

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 13-M-0412 – Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank.

Case 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.

Case 05-M-0090 – In the Matter of the System Benefits Charge III.

Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard.

SAPA I.D. No. PSC-39-13-00020-P

**COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

I. PRELIMINARY STATEMENT

The Retail Energy Supply Association (RESA)¹ submits these comments in response to the *Notice Soliciting Comments* and *Notice of Technical Conference* issued in these proceedings on September 13, 2013.²

¹RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. 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 Case 13-M-0412 – Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank, et.seq. *Notice Soliciting Comments* and *Notice of Technical Conference* issued September 13, 2013. See also, State Register (September 25, 2013) at p. 17.

II. RESA COMMENTS

In these proceedings, the Commission is considering establishment of a Green Bank that would apply unspent committed public funds in a manner that would mobilize private sector capital to stimulate the growth of New York's clean energy economy, and implement modification to the existing Renewable Portfolio Standard (RPS) and Energy Efficiency Standard (EES) programs to enhance their market penetration and efficient operation.

RESA has consistently supported efforts by the Commission and the Governor to enhance customer acceptance and increased use of clean energy and energy efficiency measures. In fact, many members of RESA actively market clean and green energy to small and large customers throughout the State of New York. This includes energy efficiency, demand response, load management and behind the meter applications developed in a competitive market environment. It is therefore important that the Commission also ensure that the various programs considered in these proceedings, including the Green Bank, are designed and implemented in a manner that does not discriminate against or place ESCOs in a prejudiced or inferior competitive position in relation to the utilities and any other non-ESCO vendor.

In connection with the Green Bank, the procedures and rules governing its applicability should provide all participants including ESCOs, with equivalent access to this potential significant source of longer term funding. Suitable projects

that can enhance the use of green energy, energy efficiency, dynamic load management, or distributed generation may be sponsored or brought to fruition by a wide variety of vendors, including ESCOs, in addition to the public utilities. Consequently, the Green Bank needs to be open and available to all types of participants and vendors, and not needlessly restricted to only large customers or the local utility.

Similarly, in developing lending standards, eligibility criteria, terms of payment, application requirements and the myriad details and procedures that will determine the reality of the Green Bank program, it is vitally important to bear in mind the target group that the Green Bank will seek to actively participate in moving green projects and green energy use forward. That target group should include ESCOs as they are uniquely situated to match customer needs with sources of energy on a competitive market basis.

The overall aim of these programs as highlighted by the PSC Chairwoman is to transform retail service towards time-differentiated pricing, more efficient and economical use of energy, and proliferation of more environmentally friendly sources and uses of electricity. For these goals to be achieved, it will be necessary to encourage and obtain the involvement of competitive suppliers of energy products and services. They are already involved in these areas and currently serve a significant portion of the commercial and residential retail energy market in New

York. Furthermore, many of the RESA members have extensive experience in other markets throughout the United States, therefore, tapping the involvement of competitive suppliers will help ensure that the programs move forward a more sure economic footing consistent with the policy through the Green Bank of undergirding the long term financial integrity of energy projects by relying on private sources of capital.

In this vein, it is vitally important for the Commission to ensure that the ability of all service providers to accurately bill customers for their efficient and time sensitive usage is preserved and no provider is disadvantaged and placed in an inferior position. If a customer installs energy efficiency measures that reduce usage or lower peak usage, it is imperative that the customer's bill reflect the beneficial cost impact of that shift in usage. Otherwise the customer loses the incentive to undertake the effort and cost to improve the usage of electricity.

Unfortunately, in a number of important instances, the billing services made available to ESCOs hinder and often preclude ESCOs from billing their customers in a manner that accurately reflects their actual and time sensitive usage patterns. Thus, for example, under the rate ready consolidated billing model, ESCOs are required to provide the applicable rate prior to receiving the meter usage for the entire billing cycle; in connection with residential and small commercial customers Con Edison does not differentiate between a customer's actual on-peak and off-peak

usage when reporting to the NYISO each ESCO's hourly settlement data; and difficulties arise in accessing the customers time-differentiated usage data.

Obviously, these obstacles prevent ESCOs from providing the types of services so desired by the Commission and tilts the competitive market in favor of the utility.

Further, to the extent, the Commission institutes new or innovative billing mechanisms for measures funded by the Green Bank, all vendors including ESCOs should be provided with comparable access. In this regard, if the Commission allows for the application of on-bill financing, no differentiation should be made if the customer's commodity service is provided by the ESCO rather than the utility, or if the ESCO is the vendor responsible for the measure installed by the customer.

As explained by NYSERDA, a primary motivating factor in establishing the Green Bank is to leverage unspent committed public funds public dollars to "mobilize private sector capital to stimulate the growth of New York's clean energy economy."³ It is recognized that reliance on government sponsored cash payments and subsidies is insufficient to engender the requisite long term financing base for renewable and energy efficiency projects. This can only be accomplished by obtaining private sector capital flows to support attractive renewable energy and energy efficiency projects. In other words, these policies ultimately must become viable from a market perspective in order to remain viable for the long run.

³ Petition, p.1

This same concept is equally applicable to all aspects of the retail renewable and energy efficiency projects. Their viability and robust development are inextricably linked with attracting market players and competitive forces to make these projects and activities part of the competitive market structure rather than the domain of government support and sustenance. Consequently, the Commission should implement policies that attract competitive suppliers and participants to help buttress these important policy initiatives.

III. CONCLUSION

RESA supports the efforts contemplated by the Commission with respect to the Green Bank and urges that all policies adopted by the Commission maintain a level competitive playing field and make use of extensive experience of RESA members in both the program development and execution of the competitive market.

RESA thanks the Commission for the opportunity to submit comments in this proceeding.

Respectfully submitted,

Retail Energy Supply Association

By: *Usher Fogel, Counsel*
Usher Fogel, Counsel

Dated: November 9, 2013