

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**MATTER NO. 14-00933 –
In the Matter of a Technical Conference on Winter Energy and Supply**

**COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

I. PRELIMINARY STATEMENT

The Retail Energy Supply Association (RESA)¹ submits these comments in response to the questions identified in the *Notice Seeking Comments* issued on May 23, 2014² addressing the increased gas and electric prices that occurred this past winter.

The members of RESA share the Commission’s concerns with respect to the pricing and supply developments that occurred during the past winter. ESCOs had to confront the burdens of sharply rising supply costs and also deal with the concerns this engendered at the retail consumer level. In moving forward from a policy perspective, the Commission must recognize that idiosyncratic and unforeseen supply and pricing events will arise over time and that it is not useful to attempt to perfectly time wholesale markets or implement practices and policies that distort or mask the true cost of commodity service. Ultimately, maintaining clear, accurate and transparent pricing signals is the most effective means of serving the best interests of consumers

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.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, 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 MATTER NO. 14-00933 , In the Matter of a Technical Conference on Winter Energy and Supply , *Notice Seeking Comments* (issued May 23, 2014) (“Notice”)

II. RESA RESPONSE TO QUESTIONS

QUESTION 1:

1) Several participants at the technical conference expressed the view that increased use of natural gas by heating customers reduced the natural gas transportation capacity available to generators during the winter. In their view, this led to high natural gas prices for the generators, which in turn led to high electric energy prices. These participants recommended that gas transportation capacity be added to relieve the constraints.

a) Who should be responsible for ensuring that adequate gas transportation capacity is available for gas fired electric generators? (e.g., the New York Independent System Operator, generators, gas utilities, electric utilities?)

b) Which specific transportation paths were constrained? Was the constraint created by the failure of gas transportation equipment? Could the constraint be relieved without the installation of new equipment? How should the constraints be relieved in the future?

c) How should the costs associated with increased gas transportation capacity be recovered (e.g. through New York Independent System Operator supply charges, through electric delivery rates)?

RESA RESPONSE

The questions creates a perception that use of gas for home heating (its traditional use) and electric generation are to some extent in competition with each other and addressing the needs of one use will cause a diminishment in the use and availability of gas for the other purpose. In fact, natural gas can and should be used to serve all needed purposes, both heating and electric generation. To accomplish this goal, which is not within the direct province of the ESCOs, it is vitally important for there to be greater coordination between the distribution utilities, electric generators and pipeline companies. The utilities together with the generators can develop estimates of projected gas usage and in turn create better and more accurate capacity planning. It is important to emphasize that prospective infrastructure enhancements should be determined through the interaction of market forces. If accurate and clear market signals are provided, the necessary investments will take place.

QUESTION 2:

2) Some participants expressed the view that the electric day-ahead and real-time market energy price separation between Western New York and the Capital District region was aggravated by electric transmission constraints.

a) Which electric transmission interfaces experienced significant congestion that is not economic?

b) Who should be required to add electric transmission infrastructure to reduce transmission congestion?

c) How and from whom should the costs for this new electric transmission infrastructure be recovered?

RESA RESPONSE

The construction and development of transmission facilities does not lie within the purview of ESCOs and remains within the province of the transmission owners. However, the winter operation further highlighted key electric transmission constraints that restricted flow from west to east, and north to south in New York. Interestingly, the capital zone was the highest price zone except for Long Island during the January –March 2014 extreme weather conditions. Improving these constraints would be beneficial to NY consumers. Accordingly addressing this matter lies within their province in concert with the appropriate regulatory authorities. To ensure that needed and economic facilities are constructed the costs thereof should be allocated to end users and reflected in their rates.

QUESTION 3:

3) Significant concern was expressed regarding adequacy of natural gas and alternate fuels availability for generators during sustained cold spells and that relying on just in time" alternate fuel inventory may not be sufficient. Given the impact of fuel availability on electric reliability, it is essential that adequate fuel supplies are available in a timely fashion.

a) What mechanisms should be in place to encourage generating units capable of burning oil as an alternate fuel to maintain adequate fuel oil inventories on site or readily available for short-term delivery?

- b) What mechanisms could be employed to encourage generating units capable of burning alternate fuel to remain operational (i.e. not retire)?*
- c) What mechanisms could be employed to bring new dual fuel resources on-line?*
- d) How should fuel diversity be valued and priced in the market place?*

RESA RESPONSE

The availability of alternate fuels and maintaining the requisite infrastructure is strongly linked to the development and presentation of accurate, clear and transparent pricing signals. This necessitates the proper valuation of access to diverse supplies and reflecting the cost thereof in electric clearing prices. New York State actually has a more diverse portfolio than some other regions in the northeast; it is important to address fuel diversity for this portfolio can be maintained.

QUESTION 4:

- 4) It was suggested that exports of electricity to New England states during the winter period aggravated electric price increases in the New York Independent System Operator Capital District zone?*
- a) Did exports to Independent System Operator New England aggravate price increases in the Capital District?*
- b) What remedies, if any, should be pursued to address this concern?*

RESA RESPONSE

The existence of geographic disparities can be addressed by developing and implementing accurate and clear pricing signals.

QUESTION 5:

- 5) Some expressed the view that utilities could hedge more than they did last winter and do today to reduce their electric supply portfolio price volatility.*
- a) If so, should utilities increase the amount of their residential and small commercial and industrial supply customers' load that is hedged during the summer and winter months?*

- b) *What criteria should be used to determine the appropriate amount of such hedging?*
- c) *Please comment on the use of physical vs. financial hedges in this context.*

RESA RESPONSE

The potential use of increased levels of hedging is neither a useful nor prudent approach in response to this winter's unusual pricing activity. What would be helpful is transparency into the utility hedging positions on a prospective basis for residential and small commercial classes. This would enable residential and small commercial customers to understand their supply options on a prospective basis.

The winter vortex condition that occurred in January 2014 was clearly a highly anomalous event that reflected peculiar and unusual conditions that came together in a "perfect storm" manner. In this period there occurred colder than normal weather, increased reliance on gas fired generation, extreme trading activity and pricing responses, and possible gas pipeline constraints.³ It is not fruitful to implement material prospective policy changes to address a prior event that was unusual in nature and does not represent the norm and usual trading and pricing activity load.

The question also overlooks the fact that for this winter and continuously since 2007 all the electric utilities have undertaken a substantial level of hedging for its residential and small commercial load. In the *Order Requiring Development Of Utility-Specific Guidelines For Electric Commodity Supply Portfolios And Instituting A Phase II To Address Longer-Term Issues*

³The average temperatures for January, February and March in the New York City area were approximately 11 percent, 10 percent and 12 percent, respectively, colder than normal, and daily natural gas spot market prices exceeded \$100 per dekatherm on certain days.

issued by the Commission in Case 06-M-0107⁴, the Commission directed all electric utilities to prepare and implement new and larger hedging programs as a means of mitigating price volatility for residential and small commercial customers. The Hedging Order was issued in April 2007 and thereafter in compliance with the directive of the Commission each electric utility submitted and implemented large scale hedging programs designed to reduce pricing volatility for mass customers.⁵ Consequently, the utilities are already hedging for a major portion of its mass market load and this program was in place during the past winter. A lack of substantial hedging activity was neither the cause nor the solution to the wholesale market prices experienced in January-March and neither is there any reliable information that would indicate that residential customers would have been significantly better off from an increase in utility hedging for an even greater portion of the load. ⁶

It is also clear that ramping up increasing levels of hedging engenders significant costs and problems that outweigh any purported benefits. Hedging by a utility is an inherently anti-competitive activity that can raise costs unnecessarily for ratepayers while depressing the competitive retail energy market. Furthermore, it should be noted that during extreme constraint periods it is not unusual for certain ancillary costs to rise significantly (example, Schedule 813 Residual Adjustments). These costs are not subject to hedging by any LSE (whether a utility or an ESCO). However, an ESCO which offers fixed price products typically fixes this cost on behalf of a customer whereas a utility service just passes through this charge to the customers on utility default service whatever it may be.

⁴Case 06-M-0107 -Proceeding on Motion of the Commission as to the Policies, Practices and Procedures For Utility Commodity Supply Service to Residential and Small Commercial and Industrial Customers. Order Requiring Development Of Utility-Specific Guidelines For Electric Commodity Supply Portfolios And Instituting A Phase II To Address Longer-Term Issues (issued April 19, 2007) (“Hedging Order”).

⁵ The actual hedging plans of each utility are not publicly disclosed, but based on public information it is not unreasonable to assume that the percentage of load for mass customers that is subject is in the range of 50-65%.

⁶ Gas utilities also engage in hedging for major portions of their load through the use of storage gas, as well as physical and financial hedges.

A supplier engaged in hedging activity is confronted with a number of significant business risks that must be fully analyzed and properly determined in order to produce an economic result which is both satisfactory and consistent with the hedging party's business interests.

The level of supply that needs to or should be hedged by the supplier is an initial threshold risk factor that must be resolved. In this regard the hedging party must determine the level of supply subject to the hedge and whether the supplier will only hedge at certain times of the year such as peak demand periods or on a more continuous basis during the entire annual period. Inherent in this analysis is an assessment of the quantity needed to reduce price volatility, maximize profits and minimize operational risk exposure. Any material error in addressing this business risk can have serious financial consequences for the energy supplier. If an insufficient level of load is purchased, the supplier may be required to go to the market during a high cost period to meet the demands of customers for whom a hedge product or price had been offered. Similarly, if the supplier overestimates and hedges a quantity of electricity materially in excess of what is required due to market conditions, the supplier will either be forced to sell the product into the market at unfavorable prices or try to foist the excess cost of the hedge on consumers, a feat usually doomed to fail.

The energy supplier must also accurately assess the risk associated with the price charged for the hedge supply or financial instrument. In the business world everything has a price, and it is possible to obtain a hedge that mitigates the risk of price volatility; the critical question becomes whether that price is acceptable given an assessment of where market prices may be in the future as well as the financial exposure associated with acquiring the hedge at the market price. The failure to accurately gauge the price risk can have serious financial and business

consequences for the supplier. Acquiring a hedge at a price that significantly exceeds the market price at the time the supply must be provided may impede the supplier's ability to competitively match the offers of other energy providers who may not be burdened with the high cost of the hedge, and overwhelm the supplier's financial capabilities.

It is also of relevance that these two factors - - quantity and price - - are interrelated as the price of the hedge may impact upon the determination of the quantity of product that will be hedged by the supplier and in turn the quantity required will also bear upon the price the supplier is willing to incur. This engenders an additional level of risk - - assessing the interplay of these risk factors with each other - - which is incremental to the initial determination of determining the level of supply that will be hedged and the particular price that will need to be paid.

In the competitive environment the significant business risks described above are borne fully by the individual ESCO. If an ESCO acquires a financial hedge that turns out to be out of the market or hedges an incorrect level of supply, the economic consequences are borne by the ESCO and may significantly impede the ESCOs' ability to compete in the marketplace or even remain in business. The financial risks associated with hedging efforts will inevitably be reflected in the price that the ESCO charges for the product. Thus, the customer is provided with a product that accurately reflects market conditions and real costs, together with the true market cost of price stability.

The same financial consequences are *not* faced by a regulated utility that engages in hedging or other practices designed to reduce price volatility. As a general ratemaking principle, a utility will be able to recover the cost associated with a hedge product (whether financial or physical) so long as the acquisition of that supply source or a related cost is not deemed "imprudent". The prudence standard, however, is not a purely economic standard so that even if

it turns out that the hedge is above market, the utility would be allowed to recover the costs thereof so long as it can be shown that it was reasonably acquired in an effort to reduce rate volatility. Full rate recovery would not be impaired if the utility acquires a hedge at a price that subsequently is out of the market, or an insufficient level of supply is hedged. The utility is thus shielded from business and financial risks associated with supply practices designed to reduce volatility.

Utility hedging activity is thus insulated from the primary risks associated with hedging activity by its status as a regulated utility monopoly activity. By this status the utility is allowed to recover the costs associated with its hedging program regardless of whether and to what degree the hedging program is in concert with actual market conditions that would affect the cost recovery and risk exposure of an independent energy supplier.

Under these circumstances, authorizing or encouraging utilities to engage in hedging practices and reflecting such activity in the commodity charge, enables the utility to place itself at a distinct competitive advantage to the competing ESCO because the utility is able to automatically, and after-the-fact, pass along the risks of hedging to all utility-served customers. Further, it acts to shift to ratepayers all of the risks and potential costs associated with hedging activity.

The interests of customers are best served by instituting a supply and rate recovery mechanism that provides customers with the most accurate information concerning the market price of electricity and natural gas. It is critical to underscore that those customers who receive accurate market price signals are in the best position to then determine the most appropriate market based response that properly serves that customer's best interest. Conversely where

accurate market prices are shrouded or masked by extraneous elements, the customer cannot be expected to make the most rational economically based purchasing decision.

The emphasis upon the provision of accurate market based pricing in the utility commodity charge acts to *empower* the customer by providing needed market information so as to allow the customer to make a rational purchase choice concerning what types of commodity products best suit the needs of the customers. It would also allow for greater penetration and acceptance by the customer of energy efficiency, demand response and the host of other value-added services the Commission is considering in Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision. Obviously if the current market price of commodity is shrouded in mystery, which it is, by a catch-all utility commodity charge that itself is subject to true-up, is difficult if not impossible for a customer to make a rational purchase decision.

Furthermore, by shifting the emphasis to accurate market pricing, retail energy competitive service can now be viewed by the customer as a means of most efficiently addressing that particular customer's preferences concerning price stability, risk assumption and overall comfort level with respect to the acquisition of energy commodity service. Thus, a customer with greater interest in rate stability, once provided with accurate pricing information, may opt for obtaining a hedged or fixed priced product from an ESCO and thus view the provision of retail commodity service by an ESCO as a price or cost mitigation option. And, in turn, if ESCOs are confident that the utility commodity charges accurately reflect market prices, they are better positioned to offer products that accommodate a market price environment.

To the degree that any hedging activity is implemented, the Commission should limit the time period applicable to either a financial or physical hedge acquired by the utility. At most, utility forays into hedging should be viewed as temporary or transitional palliative remedies until at least from the Commission's perspective a more robust market has developed. Therefore, the utilities should not acquire or lock themselves into any long-term hedges as this would be inconsistent with the transitional nature of the utility hedging programs. In this regard, a utility hedge should generally be no longer than 3 to 6 months, and even shorter periods may be suitable for gas hedging as there is increasing emphasis on greater reflection of current pricing. In this manner price volatility is still addressed but the utility is not saddled with long-term hedge obligations that would unnecessarily interfere with the functioning of competitive electric markets.⁷

In this regard, it is also suggested that the utility where it engages in hedging should acquire primarily financial instruments rather than physical hedges. Through this type of hedging instrument the utility would then be focusing primarily upon minimizing price volatility without necessarily acquiring additional supply contracts which would further embed itself in the provision of commodity service. It should also be said that these additional hedging practices (if any) should only be applied to the customer classes who are below the respective MHP thresholds and who are on utility default service.

Finally, as mentioned previously, it is also imperative that the structure of the utility hedging program be disclosed and not be shrouded in mystery as is currently the case. At this point, it is difficult to for consumers and ESCOs to understand what actions are being taken. Consequently, greater transparency about utility hedges in place for residential and small

⁷ In connection with utility hedging activity, it is clear based on the presentations made to the Commission that there is no need to provide hedging services for larger commercial customers.

commercial classes would be most beneficial to enable customers to understand their supply options on a prospective basis.

QUESTION 6:

6) A concern was expressed that there do not seem to be adequate fixed price options available for consumers to lock in their electric prices and avoid the volatility of prices.

a) Should utilities be required to offer a fixed priced electric supply option to their residential customers and/or to their small non-demand metered commercial and industrial customers?

b) If so, for what duration(s) should the supply prices be fixed?

c) Should these fixed price products be available to customers continuously or only at certain intervals, and what terms and conditions (i.e., early termination charges) should apply to these products?

d) Should energy service companies be required to offer fixed price electric supply products to residential and small customers as a condition for being certified to provide commodity in New York?

e) How might budget billing programs be better used to reduce customer bill volatility?

f) Are there changes to the utilities' budget billing programs that might enhance their effectiveness in mitigating customer bill volatility?

RESA RESPONSE

This pricing mechanism is neither a useful nor prudent approach in response to this winter's unusual pricing activity

The winter vortex condition that occurred in January 2014 was clearly a highly anomalous event that reflected peculiar and unusual conditions that came together in a "perfect storm" manner. In this period there occurred colder than normal weather, increased reliance on gas fired generation, extreme trading activity and pricing responses, and possible gas pipeline constraints.⁸It is not fruitful to implement material policy change such as a utility sponsored

⁸The average temperatures for January, February and March in the New York City area were approximately 11 percent, 10 percent and 12 percent, respectively, colder than normal, and daily natural gas spot market prices exceeded \$100 per dekatherm ("Dt") on certain days.

fixed price option to address a prior event that was unusual in nature and does not represent the norm or usual trading and pricing activity.

The Commission also has a history with utility sponsored fixed price options for gas and electricity. Whenever it has been tried, it has been discontinued due to its negative impacts on consumers and the market. NYSEG and RG&E had offered a fixed price option to small customers. After reviewing the performance of this price option and the attendant financial costs and rewards, the Commission as recommended by Staff discontinued this program. (See Case 05-E-1222, New York State Electric & Gas Corporation, *Order Adopting Recommended Decision With Modifications* (issued August 23, 2006)(NYSEG Rate Order). Similarly, Central Hudson had offered a fixed price option to residential customers but discontinued it after the Commission curtailed the financial charges that could be recovered through this option.(See, Case 05-G-0311, Small Customer Marketer Coalition, *Order Directing the Future Termination, Subject to Conditions, of a Fixed-Price Offer* (issued July 22, 2005)(SCMC Order).

A similar untoward experience occurred with respect to the situation when the Commission allowed NYSEG to offer a fixed gas price option. From October 1998 until October 2002, the residential gas rates (commodity and transportation) of NYSEG were fixed pursuant to a rate agreement between NYSEG and the Commission. Under this rate agreement, the utility charged a fixed gas rate and in return was allowed to retain any profits it accrued in the event actual costs were lower than estimated and obligated to cover any losses in the event actual costs exceeded the level of costs incorporated in the fixed rate.⁹ Not a word of complaint was heard

⁹ Case 98-G-0845 - Petition of New York State Electric & Gas Corporation for Approval of Multi-Year Agreement Concerning Gas Rates, *Opinion and Order Adopting Settlement Terms Subject to Modification and Conditions*, Opinion No. 98-17 (issued September 29, 1998), and Opinion Modifying Opinion No. 98-17 (issued December 2, 1998).

from Company so long as gas costs remained low and did not exceed the level of commodity costs included in the fixed rate.

However this view towards fixed rates changed in 2001 with the upsurge in market gas costs. Due to the placement of fixed rates, NYSEG incurred substantial financial losses from below-cost commodity sales to its customers and reflecting the substantial losses it incurred on its gas hedges. In response, NYSEG sought to recover from ratepayers, losses of \$36.9 million for the year ending September 30, 2002, resulting from the below-cost commodity sales.¹⁰ Furthermore, NYSEG sought to terminate the existing fixed rate and in its place install a Gas Supply Charge that fluctuated monthly in response to the actual market cost of the utility's gas supplies.¹¹ Thereafter, the Company was authorized to recover \$10.5 million of its asserted loss from below-cost residential sales, terminate the fixed residential gas rate, and institute a variable gas rate.¹²

In summary, previous history demonstrates that implementing a utility fixed rate option would not be a prudent policy approach.

Furthermore, there is no demonstrated need to support a utility sponsored fixed price commodity supply option. Where customers seek price stability they have access to the competitive retail market where ESCOs offer fixed price products for varying terms.¹³ Depending on market conditions and customer demand, there are ample fixed price products for varying term lengths available from ESCOs in the marketplace. A customer is not without

¹⁰Case 01-G-1668 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric Corporation and Case 01-G-1683 – Petition of New York State Electric & Gas Corporation Pursuant to Section 312.4 of the Uniform System of Accounts to Defer Expenditures Associated with Residential Gas Costs, *Order Establishing Rates* (issued November 20, 2002).

¹¹ *Id.*, Appendix C, p. 11.

¹² *Id.*, pp. 2-3.

¹³ See, e.g., Case 12-M-0476 - Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State, et. al, *Reply Comments Of The Retail Energy Supply Association*, dated March 1, 2013 at p. 4 FN. 11.

options in this regard. The appetite of customers for the fixed price product will be impacted by personal preferences as well as market pricing activity. Thus, in periods of pricing stability or declining pricing trends, customer may be less inclined to go with the fixed price product;¹⁴ however, that view will likely change when prices move up and volatility increases. This reflects normal market factors and it should be left to the marketplace not the utility to address a customer's personal preference for fixed pricing.

The Commission has repeatedly underscored the position that ESCOs rather than regulated utilities should be the parties offering fixed-price service. In the Unbundling Policy Statement issued in Case 00-M-0504,¹⁵ after explaining that NYSEG's existing rate plan allowed for the possibility of accruing profits on the sale of commodity the Commission noted:

For the reasons discussed in the Statement of Policy issued herewith, we have concluded that allowing utilities to profit on commodity, thereby competing directly for market share with ESCOs is likely to impede market development.¹⁶

The Commission took a similar view with respect to an existing fixed price program (FPO). Central Hudson Gas & Electric Corporation (Central Hudson) had offered an FPO to a portion of its small gas users. This program had been in effect since the 1997-98 heating season. In response to a petition filed on behalf of ESCOs arguing that the provision of an FPO was inconsistent with the Commission's policies regarding the development of competitive retail markets, the Commission directed Central Hudson to discontinue the program.¹⁷ In reaching

¹⁵ Case 00-M-0504 – Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets and Fostering Development of Retail Competitive Opportunities, Statement of Policy on Unbundling and Order Directing Tariff Filings (issued August 25, 2004) (“Unbundling Order”).

¹⁶ Unbundling Order, p. 27, fn. 81).

¹⁷ Case 05-G-0311 – Petition of the Small Customer Marketer Coalition for a Declaratory Ruling Regarding the Fixed-Price Option For All Customers With Annual Consumption Requirements Greater Than 500 Ccf Operating

this determination, the Commission viewed the FPO as “a barrier against ESCO entry into the market”, as well as an “obstacle to innovation in the market.”¹⁸ The Commission reemphasized that “a fixed-price supply option is a service that could and should be developed and offered by the competitive marketplace.”¹⁹

It is reasonable to infer that the calls for fixed pricing in the current atmosphere rest on the implicit view that such an option would lead to a lower rate or shield customers from the impact of rising energy prices in a more economic fashion than service provided under a variable rate. The historical data, however, does not support this assumption. Under an existing rate plan approved by the Commission, NYSEG had previously offered residential customers a fixed-price option since 2003 through 2006. The data associated with this fixed price program revealed that the utility's variable rate was lower than the fixed rate for residential customers; in other words, residential customers paid more for electricity during the period of rising electricity costs than had they obtained variable rate service from the utility.²⁰

Another concern with utilities offering a fixed-priced product is the inherent customer confusion it would cause when comparing the fixed priced product to the utility’s existing quasi-hedged variable rate service. Given the existing Commission efforts to improve the shopping experience for customers and make it easier for customers to compare ESCO offers to the default utility service, having two forms of utility pricing will only serve to confound and confuse customers. Furthermore, the recent expressed view that low income customers not pay more than the utility default price should apply equally to any utility’s optional fixed priced product,

Under Central Hudson Gas & Electric Corporation’s Service Classification 1 and 2, Order Directing the Future Termination, Subject to Conditions, of a Fixed-Price Offer (issued July 22, 2005) (“Central Hudson Order”).

¹⁸ *Id.*, p.7.

¹⁹ *Id.*, p.8.

²⁰ Case 05-E-1222, SM 1822, 1557-8 and 1998.

namely that the utility's fixed price not exceed the utility's variable price, in order to achieve parity with competitive ESCO offerings.

Although ESCOs do offer fixed price products, they should not be *required* to offer fixed price gas or electric supply products as a condition for being certified to provide commodity in New York. ESCOs operate in the competitive retail market and develop and offer products that reflect their individual business plans and customer demand. As mentioned above, where there is customer demand for fixed type of service it has and is being offered by ESCOs to all customer groups and for electric and gas service. Thus, as noted, there may be periods of declining prices where customers simply are not looking for fixed service, and other times (like after the price spikes this winter) where demand may be very strong. Ultimately this is matter that should be left to the marketplace and the interactions between customers and ESCOs.

There should be increased emphasis and education concerning the salutary impact on pricing volatility that can be achieved through budget or levelized payment plans that are readily available to all small users and which the Commission has previously described as a tool by which customers can achieve greater certainty with respect to their monthly bills.²¹ As the Commission recently concluded in connection with the increased electric charges incurred by National Grid this winter:

Moreover, National Grid and all other New York State utilities are strongly encouraged to notify eligible residential customers about the advantages of using a budget plan to spread out the recent price increases in supply costs. With a no-fee budget plan, a customer could spread out their bill payments over a 12-month period, rather than paying a larger-than expected increase in a single month. The companies should also inform customers of other forms of available assistance including financial assistance and deferred payment plan options.²²

²¹ Case 05-E-0934 and 05-G-0935, Central Hudson Gas & Electric Corporation, Order Establishing Rate Plan (issued July 24, 2006) at p. 73.

²² Case 14-E-0026 - Petition of Niagara Mohawk Power Corporation, D/B/A National Grid for Waiver of Tariff Rule 46.3.2, Order Granting Request For Waiver issued on January 28, 2014, at p. 6.

QUESTION 7:

7) Remarks by several participants focused on the impact of the winter on natural gas customers.

- a) Were adequate quantities of firm gas available to customers for home heating throughout this winter?*
- b) Should gas utilities increase the amount of their heating supply customers' load that is hedged during winter months?*
- c) What criteria should be used to determine the appropriate amount of such hedging?*
- d) Should gas utilities be required to offer a fixed priced supply option to gas heating customers?*
- e) Should energy service companies be required to offer fixed price gas supply products to gas heating as a condition for being certified to provide commodity in New York?*

RESA RESPONSE

See Response to Question 6 and 7.

QUESTION 8:

8) Comments were made that customer education should be enhanced so customers understand the reasons for price volatility and options available to address their concerns if they want to reduce price volatility.

- a) Should utilities be required to periodically provide explanations of the variability of their commodity prices to help customers make informed decisions about their supply purchase options? How often should this information be provided?*

RESA RESPONSE

It is reasonable to enhance the level of relevant information that is provided to customers concerning the nature of utility rates and the options available in the market. As discussed above, this should also include disclosures about the amount of and effectiveness of any utility hedging positions for the customer's rate class so that customers can make an informed choice about which commodity product to select on a prospective basis. It is recommended that interested parties convene and develop an informational brochure that addresses these issues.

The approved text can then be provided by ESCOs to each customer upon enrollment and periodically when they communicate with the customer. The same pattern can be followed by each utility.

III. CONCLUSION

RESA appreciates the opportunity to submit these comments and assist the Commission in its efforts to address the needs and concerns of ratepayers.

Respectfully submitted,

Retail Energy Supply Association

By: *Usher Fogel, Counsel*

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Dated: June 22, 2014
Los Angeles, California