. If you do not consent to electronic service, you will receive paper copies by US Postal Service.

(SIGNED)

JACLYN A. BRILLING  
Secretary