STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on December 17, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

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.

CASE 98-M-0667 - In the Matter of Electronic Data Interchange.

ORDER AUTHORIZING ACCELERATED SWITCHING
OF NATURAL GAS COMMODITY SUPPLIERS AND RELATED MATTERS

(Issued and Effective December 23, 2015)

BY THE COMMISSION:

INTRODUCTION

Because continued streamlining and acceleration of the switching process for competitive commodity providers will benefit energy consumers and the retail energy market, the Commission has taken action previously to shorten the interval between when a customer agrees to take service from an energy services company (ESCO) and when that ESCO actually begins to provide service to the customer.[1] Reducing the time interval

[1] Case 12-M-0476, et al., Order Authorizing Accelerated Switching of Commodity Suppliers, December 15, 2014 (2014 Accelerated Switching Order).

between customer choice and execution facilitates customer engagement with their chosen provider, lessens consumer confusion, and helps ensure that the retail energy market is responsive to consumer demands.

By this Order, the Commission adopts further modifications to the Uniform Business Practices (UBP)[2] to streamline the process for changing a customer's gas commodity supplier.[3] The modifications, proposed in a Report of the Collaborative Regarding Accelerated Switching of Commodity Providers,[4] reduce the on-cycle gas switching timeline from 15 calendar days to 10 business days. Based on the Collaborative Report, additional reductions to the on-cycle gas switching timeline as well as off-cycle switching for both electric and gas will not be implemented at this time.

BACKGROUND

On July 28, 2014, Staff of the Department of Public Service (Staff) submitted a proposal to accelerate the switching process for both gas and electricity providers. After technical conferences, submission of another Staff proposal, and a comment

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[2] See, Case 98-M-1343, Retail Access Business Rules, Order Adopting Uniform Business Practices and Requiring Tariff Amendments (issued January 22, 1999), wherein the Commission modified Staff's proposed set of uniform practices, and required utilities to adopt the practices. See also, Case 98-M-1343, Uniform Business Practices (revised February 2015), available at: http://www3.dps.ny.gov/W/PSCWeb.nsf/All/8DD2B96E91D7447E85257687006F3922?OpenDocument.

[3] The change in commodity provider can be from the customer's utility to an ESCO, from an ESCO to the customer's utility, or from one ESCO to another ESCO.

[4] Case 12-M-0476 et al., Report of the Collaborative Regarding Accelerated Switching of Commodity Providers, July 24, 2015 (Collaborative Report).

period, the Commission approved: (1) a reduction in the enrollment window for electricity supply providers from 15 calendar days to five business days; and (2) changes to the UBP applicable to switches of both electricity and gas suppliers such that the customer cancellation period runs concurrently with the ESCO and utility enrollment processes.

Presently, the UBP requires that an "enrollment request" to change a customer's natural gas commodity provider must be submitted to a utility at least 15 days prior to the "effective date" of the switch, which is either the next regularly scheduled meter reading date or the first day of the month.[5] A switch in commodity provider can also occur on other days, which is known as an "off-cycle" switch; however, there are additional requirements for off-cycle switches.[6]

ESCOs and their representatives suggested that further progress in streamlining the switching process was possible; in response, the Commission directed Staff to lead a collaborative to consider proposals to shorten the enrollment window for gas suppliers, and to effectuate off-cycle switching for both gas and electricity. The Commission further directed that the collaborative submit a report identifying recommended changes by August 31, 2015. The Commission specified that the report identify any changes that impact the development of accelerated and off-cycle switching, such as advanced metering infrastructure (AMI), and if warranted, recommend further

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[5] UBP §5.D.1.

[6] UBP §5.D.8. Off-cycle switches of electricity providers specifically require a special meter reading, for which the utility may charge a tariffed fee, unless the customer and ESCO agree to accept an estimated interim meter reading. Off-cycle switches of gas suppliers require that both a customer's incumbent ESCO and new ESCO agree on an effective date.

changes to the processes adopted in the 2014 Accelerated Switching Order.

The Collaborative met on six occasions from January through July 2015. Participants included DPS Staff, all major electric and natural gas utilities in New York State, numerous individual ESCOs, ESCO associations including the Retail Energy Supply Association and New York State Energy Marketers Coalition, and representatives of consumers.[7] Collaborative participants explained and reviewed switching practices currently in place, and being considered, in other states. Participants also explored, in detail, federal and New York gas capacity assignment rules, and the practical ability to conduct off-cycle switching without AMI. On July 24, 2015, the Report of the Collaborative was filed with the Secretary.

PUBLIC NOTICE

On July 27, 2015, the Secretary issued a Notice soliciting responses to the July Proposal. Moreover, in accordance with the State Administrative Procedure Act (SAPA) §202(1), a notice [SAPA No. 12-M-0476SP11] was published in the State Register on August 12, 2015. The SAPA §202(1)(a) period for submitting comments in response to the notice expired on September 26, 2015. The Secretary received two comments in response to the Staff Report.[8]

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[7] Collaborative Report at 3.

[8] The following parties submitted comments: Great Eastern Energy filed individually, and the Joint Utilities, comprised of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, National Fuel Gas Distribution Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas & Electric Corporation, together filed comments.

ANALYSIS OF COMMENTS

The Joint Utilities stress certain comments found in the Collaborative Report. Specifically, the Joint Utilities note that off-cycle switching is complex, and highlight the differences between the gas and electric wholesale markets, particularly as they relate to bid-week and capacity release.[9]

Great Eastern Energy (Great Eastern) expresses its support for reducing the time for natural gas switching from 15 calendar days to 10 business days, and supports declining to proceed with implementation of off-cycle switching at this time. However, Great Eastern raises concerns presented during the Collaborative on the implementation of the changes proposed. It notes that within the Collaborative, several utilities asserted that the proposed enhancements would require additional work, while their staffing levels have remained stagnant. Great Eastern expresses its concern that implementing a reduction in the time to complete a switch may cause errors that could impact customer satisfaction. Great Eastern states utilities should be afforded time to review their internal capabilities, system requirements, and staffing levels required to comply with the new requirements. Lastly, Great Eastern strongly supports reconvening the Collaborative, pursuant to language expressed in the Collaborative Report, to discuss the successes of the enrollment process six months after the changes go into effect.[10]

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[9] Case 12-M-0476, et al., Comments of the Joint Utilities (September 28, 2015). We note the Comments of the Joint Utilities were submitted after the comment period ended, but we elect to address their comments within this Order.

[10] Case 12-M-0476, et al., Comments of Great Eastern Energy (September 24, 2015).

DISCUSSION

Reduction of Timeline for Switching Natural Gas Providers

Within its Report, the Collaborative recommends the on-cycle gas switching timeline of 15 calendar days be modified to 10 business days. However, the Collaborative Report advises, further reductions in the timeline are not practical due primarily to existing gas capacity assignment requirements. This recommendation is adopted.

Currently, there are two ways utilities implement a requested change of gas service providers. The Collaborative Report notes that some utilities process a switch on a billing cycle date, based either on an actual or estimated meter reading, while others process switches on the first calendar day of the month using an estimated meter reading. In either circumstance, if an enrollment request is received after the 15 calendar day deadline, the switch in service may not be implemented until the next available switching date. This may create delays of up to an additional 30 days.

The Collaborative Report further notes that since interstate pipelines provide local distribution companies with firm transportation and storage of natural gas through contractual relationships, the Federal Energy Regulatory Commission (FERC) regulates the capacity release, and federal rules determine the process of assignments of utility capacity to ESCOs. All utilities release capacity to ESCOs prior to the first of each calendar month. In order to release pipeline capacity, a utility must enter a capacity release transaction into an interstate pipeline’s customer activities website or electronic bulletin board. Determining how much capacity should be assigned to each ESCO takes one to two business days, depending on the complexity of the capacity release asset path in the utility market. The utility must then manually enter

capacity release transactions into pipeline bulletin boards on an individual basis (transaction-by-transaction), generally taking another three business days. If these steps are completed in a timely manner and without complications, an ESCO receives capacity the day before or the first day of bid week.

Noting the time it takes to provide capacity to ESCOs, it is impracticable to make a substantial reduction of the switching time from the current 15 calendar day on-cycle lead time. Significant physical upgrades would be required to more fully automate the process before a shorter switching time could be achieved. Some utilities are further automated than others, but as a whole, it would be problematic to proceed to a more drastic reduction to the on-cycle gas switching time at this time. However, the Collaborative's recommendation to monitor the effectiveness of the changes effectuated is adopted. Staff shall reconvene the Collaborative six months after the cycle changes go into effect to discuss the effectiveness of the changes made to the enrollment process. An updated report shall detail any quantifiable successes, and if there are any difficulties, the steps necessary to resolve such problems.

Lastly, the Collaborative Report noted that a request could be made to the North American Energy Standards Board (NAESB) to automate the existing manual process for entering capacity release into the pipeline databases. That automation could potentially further reduce the time necessary to effectuate gas switching. To obtain additional benefits of accelerated switching, members of the Collaborative are encouraged to work together and submit such a request.

Off-Cycle Switching

The Collaborative reviewed off-cycle switching for both electric and gas service. The Collaborative recommends not requiring off-cycle switching for either gas or electric

service. The recommendation is adopted based on the reasoning in the Collaborative Report as further explicated below.

A. Electric Service Off-Cycle Switching

Proponents of off-cycle switching assert that it would allow customers to take nearly real-time advantage of retail products that offer better pricing or price protection during volatility. They argue that off-cycle switching could improve customer satisfaction, increase customer confidence in the retail market, and lower barriers to customer engagement in the electricity market as envisioned in the Reforming the Energy Vision proceeding.[11] During the Collaborative, ESCOs reported customer frustration waiting one or two billing cycles to cancel service or make a change in supply providers. ESCOs argue that enabling off-cycle switching would demonstrate to customers that ESCOs and utilities can fulfill their service orders in a timely manner.

However, during the Collaborative, the utilities responded to the ESCOs by stating that off-cycle switching cannot be modified at this time. The utilities further explain that off-cycle switching relies on a meter reading, currently often made in reliance on estimates, which would increase the number of estimated bills. As a result, utilities expect billing would become more complex, which would lead to an increase in customers contacting call centers. These issues would increase a need for utility staff. Additional issues were also raised and further detailed in the Collaborative Report. Lastly, utilities assert that there is no statistical evidence

[11] See, Case 14-M-0101, Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015).

supporting that there exists a customer demand for off-cycle switching.

As a result of the differing opinions noted above, the Collaborative agreed not to endorse off-cycle switching for electric service. Should AMI become more widespread, off-cycle switching may become easier to adapt and more effective.

B. Gas Service Off-Cycle Switching

Price and capacity mechanisms in electric and gas markets are distinct and separate, and many of the electric market drivers are not present for the gas retail market. Nonetheless, impediments to off-cycle switching found in the electric market also to exist in the gas market. Furthermore, federal capacity release regulations for interstate pipelines are not focused to the retail market, creating more obstacles to off-cycle switching for gas service. Lastly, because wholesale gas markets follow a monthly cycle, daily gas trading fluctuations do not hold the same impact for gas pricing as the wholesale electric market prices do for retail electric pricing. Based on these facts, the Collaborative agreed not to endorse off-cycle switching for gas service.

C. No Modification to Off-Cycle Switching

Based on the foregoing, off-cycle switching for either gas or electric service will not be modified at this time. There are numerous problems that must be addressed, as noted above, before off-cycle switching may be implemented without impairments.

D. Impact of Advanced Metering Infrastructure

The Commission directed that the report identify any changes that impact the development of off-cycle switching, such as AMI. The consensus of the Collaborative is that off-cycle switching be considered further only after AMI has been deployed to a majority of customers in a utility service territory, and

that the consideration include a cost benefit analysis justifying expanding accelerated switching to off-cycle enrollments. These provisions are reasonable and are approved.

Specific UBP Language

In order to effectuate the proposed changes of the Collaborative that have been adopted within this Order, the UBP must be amended to change when an ESCO must transmit a gas enrollment request. Therefore, the UBP §5.D.1.b shall be amended as follows,[12]

> "A gas enrollment request to a distribution utility no later than ~~15 calendar~~ 10 business days prior to the effective date of the enrollment."

This amendment to the UBP will codify the changes engendered by the Collaborative.

Implementation and Costs

The Collaborative Report recommends, and no party opposes, a March 1, 2016 effective date for the new procedures identified herein. Since the new procedures will change existing practices, they should be implemented after the peak of the heating season. This recommendation is reasonable, and is adopted.

Neither the Collaborative Report nor comments by the parties indicate that the costs to utilities of implementing the changes identified here are material, and no party requests cost recovery in this docket. To the extent that cost recovery is requested, it should be addressed in a manner consistent with each utility's existing rate plan.

[12] A strikethrough represents language that is removed and underline is language added.

Collaborative to Reconvene

The Collaborative Report recommends reconvening the group for two separate meetings. First, the Collaborative recommends reconvening within 45 days of the one-year anniversary of the implementation of accelerated switching. The Commission adopts this recommendation. Since the effective date of the implementation Order was February 15, 2015, the Staff shall reconvene the Collaborative within 45 days of February 15, 2016. Pursuant to the Report, the purpose of the meeting will be to have utilities and interested ESCOs report on their experience with the five business day accelerated switching program, including an analysis of the switches effectuated on the customers' next meter reading date, and any customer feedback, including customer satisfaction survey data related to switching.[13]

Additionally, the Report recommends that the Collaborative reconvene six months after the effective date of this Order. The Commission also adopts this recommendation, and directs Staff to reconvene the Collaborative within 30 days of September 1, 2016. The purpose of the meeting will be to discuss the success of the new enrollment process.

The Commission recognizes the difficulty organizing and attending multiple meetings of the Collaborative. To facilitate these meetings and reduce the burden to participants, either or both meetings may be conducted via a telephone conference or other real-time form of communications.

CONCLUSION

Based on the recommendations from the Collaborative, noted within this Order, and further detailed within the

[13] Collaborative Report at 14.

Collaborative Report, the proposed change to the timeline of on-cycle switching natural gas providers from 15 calendar days to 10 business days is adopted. In addition, Staff is directed to reconvene the Collaborative within 45 days of February 15, 2016, to have utilities and interested ESCOs report on their experience with the accelerated switching program, provide an analysis of the switches effectuated on the customers' next meter reading date, and discuss any customer feedback. Staff is also directed to reconvene the Collaborative within 30 days of September 1, 2016 to review the impact of the changes made, provide an updated report detailing any benefits resulting from the changes, and, to the extent any problems occur, recommend any actions necessary to address issues experienced. Off-cycle switching will not be amended at this time for the reasons set forth above.

The Commission orders:

1. Revisions to the Uniform Business Practices, as set forth within this Order, are adopted in accordance with the discussion in the body of this Order.

2. The Uniform Business Practices, as amended, are adopted prospectively to apply to new ESCO service agreements and to renewals of current ESCO service agreements.

3. Electric and gas distribution utilities that have tariffed provisions providing for retail access are directed to implement any changes necessary to effectuate the modifications to the commodity provider switching process by March 1, 2016.

4. Electric and gas distribution utilities that have tariffed provisions providing for retail access are directed to submit a letter to the Secretary, by March 1, 2016, stating that commodity provider switching processes are in compliance with this order.

5. Staff shall reconvene the Collaborative within 45 days of February 15, 2016 for the purpose of having utilities and interested ESCOs report on their experience with the five business day accelerated switching program, including an analysis of the switches effectuated on the customers' next meter reading date, and any customer feedback, including customer satisfaction survey data related to switching.

6. Staff shall also reconvene the Collaborative within 30 days of September 1, 2016, for the purpose of assessing the results of the changes made herein, providing an updated report on benefits resulting from changes, and if any problems exist, discussing steps necessary to resolve such issues.

7. The Secretary, in her sole discretion may extend the deadlines set forth in this order, provided the request for such extension is in writing, including a justification for the extension, and filed on a timely basis, which should be on at least one day's notice prior to any affected deadline.

8. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary