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By Electronic Mail

New York State Energy Research and Development Authority
Energy Plan Comments
17 Columbia Circle
Albany, New York 12203-6399

Re: *New York State Energy Plan 2013*

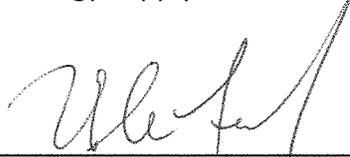
Dear Sir or Madam:

Enclosed for filing with the Energy Planning Board, please find the original of the "Comments of the Retail Energy Supply Association on the Draft Work Scope" in the above-captioned matter.

Thank you for your assistance in this matter.

Respectfully submitted,

Retail Energy Supply Association

By: 
Usher Fogel, Counsel

NEW YORK STATE ENERGY PLAN 2013

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION ON THE DRAFT SCOPE

I. INTRODUCTION

These comments are submitted on behalf of the Retail Energy Supply Association ("RESA")¹ in response to the "Draft Scope for the 2013 New York State Energy Plan and Public Solicitation of Comments" issued by the New York State Energy Planning Board ("Board") on March 10, 2011.² RESA appreciates the opportunity to submit these comments and provide assistance to the Board in its efforts to develop long-range energy policy objectives and strategies that will help chart the State's energy future.

¹ RESA's members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; MXenergy; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant Energy Northeast LLC and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

² Draft Scope for the 2013 New York State Energy Plan and Public Solicitation of Comments, March 10, 2011 ("Scope").

II. PRELIMINARY STATEMENT

RESA is a trade association of energy services companies engaged in the provision and sale of electricity and natural gas at retail to residential and commercial customers throughout all the service territories regulated by the Public Service Commission in the State of New York and in other jurisdictions. The members of RESA have been active in the provision of retail energy services in New York State for many years, some more than a decade, and have actively participated in many relevant regulatory and statewide initiatives aimed at providing consumers with the ability to choose their supplier of energy. RESA supports the general scope and structure of the planning process as outlined in the Scope. As formulated, it will enable the Planning Board to develop a meaningful and comprehensive assessment of the State's long-range energy requirements and supply opportunities.

As described in greater detail below, RESA recommends that the Board consider and reflect the following recommendations in formulating the final plan:

- A significant portion of the retail electric and natural gas market is now served by ESCOs.
- ESCOs support a vibrant competitive retail market and economic growth.
- The Board should eschew policies that would create entry barriers for ESCOs, place regulated utilities in an advantaged economic position as compared to ESCOs, or impose obligations upon ESCOs that are unduly burdensome.
- The Board should favor reliance upon competitive market forces to achieve desired energy goals.
- Customers should be apprised of the costs associated with their energy usage.

- The Board should support proliferation of the use of advanced retail meters.

The comments offered herein are designed to enhance the Board's ability to correctly assess the factors affecting the State's energy posture, and formulate suitable policies and strategies.

III. RESA COMMENTS ON THE SCOPE FOR 2013 ENERGY PLAN

A. Overview of New York's Energy System, Section I

The development of long-range plans and policies should reflect the dynamic change that has affected the retail market for the provision of energy products and services in New York State. The new factor centers on the implementation, growth and continued expansion of retail access throughout the State of New York. Over the past decade, the retail energy market has undergone an extensive level of restructuring, which now enables customers to purchase electricity and natural gas from their supplier of choice including an Energy Service Company ("ESCO") as well as the traditional distribution utility. In the past distribution utilities provided 100 percent of electric and natural gas supply of all customers on the system; today that is no longer the case. As the Public Service Commission ("Commission") reported in 2007, ESCOs "... serve more than 40 percent of total consumer electricity needs."³ Currently, approximately 107 ESCOs are actively supplying electricity and/or natural gas in New York to all

³ Case 07-E-150, Long-Range Electric Resource Plan and Infrastructure Planning Process, Order Initiating Electricity Reliability and Infrastructure Planning (issued December 24, 2007), p. 7.

customer classes including residential, small commercial, large commercial and industrial customers.

As of December 2010 approximately 47.5% percent of the electricity load on a statewide basis was served by ESCOs, reflecting approximately 20.7 percent of total customers in the service territories under the Commission's jurisdiction.⁴ These statistics vary by utility; Con Edison, for example, reports that approximately 49 percent of its electric load is served by ESCOs and that during 2010 alone approximately 155,000 customers migrated from the utility to ESCO commodity supply service.⁵

The policy of enabling customer choice through restructuring has been successful in enabling retail markets for both electricity and natural gas to continue to grow at an unprecedented rate.⁶ In view of these developments, the Commission has concluded that the "retail energy marketplace is established in New York and is continuing to expand."⁷

Today customers in every utility-service territory have the opportunity not only to acquire commodity from their supplier of choice, but are also offered a plethora of different types of products including fixed, variable, hedged, green and other value added products and services such as HVAC products, that are developed on a continuing basis in response to market based conditions. Customers now have choice and they are exercising it in increasing numbers.

⁴ http://www.dps.state.ny.us/ElectricMigration_dec_10.pdf

⁵ *Id.*

⁶ Case 07-M-0458, Proceeding to Review Policies and Practices Intended to Forster the Development of Competitive Retail Energy Markets, *Order on Review of Retail Access Policies and Notice Soliciting Comments* (issued April 24, 2007), pp. 4-5.

⁷ *Id.*

Further, this growth in customer choice has fueled the emergence of an ESCO industry that includes a wide range of providers from local family- owned firms to companies listed on the Fortune 500. The ESCO industry has invested significant financial and material resources in developing the infrastructure required to service its customer base in New York, thereby creating an entire industry that was non-existent only a decade ago. The industry continued to grow even during the recent severe downturn in the economy.

This new industry therefore provides the following unique benefits:

- Customers can now choose among suppliers;
- Consumers are provided with the tools to manage usage and price volatility;
- Additional jobs are added in the State; and
- The economic climate is enhanced in New York.

With this paradigm shift in the retail market in New York, the analysis conducted in this long-range planning process should reflect that a significant portion of the retail load is now being served by ESCOs that compete with each other, rather than by the monopoly regulated distribution utility. This will entail examining the impact of retail access on the long-range needs and goals of the State, as well as reviewing the impact that potential energy policies will have upon the growing ESCO industry.

In considering various policy options, it would be appropriate for the Board to carefully assess whether they would create entry barriers for ESCOs, place regulated utilities in an advantaged economic position as compared to ESCOs, or impose obligations upon ESCOs that are unduly burdensome.

RESA recommends that this new retail environment be reflected in the planned technical assessments and the ultimate policies established in the State Energy Plan.

B. Meeting the State's Energy Needs

1. *Meeting Future Energy Needs and Energy Costs*

With respect to the important issues of meeting future energy needs and energy costs, it is recommended that the final plan focus and address whether and to what extent consumers are provided clear and accurate market price signals. The provision of accurate market-based pricing signals at all times of the year to the existing customer base will have an important impact upon the need for and development of supply projects, as well as on the cost of electricity to consumers. In addition, it can materially impact upon the ability of the State to achieve its stated goal of providing for more efficient use of electricity throughout all sectors of the economy.

In this context it is also important for the Board to support maximization of reliance upon competitive markets wherever possible to address and achieve energy related goals. In its final Plan the Board will seek to mitigate price volatility, dampen energy costs and enhance energy efficiency.⁸ However, the manner by which these goals are achieved is extremely important.

There is the temptation to rely upon centralized governmental mandates or programs that are not linked with competitive market forces. This in our view is not the ideal approach as it is not economically efficient and in the longer term can be costly and counterproductive. The

⁸ Scope, p. 1.

more economically rational approach is to look to the competitive energy market as the most cost effective and economically efficient means by which to achieve desired energy goals. In the case of price volatility, consumers can achieve mitigation by purchasing a fixed or capped price offering from an ESCO. Similarly, enhancing energy efficiency can be achieved by informing consumers of the real prices associated with their energy usage patterns. Further, healthy retail competition can be an important fulcrum in mitigating energy costs. In all of these cases estimable goals are served by turning to competitive market forces.

2. Energy Infrastructure and reliability

In connection with energy infrastructure needs, RESA urges the comprehensive consideration of the use and implementation of advanced metering equipment for retail electricity sales in all utility service territories. Such an infrastructure development combined with the resulting information being available to consumers and their suppliers (such as ESCOs), will provide consumers with needed and valuable information that is currently available only to the largest customers. With timely pricing information in hand, the potential exists to:

- Forestall or minimize the need for the construction of new generation;
- Lower peak demand on utility systems;
- Enhance the ability and incentive for consumers to conserve and use electricity more efficiently;
- Allow customers to moderate the cost impact of their electricity usage; and
- Mitigate potential price increases.

IV. CONCLUSION

RESA appreciates the opportunity to submit these comments and looks forward to working with the Board in formulating the State Energy Plan.

Respectfully submitted,

Retail Energy Supply Association

By: *Usher Fogel, Counsel*

Usher Fogel, Counsel

Dated: April 29, 2011
Cedarhurst, N. Y.