

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

- CASE 15-M-0127 - In the Matter of Eligibility Criteria for Energy Service Companies.
- 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.
- CASE 98-M-1343 - In the Matter of Retail Access Business Rules.

NOTICE GRANTING EXTENSION REQUESTS

(Issued January 22, 2020)

On December 12, 2019, the Public Service Commission (Commission) issued an Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process (Order) in the above-captioned proceedings. The Order was the culmination of an administrative process that included a hearing. The Order modified the retail energy market in several respects, including, but not limited to, restricting the types of products energy service companies (ESCOs) can offer to residential and small non-residential customers in New York, requiring ESCOs to file updated eligibility applications, and modifying the Uniform Business Practices.

On January 13, 2020, eight petitions for clarification, reconsideration, and/or rehearing of the Order were filed. Each petition included a request to stay or extend the Order's compliance deadlines. This notice only addresses the extension requests.

The January 13, 2020 Petitions were filed by National Energy Marketers Association (NEM); Marathon Power LLC d/b/a Marathon Energy, Approved Energy LLC, and S.J. Energy Partners, Inc. (Marathon); Retail Energy Supply Association (RESA); Direct

Energy Services, LLC (Direct); American Power & Gas LLC, Censtar Energy Corp, Eligo Energy NY, LLC, Josco Energy Corp, Kiwi Energy NY LLC, Major Energy Services LLC, and Major Energy Electrical Services LLC, Marathon Power LLC d/b/a Marathon Energy, Oasis Power, LLC, Residents Energy, LLC, Respond Power LLC, Spark Energy, LLC, Spark Energy Gas, LLC, and Verde Energy USA New York, LLC; Starion Energy NY, Inc. (Starion); New York Retail Choice Coalition and supporting ESCOs (Coalition); Family Energy, Inc. (Family).

NEM, along with RESA, contend that ESCO compliance with Ordering Clauses 1, 2, 5, and 6 will require additional time beyond what is provided for in the Order. RESA, Direct, and Starion request a stay of the Order until 60 days after the Commission issues determinations on their respective petitions, while the Coalition requests a stay of 120 days after the Commission issues a determination of its petition for rehearing. Family requests a stay of the Order but does not specify a timeframe. Marathon requests that the Commission stay implementation of the Order with respect to small non-residential customers.

The petitioners argue that a stay of the Order is necessary to ensure an orderly transition to customers either being switched to new compliant products or returned to utility service. According to petitioners, the possibility that the Commission may change the directives of the Order in response to the rehearing petitions makes it inappropriate for Department of Public Service Staff (Staff), ESCOs, and other parties to spend time and resources on implementing the Order now. They add that implementation of the Order as currently drafted would lead to confusion and market disruption. Finally, they assert that a stay is appropriate in this instance so as to provide the Commission, Staff, the regulated community, and the public the

necessary time to develop regulatory changes in an orderly fashion and without undue harm.

In addition to the petitions for rehearing, on January 16, 2020, Reliant Energy Northeast LLC d/b/a NRG Home and d/b/a NRG Business Solutions, Green Mountain Energy Company, Energy Plus Holdings LLC, Energy Plus Natural Gas LLC, Independence Energy Group LLC d/b/a Cirro Energy, and XOOM Energy New York, LLC, Stream Energy New York, LLC, (the NRG ESCOs) filed a request for a 90-day extension of the compliance deadlines set forth in Ordering Clauses 1 and 2 of the Order, and, on January 21, 2020, Vistra Energy Corp. (Vistra) filed a request for a 60-day extension of time to comply with the Order. The NRG ESCOs argue that additional time is needed so that they can file a petition with the Commission for a waiver to allow the NRG ESCOs to market their green gas product to existing and prospective customers. They, along with Vistra, assert that the extension provided to the Joint Utilities with respect to their requirement to post the 12-month trailing average utility supply rates further necessitates their extension requests.

Upon consideration of all stakeholders' interests and in light of the importance of ensuring an orderly transition and implementation of the Order's requirements, extension of the deadlines set forth in Ordering Clauses 1, 2, 5, 6, and 8, is warranted.¹ Based on the information that has been provided, and considering the justifications underlying the extension requests, an extension, until May 11, 2020, is granted to ESCOs eligible to operate in New York to comply with the requirements of Ordering Clauses 1, 2, and 5 of the Order and to the electric and gas distribution utilities that have tariffed provisions

¹ The deadline in Ordering Clause 8 is tied to the deadline in Ordering Clause 5, which is now extended by this Notice. As a result, the deadline in Ordering Clause 8 must be extended accordingly.

providing for retail access to comply with the requirements of Ordering Clause 8. In addition, an extension, until June 9, 2020, is granted to the ESCOs currently operating in New York that intend to continue to renew contracts with customers in New York and/or enroll new customers in New York to comply with the requirements of Ordering Clause 6. No extension is provided by this Notice with respect to the remaining clauses of the Order. Nothing in this Notice should be construed as limiting the Commission's authority to establish different or more particular implementation deadlines, including in any order addressing the aforementioned petitions.

These extensions are granted to promote the fair, orderly and efficient conduct of these proceedings.

(SIGNED)

MICHELLE L. PHILLIPS
Secretary