

VIA OVERNIGHT MAIL

April 17, 2008

Honorable Jaclyn A. Brillig  
Secretary  
State of New York Public Service Commission  
Three Empire State Plaza, 19<sup>th</sup> Floor  
Albany, NY 12223-1350

**Re:** Case 98-M-1343, In the Matter of Retail Access Business Rules;  
Case 07-M-1514, Petition of New York State Consumer Protection Board and the New York City Department of Consumer Affairs Regarding the Marketing Practices of Energy Service Companies;  
Case 08-G-0078, Ordinary Tariff Filing of National Fuel Gas Distribution Corporation to establish a set of commercially reasonable standards for door-to-door sales of natural gas by ESCO's; *Notice Soliciting Comments on Revisions to the Uniform Business Practices* (March 19, 2008)

**Comments of Niagara Mohawk Power Corporation d/b/a National Grid**

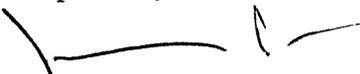
Dear Secretary Brillig:

Niagara Mohawk Power Corporation, d/b/a National Grid, hereby respectfully submits the enclosed comments in connection with the above-referenced *Notice Soliciting Comments on Revisions to the Uniform Business Practices* in Case Nos. 98-M-1343, 07-M-1514 and 08-G-0078 (dated March 19, 2008).

Enclosed for filing are five (5) copies of this letter and attached comments. Copies of the filing also are being served via regular and/or electronic mail upon the parties identified on the Active Parties list provided by the Commission in this proceeding.

Kindly acknowledge receipt and filing of these comments by date-stamping the enclosed copy of this letter and returning it in the postage-paid envelope provided for your convenience.

Respectfully submitted,



Jeremy J. Euto

cc: Robert Visalli/Denise Gerbsch  
Active Parties  
Susan Pelkey

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**In the Matter of Retail Access Business Rules**

**Case No. 98-M-1343**

**Petition of New York State Consumer Protection Board and the New York City Department of Consumer Affairs Regarding the Marketing Practices of Energy Service Companies**

**Case No. 07-M-1514**

**Ordinary Tariff Filing of National Fuel Gas Distribution Corporation to establish a set of commercially reasonable standards for door-to-door sales of natural gas by ESCO's**

**Case No. 08-G-0078**

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**COMMENTS OF NIAGARA MOHAWK POWER CORPORATION D/B/A  
NATIONAL GRID**

**NIAGARA MOHAWK POWER CORPORATION  
d/b/a NATIONAL GRID**

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**Dated:** April 17, 2008

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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<b>In the Matter of Retail Access Business Rules</b>	<b>Case No. 98-M-1343</b>
<b>Petition of New York State Consumer Protection Board and the New York City Department of Consumer Affairs Regarding the Marketing Practices of Energy Service Companies</b>	<b>Case No. 07-M-1514</b>
<b>Ordinary Tariff Filing of National Fuel Gas Distribution Corporation to establish a set of commercially reasonable standards for door-to-door sales of natural gas by ESCO's</b>	<b>Case No. 08-G-0078</b>

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**COMMENTS OF NIAGARA MOHAWK POWER CORPORATION D/B/A  
NATIONAL GRID**

In response to the March 19, 2008 *Notice Soliciting Comments on Revisions to the Uniform Business Practices* of the New York State Public Service Commission (“Commission”) in the above-referenced proceedings (the “Notice”), Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid” or the “Company”) hereby submits the following comments (the “Comments”).

As stated in the Notice, the Commission is considering modifications to the Uniform Business Practices (“UBP”) to: (1) incorporate standards for marketing by Energy Service Companies (“ESCOs”) and third party contractors acting on their behalf; (2) improve residential customer protections; (3) strengthen the oversight of and expand the remedies available to Staff and the Commission; and, (4) other related matters and housekeeping items.<sup>1</sup> The Commission

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<sup>1</sup> Notice p. 3.

invites interested parties to comment on the proposed modifications to the UBP, a marked up copy of which was attached to the Notice.

The Company supports and encourages a customer's right to choose an alternative supplier. National Grid supports competition and supports providing customers with the appropriate information so that they can make a truly informed purchase decision. National Grid supports Staff's position to modify the UBP in a manner that incorporates marketing standards and provides additional protections to residential consumers.

The Company, like Staff and other utilities, has also received complaints related to the marketing practices of some ESCos. Of particular concern to the Company are allegations of ESCo misrepresentation. Specifically, we have been informed that ESCo marketing agents (either telemarketing or door-to-door) have asserted or implied that they were from the local distribution company. Such misrepresentation can affect both the security and safety of the customers as well as the Company's reputation. To the extent that the UBP modifications help to clearly indicate who the marketing agent represents and to distinguish them from the utility, the Company would support such changes as they appear to be in the best interest of both customers and competition.

Overall, we have had a positive and cooperative experience with the ESCos operating in our service area. However, from time to time, we have received complaints from our customers about marketing practices of certain ESCos. National Grid is pleased that the ESCos have agreed to work with Department of Public Service Staff, the Consumer Protection Board, Public Utility Law Project and the other parties to propose marketing standards to address these concerns. We applaud them on their efforts.

UBP modifications aside, utilities should not be placed in the role of monitoring or policing ESCo marketing activities. Rather, that responsibility should remain with the

Department of Public Service and the Commission. If National Grid receives a complaint from a customer on ESCo marketing activities, we will continue first to contact the ESCo as we do today to allow the ESCo the opportunity to address the concern before requesting Commission action. However, the Commission should clarify that when an ESCo's marketing practices are so egregious as to potentially impair customer safety or cause serious harm to the utility's image or reputation, such conduct would be considered an "emergency" under Section 8.2 (Expedited Process) of the UBP. Under Section 8.2, the utility may file a formal dispute resolution request with the Secretary of the Commission asking for expedited dispute resolution.

In keeping with prior Commission guidance, the Company has sought to impose the costs associated with ESCo-related programs on parties that benefit from such programs. Thus, similar to programs offered in support of retail choice (like the Company's ESCo referral program<sup>2</sup>) any costs incurred by the Company to implement the proposed modifications to the UBP and related activities, should be recovered from the ESCos, and there should be no subsidies by customers or the Company for such costs. As part of its determination regarding the proposed UBP modifications, the Company respectfully requests that the Commission clarify that ESCos would be responsible for any such costs.

Respectfully submitted,  
**Niagara Mohawk Power Corporation d/b/a National Grid**



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**Dated:** April 17, 2008

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<sup>2</sup> See, CASE 05-M-0858, "In the Matter of State-Wide Energy Services Company Referral Programs," *Order Adopting Niagara Mohawk Power Corporation's Plan for an ESCo Referral Program* (April 19, 2006).