



April 23, 2009 Submission to the New York State Energy Planning Board

Introduction

The Retail Energy Supply Association¹ (“RESA”) appreciates the opportunity to submit comments to the New York State Energy Planning Board. We commend the Governor and the Board for taking time to collect data, analyze trends and examine the economic, technological, scientific and political factors impacting the state’s energy production, transportation and use. We submit the information and recommendations contained herein to aid the Board in its deliberations and we stand ready to supply any additional information or analysis that you might require.

We recognize the profound effect that government policy has over energy use in New York and we believe it is essential you have all the information necessary to create a plan which attains the goals of abundant and affordable energy for the state, and job and investment growth, within the context of a recessionary economy and increasing environmental concerns. The RESA members currently support these goals in many ways. As retail energy suppliers working directly with end-use customers, we have several policy recommendations that will contribute to greater levels of affordability, efficiency, innovation, and green job growth. We know how important this planning process is to the state and we are acutely aware of how it will impact New Yorkers because we hear from, and work with, our customers every day.

The Interim Report, released March 31, is “intended to convey a sense of direction for the Plan and to enable public comment on substantive issues under consideration.” These comments are RESA’s response to the principles identified in the Interim Report. In particular, the Interim Report’s preliminary findings 1, 2 and 7² are addressed by a

¹ RESA’s members include Commerce Energy, Inc; Consolidated Edison Solutions, Inc; Direct Energy Services, LLC; Gexa Energy; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Liberty Power Corp.; Reliant Energy Retail Services, LLC; Sempra Energy Solutions LLC; SUEZ Energy Resources NA, Inc. and US Energy Savings Corp. 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.

²The Interim Report includes ten Preliminary Findings. Finding 1: “The state’s clean energy sector is built on a foundation of investments in energy efficiency and renewable energy. The growth of this sector will expand economic development opportunities across many industries and regions in New York. Energy investments create local jobs, reduce the outflow of dollars to pay for energy imports and make the State

vibrant, competitive retail market that allows customers to adapt their energy use to environmental and economic concerns.

Industry Status

In comments on the Board’s Scoping Document, RESA members provided data on the increasing number of electricity and natural gas customers choosing alternative suppliers in New York. This trend has continued. According to the latest data available on the Public Service Commission’s web site, as of January 2009, nearly 1.2 million customers (17.7% of all customers), representing 43.4% of the load in those areas of the state where retail choice is available, currently receive electricity from alternative suppliers. With regard to natural gas, 714,000 customers (15.3% of all customers) have chosen alternative suppliers, representing 42.6% of all natural gas consumption in the state.

Energy retailers attract customers by offering a tremendous variety of pricing and service packages, including fixed-price, variable-price, capped-price and blended fixed-and-variable-price products and a large array of value-added services including energy management and energy efficiency. Studies have concluded that the combination of competitive retail and wholesale energy markets delivers the best value to customers and is the most supportive market structure for energy efficiency and renewable power. The consumer benefits from robust wholesale markets because they produce transparent locational prices that provide economically efficient incentives for both long-term investments and day-to-day operations, result in marked improvement in generator availability and efficiency, and create significant downward pressure on commodity prices.³ Consumer benefits are further enhanced when retail markets extend the price transparency and competitive market pressures to price and service innovations offered to retail customers. A paper published in March 2008 by the National Economic Research Associates, Inc., studied the service innovations emerging in retail electric markets. It found retail markets are delivering new, varied and innovative products and services that fall into four broad categories:

- New Pricing Options based on the diffusion of innovations from the wholesale electric and financial markets, such as access to forward markets, spot markets and other financial arrangements;

more energy independent and secure.” Finding 2: “New York has been a leader in addressing climate change through the Regional Greenhouse Gas Initiative (RGGI) and its commitment to improvements in energy efficiency and renewable energy generation, among other actions. However, the growing dangers posed by climate change suggest the need to adopt additional carbon reduction strategies over the planning horizon.” Finding 7: “New York has made considerable progress in reducing environmental impacts and health risks associated with energy production and use, and further emission reductions across all sectors of the economy will likely be necessary over the planning horizon.” Executive Summary, p. 2-3.

³ The NYISO reported on March 5, 2009 that electricity prices, when adjusted for fuel costs “were 18% lower than prices in 2000 ..., a \$2.23 Billion reduction in wholesale electricity costs on a current annual basis”

- Clean Energy Products that allow customers to brand their own products (by purchasing green power, carbon offsets and/or renewable energy credits), integrate a new ethic into production processes, and take advantage of demand response and energy efficiency options;
- Innovative Technological Solutions such as internet/software solutions for energy management or advances in more traditional technology like metering, HVAC and load control; and
- Customization of services that resemble traditional offerings, but are provided in new ways to suit customer needs, such as hedging and indexing services.

The authors found that, while many of these new products and services are being provided to large users, evidence from the Texas and New York markets, and retail markets in other countries, suggest mass market customers are also being offered an increasing variety of new products and services.⁴ Here are some examples of the services the RESA members provide their customers, both business and residential:

- Clean, renewable sources of electricity;
- Commodity pricing that rewards customers who reduce their usage at peak periods and/or when prices are high;
- The ability to get paid as a capacity or energy resource when participating in NYISO administered demand response programs; and
- Design and implementation of energy efficiency projects.

Competitive markets for electricity and natural gas are providing true value for customers in New York. This should come as no surprise to those familiar with the retail business. Energy service companies must constantly respond to customers' needs or risk losing market share to the many competitors in New York. Our customers care about more than just price – they care about value, efficiency, environmental impacts and corporate or personal image. Their needs are a microcosm of the issues put before the Planning Board. Collectively our customers stand for the proposition that well-structured, competitive markets offer the best delivery mechanism for demand response, energy efficiency, renewable generation (both central station and customer-sited), and the most affordable energy over time.

Why are competitive energy markets so much more effective in providing retail services than regulated monopolies? In a world where technological change is accelerating, energy prices are fluctuating wildly, and our environmental concerns have become truly global, regulated monopolies simply cannot adapt to changing customer needs quickly enough. Typical lead times for deploying new services or products in regulated markets far exceed those in competitive markets. Regulated entities must establish that their

⁴ Dr. Karl A. McDermott and Dr. Carl R. Peterson, National Economic Research Associates, Inc., Innovation in Retail Electricity Markets: the Overlooked Benefit, March 2008. Commissioned by the Compete Coalition, Constellation New Energy, Direct Energy, Green Mountain Energy, Hess Corporation, Integrys Energy Services, Reliant, Strategic Energy, and Suez Energy Resources NA, Inc

customers want a proposed offering, must file a plan for its deployment, must obtain approval for the rate to be charged, and must follow up with reports justifying the program prior to adopting any changes based on initial results. While there are legitimate reasons for this level of oversight, the ungainly process can take years and often results in little to no flexibility in the products and services eventually offered to customers. In contrast, competitive providers bear the risk that their new product or service will be accepted by customers and, of course, stand to profit to a greater extent than regulated entities if they succeed. This creates a powerful incentive to provide products and services that respond to customer needs in a timely and efficient manner.

The attributes of a competitive market, therefore, help the State achieve the goals it has announced in the Interim Report. In its first Preliminary Finding, the Energy Coordinating Working Group (ECWG) emphasized development of clean energy that would “reduce the outflow of dollars to pay for energy imports and make the State more energy independent and secure.” As suppliers, we offer our customers clean energy products, and empower them to exercise options to save energy. Regardless of whether the customer is large or small, they make important and economic decisions that conserve energy, reduce the amount of climate-changing energy sources, and help retain dollars for use in the State when they purchase from a retail supplier. These options cannot be readily embraced without choice because regulated distribution utilities, as discussed above, cannot adapt as easily to consumer demand for a cleaner, more efficient source.

In its second Preliminary Finding, the ECWG addressed carbon emissions and climate change. Suppliers help the State achieve sustainable energy systems by offering a variety of renewable and efficiency programs. The service offerings identified in the National Economic Research Associates study demonstrate the effectiveness of suppliers in supporting clean energy. Lastly, the programs promote the goals of ECWG’s seventh Preliminary Finding, “... reducing environmental impacts and health risks associated with energy production and use, and further emission reductions across all sectors of the economy ...” By providing our customers with options to reduce their energy use and/or to use a cleaner mix of fuels, the RESA members provide critical markets for green producers and allow our end users to improve their environmental standing.

Recommendations

Given the effectiveness of retail competition in providing value to customers and in delivering the products and services that will help the State meet its planning goals, RESA offers several recommendations for the state to harness the power of price competition and innovation inherent in the market. Adopting these suggestions will result in greater energy efficiency, demand response, renewable power and other new technologies, placing downward pressure on prices and contributing significantly to carbon reductions and other environmental benefits.

- 1. Continue to foster competitive retail and wholesale energy markets.**

As discussed above, an increasing number of customers choose to purchase their electricity and natural gas from competitive suppliers rather than the regulated distribution utility. Nearly half of all electricity and natural gas consumed in the state is sold by a supplier other than the utility. In addition to the ability to choose a competitive commodity supplier, customers can also choose from an increasingly diverse array of pricing options that can incorporate both fixed and indexed priced components, as well as electricity produced from clean, renewable generation sources. Finally, customers are increasingly being offered a variety of energy efficiency and demand response products both from competitive ESCOs as well as from independent curtailment and efficiency service providers.

The wholesale and retail markets are directly linked: a workable, competitive wholesale market produces the appropriate price signals and hedging mechanisms that facilitate the deployment of new and innovative products such as efficiency and demand response offerings within the competitive retail markets. In particular, the price transparency that comes from the wholesale market's uniform-clearing price mechanism enables price-sensitive customers to understand the value of the energy they are consuming and reduce their energy usage when prices exceed their opportunity costs. Similarly, retail suppliers and their commodity customers benefit from the ability to hedge electricity costs through "contracts for differences" and to hedge congestion costs from Transmission Congestion Contracts. By increasing the number of counterparties that a retail supplier can buy from, the contract for differences and congestion contracts increase market liquidity, help increase the number and type of supply options that customers have, and ultimately lead to lower prices for electricity.

2. New York should continue to expand the use of market-reflective hourly pricing for electricity as the utility default service.

As utilities deploy advanced meters, their additional time-differentiated capability should be utilized to price electricity in New York. The additional functionality will increase customer awareness of the value of the electricity they consume and help drive changes in customer behavior that are essential to achieving the State's goals for energy efficiency and demand response. In particular, the combination of improved default price signals and competitive retail energy markets will lower barriers to increased customer participation in demand response and energy efficiency programs.

- In vibrant retail markets, customers become more aware of price signals. Experience shows favorable customer behavior (reduced consumption and demand) even if customers choose fixed price competitive supply options because competitive suppliers work to identify opportunities to reduce energy costs with all customers including those that prefer the budget

certainty of fixed priced supply. For example, in Texas, residential consumption per customer has declined between 1998 and 2006 as a result of more accurate price signals provided by a robust competitive market.

- Conveyance of market-reflective price signals enables customers to know their energy consumption costs in real-time and enables them to use that knowledge to make choices on their usage during peak periods and identify infrastructure investments that enable more price-responsive behavior.
- Market-Reflective Pricing also enables competitive suppliers to take information generated from a customer's price signal and develop a product or service compatible with the customer's specific needs – including demand response and energy efficiency products and services.

3. **Support an aggressive roll out of advanced meters and time-sensitive rates.**

New York State, by virtue of the fact that it has lost much of its manufacturing base and has transitioned to a service-based economy, has become a peak electricity user. The increase in energy use in New York has become driven more by air conditioning load peaking in the late afternoon several days into a summer heat wave, rather than by round-the-clock consumption. Because of this trend, our peak use has typically grown, and is forecast to grow, at a faster rate than our average use of electricity.⁵

Peak electricity use in New York is typically met by generating resources that start quickly and run for a few hours. These resources are costly, inefficient gas and oil fired turbines that are generally high emitters of air pollutants. As these units set the price of electricity in those hours, they can drive up the price to very high levels. While the state's largest customers might be exposed to the real time impacts associated with peak pricing, most customers in the state are not, and unfortunately pay for their peak use after the fact in a bill that reflects averaged, non-time differentiated pricing. New York has been a leader in crafting programs to allow larger users to respond to and avoid peak pricing, and its efforts to allow the same choices for smaller users must be equally aggressive. Failure to do so increases the risks of strained electricity grids, local reliability problems and unnecessary costs in the foreseeable future.

⁵ The New York Independent System Operator's 2007 Load and Capacity Data Report stated "The NYCA peak demand forecast developed for this report shows a compound growth rate of 1.19% for the years 2007 through 2017. The forecast net energy for the same ten-year period shows a compound growth rate of 1.34%
http://www.nyiso.com/public/webdocs/services/planning/planning_data_reference_documents/2007_GoldBook_PUBLIC.pdf

As more customers are provided with advanced hourly meters, retailers will be able to offer more pricing packages, demand response services, or customer-sited generation to allow even smaller users to avoid using electricity at times of peak prices. In a market where supply resources take many years to respond to customer usage trends, it is important to allow customers every option to curtail and/or shift their usage. Advanced meters have other benefits as well. They allow utilities to improve outage response capabilities, enhance system monitoring, engage in remote meter reading and theft of service detection, thereby increasing reliability and revenue collection. Customers using demand response solutions usually reduce their overall usage above and beyond the amount of load shifted to lower cost off-peak hours. Net reduction ranges from 4 percent to 11 percent overall as many customers ultimately implement permanent efficiency measures, such as lighting improvements, when they become aware of their overall electricity use.⁶

The use of business or in-home response capabilities is growing and appears to be coming of age.⁷ Home Area Networks, both wired and wireless, allow users to monitor and control security, entertainment, and energy use throughout the home. When coupled with advanced meters, customers can pre-set and automate energy usage and demand response. These systems allow utilities to communicate with and control appliances within the home, without the direct involvement of the customer.

The New York Public Service Commission recently took the first significant step towards deployment of advanced metering infrastructure (AMI) in a February 2009 order requiring minimum functional standards for AMI systems.⁸ In the AMI Order, the Commission set minimum functional requirements for AMI systems, including:

- Providing customers with direct, real-time access to electric meter data in an open and non-proprietary format;
- The ability to provide time-stamped interval data with a minimum interval of no more than one hour;
- Having two-way communications capability, including the ability to reprogram a meter and add functionality remotely, without interfering with the operation of the meter; and

⁶ www.drsgcoalition.org/resources/factsheets/Demand_Response_and_Climate_Change.pdf

⁷ www.digitalthomedesignline.com/howto/212200388;jsessionid=GN42MMZSU2SEIQSNDLOSKHSCJUN N2JVN

⁸ See New York Public Service Commission Case No. 09-M-0074, *Order Adopting Minimum Functional Requirements for Advanced Metering Infrastructure Systems And Initiating An Inquiry Into Benefit-Cost Methodologies* (Feb. 13, 2009) (“AMI Order”).

- Having the ability to send signals to customer equipment to trigger demand response functions and connect with a home area network to provide direct or customer-activated load control.⁹

As the Commission embarks upon cost-benefit analyses of AMI plans already filed by New York's regulated utilities, as well as their conformance to the minimum functional standards established in the AMI Order, the benefits of more aggressive deployment of AMI systems and the drawbacks of failing to do should be afforded careful weight by both the Commission and this Board.

Respectfully Submitted,

/s/ Stephen B. Wemple

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⁹ See AMI Order, Appendix I.