

# New York State Public Service Commission

## Aggregation Guidelines

### Energy Competition

As a result of progressive changes to New York State energy policy in recent years, more than a million business and residential customers in New York State are now taking advantage of the opportunity to purchase their electricity and natural gas from **energy service companies (ESCOs)**. Customers that were once required to purchase their energy exclusively from **local utilities** can now buy their electricity and natural gas supply from ESCOs. This can result in energy cost savings and provide access to non-traditional energy-related products and services.

Learning about the competitive energy marketplace, and how to take advantage of it, requires the understanding of some basic information.

Your energy bill consists of two parts – **supply** and **delivery**. The supply portion of your bill is now open to competition, and you can purchase this supply from ESCOs or your existing utility. The delivery portion of your energy service will continue to be provided only by your local utility.

There are dozens of ESCOs providing a wide variety of “products” and price options. Some provide long-term **fixed** prices; others offer **variable** rates that change with market conditions; others give the option for customers to **lock-in** a rate during certain peak months of energy use. These price options provide a new level of choice in energy purchases that did not previously exist when the only choice was what the utility had to offer. The best choice depends on you.

Some ESCO service is provided at a variable price on a month to month basis that can be cancelled at any time. In other cases, ESCOs require customers to enter into a contract for their purchase of electricity and natural gas. In many instances the contract requires the customer to commit to purchasing its energy from the ESCO for a specified period of time. Customers should understand the contract’s terms and conditions before committing to an ESCO offer.

### Aggregation: A Buying Group for Energy

Residential customers and business owners are busy people, and don’t always have time to spend looking over multiple offers from product suppliers. Many look to a local chamber of commerce, trade

association, or other group to take advantage of purchases that vendors offer to groups of similar customers (e.g. members of a union or a business association).

Residential customers and businesses have opportunities to purchase energy through these “**aggregation**” groups. This enables the group to achieve savings through bulk purchases of electricity and/or natural gas that would not be available to individual customers. In addition, ESCOs may provide other group benefits such as access to energy equipment service, efficiency tests, or other energy saving information.

The **aggregation** group can purchase energy supply directly from an ESCO or through a **broker** or **aggregator** who acts as an agent to negotiate offers and arrange for purchases on behalf of the buying group.

### Forming an Energy Aggregation Group

The best place to look for, or create, a local energy aggregation group is in your own local community or business association. Check with your chamber of commerce, manufacturers’ association, or local trade group. If you already purchase other items through buying groups, ask if they will also organize energy purchases. The aggregation group does not necessarily need to include just one kind of business.

You could even form a small group on your own. All you need is some basic information and know what you’re looking for from an ESCO.

To get started, work with your group to determine the following:

#### Basic Aggregation Questions

- What kind of annual quantities do we use?
- When are the peak times of use (during the day, week, month, and year)?
- Are there other groups that we could join in to make our group larger?
- Are we specifically interested in things like fixed prices, capped prices, green power, or energy equipment services?

### What to Look for in an Energy Provider

Once your group is formed, you will want to prepare a list of preliminary questions for ESCOs. These questions should be asked before you send out your

Request for Proposal (RFP), so you can submit the RFP to ESCOs who are interested in your business.

#### Key questions to ask ESCOs:

1. Are you currently **accepting new customers** in our utility area?
2. Do you **provide both** electricity and natural gas?
3. What are your **current pricing** programs? (Get specific answers here, e.g. fixed rates for XX months; variable rates that change by the hour/day/month; variable rates that have a price not-to-exceed X, and so on)
4. How will your products be billed? Will I receive one **consolidated bill** from the utility, or **separate bills** from the utility (delivery) and the ESCO (supply)?
5. Will each individual member of our group **receive a bill**?
6. Will there be any other charges by the ESCO (e.g., **sign-up fee, monthly billing fee**)?
7. Do you have any **cancellation fees**?
8. Do you **guarantee savings** or any other conditions?
9. Do you provide any **other energy-related products or services**?
10. **How long** have you been in business?
11. **Where do you operate** besides New York State?

Answers to these questions will help you develop a list of ESCOs that are likely best suited and capable to meet your group's needs. These are the ESCOs that you should submit your RFP to when you are ready. A list of currently certified ESCOs can be obtained from the website address [www.dps.state.ny.us/EnergyCompetition.html](http://www.dps.state.ny.us/EnergyCompetition.html)

#### Key Considerations in Your Contract

Each ESCO is likely to require that you enter into a **contract** (sometimes called an **agreement**) for the purchase of electricity and/or natural gas. Generally, a contract will need to be executed by *each* member of the aggregation group, reflective of the pricing, terms and conditions that apply to each participating member. Under certain circumstances, a contract may be signed with a **broker**, who makes arrangements for the purchase of electricity and/or natural gas with supplier ESCOs on behalf of the aggregation customer(s).

The contract – which **should be reviewed by your attorney** – may include the following provisions:

- **Term** – dates the contract is in effect, and any renewal provisions. Note if renewals are automatic, or need subsequent approval.
- **Pricing** – establishes the price per energy unit (kWh, therm, ccf, MCF). Note how taxes are treated, as well as any other potential fees or charges.

- **Termination** – specifies the conditions under which the contract can be terminated.
- **Assignment** – identifies whether and under what conditions your contract may be assigned to others.
- **Info Release Authorization** – specifically outlines conditions under which the customer authorizes the ESCO (or broker) to obtain information about the customer's energy use and credit history.
- **Consumer Protections** – outlines protections to consumers, along with contact information for the ESCO (or broker) and the NYS Public Service Commission.
- **Cancellation** – identifies how to cancel the contract and provides notice of any cancellation fees that might apply.
- **Agency** – appoints the ESCO (or broker) to act on the customer's behalf with the utility, electric transmission line, or gas pipeline.
- **Title** – identifies where the title to the electricity or natural gas is transferred to the customer. Be sure to consult with your attorney or energy consultant on how this may impact your tax liability.
- **Warranty** – outlines any representations or warranties included in the agreement, if any.
- **Force Majeure** – establishes circumstances under which the ESCO (or broker) may be released from performance under the contract; generally related to interruptions in service beyond the control of the parties.
- **Liability** – outlines the conditions and remedies that may be available in the event of damages arising from lack of performance under the contract.
- **ESCO or Broker Contact Info** – provides information on these parties.
- **Dispute Resolution** – outlines the process which is to be used if the customer disputes a specific bill or charge.
- **Choice of Laws** – identifies the venue and process agreed to for legal determinations of the contract, if needed.
- **Taxes and Laws** – identifies responsibility for taxes or regulatory requirements. Note how potential changes in laws or regulations are to be handled during the term of the contract.
- **Emergency Contacts** – who is to be contacted in the event of a service interruption, gas leak, etc.

Make sure you understand the terms of the contract before you sign. We have included a glossary of commonly used industry terms to help you better understand the language in the contract.

## Glossary of Industry Terms

**Aggregator** – A group or organization that represents energy consumers for buying electricity or natural gas in a competitive energy industry.

**Biomass** - Energy produced from naturally replenishable resources such as plant matter, agricultural and forestry waste and landfill gas.

**Broker** – A retail agent who arranges or negotiates for the purchase and sale of electricity or natural gas. Brokers usually act on the behalf of others and do not buy energy for their own end-use customers.

**Burner Tip** – The end-point of consumption of natural gas at the customer's premises.

**City Gate** – The location where natural gas transfers from the interstate gas pipeline to the local utility's distribution system.

**Cogeneration** – The use of a single fuel source to simultaneously produce electricity and heat (steam or hot water).

**Conservation** - Reduction of energy use.

**Cramming** - Adding charges to a consumer's energy bill for optional services without his/her permission.

**Cubic Feet** - The most common unit of measurement of natural gas volume. It is the amount of gas that can fit within a space one foot times one foot times one foot in volume. One cubic foot of pipeline-quality gas contains approximately 1,000 BTUs.

**Decatherm (or, Dekatherm)** - Ten therms or 1 million BTU. One decatherm is equal to approximately 1,000 cubic feet (Mcf).

**Demand Charge** – A charge for gas or electric service based on actual or estimated peak daily (or hourly, weekly, monthly) usage of a customer.

**Deregulation** - The elimination of regulation from a previously regulated industry or sector of an industry (such as electricity or natural gas); sometimes used interchangeably with restructuring.

**Demand-Side Management (DSM)** - Planning, implementation, and evaluation of utility-sponsored programs to influence the amount or timing of customers' energy use; it can include energy efficiency and conservation programs.

**Distribution** - The delivery of electricity or natural gas to the retail customer's home or business through local electrical lines or gas pipelines.

**Distribution Utility** - The regulated electric or natural gas utility entity that constructs and maintains the distribution wires and pipes connecting the transmission grid and interstate gas pipeline to the final customer.

**Electric Supplier** - An entity (including an energy services company – or ESCO) approved by a state utility regulatory agency to provide electricity supply to consumers. With energy choice, consumers can choose their electric supplier. The energy is then delivered by the consumer's utility distribution company.

**Electric Utility** - Any person or state agency with a monopoly franchise (including municipalities) that sells electric energy to end-use customers.

**Electronic Trading** – Trading systems that electronically match buyers with sellers or facilitate direct negotiation for legally binding transactions. A market center or other transaction point serves as the location where natural gas or electricity is transferred from buyer to seller.

**End-Use** - The ultimate use to which energy service is put, such as water heating or air conditioning.

**Energy Service Company (ESCO)** – Companies that offer customers energy and energy-related products and services; usually required to be approved by state public utility commissions.

**Federal Energy Regulatory Commission (FERC)** - The Federal Energy Regulatory Commission regulates the price, terms and conditions of natural gas and electricity sold in interstate commerce and regulates the price, terms and conditions of all wholesale transactions. FERC is the federal counterpart to state utility regulatory commissions.

**Firm Transportation Service** – The transportation of natural gas where the supplier is obligated to provide a specified volume of natural gas without interruption and the receiver is obligated to take the specified volume of gas.

**Fuel Charge** - The rate charged per kilowatt-hour (or ccf or therm) to cover the costs of the fuel used to produce power (or gas).

**Futures Market** - Arrangement through a contract for the delivery of a commodity at a future time and at a price specified at the time of purchase.

**Gas Supplier** – Another name for an energy services company (ESCO).

**Grid** - A system of interconnected power lines and generators that is managed to meet the requirements of the customers connected to the grid..

**Hedge** – A position in the financial market taken in an attempt to offset the potential risks of the physical market.

**IOU** - An investor owned utility.

**Interruptible Transportation Service** – The transportation of natural gas to an individual customer where the supply can be interrupted at any time with proper notice according to the utility's or ESCOs operating needs. Typically only offered to large industrial and commercial customers not associated with human needs.

**IPP - Independent power producer** - A company that operates an electric generation facility and sells power to electric utilities for resale to retail customers.

**ISO - Independent System Operator** - An organization responsible for maintaining instantaneous balance of the electric grid system, ensuring that loads match available resources.

**Kilowatt-hour (kWh)** - The basic unit of electric energy equal to one kilowatt of power supplied to or taken from an electric circuit steadily for one hour. One kilowatt-hour equals 1,000 watt-hours.

**LDC** – See Local Distribution Company

**Liquefied Natural Gas (LNG)** – Natural gas that has been liquefied by lowering its temperature to negative 260 degrees Fahrenheit.

**Load (Electric)** – The amount of power drawn from a utility system at a given point in time. The peak load is the highest amount of power drawn down at any one time, or the utilities maximum capacity or demand.

**Load Factor** – The ratio of average energy demand to maximum demand for a time period, such as one year, one month, or one hour. An end user with a high load factor uses energy at a consistently higher level year-round than an end user who may use energy specifically for heating or cooling.

**Local Distribution Company (LDC)** – A business entity that obtains its primary revenues from the operations of a local retail gas distribution system and operates no transportation system other than connections within its own system or to the system of another company. Most often, an LDC is a utility.

**Marketer** – Another name for an energy services company (ESCO).

**Maximum Daily Quantity (MDQ)** – A characteristic of a transportation contract for natural gas. The nomination of daily volumes may be for any quantity up to this MDQ.

**MBtu** – One thousand Btu.

**MCF** – One thousand cubic feet. Common unit for metering natural gas.

**Megawatt-hour (MWh)** - One megawatt-hour equals one million (1,000,000) watt-hours.

**MMBtu** – One million Btu.

**Monopoly** - The only seller with control over market sales.

**Municipal Utility** - A provider of utility services owned and operated by a municipal government.

**New York Mercantile Exchange (NYMEX)** – The U.S. futures exchange. The NYMEX offers trading for energy futures and options, including natural gas, electricity, propane, and oil.

**New York State Public Service Commission (NYSPSC)** – the state agency which oversees rates and operational requirements for all public utilities (electricity, natural gas, telephone, cable, water, and steam) within New York State. While the NYSPSC does not oversee rates for energy service companies (ESCOs), they do establish operating regulations to assure consumer protection and ensure safe and reliable utility services at just and reasonable rates .

**Obligation to Serve** - The obligation of a utility to provide electric service to any customer who seeks that service and is willing to pay the rates set for that service.

**Physical Contract** – A traditional natural gas or electricity contract where delivery and receipt are expected. The term is used to distinguish such contracts from the newer financial contracts.

**Provider of Last Resort** - A legal obligation (traditionally given to utilities) to provide service to a customer where competitors have decided they do not want that customer's business.

**Real-Time Pricing** - The instantaneous pricing of electricity based on the cost of the electricity available for use at the time the customer demands it.

**Reliability** - The ability of the electric system to supply the electrical demand and energy

requirements at all times and to withstand sudden disturbances such as electric short circuits or unanticipated loss of system facilities.

**Renewable Energy** - Sustainable energy technologies that include solar, wind, water, methane gas from landfills, fuel cells, and biomass.

**Restructuring** – Another name for deregulation. Refers to separation of the utility functions of vertically integrated energy utilities into individually operated and owned entities.

**Retail Competition** - A system under which more than one electric or natural gas provider can sell to retail customers, and retail customers are allowed to buy from more than one provider.

**Retail Market** - A market in which electricity, natural gas and other energy services are sold directly to the end-use customer.

**Retail Wheeling** - The process of delivering natural gas or electricity to retail customers over the pipes and wires of a utility that is not producing that electricity.

**Slamming** - A term used when an electric or natural gas supplier switches a consumer's service without permission. Slamming is illegal.

**Spot-Market** - Transfers of natural gas as a commodity where the transaction commencement is within ten days and the contract duration is usually short—30 days or less.

**Switching** - Refers to a customer receiving retail electric or natural gas service from a company or organization other than the customer's traditional utility.

**System Benefits Charge** - A charge on a consumer's bill from an electric distribution company to pay for the costs of certain public benefits such as low-income assistance and energy efficiency.

**Tariff** - A document, approved by the responsible regulatory agency, listing the terms and conditions, including a schedule of prices, under which utility services will be provided.

**Therm** – The equivalent of 100,000 Btu or approximately 100 cubic feet of natural gas.

**Time-of-Use (TOU) Rates** - The pricing of electricity based on the estimated cost of electricity during a particular time block, either time-of-day or by season.

**Transportation** - Moving natural gas through pipelines from one place to another.

**Unbundling** - Separating electric or natural gas utility service into its basic components (such as electric

generation, transmission and local distribution and natural gas production, pipeline transportation and local distribution -- and offering each component separately for sale with separate rates for each component.

**Utility** - A traditional regulated energy company that provides electricity and/or natural gas service to consumers.

**Wellhead** – The place where natural gas is extracted from the earth, the beginning of its journey to the end user at the burnertip.

**Wheeling** - The transmission of electricity by an entity that does not own or directly use the power it is transmitting.

**Wholesale Power Market** - The purchase and sale of electricity from generators to resellers (who sell to retail customers).

**Wires Charge** - Charges levied for the use of transmission or distribution wires.

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