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July 11, 2007

Hon. Eleanor Stein
Administrative Law Judge
NYS Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case 07-M-0548 – Energy Efficiency Standard

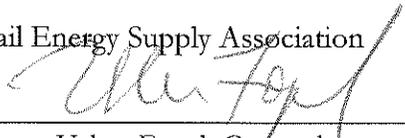
Dear Judge Stein:

Enclosed please find the “Comments of Retail Energy Supply Association” in the above-captioned matter.

Thank you for your assistance in this matter.

Respectfully submitted,

Retail Energy Supply Association

By: 
Usher Fogel, Counsel

Cc: Active Parties (by electronic mail)

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Case 07-M-0548 – Proceeding on Motion of the Commission Regarding
an Energy Efficiency Portfolio Standard**

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION

I. INTRODUCTION

These comments are submitted on behalf of the Retail Energy Supply Association (“RESA”)¹ in response to Staff’s questions to the parties and the additional questions posed in letter to the parties in this proceeding dated June 22, 2007, from Hon. Eleanor Stein, Administrative Law Judge.

II. PRELIMINARY STATEMENT

RESA is a not-for profit trade association representing the interests of ESCOs engaged in the retail marketing of electricity and natural gas to residential, commercial and industrial customers throughout the State of New York and in other jurisdictions. RESA supports the effort by the Commission to enhance the

¹ RESA member companies include Consolidated Edison Solutions, Inc., Direct Energy Services, LLC, Hess Corporation, Liberty Power Corp., Reliant Energy Retail Services, LLC, Sempra Energy Solutions LLC, Strategic Energy LLC, SUEZ Energy Resources NA, Inc., and U.S. Energy Savings Corp. The opinions expressed in this document represent the position of RESA as an organization but may not represent the views of all members of RESA.

efficient use of finite energy resources by all consumers, and its members either already provide or are interested in being providers of energy efficiency programs. To help achieve the Commission's goals of reducing energy usage by 15 % by the year 2015, RESA respectfully proposes adoption of the following recommendations:

1. The rapid statewide implementation of the Advanced Metering Initiative ("AMI") is critical to the development and expansion of a competitive and successful energy efficiency market throughout the State.
2. The energy efficiency initiatives resulting from this proceeding must be implemented in a competitively neutral manner that relies upon the interaction of independent competitive vendors rather than upon the efforts of the regulated distribution utilities
3. The Commission should acknowledge and take advantage of the extensive customer base currently served by ESCOs and the ESCOs' unique reservoir of marketing expertise for the development and delivery of energy products and services;
4. It is essential for the Commission to develop and implement specific energy efficiency programs that are compatible with and fully complement the ESCOs' dual assets of a large customer base and singular marketing expertise; and
5. The energy efficiency program should be applied in a uniform manner throughout the State.

II. COMMENTS OF RESA

A. *The Commission Should Take Advantage of the ESCOs Large Customer Base and Marketing Expertise*

Under the aegis of the Commission, customer choice has become a reality in New York. Today all customers, regardless of class or size, taking service from distribution utilities have the opportunity to exercise choice in their selection of competitive commodity suppliers. A vibrant and stable ESCO industry has evolved in New York in response to the present regulatory structure that has effectively balanced the needs of consumers with the needs of a competitive market. The ESCO industry has made significant investment in developing the infrastructure required to service its customer base in New York, thereby creating an entire industry that was non-existent a decade ago. This new industry provides customers with competitive choice and the opportunity of obtaining energy products and services from a wide variety of suppliers in addition to the local regulated utility.

With its growth and development, the ESCO industry can significantly enhance the level of demand reduction and efficient use of energy by all classes of customers.

Starting from scratch following the restructuring of the energy industry in the 1990s, ESCOs now serve in excess of 1.3 million customers throughout the state, and the momentum of customers choosing competitive choice continues to accelerate. For its service territory alone, Con Edison alone, the utility reports that

approximately 10,000 customers per month are migrating to retail access service. Many of these customers now have established longer-term business relationships with their ESCO of choice and have had the opportunity to interact with the ESCO and obtain a variety of energy products and services in the competitive retail marketplace. We know of no other market entity that serves a utility customer base that is equivalent to the more than 1.3 million customers currently served by ESCOs.

In addition to this significant established customer base, ESCOs have developed a singular and unique level of experience in marketing energy products and services to the entire spectrum of utility customers, including those taking residential and commercial service. This has been achieved through the dedication of considerable resources and responses to conditions that have developed in the competitive marketplace. It places ESCOs in the singular position to develop and apply the appropriate mechanisms by which to market energy efficiency measures to the entire spectrum of customers currently taking utility distribution service.

In view of these two significant features --- large customer base and unique marketing expertise --- it would be most useful for the Commission to embrace a market-oriented approach to the delivery of energy efficiency. In other words, the procedures, practices and programs developed in this proceeding should, to the maximum degree possible, attempt to access and make use of the ESCOs' unique competitively driven relationship with customers. The Commission should consider introduction of those measures which can be more easily marketed to customers

through the channels usually applied by ESCOs when marketing to particular customer service classifications, and assess whether there are any barriers in the market precluding ESCOs from implementing such measures in New York.

C. The Energy Efficiency Goals Should be Implemented in a Competitively Neutral Manner That Relies on the Marketplace.

It is also vitally important for the Commission to ensure that the energy efficiency goals are accomplished in a competitively neutral manner that provides for full, fair, and unbiased participation by members of the ESCO community and their customers. In this regard, the rules, guidelines, and procedures governing the energy efficiency goals should not, in any way, create any barriers that would restrict, inhibit or preclude the full participation by competitive ESCOs.

With respect to the implementation of the energy efficiency program, the role of the incumbent electric distribution utilities should, at maximum, be administrative in nature. In developing the program the Commission should maintain an open mind for implementing a variety of options that may or may not include a role for the distribution utilities. For example, the Commission may want to consider market-based programs or initiatives where a state agency rather than a utility serves in the role of program administrator.

In the event the Commission decides to implement a program that assigns distribution utilities a primary role then that role should be that of program administrator. Under this structure, after the various qualification requirements are established for each program, competitive vendors such as ESCOs would be

engaged to market the programs to consumers; the utility would administer payments and ensure proper verification of the program goals. In this manner, the Commission would rely upon competitive forces wherever possible and would not inadvertently act to inhibit market forces by expanding the role of monopoly-regulated utilities.²

D. The Commission Should Establish Widespread Implementation of Advanced Metering As A First Priority for Any New Funding To Enhance the Potential for Achieving Its Energy Efficiency Goals.

The rapid implementation of the Commission's AMI initiative statewide is critical to the development of a competitive energy efficiency marketplace in New York, and, in turn, to the attainment of the State's energy efficiency goals.

An important factor affecting both the ability and incentive for customers to adjust their usage of electricity is the degree to which customers are provided with timely and accurate signals concerning the market cost of electricity. Absent access to accurate price information, it is difficult for customers to assess the real benefits and costs associated with their specific energy consumption patterns as well as the efficacy of the energy efficiency devices that will be implemented as part of the energy efficiency program.

To provide customers with access to timely pricing information, the Commission should expeditiously review the Advanced Metering Initiative Plans

² We note that this approach --- limiting the role of distribution utilities to administration, at most --- would also mitigate the concerns with possible utility disincentives to emphasize energy efficiency, which the Commission is attempting to address through various revenue decoupling proposals. See, Case 03-E-0460 --Revenue Decoupling.

“AMI”) filed in response to the Commission’s Metering Order issued in Cases 94-E-0952 and 00-E-0165 on August 1, 2006³ and require widespread deployment of such meters as quickly as possible. The pricing data made available by the introduction of AMI empowers consumers with the information necessary to make more informed choices about their energy consumption and the benefits of modifying or reducing their patterns of energy use. In addition, ESCOs need access to this data in order to develop products that meet the energy consumption needs of customers, including enhancing the ability of ESCOs to offer energy efficiency products.⁴ Indeed, the actual benefits of many energy efficiency measures (especially those involving an element of peak shaving or demand response) cannot be delivered to customers in the absence of advanced metering. All customers would benefit from the use of AMI; therefore, it is appropriate for the Commission to consider directing implementation of AMI to all residential, commercial and industrial customers.

RESA respectfully suggests that New York’s distribution utilities can substantially contribute to meeting the Commission’s energy efficiency goals by deploying advanced metering infrastructure in a competitively neutral manner, with specific efficiency product development assigned to the competitive marketplace and to ESCOs.

³ Case 94-E-0952, 00-E-0952, and 02-M-0514, Competitive Metering, Order Relating to Electric and Gas Metering Service (issued August 1, 2006) (“Metering Order”).

⁴ Metering Order, p. 1.

E. The Energy Efficiency Initiative Should, to the Maximum Extent Possible, be Applied in a Uniform Manner Throughout the State.

As the Commission is desirous of increasing energy efficiency throughout the State,⁵ its goals should, to the maximum extent possible, be developed in a uniform manner that allows for standardized application in each utility service territory. Such standardization will enhance the ability of ESCOs and other vendors to offer products and services in more than one service territory by reducing operating charges, increasing operating efficiencies and easing the costs of program design and implementation. In contrast, creating a balkanized program that establishes differing programs for each service territory will create competitive entry barriers that might act to discourage the participation of independent vendors.

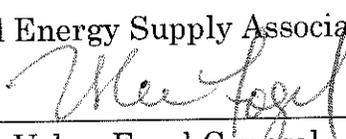
IV. CONCLUSION

RESA appreciates the opportunity to present its thoughts and comments with respect to this important Commission initiative and looks forward to working collaboratively with all the other parties in helping to achieve the goal of a more energy efficient environment in the State of New York.

⁵ Case 07-M-0548 – Energy Efficiency Portfolio Standard, *Order Instituting Proceeding* (issued May 16, 2007), p. 6.

Respectfully submitted,

Retail Energy Supply Association

By: 
Usher Fogel Counsel

Dated: July 11, 2007
Cedarhurst, New York