

VIA ELECTRONIC MAIL

November 13, 2006

Hon. Jaclyn A. Brillling,
Secretary
State of New York
Public Service Commission
Three Empire Plaza, 19th Floor
Albany, NY 12223-1350

Re: Notice I.D. Nos. PSC-39-06-00023-P

**Comments by Constellation NewEnergy in Response to Proposed
ESCO Contest Period**

Dear Secretary Brillling,

Please find attached the comments of Constellation NewEnergy (“CNE”) in response to the above referenced petition from U.S. Energy Savings Corp. A hard copy will be sent via overnight mail.

Please contact the undersigned with any questions in regard to these comments.

Respectfully submitted,

Tim Daniels
Director – Regulatory & Government

Affairs

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Comments by Constellation NewEnergy in Response to Proposed ESCO Contest Period

Constellation NewEnergy (“CNE”) hereby submits comments in response to Notice I.D. Nos. PSC-39-06-00023-P published on September 27, 2006 New York State Register (“Notice”). In the Notice, the New York State Public Service Commission (“Commission”) seeks comments on the (“Petition”) submitted by U.S. Energy Savings Corp. (“USES”) on August 17, 2006. The Petition seeks to create a contest period through certain modifications to New York State’s Uniform Business Practices and the Electronic Data Interchange. The purpose of the proposed contest period is to reduce incidents of slamming as well as reduce the burden on customers who have been slammed.

Since the introduction of customer choice in the New York electric industry in 1996, CNE has been an active participant in the New York retail market. As an energy services company (“ESCO”), that is actively engaged in the independent sale and marketing of electricity in the State of New York, we will be directly affected by the Commission’s consideration of the issues contained in the Petition.

CNE believes that the proposed contest period as described in the Petition has merit and should be considered by the Commission. Slamming, which is broadly considered to be the act of switching a customer to a new service provider against that customer’s wishes, continues to be a problem throughout New York State. While some slamming occurs unintentionally as a result of miscommunication between customers, utilities and ESCOs, other forms of slamming can be the result of intentional actions by

an ESCO. Both forms of slamming have a similar result in that additional expense and time are imposed on customers, utilities and ESCO(s). Even occasional incidents of slamming can have a negative effect on the desire of customers and ESCOs to participate in the competitive retail market. Therefore, in general, CNE believes that the proposed contest period would help reduce the burden on customers that have been slammed and could result in decreased incidents of slamming.

However, CNE also believes that some of the specific details of the proposed contest period could be problematic. Specifically, CNE has concerns over the relatively short time-periods proposed by in the Petition for notifications to the customer and the ESCOs. Additionally, CNE believes that some details related to the notification structure for the contest period could be improved further for the benefit of all parties involved.

Therefore, CNE recommends that the Commission form a collaborative to examine the proposed contest period as well as other possible solutions that would reduce slamming and more generally improve the efficiency of the process for customers that affirmatively choose to switch providers.

Respectfully submitted,

Tim Daniels
Director – Regulatory & Government

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