



National Energy Marketers Association

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

Proceeding on the Motion of the)
Commission Regarding Provider of) Case 00-M-0504
Last Resort Responsibilities, the Role)
of Utilities in Competitive Energy)
Markets, and Fostering the Development)
of Retail Competitive Opportunities -)
Unbundling Track)

REPLY COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

The National Energy Marketers Association (NEM) hereby submits reply comments on Issue 1, unbundled embedded cost study methodology, and Issue 5, the identification of functional areas into which costs should be unbundled, pursuant to the June 20, 2001, and July 2, 2001, Procedural Rulings issued by Judge Stockholm in the above-referenced proceeding. NEM is concerned about the effects of Staff's Alternative Unbundling Proposal as well as the Utilities' Guiding Principles and proposed functions to which costs will be allocated.

In Initial Comments, Staff included the following alternative unbundling proposal:

[W]e propose that the transmission and distribution functions could be combined into a single delivery function, eliminating disagreement over the dividing line between transmission and distribution which would have no practical effect on the pricing of competitive services.

The alternative proposal would functionalize the costs related to competitive services (e.g., meter service, meter data service, supply, billing, etc.) into individual functional buckets and the delivery costs (transmission and distribution) as a single functional bucket. The functionalized competitive service costs would then be classified and allocated to service classes or other reasonable groupings, as is traditionally done in an ECOS study. Delivery function costs would not be further classified (by relationship to demand, consumption, or customers) or allocated (to individual service classes). The clearing accounts (customer care, uncollectibles, etc.) would be retained, and A&G and common costs would be assigned to the various functional buckets as in a fully allocated ECOS study. The utilities would not perform the traditional, full study.¹

¹ Initial Comments of the State of New York Department of Public Service Staff, pages 11-12.

NEM is concerned that grouping distribution and transmission into a single functional delivery bucket that will not be further classified or allocated will obscure the results of the studies. To the extent that a utility improperly classifies a competitive service, product, information or technology as delivery-related, the parties will not be afforded with the necessary information to identify the misclassification and argue for its proper reclassification. Accordingly, such a structure creates an incentive to improperly characterize products, services, information and technologies as delivery-related.

Pursuant to the Utilities' Guiding Principles, "each Utility will have discretion to perform the Study using its own approach and will explain and support its assumptions and methods with appropriate documentation. Thereafter, other parties will have the right to propose alternative assumptions and methods." NEM submits that such an approach will limit the effectiveness of the studies. Allowing the utilities discretion to perform the studies pursuant to their own assumptions and methods subject to subsequent debate will unfairly tilt the playing field in favor of the utilities. It shifts the bulk of the burden to the non-utility parties to examine each utility's study, each of which will be performed in a different manner, and attempt to track the allocations therein. Although mindful of the concerns of the time involved to complete the embedded cost of service studies, NEM submits that the utilities are experts with respect to the information in question. Therefore, the burden of deciphering the studies should not be unfairly shifted against the non-utility parties.

NEM is also concerned that the Utilities proposed list of functions into which utility costs will be allocated will fall far short of ensuring sufficient detail to transparently illustrate information about each function, product, service, information or technology currently being provided by the utility such that the costs are capable of being traced and verified as contestable by the parties.

Sincerely,

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Cc: Active Parties (via email)
The Honorable Jeffrey Stockholm (via Overnight Mail)
The Honorable Janet Hand Deixler (via Overnight Mail)