

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 98-M-1343 - In the Matter of Retail Access Business Rules.

NOTICE EXTENDING DEADLINES

(Issued February 16, 2018)

On January 19, 2018, the Public Service Commission (Commission) issued an Order Adopting Revised Uniform Business Practices (UBP) (Order) in this proceeding. The Order modified the UBP in several respects, including incorporating protections to prevent early termination or cancellation fees in the event of energy account holder's death before the end of the contract term; eliminating the appearance of an Energy Service Company's (ESCO) representative's full name on the identification badge worn by the marketer while soliciting to potential customers; and adopting several proposed modifications to the UBP which either clarify or implement prior related actions.

The Commission directed ESCOs eligible to operate in New York to comply with the revised UBP, which were adopted prospectively and apply to new ESCO service agreements and to renewals of current ESCO service agreements effective 30 days from the effective date of the Order, which is February 20, 2018, and thereafter.¹ Electric and gas distribution utilities that have tariffed provisions providing for retail access were directed to file tariff amendments or addenda to incorporate or reflect in their tariffs the UBP revisions on not less than one day's notice 30 days from the effective date of this Order.

¹ Given that the 30th day after the effective date of the Order is Sunday, February 18th, and February 19th is a federal and State holiday, the effective date is February 20, 2018.

By letter dated February 9, 2018 the National Marketers Association (NEM) requested a 90-day extension for ESCO compliance with certain of the revised UBP requirements, which NEM avers is justified given the significant nature of the changes and the resources that would be required to implement the changes. NEM requests an extension with respect to three UBP provisions: Section 5.L.2, which pertains to voluntary budget billing and levelized payment plans; Section 5.B.2, which is the extension of third party verification (TPV) to the enrollment of small non-residential customers resulting from door-to-door sales, telephonic enrollment and scheduled appointments; and Sections 10.C.1.b.1 and 10.C.1.d, which pertains to the changes in the information displayed on ESCO representatives' badges.

On February 13, 2018, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, National Fuel Gas Distribution Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, KeySpan Gas East Corporation d/b/a National Grid, and The Brooklyn Union Gas Company d/b/a National Grid NY, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, "Joint Utilities") filed a petition requesting clarification and extension of an additional 30 days to respond to the Order. The Joint Utilities are seeking clarification of Section 2.G, which pertains to compliance with the Clean Energy Standard; Sections 5.A and 5.K.1, which addresses service provider changes for customers want to opt out of community choice aggregation; and Section 5.L.2, which pertains to budget billing. The Joint Utilities suggest that the clarifications raised in the Petition could result in further revisions to the UBP and, therefore, the additional time would permit consideration of the petition and

would eliminate the administrative burden of possibly filing two compliance tariffs.

By letter dated February 13, 2018, the Impacted ESCO Coalition (IEC) submitted a request for Extension of Time on the revised UBP requirements, joining in support of NEM's request. IEC requests an additional 45 days, stating that the 30-day period does not provide sufficient time for ESCOs to comply with all of the required UBP revisions or make the necessary changes to the marketing materials and marketing scripts. Consistent with NEM's request, IEC requests an extension with respect to Sections 5.L.2, which addresses budget billing; Section 5.B.2, Section 5, Attachments 1.A 2.A, which pertain to third party verification; and Sections 5.B.2, 10.C.1.b.1 and 10.C.1.d, which addresses the information on the ESCO representative's identification badge. IEC requests an additional 90 days to allow the Commission to consider their petition for clarification regarding the definition of "direct in-person contact" in Section 1. IEC avers that an extension is warranted given the likelihood of requests for rehearing that may result in further modifications to the UBP.

By letter dated February 14, 2018, Direct Energy Services, LLC, on behalf of itself and its affiliates doing business as ESCOs in New York, (collectively, "Direct Energy") supports the request of the Joint Utilities for clarification and extension of time to comply with the requirements of Section 5.L.2 requiring ESCOs to calculate budget bills for customers connected to utilities operating rate-ready billing systems. In addition, Direct Energy requests a 30-day extension to comply with Section 5.B.4, requiring standard Sales Agreements for large nonresidential customers be written in a size 10 font; and to implement training for Energy Brokers to comply with the new UBP requirements.

The matters that have been raised for clarification will be considered by the Commission. To require ESCOs and the Joint Utilities to comply with the Commission's order at this time would be an administrative burden on ESCOs and Joint Utilities should the Commission determine that further revisions are necessary, which would necessitate an additional compliance filing. An extension will, therefore, be granted to accommodate the requests for clarification and the requests for additional time to comply with the UBP revisions that are not subject to clarification.

The entities requesting extensions have argued for varied additional periods of time. It is necessary to consider a reasonable period of time both to permit the Commission to consider the requests for clarification as well as sufficient time to comply with the revisions to the UBP that are not subject to clarification. Based upon the information that has been provided and in considering the justifications underlying the four extension requests, an extension of 45 days, or until April 6, 2018, is granted to ESCOs eligible to operate in New York and to electric and gas distribution utilities that have tariffed provisions providing for retail access to comply with the Commission's order.

This extension is granted in order to promote the fair, orderly and efficient conduct of this proceeding.

(SIGNED)

KATHLEEN H. BURGESS
Secretary