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Hon. Jaclyn A. Brillling
Secretary
Public Service Commission of
New York State
Three Empire State Plaza
Albany N.Y. 12223

July 27, 2006

Re: Case 06-M-0647 – In the Matter of Energy Service Company Price Reporting Requirements.

Dear Secretary Brillling,

These comments are filed on behalf of the Empire State Petroleum Association, Inc. (ESPA) in response to the May 31, 2006 Notice inviting comments on proposed Energy Service Company (ESCO) price reporting requirements.

The Empire State Petroleum Association, Inc. is a statewide trade association representing marketers and distributors of heating fuels and motor fuels. Certain members of ESPA who deliver home heating fuels to residential and commercial customers have become participants in New York's retail energy markets as ESCOs. ESPA's members possess a wealth of experience competing for customers in the free and open energy market. Therefore, as discussed below, ESPA believes that the Commission should not impose any regulatory price reporting and posting requirements upon ESCOs. The manner and method of presenting customers with price information should be left to each ESCO participating in the open and competitive market.

The May 31, 2006 notice states, in pertinent part:

Development of retail energy competitive markets for residential customers could be furthered if more extensive pricing information from all ESCOs participating in the market were available to residential customers, through the Commission's Web site or otherwise. An inquiry into the price information ESCOs should be required to report is therefore appropriate.

... comments are solicited on the requirements, if any, that should be imposed on ESCOs for the reporting to Staff of the prices and price formulas offered to the prospective residential customers. (Notice p.2)

The Notice suggests that other information, such as the duration of the pricing arrangement, the requirements imposed on customers for canceling ESCO service, the amount of any cancellation fee, and historic monthly price data, might also be included in such reports to Staff. For several reasons, ESPA believes that the proposed reporting and posting requirements will be counterproductive to achieving growth and development of the deregulated market.

Initially, ESPA agrees that clear and accurate price information should be provided to all customers. However, that information should come from each market competitor rather than the Commission. ESCOs who wish to attract and keep customers will provide clear and accurate pricing information and will also advertise and market themselves, and their own value added service offerings in the open market. To do any less would result in the loss of initial or repeat business.

From a competitive standpoint, the reporting of price information and the posting of prices restricts the ability of ESCOs to adjust prices in response to market forces or to competitors' actions. In order for the retail market to thrive, ESCOs must be allowed the freedom and flexibility to meet competitive challenges without having to report every modification of their prices or terms to the Commission. Mandating that ESCOs report their pricing information and terms is burdensome and will hamper their ability to grow and diversify their service offerings to consumers. In addition, the requirement to post historical price information has no relevance to an ESCOs current offer of terms, conditions and price. More likely, the disclosure of historic pricing information could confuse customers without providing the customer any useful information.

Another concern involves the effect that the posting of prices would have both on consumer choice and the developing market. Price posting on the web site could have the deleterious effect of dissuading the consumer from considering ESCOs who offer value added services. Thus, customers who may be shopping for additional services could be influenced to choose an ESCO solely on the basis of price. We believe that most consumers are more concerned with other significant factors such as the type and nature of the company with whom they will be doing business and whether the ESCO offers additional available services. By requiring the reporting and posting of pricing information, those ESCOs who offer consumers an alternative to price savings alone -- by providing value added services -- would be at a competitive disadvantage. A price posting requirement would not present consumers with a full range of choices available to them when choosing an ESCO. Growing competition should allow for and encourage consumers to explore as many ESCO options as possible. By allowing the market to operate, those ESCOs who meet the true needs of the customer will survive and grow in the competitive market.

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Finally, it is unclear why it is believed that price reporting and price posting would enhance the growth of the retail residential energy market or spur further customer migration. The Notice states that development of the market “could be furthered if more extensive pricing information from all ESCOs participating in the market were available to residential customers.” (Notice p. 2) There is no other support for the notion that the proposed requirements will result in market growth or greater customer migration. Stronger evidence needs to exist before imposing the requirements proposed here.

For these reasons, ESPA urges the Commission not to adopt any ESCO price reporting and posting requirements.

Respectfully submitted,

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