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Via Electronic Filing

September 12, 2018

Honorable Kathleen H. Burgess
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, NY 1223-0350

Re: **Case 14-M-0224 - Proceeding on the Motion of the Commission to Enable
Community Choice Aggregation**

**Case 14-M-0564 - Petition of Sustainable Westchester for Expedited Approval for
the Implementation of a Pilot Community Choice Aggregation Program within the
County of Westchester**

*Letter in Support of Sustainable Westchester, Inc. Petition to Modify the
Environmental Disclosure Program to Provide Separate Labels for Municipalities in
Community Choice Aggregation and to Increase the Frequency of Data Reporting*

Dear Secretary Burgess:

On August 17, 2018, Sustainable Westchester, Inc. (“SW”) filed a Petition to Modify the Environmental Disclosure Program to Provide Separate Labels for Municipalities in Community Choice Aggregation and to Increase the Frequency of Data Reporting¹ in the above referenced

¹ Petition to Modify the Environmental Disclosure Program to Provide Separate Labels for Municipalities in Community Choice Aggregation and to Increase the Frequency of Data Reporting (Aug. 17, 2018) (“Petition”).

proceedings. The Retail Energy Supply Association (“RESA”)² hereby files these comments in support of the Petition.

As SW noted, in connection with at least one Community Choice Aggregation (“CCA”) program, the Public Service Commission (“Commission”) concluded:

If a CCA intends to offer green energy, “it must ensure that such energy is generated by biomass, biogas, hydropower, solar energy, or wind energy, as defined in and subject to the environmental attributes and delivery rules of the Commission’s Environmental Disclosure Program (EDP)...ESCOs providing green energy in the context of CCA must maintain auditable New York specific records to demonstrate that such customers are receiving green energy compliant with the environmental attributes and delivery rules of the Commission’s EDP.”³

The EDP disclosure requirements authorize energy service companies (“ESCOs”) to provide customers with product specific labels⁴ and the New York Generation Attributes Tracking System (“NYGATS”) “creates generator-specific electronic Certificates that identify the relevant Attributes necessary for state agencies and users to satisfy state policies and to substantiate the fulfillment and verification of voluntary green market product claims.”⁵ SW has requested that “the Commission propose a reporting protocol for loads served by these individual products so that renewable energy purchases for that product can be matched to the load served by the product, which is the basis for creating a product-specific label.”⁶ RESA supports SW’s request for such a protocol.

² The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

³ Petition, at 2 (*quoting* Case 14-M-0224, Order Approving Joule Assets’ Community Choice Aggregation Program with Modifications (Issued March 16, 2018)).

⁴ Case 94-E-0952, *In the Matter of Competitive Opportunities Regarding Electric Service*, filed in C 93-M-0229, Opinion No. 98-19, Opinion and Order Adopting Environmental Disclosure Requirements and Establishing a Tracking Mechanism (Dec. 15, 1998) (“EDP Label Order”), Appendix, Page 1 (“An LSE can disaggregate its generation sources into separate products with different environmental characteristics, provide disclosure **by product**, and sell the products to different customers.”) (emphasis added).

⁵ NYGATS Operating Rules Version 2.2 (May 18, 2018), at 1; *see also id.* at 34 (“The LSE Account can optionally assign Certificates in the EDP Subaccount to different retail products.”); *id.* at 39 (“The LSE can optionally assign Certificates to retail products in the EDP Subaccount for purposes of additional reporting.”).

⁶ Petition, at 4.

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As the Commission found when it adopted the EDP disclosure requirements: “The goal of environmental disclosure is to facilitate informed customer choice, which could, in turn, lead to improved environmental quality and resource diversity.”⁷ However, nearly twenty (20) years later, it is still not possible for an ESCO offering a 100% renewable product to reflect that renewable content on a product specific environmental disclosure label because a reporting and verification mechanism to permit such a label has yet to be developed.⁸ As a consequence, customers are confused⁹ and are not being provided with the necessary information to make an informed decision about the impact of their energy usage on the environment as the Commission originally intended. Thus, RESA supports SW’s Petition and encourages the Commission to adopt a reporting and verification protocol for load served by individual product offerings “so that renewable energy purchases for that product can be matched to the load served by the product” for all ESCOs, not just those serving CCA programs, and disclosed to customers.

Please feel free to contact me if you have any questions or require further information. Thank you.

Sincerely,



Joey Lee Miranda

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⁷ EDP Label Order, at 2.

⁸ Case 15-M-0127 *et al.*, *In the Matter of Eligibility Criteria for Energy Service Companies*, Evidentiary Hearing Transcript (Dec. 6, 2017), at 2568-2570.

⁹ Petition, at 4 (“The customers in the renewable energy product are understandably confused . . .”).