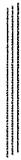


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May 7, 2015

By Electronic Mail

Hon. Kathleen A. Burgess  
Secretary  
NYS Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

**Re: Case 14-M-0564 – Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation (“CCA”) Program within the County of Westchester.**

Dear Secretary Burgess:

Enclosed please find the Reply of the Retail Energy Supply Association to the Petition for Rehearing/Clarification of Sustainable Westchester.

Thank you for your assistance in this matter.

Respectfully submitted,

Retail Energy Supply Association

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

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

**Case 14-M-0564 – Petition of Sustainable Westchester for Expedited Approval  
for the Implementation of a Pilot Community Choice Aggregation (“CCA”)  
Program within the County of Westchester.**

**REPLY OF  
THE RETAIL ENERGY SUPPLY ASSOCIATION**

**I. PRELIMINARY STATEMENT**

The Retail Energy Supply Association (RESA)<sup>1</sup> submits these comments in response to the Petition for Rehearing/Clarification (“Petition”), submitted in this proceeding on behalf of Sustainable Westchester (“SW”) on April 23, 2015 with respect to the *Order Granting Petition in Part*, issued in this proceeding on February 16, 2015 (“Order”).

In the Petition, SW requests, *inter alia*, that the term “small commercial” be interpreted “broadly”<sup>2</sup> without limitation to allow inclusion of all commercial

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<sup>1</sup>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 more than 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](http://www.resausa.org).

<sup>2</sup> Petition, p. 2.

customers on the system, regardless of size, in the proposed opt-out Pilot CCA program.<sup>3</sup>

RESA takes issue with this request and for the reasons set forth below, and respectfully submits that the pool of commercial customers eligible to participate in the opt-out Pilot be limited only to small non-residential customers as originally directed by the Commission.

## **II. THE OPT- OUT SW PILOT SHOULD NOT INCLUDE LARGER COMMERCIAL CUSTOMERS**

The expansive definition of small commercial customers sought by SA is inconsistent with the purpose of this Pilot and the goals previously enunciated by the Commission. In connection with CCA, the Commission has stated that it narrowly seeks to “increase participation of and benefits for residential and small non-residential customers in those markets.”<sup>4</sup> This approach is based on the Commission’s express findings that larger commercial customers, “have achieved substantial benefits through retail energy markets”, whereas the results are somewhat mixed with respect to residential and “some non-residential customers...”<sup>5</sup>

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<sup>3</sup> Petition, pp. 2-3

<sup>4</sup> Case 14-M-0224 – Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, *Order Instituting Proceeding and Soliciting Comments*, (December 15, 2014), at p. 1 (“CCA Order”).

<sup>5</sup> CCA Order, pp. 2-3, Appendix A, Staff White Paper, pp. 1-3; See, also, Case 14-M-0101, Reforming the Energy Vision, *Order Instituting Proceeding* (issued April 25, 2014); Case 12-M-0476 et al., Residential and Small Non-Residential Retail Energy Markets, *Order Instituting Proceeding and Seeking Comments Regarding the Operation of the Retail Energy Markets in New York State* (issued October 19, 2012).

Accordingly, the goal and purpose of opt -out CCA, whether in generic or pilot format is limited to determining the potential benefits from retail markets that might accrue to mass market residential and small non-residential customers. The Commission did not seek to explore or expand the scope of CCA to commercial customers that were not of a mass market nature. It is therefore inconsistent to broaden the scope of the Pilot, as requested by SW to essentially include *all* commercial customers on the system.

It is important to be mindful that this is a pilot program that seeks to explore uncharted areas where the Commission has limited experience at best. At this early stage in the examination of CCA, it is more reasonable to apply a cautious approach that includes a more limited and targeted definition of small commercial. It is unnecessary to expand the Pilot to include virtually all commercial customers. Doing so would dramatically enlarge the scope of SW's opt-out Pilot to include a class that already enjoys the benefits of retail access. The Commission has previously determined that the larger commercial class of customers already enjoys a robust competitive retail market. Further, SW has the ability to offer services and products to these types of customers on an opt-in basis in partnership with one or more ESCOs.

It is also important to note that the Commission both in Case 12-M-0476 and in Case14-M-0224 is considering standards for CCA and other approaches to mass market customers that will establish the long term policy framework for CCAs. It would be

inappropriate to take actions in this Pilot that might have inconsistent precedential impacts or other inconsistent long term policy implications. Clearly expanding the definition of small commercial to incorporate all commercial customers in the opt-out aggregation would constitute such an inappropriate precedential action.<sup>6</sup>

### III. CONCLUSION

For the reasons set forth above, the Commission should not expand the definition of small commercial for purposes of the Pilot.

Respectfully submitted,

Retail Energy Supply Association

By: Usher Fogel, Counsel  
Usher Fogel, Counsel

Dated: May 7, 2015

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<sup>6</sup> The position of RESA which respect to the standards and criteria to be applied to CCA are set forth at length in *Comments of the Retail Energy Supply Association* filed in Case 14-M-0224 on February 17, 2015.