

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 15, 2009

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

CASE 07-E-0479 - Tariff Filing of New York State Electric & Gas Corporation to Offer Customers a Single Fixed Supply Service.

CASE 03-E-0765 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation For Electric Service.

ORDER ESTABLISHING FILING REQUIREMENTS

(Issued and Effective January 20, 2009)

BY THE COMMISSION:

BACKGROUND

In an Order Establishing Commodity Program (NYSEG Commodity Order) issued August 29, 2007 in this proceeding, New York State Electric & Gas Corporation (NYSEG) was authorized to include among its electric commodity supply offerings to its delivery customers a fixed price for commodity the utility supplies to residential and other smaller customers. The fixed-price offer (FPO) was limited to a three-year term, ending December 31, 2010. In the RG&E Commodity Order, however, Rochester Gas & Electric Corporation (RG&E) was authorized to

continue its FPO only through December 31, 2009.¹ If RG&E desired to offer the FPO again in 2010, it was required to make a filing, by March 1, 2009, justifying that renewal of the FPO.

DISCUSSION AND CONCLUSION

A utility FPO poses unique issues in our efforts to provide greater benefits to residential consumers from the retail electricity markets. We are concerned that the utility fixed offer may impose, without adequate notice, higher costs on consumers than utility variable price offers for comparable periods.

Because the NYSEG and RG&E FPOs share a common design and format, their renewal for 2010 should be considered at the same time. Such an approach would conserve both administrative resources and the resources of parties interested in retail access issues. The RG&E Commodity Order already provides that its FPO expires in 2009, but may be renewed for 2010 upon our approval. The NYSEG FPO Order, however, establishes a three-year term for the FPO that includes 2010. Nonetheless, that Order also advised NYSEG that:

While we do not intend to imply that the [NYSEG FPO] must necessarily be disrupted during its term, we make clear the possibility that such a disruption could occur pursuant to subsequent Commission Orders impacting upon the matters decided here.²

As was anticipated, orders issued subsequent to the promulgation of the NYSEG Commodity Order justify conducting a review to

¹ Case 03-E-0765, Rochester Gas & Electric Corporation, Order Modifying Fixed-Price Offer (issued August 28, 2008).

² NYSEG Commodity Order, p. 12.

determine whether NYSEG should be permitted to offer its FPO in 2010.

As discussed in the RG&E Commodity Order, the FPO was intended as a transitional mechanism pending the development of competitive retail markets for residential customers. We recently decided that certain policies facilitating the maturation of retail markets would continue.³ Accordingly, it is still our expectation that those markets could be expected to serve as the source of fixed price services.⁴ Moreover, we observed in the RG&E FPO Order that because RG&E earns a profit on its FPO, it sees an incentive to increase its sales of electricity, which runs counter to our goals for implementing energy efficiency initiatives.⁵ That incentive is also present when NYSEG offers its FPO.

Under the RG&E Commodity Order, that utility, if it desires to renew the FPO for 2010, must submit, by March 1, 2009, a filing justifying that renewal. The policies and orders supporting our review of RG&E's FPO prior to its implementation for 2010, and the strong similarities between the NYSEG FPO and the RG&E FPO, warrant a simultaneous review of the NYSEG FPO. Therefore, NYSEG also shall make such a filing, by March 1, 2009, unless it decides to cancel the FPO offering for 2010. In that event, the utility must commit to the cancellation in a filing made by the March 1, 2009 deadline.

³ Case 07-M-0458, Competitive Retail Energy Market Policies and Practices, Order Determining Future of Retail Access Programs (issued October 27, 2008).

⁴ Case 00-M-0504, Development of Retail Competitive Opportunities, Statement of Policy on Further Steps Towards Competition in Retail Energy Markets (issued August 25, 2004).

⁵ See Case 07-M-0548, Energy Efficiency Portfolio Standards, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008).

To facilitate review of the filings, they should contain the information that is needed to determine if the FPOs should be offered in 2010. Therefore, the filings should describe the current status of the fixed prices energy services companies (ESCO) offer in the service territories; include data on the levels of customer subscriptions to all commodity offerings from 2005 through 2009; show and compare customer bill impacts for the various utility commodity offerings from 2005 through 2008; include calculations of the amounts, if any, for 2005 through 2008 earned by the utilities and shared with customers under applicable formulas for sharing FPO profits; and, evaluate the results of outreach and education programs conducted in connection with the subscription periods when customers may select among commodity offerings.

The utilities shall also submit any other information on their FPO programs that will assist in conducting our review. ESCO and other interested parties will be invited to comment on the filings after they are received.

The Commission orders:

1. New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation shall comply with the procedures established in the body of this Order.
2. The deadlines provided for in this Order may be extended as the Secretary may require.
3. These proceedings are continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary