

# UPDATE ON ESCOS

LIFE CONFERENCE 2016

BY: CHRISTINE BOSY, MANAGER OF RETAIL ACCESS  
OFFICE OF CONSUMER SERVICES  
NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

## ▶ **RECAP OF FEBRUARY 25, 2014 ORDER**

- ▶ Require ESCOs to maintain a record of the territories in which they market D2D
- ▶ Requires ESCOs to publish a prominent message on their renewal notices advising customers of the tools to help compare prices located on the Departments website
- ▶ Requires ESCO renewal notices to be in a standardized format
- ▶ Requires a second renewal notice for fixed rate contracts
- ▶ Requires the renewal notice be sent in an envelope with bold lettering stating the contract renewal is enclosed
- ▶ Requires ESCOs to provide to the Department a list of entities marketing on their behalf
- ▶ Required D2D marketers to start their sales pitch with a disclosure statement identifying themselves and what ESCO they are marketing for, and provide a business card

## ▶ **RECAP OF FEBRUARY 25, 2014 ORDER - continued**

- ▶ Directed ESCOs to file quarterly historic pricing data for residential and small non-residential fixed and variable rate products. (Stayed for small non-res)
- ▶ Requires that in the event the customer owes more for service through an ESCO than what he or she would have owed for bundled utility service, the customer can avoid termination of service by paying the lesser amount. Further, in such cases the differential will be charged back to the ESCO. (Stayed)
- ▶ Expanded the Power To Choose website to include small non-residential products and requires ESCOs to honor the posted rate for new customers. (Stayed small non-res requirement)
- ▶ Required ESCOs serving customers participating in utility low income assistance programs to provide a guaranteed savings product or an energy-related value added service designed to reduce customer's overall energy bill. (Stayed)
- ▶ Required independent third party verification for any sale that was a result of D2D or telephonic marketing.
- ▶ Require POR programs be modified so that POR discount rates are calculated and established for individual ESCOs. (Stayed)

**As a result of receiving multiple Petitions for Rehearing and Reconsideration on the February 2014 Order, on April 25, 2014 the Commission issued a stay on the following requirements:**

- ▶ 1. The requirements pertaining to independent third party verification; (lifted w/Feb. 6, 2015 Order)
- ▶ 2. The requirements pertaining to ESCO service of customers participating in the Home Energy Assistance Program (HEAP) and/or utility administered low income assistance programs;
- ▶ 3. The requirement that the Utilities “charge back” to an ESCO any differential in the ESCO price over the utility rate, and the customer pay the lesser amount to avoid termination of customer’s service;
- ▶ 4. The requirement that ESCOs file quarterly historic prices with the Secretary with regard to prices for small non-residential customers;
- ▶ 5. The revised requirements regarding ESCO price reporting on the Power-to-Choose website, with regard to small non-residential customers;
- ▶ 6. The requirement that Utilities implement ESCO-specific purchase of receivables rates.

## **December 15, 2014 Order Authorizing Accelerated Switching of Commodity Suppliers**

- ▶ Allowed for a shorter time for the switching of electric supply from 15 to 5 business days.
- ▶ Allowed for up to 15 calendar day enrollment time frame for a switch to gas supply.
- ▶ Initiate a collaborative to develop proposals to shorten the enrollment window for gas supply and effectuate off-cycle switching.

## **December 23, 2015 Order Authorizing Accelerated Switching Of Natural Gas Commodity Suppliers And Related Matters**

- ▶ To streamline the process for changing a customer's gas commodity supplier by reducing the timeline from 15 calendar days to 10 business days.

## February 23, 2016 Order Resetting Retail Energy Markets And Establishing Further Process

- ▶ Prohibits new ESCO contracts with residential or small non-residential customers from taking effect unless they provide guaranteed cost savings, or at least 30 percent of the supply comes from renewable energy.
- ▶ Requires ESCOs to obtain affirmative consent from a customer prior to renewing that customer from a fixed rate or guaranteed savings contract into a contract that provides renewable energy but does not guarantee savings.
- ▶ Requires the Chief Executive Officer (CEO) or equivalent corporate officer of the ESCO to make a filing certifying that any enrollments will comply with the conditions of this Order.
- ▶ Strengthen the process for revoking ESCO eligibility to do business in New York if the ESCO is found to be in violation of State regulations.

## **As a result of February 23, 2016 Order :**

- ▶ On March 3, 2016 a lawsuit was filed in Albany County Supreme Court against the Commission by several ESCOs.
- ▶ On March 4, 2016 the court issued a Temporary Restraining Order which stayed ordering clauses 1 – 3 of the Commission Order.
- ▶ The ordering clause strengthening the ESCO enforcement process was not stayed and is still in effect.

## Resetting Retail Energy Markets

For more information on the rules that apply to ESCOs and to keep informed on future Commission actions in Case **12-M-0476**, please visit:

[www.dps.ny.gov](http://www.dps.ny.gov).