STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Commission to Regulate Energy Services Company Home Warranty Product Offerings	)))	Case No. 24-M-0324

COMMENTS OF NRG ENERGY, INC.

NRG Energy, Inc. ("NRG") submits comments in the above-captioned proceeding in response to Staff's Notice Soliciting Comments issued on July 24, 2024, and the Department of Public Service Staff White Paper on Energy Services Company Home Warranty Products issued on May 29,2024 ("Staff White Paper"). While NRG is not currently offering a Home Warranty Product, it is nonetheless important to enable consumers to have choices and determine the products and services they value.

WHO WE ARE

NRG is a leading integrated energy and home services company in North America. A Fortune 150 company, NRG is at the forefront of changing how people use, buy, and think about energy. We strive to empower our residential, commercial, and industrial customers with reliable and cost-effective energy solutions. We draw on our deep industry experience to provide products and services that suit our customers' needs with the consistency and innovation expected from the nation's leading integrated energy and home services provider. NRG is creating a sustainable energy future by fostering smarter energy choices and providing reliable, cleaner power.

NRG's retail brands encompass one of the largest combined competitive retail energy portfolios in the U.S. with 155 TWhs of electricity and 1,918 MMDth of natural gas sold in 2022 and over seven million customers served. Our roughly 15,000 employees provide a suite of products and tools that support sustainable living, load management, and developing technologies while fostering a culture that values safety, accountability, and collaboration.

NRG has eleven licensed Energy Services Companies ("ESCOs") that are actively serving electricity and natural gas customers throughout New York since 1999[1].

EXECUTIVE SUMMARY

The December 2019 Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process ("Market Reset Order") placed major restrictions on the competitive market and the products ESCOs could offer to consumers. The product restrictions not only limit customers' options but prevent ESCOs from offering additional products and services that could help the State meet its climate goals. The Staff White Paper seeks to now add product restrictions to ESCOs offering the Home Warranty Products, which will likely have the effect of putting an end to these types of products in the market. Customers should have the ability to choose what products are valuable to them based upon transparent information. Continuously restricting and limiting what products are allowed in the market hurts consumers in the long run by not providing them with a range of items to choose from. The Staff White Paper should focus more on customer

[1] The NRG Retail Companies operating in New York include 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, XOOM Energy New York, LLC, Stream Energy New York, LLC, Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, and Gateway Energy Services Company.

outreach and education to provide consumers with all the information they need to make the best choices for themselves.

VALUE ADDED PRODUCTS SHOULD HAVE BEEN ADDRESSED IN TRACK 2 OF THE MARKET RESET ORDER

The Market Reset Order required Staff to initiate Track 2 of the proceeding in order to review other value-added products and services. Since 2019, there were only three Track 2 meetings (two which focused on renewable natural gas and the third which focused on the definition of mass market customers). None of the Track 2 meetings had any meaningful discussions surrounding value-added services. No other meetings were scheduled and aside from an Order banning renewable natural gas products, Track 2 resulted in no other Orders or decisions. Had those meetings and discussions taken place, many of these items could have been discussed and an acceptable home warranty product could have been established through a collaborative process.

THE STAFF WHITE PAPER SEEKS TO MAKE DECISIONS FOR CUSTOMERS ABOUT WHAT THEY DEEM VALUABLE

A topic covered repeatedly in the Staff White Paper was whether home warranty products offer any true value to customers. The Staff White Paper makes assumptions that because the customers may be paying more for energy than they would have had they been a utility customer, the product must have no value. Or, perhaps the product has little to no value because the customer had to make more than one phone call or wait for a technician to respond. The Staff White Paper is missing one crucial point - value is in the eye of the beholder.

Some people would be completely satisfied with paying more for home warranty product if, shortly after they signed up, multiple covered appliances stopped working and they managed to get either new appliances or repairs made to their appliances for free or minimum cost. Others are willing to pay more for the product to get peace of mind knowing that if something does break, they have coverage to prevent them from having to pay an exuberant amount out of pocket.

One such example is my elderly mother on Long Island who signed up for a home warranty product. Shortly after signing up, her oven broke. Mom had to make several calls but did get a technician out to repair her oven. Several weeks later, mom's pool heater broke. She happily called me up and raved about the wonderful home warranty product she signed up for. She was thrilled that all her items were getting repaired or replaced at minimum cost. She had to wait several months for the new pool heater, but that did not matter to Mom as she was so happy she had signed up for this product in the first place. She told everyone she knew about it and recommended that everyone sign up.

I personally did not sign up but was sorry I didn't as several weeks later my water heater broke, followed by my refrigerator, and then my oven. Had I signed up, even though I would have potentially paid a higher rate for my energy than I would have if I was with the utility, I would have seen great value in this product as it would have saved me a lot of money in the long run (sometimes moms do know best). While DPS Staff may question the value of the product, the customers they seek to protect may feel otherwise. Staff should not insert themselves into what an individual consumer may perceive as value and should not make unilateral decisions that

impact the customer's choices. Customers should be provided with adequate tools and the knowledge to choose which products and services are valuable to them.

ONLY ESCOS ARE SUBJECT TO THESE RULES, OTHER COMPANIES OFFERING HOME WARRANTY PRODUCTS APPEAR TO BE EXEMPT

It appears that the restrictions suggested by the Staff White Paper only apply to ESCOs bundling the product with commodity. Other entities including utility or utility affiliates can offer these same products without any restrictions. It is unclear if that is because these products are billed on the utility consolidated bill and included in the commodity rate, or if ESCOs would still be restricted if they were dual billing these products and services or otherwise separating them from the commodity bundle. ESCOs should be required to follow the same rules as other third parties and should therefore not be required to provide a comparison to the standard vanilla utility rate. All companies offering these products and services should be treated equally and scrutinized in the same fashion.

PLACING PRICE CAPS ON HOME WARRANTY PRODUCTS MEANS THOSE PRODUCTS CAN ONLY BE OFFERED FOR FREE

The Staff White Paper misses another key facet to energy related value-added products. These products have a cost associated with them. To suggest that these value-add products be offered at a guaranteed savings to the utility rate or at a fixed price capped at the utility 12-month trailing average rate with 5% price cap is ludicrous. The utility's variable rate does not include a home warranty product – so why should any home warranty product offered by an ESCO have to beat the standard utility rate? The Staff White Paper essentially suggests these products and services be offered for free.

In addition, as NRG has previously argued, requiring ESCOs to offer a fixed rate for a future 12- or 24-month period, yet capping that rate at the average utility rate for the *previous* 12 months doesn't make sense. It is not an appropriate comparison and can result in causing fixed rate products to appear like they are not of value to a customer, when in fact they could be protecting customers from future price spikes. Markets ebb and flow and at times the comparison will look extremely beneficial for the customer to sign up for the ESCO product and at other times it will look like the utility 12-month trailing average is a better rate. Since there is no way for an ESCO (or the utility for that matter) to lock in a forward-looking rate at the rate that was in place for the previous 12 months, this comparison is nonsensical and only results in confusion and missed opportunities.

MARKET RESET ORDER RESTRICTIONS SHOULD BE REVISED ACROSS THE BOARD SO ESCOS COULD PROVIDE MORE PRODUCTS AND SERVICES TO HELP THE STATE MEET ITS CLIMATE GOALS

The Market Reset Order product restrictions should not be applied to home warranty products and should likewise be removed from all other mass market products in NY including customers participating in Community Choice Aggregation Programs. The restrictions placed on the market by the Market Reset Order limit the products available to customers and prevent customers from having choices, whether it be fixed rates, renewable products, airline miles, free thermostats, or a product that offers a charitable contribution to a special interest. Further limiting the products and services allowed in the market prevents product innovations, Virtual Power Plants, EV charging bundles and other items from being offered by ESCOS. Many of these innovations could help the State to meet and advance its climate targets.

According to a report issued by Intelometry[2], the Market Reset Order caused a massive decline in ESCO residential offers at a time where the utility's rates skyrocketed, meaning that when utility rates were at their highest, consumers had little to no choice for locking in a lower rate with an ESCO. In addition, New York has the least amount of ESCO offers that fall below the utility price to compare. This is likely because the most common product offered (which was approved in the Market Reset Order) is a locally sourced renewable product. Locally sourced Renewable Energy Credits ("RECs") are much more expensive than nationally sourced RECs, further limiting the customers' shopping choices.

The Report also shows that the Market Reset Order's elimination of green products sourced from national RECs combined with New York's refusal to recognize carbon offsets as green, results in fewer green options. The State often highlights that its policies are intended to demonstrate its national leadership in the fight to address climate change and to reduce carbon emissions that are responsible for environmental and weather-related harms in New York and beyond. However, the Market Reset Order limits the availability of green products to New York consumers and undermines the development of renewable energy outside of NY.

THIRD PARTY VENDORS SHOULD NOT BE BANNED, BUT STRICTER REPORTING MAY BE REQUIRED

Banning ESCOs from utilizing third parties to administer these programs is not the appropriate course of action. Stricter reporting requirements should be required and ESCOs should be responsible for the actions of the third parties they are utilizing. Customers should

[2] New York Public Service Commission Order Impact Assessment - *An analysis the affects the NY PSC December 12th, 2019 Order has had on the New York retail energy market,* Prepared by Intelometry on behalf of REAL, March 2024.

have a clear understanding of what appliances are covered up front and should also know exactly who to call to make a claim and how the claim process works. The claim process should be easy and straightforward. Ultimately, customers who have a bad experience will likely cancel, shop with another ESCO, or return to their local utility. The Staff White Paper is silent on what ESCOs who already signed up customers using the third-party business model should do with their existing customers.

CONCLUSION

NRG appreciates the opportunity to comment on home warranty products. While NRG is not currently offering such products, placing product and pricing restrictions will only further hurt the market and prevent consumers from signing up for products and services that are valuable to them. We appreciate the Department of Public Service Staff's constant efforts on making improvements, and encourage improvements to be made via increased transparency, education, and reporting. We look forward to continuing the discussions and are always willing to be a resource to Staff, as necessary.

Respectfully submitted,

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