

IMPROVEMENTS TO RESIDENTIAL RETAIL ENERGY MARKETS

LIFE CONFERENCE 2014

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WHAT IS RETAIL ACCESS?

- Beginning in 1994, the Commission has encouraged the development of a competitive market for gas and electricity.
- Customers can purchase their gas and/or electric supply from an Energy Service Company (ESCO).
- ESCOs must be deemed eligible to serve customers by the Department of Public Service.
- Today there are over 200 gas and electric ESCOs serving over 1.5 million electric and 900 thousand gas customers throughout the state.



UNIFORM BUSINESS PRACTICES

- In 1998 the Commission directed staff to work with interested parties to develop a standardized retail access framework so there would be a consistent set of retail access rules across the State.
- The UBP, which was adopted in April 1999 and which prescribe procedures for the relationship between the distribution utilities and the ESCOs and between the ESCOs and customers, has evolved since then.
- The Commission has strived to balance the interests of energy providers with consumer protections.
- In October 2008 the Commission modified the UBP to include ESCO marketing standards.
- In 2010 the Commission adopted an ESCO Consumer Bill of Rights (ECBR) .
- In 2014 the Commission again modified the UBP after a comprehensive review.



FEBRUARY 25, 2014 ORDER

- Determined that competitive energy markets are functioning well for large customers, including providing those customers with a wide range of energy-related value-added services.
- Concluded the markets serving residential and small non-residential customers have failed to provide similar energy-related value-added products or services.



FEBRUARY 25, 2014 ORDER

- Recognized that retail markets will be an integral part of the regulatory framework and, in the future, should foster the innovation and economic investment required to continue to modernize New York's power system design and operation.
- Addressed “major weaknesses” in the mass markets due to the lack of accurate, transparent and useful information and marketing behavior that creates and too often relies on customer confusion.
- Directed improvements to New York State's retail energy markets serving the State's two largest groups of customers, residential and small nonresidential.



DPS REVIEW

- Although there are a large number of suppliers and buyers, and suppliers can readily enter and exit the market, the general absence of information on market conditions, particularly the price charged by competitors, is an impediment to effective competition (i.e., neither buyers nor sellers have good information about prices).
- There are large variations in the price charged for energy commodity services with no value-added attributes.
- Despite the large number of ESCOs, there seems to be almost no competitive pressure to innovate and provide value-added services or products to residential and small non-residential customers.



CURRENT MARKET SHORTCOMINGS

- Competition requires that consumers possess sufficient market knowledge to make informed decisions regarding what and how much to consume and which firms can provide the best value.
- It is extremely difficult for mass market customers to access pricing information in order to decide to commence, continue or terminate service through an ESCO.
- ESCOs do not provide standardized products or pricing and primarily provide prospective customers information on prices currently available.
- ESCO sales agreements rarely include a set price and many simply state that the ESCO will determine future prices.



HISTORIC BILL COMPARISON

- Central Hudson, NFG and NMPC offer historic bill calculators for residential and small nonresidential customers.
- Historic bill calculators allow existing ESCO customers receiving a consolidated utility bill, to compare the total amount charged with the total the customer would have paid if purchasing commodity service from the utility.
- These calculators provide customers with a direct comparison of the amount they were billed, including ESCO charges, in each month for up to 12 months, with what the customer would have paid if commodity service had been obtained from the utility for that same period.



HISTORIC ESCO PRICING DATA

- The Commission directed ESCOs to file quarterly, a separate average unit price for products with no energy-related value-added services for each of four groups of customers, along with the number of customers in each group, and by geographic area:
 - Residential price fixed for a minimum 12 month period
 - Residential variable price
 - Small non-residential price fixed for a minimum 12 month period
 - Small non-residential variable price.
- The Commission intends to publish the comparative pricing information.
- The initial filings are due in July.



POWER TO CHOOSE WEBSITE

- The DPS has continued to develop and refine Power to Choose as a tool for promoting customer participation in those markets.
- In 2010 a new website was created. The new website allows ESCOs to submit updated pricing information as often as they like so customers will have the most up to date pricing information available.
- ESCOs are required to input prices at least once every 30 days.
- Prices listed on PTC represent a snapshot that may not reflect prices that are actually available to new customers at that time.
- To improve the accuracy and transparency of ESCO pricing, the February 2014 Order, expands the PTC to include current pricing for small non-residential customers and will also require ESCOs to honor all rates posted on the PTC for new customers.



LOW INCOME CUSTOMERS

- To help ensure that the current operation of the residential retail energy market does not negatively impact other policy goals the February 2014 Order requires that ESCOs serving customers participating in utility low income assistance programs must do so with products that guarantee savings over what the customer would otherwise pay to the utility.
- Alternatively, ESCOs may also provide these customers energy-related value-added services that are designed to reduce customers' overall energy bills.
- If an ESCO cannot or will not comply with these conditions, it can choose not to serve customers participating in utility low income assistance programs or HEAP.



UBP MARKETING STANDARDS

- Due to the customer complaints concerning aggressive ESCO marketing practices, in 2008 the Commission provided specific UBP amendments that (1) established marketing standards applicable to all customers and (2) created remedies available to the Commission when ESCOs violate the marketing standards and other Commission rules.
- The February 2014 Order requires additional marketing standards.



UBP MARKETING STANDARDS

- Verification of customer agreement to take service from an ESCO may be obtained through a signature on a written agreement, through electronic authorization, or through a recorded telephonic authorization.
- In practice, many ESCOs verify the D2D agreements through a recorded telephonic verification process . However, the ESCO marketing representative may be present to assist or coach the customer in completing the ESCO enrollment authorization.
- The February 2014 Order requires that sales which result from marketing that in any way includes D2D or telephonic marketing, be subject to independent TPV after the sales agent has left the customer' s premises or discontinued the call.



MARKETER ID STATEMENT

- ESCO marketing representatives who contact customers in-person must produce photo identification which displays the name of the marketing representative and provides the ESCO telephone number for inquiries, verification and complaints.
- The February 2014 Order requires that marketers begin an in-person interaction with the following:
“My name is _____. I represent [ESCO]. [ESCO] can provide you with your electricity and/or natural gas. I do not work for or represent your utility.”



VISUAL ID OF D2D MARKETERS

- To facilitate our ability to enforce the UBP, the Commission now requires that all ESCOs and their representatives conducting D2D marketing, offer to all consumers contacted through D2D marketing a business card or similar information which includes:
 - the name of the sales agent;
 - the ESCO represented;
 - a contact number at the ESCO that the consumer can use for inquiries, verification and to register a complaint about the sales practices of the agent;
 - and, the date and time of the visit.



OTHER NEW MARKETING STANDARDS

- To facilitate enforcement of D2D provisions, we now require that all ESCOs maintain a record of the territories in which they and their marketing representatives conduct D2D marketing. In the event of a complaint, this information will help the ESCOs identify which marketing representative is the subject of the allegation.



ESCO CONTRACT RENEWALS

- Until recently, the UBP contained few requirements concerning the information that must be provided to customers for contract renewals.
- The February 2014 Order requires ESCOs to publish, on all contract renewal notices for mass market customers for services with no energy related value-added attributes, a prominent message stating that tools to help the customer compare historic and present ESCO prices are available on, or can be accessed from, the Department's website.



ESCO CONTRACT RENEWALS

- Further, when issuing renewal notices, ESCOs must use a standardized format.
- In the event of a fixed rate contract that renews at a fixed rate, the ESCOs must provide a second notice prior to the issuance of the first bill which includes the new rate and informs the customer that, consistent with GBL § 349-d(6) and the UBP, he or she cannot be charged a termination fee if he or she objects to the renewal within three business days of the customer's next bill.



ESCO CONTRACT RENEWALS

- Finally, in order to help customers recognize the significance of the renewal notice when they receive it in the mail, the February 2014 Order requires that the renewal notice be sent in an envelope which states in bold lettering: “IMPORTANT: YOUR [ESCO NAME] CONTRACT RENEWAL OFFER IS ENCLOSED. THIS MAY AFFECT THE PRICE YOU PAY FOR ENERGY SUPPLY.”



ENROLLMENTS THROUGH 3RD PARTIES

- Energy brokers and other third parties, who are not themselves ESCOs, can play an important role in retail energy markets and assist consumers in making informed decisions.
- We expect the importance of these entities as an intermediary between mass market consumers and ESCOs to grow in the future.
- However, the Commission has concerns about the practices of some of these entities, which can lead to consumer harm, damage to the reputation of third party marketers as a group, as well as damage to the reputation of the competitive retail energy supply industry.
- The February 2014 Order modifies the UBP to require that ESCOs provide us with information on the entities marketing on their behalf as well as how those entities are marketing to customers (door-to-door, telephone sales, multi-level sales, etc.)



OTHER

- For more information on the rules that apply to ESCOs please visit: www.dps.ny.gov.
- During 2013, the DPS began reporting an ESCO Scorecard. For more information on the ESCO Scorecard please visit: www.askpsc.com