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***Via Electronic Filing***

June 8, 2023

Hon. Michelle L. Phillips, Secretary  
New York State Public Service Commission  
Empire State Plaza  
Agency Building 3  
Albany, NY 12223-1350

**Re: Case 23-M-0106 – In the Matter of Commission Registration of Energy Brokers and Energy Consultants Pursuant to Public Service Law Section 66-t**

**Extension Request**

Dear Secretary Phillips:

The Retail Energy Supply Association (“RESA”)<sup>1</sup> respectfully requests an extension of the deadline for compliance with Section 66-t of the Public Service Law (“PSL”) until sixty (60) days after the Public Service Commission (“Commission”) issues a decision on the Department of Public Service Staff’s (“DPS Staff”) Proposal Regarding Registration of Energy Brokers and Energy Consultants.<sup>2</sup>

On December 23, 2022, Governor Hochul signed a law adding Section 66-t to the PSL:

- requiring energy brokers and energy consultants to register with the Commission;

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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 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> See Staff Proposal Regarding Registration of Energy Brokers and Energy Consultants (Mar. 14, 2023)

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- requiring brokers, consultants, and energy service companies (“ESCOs”) to disclose the form and amount of broker/consultant compensation to customers; and
- prohibiting the offering of rebates by energy brokers and consultants.<sup>3</sup>

On March 14, 2023, DPS Staff filed the Proposal to implement the provisions of PSL section 66-t.<sup>4</sup> On March 22, 2023, the Commission issued a State Administrative Procedure Act (“SAPA”) Notice of Proposed Rulemaking offering an opportunity to comment on the Proposal by May 22, 2023.<sup>5</sup> Various stakeholders, including RESA, filed comments on the Proposal suggesting proposed revisions for the Commission’s consideration.<sup>6</sup>

The provisions of PSL section 66-t are to take effect 180 days after enactment – on June 21, 2023.<sup>7</sup> However, because the Commission has not issued a decision on the Proposal, those subject to the new law do not have the necessary guidance to ensure compliance with its requirements.<sup>8</sup> Unfortunately, the Commission’s next session is not until June 22, 2023 – one day *after* the law becomes effective. Because the Commission may change the requirements of the Proposal once it renders a decision, postponement of the compliance date until after the date of that decision will eliminate the burden on those subject to PSL section 66-t of implementing operational changes that may not ultimately be necessary; thereby, avoiding wasted time and resources.

Moreover, once the Commission issues a decision on the Proposal, energy brokers, energy consultants, ESCOs, and others subject to the requirements of PSL section 66-t and the Proposal will require time to implement those requirements.<sup>9</sup> For example, energy brokers and consultants will need time to apply for and receive their registrations.<sup>10</sup> Although DPS Staff proposed an application form for the Commission’s consideration,<sup>11</sup> the form has not yet been adopted. In addition, ESCOs will require time to modify, reprint and distribute revised Customer Disclosure

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<sup>3</sup> See Chapter 787 of the Laws of 2022.

<sup>4</sup> See *generally*, Proposal.

<sup>5</sup> New York State Register, Vol. XLV, Issue 12 (Mar. 22, 2023), at 29 [SAPA No. 23-M-0106SP1].

<sup>6</sup> See, e.g., Comments of Retail Energy Supply Association (May 22, 2023) (“RESA Comments”).

<sup>7</sup> See Chapter 787 of the Laws of 2022, § 2; Proposal, at 12 (“Finally, pursuant to L. 2022, ch. 787, the provisions of PSL §66-t are to take effect 180 days after enactment, or June 21, 2023.”).

<sup>8</sup> See, e.g., RESA Comments, at 7-10 (requesting clarification regarding the fee disclosure requirement).

<sup>9</sup> Cf. Proposal, at 12 (“Staff proposes that brokers and consultants be given until August 31, 2023, to become fully registered . . .”).

<sup>10</sup> See PSL § 66-t(2),(3).

<sup>11</sup> See Proposal, Attachment A.

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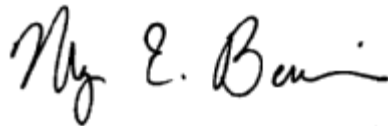
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Statements in order to include energy broker and consultant compensation.<sup>12</sup> Further, ESCOs will need to alert personnel to this change and train them about what it means. However, as of today, the exact disclosure requirements have not yet been established.

In order to avoid the time and expense associated with any further extension requests, an extension of the compliance deadline based on the date on which the Commission issues a decision on the Proposal would be appropriate. Thus, for all the foregoing reasons, RESA respectfully requests an extension of the deadline for compliance with PSL section 66-t until sixty (60) days after the Commission issues a decision on the Proposal.

Respectfully submitted,

A handwritten signature in black ink that reads "Megan E. Baroni". The signature is written in a cursive, flowing style.

Megan E. Baroni

MEB/jlm

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<sup>12</sup> See PSL § 66-t(4)(b); Proposal, at 7; *see also* Proposal, Attachment B, § 11(E)(2)(d); Proposal, Attachment C, § 4(M)(2)(d).