



ppowers@empireadvocates.com
ntestani@empireadvocates.com

50 Beaver Street • Albany, New York 12207-2830

Telephone (518) 429-4211 • Fax (518) 533-2940

July 8, 2008

VIA ELECTRONIC MAIL to www.NYSEnergyPlan.gov

Energy Plan Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

Re: New York State Energy Plan
Comments of the Joint Retail Energy Suppliers
On the Draft Scoping Document
July 8, 2008

Dear Sir or Madam:

Enclosed please find comments of the Joint Retail Energy Supplies on the Draft Scoping Document for the New York State Energy Plan.

Thank you for your assistance. Feel free to contact us with any questions.

Very truly yours,

Paul B. Powers

Nancy L. Testani

PBP:cam
Enclosure

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DRAFT

New York State Energy Plan

Comments of the Joint Retail Energy Suppliers On the Draft Scoping Document July 8, 2008

The Joint Retail Energy Suppliers (“Joint Suppliers”) group, comprised of Consolidated Edison Solutions, Inc., Constellation NewEnergy, Inc., Direct Energy Services, LLC, Hess Corporation, Integrys Energy Services, Inc., Liberty Power Corp., Reliant Energy Retail Services, LLC, Sempra Energy Solutions, SUEZ Energy Resources NA, Inc., U.S. Energy Savings Corp., and the Retail Energy Supply Association (“RESA”),¹ appreciates the opportunity to provide the following comments on the Draft Scoping Document of the State Energy Plan. The Joint Suppliers represent Energy Service Companies (ESCOs) that provide a full spectrum of product and service offerings to New York State electricity and natural gas customers of all sizes and types.

BACKGROUND

Retail suppliers navigate the complexities of the power and natural gas markets to provide customers with a variety of risk management and pricing options in New York. As they have gained more experience with the markets and have gained more confidence in its operations, they have offered customers an increasing number of options to control their energy costs and manage the price volatility that is characteristic of gas and electricity markets. As that market knowledge gets transferred from retail marketers to end use customers, it has resulted in a marked increase in commodity-related products and services that incorporate energy management, price responsiveness and other value added services.

An informal survey of information on the New York State Public Service Commission’s (PSC) web site conducted in February, 2008, indicates that there are about 78 retail suppliers of electricity and gas in New York. They vary in size from small local firms selling in one or two utility territories to large Fortune 500, multinational corporations, marketing in all regions. These retailers sell in all areas of the state with the exception of the sale of electricity on Long Island and in the municipalities that own their own electric systems. About 30 of these companies sell electricity to residential customers and about 40 to commercial and industrial (C&I) customers. Approximately 45 ESCOs sell gas to residential customers and 65 to C&I customers and about 27 sell both electricity and gas. Most of the retailers do not sell in every utility’s service

¹ RESA’s members include Commerce Energy, Inc.; Consolidated Edison Solutions, Inc.; Direct Energy Services, LLC; Gexa Energy; Hess Corporation; Integrys Energy Services, Inc.; Liberty Power Corp.; Reliant Energy Retail Services, LLC; Sempra Energy Solutions; Strategic Energy, LLC; SUEZ Energy Resources NA, Inc.; and US Energy Savings Corp. RESA adds its name to the list of the Joint Retail Electric Suppliers to indicate its support for these comments as an organization.

territory, but nearly all customers in the state have at least 10 suppliers and even more service offerings from which to choose.

Equally as important as the number of retail suppliers present throughout New York is the breadth of the products and services that they market to New York customers. Included in this impressive array of products and services include commodity-price focused products such as fixed-price, variable-price, capped-price and blended fixed-and-variable-price products. In addition, about one-quarter of electricity providers offer products and services that go beyond commodity sales. These options include energy management, load control, energy efficiency products, energy audits and carbon offsets. Natural gas retailers also offer a myriad of services beyond the sale of gas. They offer alternative fuels such as heating oil and propane, biofuels, energy audits, energy efficiency products and carbon offsets. A few offer services that are unrelated to energy, such as small business assistance and insurance. Many suppliers have extensive information on energy efficiency and energy market trends on their web sites.

COMMENTS

General

The Joint Suppliers agree with the overall structure and scope of the State Energy Plan (“SEP”) as set forth in the proposed scoping document. The Plan as contemplated in the scoping document will provide New York energy policymakers, service providers and customers with a comprehensive picture of our State’s energy use and its implications for the state’s economy and environment.

The Joint Suppliers observe that this is the first energy plan that has been undertaken since the State’s electricity industry restructuring was implemented, the last plan having been published soon after the start up of the New York Independent System Operator and adoption of a set framework for retail access. As of February 2008, figures published on the PSC’s web site indicate that ESCOs are supplying 43.8 percent of the load to customers in those areas of the state with retail access, to about 15.4 percent of customers in those areas. For natural gas, those figures were 42.2 percent of the total volume and 14.8 percent of the customers. As indicated above, the ESCOs are offering an increasingly diverse array of products and services for both commodity and energy management. Furthermore, a recent poll conducted by the Cotter Research Center at Syracuse University found that a high percentage of customers are supportive of competitive markets for these commodities. [Of particular note, the key findings of the poll are that: (1) 92.5% of households surveyed believe that customers should have a choice of electricity suppliers; (2) 80% are more likely to support public policies that promote competition in New York’s electricity markets and consumer choice; and (3) 82% believe that it is important for competitive suppliers to offer green power products and over half of those with that belief are willing to pay more for green power.] The Joint Suppliers believe that the SEP will need to take these trends into account in

performing both qualitative and quantitative descriptions of the present status of the industry and in formulating recommendations to the SEP Board.

While the number of new participants in both the wholesale and retail markets will make data collection more of a challenge, data regarding energy production and sales are still readily available through the independent system operator and the utilities. Where the disclosure of such information creates the potential for market abuse or competitive harm, we urge the Energy Coordinating Working Group (ECWG) to take the necessary precautions to safeguard the information. Likewise, the collection of quantitative information on pricing for electricity and gas commodity sales is available in the aggregate from the utilities, as they do the billing for the vast majority of sales in New York. We recognize that data collection for the amount and prices of individual products and services, both for commodity and demand resources, will be difficult without resorting to survey instruments. If it is decided that such data is necessary, Joint Suppliers stands ready to assist the ECWG in defining the information that would be the most useful and drafting questions for the relevant companies to answer.

As for forecasts and technical assessments, Joint Suppliers believes that the macro approach used in the past, relying on utility sales forecasts, EIA data, FERC filings, SEC filings of industry participants etc. is still useful, but that the analysis should be informed by a more vigorous qualitative inquiry on technology and usage trends than used in the past. We recommend that the ECWG interview utilities, ESCOs, curtailment service providers, energy management service providers, and equipment manufacturers supplying the power generation, natural gas drilling and pipeline, customer-sited generation, energy efficiency, home and office networking, telecommunications, and transportation sectors to identify the types of products and services they plan to offer over the 10 year forecast period. While this type of research might be difficult to complete within the immediate planning period, we think that, over time, it will be vital in framing planning scenarios to be considered, in understanding the relationships between the energy usage of different sectors (e.g. the impact of plug-in hybrid vehicles on the electricity industry or the widespread adoption of telecommuting on the transportation sector), and in formulating policy recommendations that will be supportive of innovations in technology. However, we caution against attempting to base quantitative predictions on such interviews, as the business plans of individual companies seldom come to fruition exactly as planned.

Issue Briefs

Meeting Future Energy Needs

Joint Suppliers agrees with the inclusion of this issue brief in the SEP. We urge that the analysis be informed by an honest appraisal of how the current industry structures are working to provide energy reliably, at least cost and in concert with environmental goals. The ECWG should consider whether supply and demand have been in relative balance since the restructuring of the electricity and natural gas markets and whether, given the market design and planning structures within these industries, supplies can be

expected to meet demand in the future. In this context the ECWG should examine the role that evolving environmental regulation continues to play on technology and site selection, and how emerging technologies could help the state meet its needs. We are convinced that the ECWG will find that, in spite of some early growing pains, that the market is, in fact, providing optimal levels of supply to meet demand over time.

Energy Infrastructure Needs

This issue brief should be an area of special focus in the plan. Joint Suppliers believes that adoption of reforms in a few key areas will significantly enhance the operation of the energy markets, help to lower bills for consumers and improve system reliability. Specifically, we urge the ECWG to focus on advanced metering infrastructure deployment for retail electricity sales (including hourly intervals and open architecture). Interval metering holds the promise of unleashing a surge of new technologies that will enable customers of all usage levels to respond to real time prices by shifting load and cutting their overall usage. This shift in usage will help lower prices and support the adoption of customer-owned generation and smart grid technologies. We would also suggest that the ECWG study the need for new natural gas facilities in New York, especially serving New York City and Long Island, and the critical interplay between the natural gas system and electricity prices and reliability.

Siting New Energy Infrastructure

Again, Joint Suppliers agrees with the draft scoping document, in that this is a need of special focus. The ECWG should study whether a new Article X power plant siting law that incorporates the one-stop permitting process of the old Article X should be adopted. Another aspect of siting involves interconnection into the electric grid. The ECWG should analyze how electric generation and transmission interconnection policies are evolving at the NYISO, including deliverability requirements (the ECWG might want to run scenarios of how a few different options currently being studied at the ISO might impact the pace of interconnection throughout the State and especially at critical load centers), and how the handling of the interconnection reliability study queue impacts site selection.

Energy Costs and Economic Development

The past year and a half has seen a vigorous debate over whether electricity market structures such as those currently operating in New York have caused increased electricity prices here. Joint Suppliers believes that it is time to move beyond this controversy and identify the true drivers of energy costs in the New York. In breaking down the differential between energy prices in New York and other competing states, many factors will need to be examined, including access to fuel resources, relative overall energy efficiency for electricity, natural gas and transportation, the fuel sources used for generating electricity, differences in environmental regulations, differences in the transmission and distribution reliability, the amount of investments in technologies requiring a premium over market prices (such as renewables), labor costs, and state and

local taxation of energy production, distribution and sales. While this analysis will, no doubt, be difficult, we believe that it is fundamental to the successful design and implementation of the SEP. We believe that it will show that New York's energy prices are a function of fuel costs, higher reliability standards, higher costs to do business and higher environmental standards. It will also demonstrate that our market structure is working to enhance our abilities to respond to higher prices with a variety of customer choices, through a system that encourages and supports innovation.

Thank you for your efforts on behalf of New York's citizens in undertaking this important work. Joint Suppliers appreciates the openness that you have designed into the planning process and will be happy to assist you in putting together the SEP and working with you in all phases of this ambitious project.