



1 SUBJECT TO AND COMPLY WITH SECTIONS THREE HUNDRED NINETY-NINE-PP AND  
2 THREE HUNDRED NINETY-NINE-Z OF THE GENERAL BUSINESS LAW, INCLUDING BUT  
3 NOT LIMITED TO THE ADHERENCE TO THE NATIONAL "DO-NOT-CALL" REGISTRY  
4 ESTABLISHED, MANAGED AND MAINTAINED BY THE FEDERAL TRADE COMMISSION  
5 PURSUANT TO 16 CFR SECTION 310.4(B)(1)(III) AS AMENDED FROM TIME TO  
6 TIME.

7 (B) EACH ENERGY SERVICES COMPANY SHALL REQUIRE ANY CONTRACT FOR TELE-  
8 MARKETING SERVICES TO REQUIRE THE TELEMARKETER TO HAVE A CERTIFICATE OF  
9 REGISTRATION FROM THE SECRETARY OF STATE AND SUCH TELEMARKETER SHALL  
10 AGREE TO BE SUBJECT TO AND COMPLY WITH SECTIONS THREE HUNDRED  
11 NINETY-NINE-PP AND THREE HUNDRED NINETY-NINE-Z OF THE GENERAL BUSINESS  
12 LAW, INCLUDING BUT NOT LIMITED TO THE ADHERENCE TO THE NATIONAL  
13 "DO-NOT-CALL" REGISTRY ESTABLISHED, MANAGED AND MAINTAINED BY THE FEDER-  
14 AL TRADE COMMISSION PURSUANT TO 16 CFR SECTION 310.4(B)(1)(III) AS  
15 AMENDED FROM TIME TO TIME.

16 3. THE COMMISSION SHALL DIRECT EACH ENERGY SERVICES COMPANY AND ANY  
17 ESCO TELEMARKETING REPRESENTATIVE SELLING OR OFFERING FOR SALE ENERGY  
18 SERVICES TO RESIDENTIAL OR SMALL NON-RESIDENTIAL CUSTOMERS TO:

19 (A) REMOVE A RESIDENTIAL OR SMALL NON-RESIDENTIAL CUSTOMER'S NAME,  
20 TELEPHONE, AND CONTACT INFORMATION FROM ANY ESCO TELEMARKETING DATABASE  
21 UPON SUCH RESIDENTIAL OR SMALL NON-RESIDENTIAL CUSTOMER'S REQUEST;

22 (B) PROVIDE TO A POTENTIAL RESIDENTIAL OR SMALL NON-RESIDENTIAL  
23 CUSTOMER: THE NAME OF THE ESCO TELEMARKETING REPRESENTATIVE ON THE CALL,  
24 THE NAME OF THE ESCO ON WHOSE BEHALF THE CALL IS BEING MADE AND THE  
25 PURPOSE OF SUCH CALL AND, UPON REQUEST, THE ESCO TELEMARKETING REPRESENTATIVE'S IDENTIFICATION NUMBER;

26 (C) IMMEDIATELY TRANSFER A RESIDENTIAL OR SMALL NON-RESIDENTIAL  
27 CUSTOMER TO A REPRESENTATIVE WHO SPEAKS THE RESIDENTIAL OR SMALL NON-RE-  
28 SIDENTIAL CUSTOMER'S PRIMARY LANGUAGE OR TERMINATE THE CALL;

29 (D) USE INDEPENDENT THIRD PARTY VERIFICATION OF TELEMARKETING TRANS-  
30 ACTIONS, AS APPROVED BY THE COMMISSION, PRIOR TO ENROLLING A RESIDENTIAL  
31 OR SMALL NON-RESIDENTIAL CUSTOMER; AND

32 (E) PROHIBIT ESCO TELEMARKETING REPRESENTATIVES FROM ASSERTING THAT AN  
33 ESCO IS ACTING ON BEHALF OF A DISTRIBUTION UTILITY.

34 4. (A) THE COMMISSION IS HEREBY GRANTED THE AUTHORITY, SUBJECT TO  
35 PARAGRAPH (B) OF THIS SUBDIVISION, TO ASSESS A CIVIL PENALTY NOT TO  
36 EXCEED ONE THOUSAND DOLLARS AGAINST ANY ESCO WHEN SUCH ESCO OR ITS ESCO  
37 TELEMARKETING REPRESENTATIVES KNOWINGLY FAILS OR NEGLECTS TO COMPLY WITH  
38 ANY PROVISION OF THIS SECTION OR ANY REGULATION OR ORDER OF THE COMMISS-  
39 SION IMPLEMENTING OR ENFORCING THE PROVISIONS OF THIS SECTION. IN THE  
40 CASE OF A CONTINUING VIOLATION, THE COMMISSION IS HEREBY AUTHORIZED TO  
41 DEEM EACH DAY A SEPARATE AND DISTINCT OFFENSE.

42 (B) WHENEVER THE COMMISSION HAS REASON TO BELIEVE THAT AN ESCO SHOULD  
43 BE SUBJECT TO IMPOSITION OF A CIVIL PENALTY OR PENALTIES AS SET FORTH IN  
44 THIS SUBDIVISION, THE COMMISSION SHALL NOTIFY SUCH ESCO. SUCH NOTICE  
45 SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO (I) THE DATE AND A BRIEF  
46 DESCRIPTION OF THE FACTS AND NATURE OF EACH ACT OR FAILURE TO ACT FOR  
47 WHICH SUCH PENALTY IS PROPOSED; (II) THE AMOUNT OF EACH PENALTY THAT THE  
48 COMMISSION PROPOSES TO ASSESS; AND (III) THE OPTION TO REQUEST A HEARING  
49 TO DEMONSTRATE WHY THE PROPOSED PENALTY OR PENALTIES SHOULD NOT BE  
50 ASSESSED AGAINST SUCH ESCO.

51 5. NOTHING IN THIS SECTION SHALL BE DEEMED TO LIMIT ANY AUTHORITY OF  
52 THE COMMISSION OR THE LONG ISLAND POWER AUTHORITY TO LIMIT, SUSPEND OR  
53 REVOKE THE ELIGIBILITY OF AN ENERGY SERVICES COMPANY OR ESCO TELEMARKE-  
54 TING REPRESENTATIVE TO SELL, OFFER, OR MARKET ENERGY SERVICES FOR  
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1 VIOLATION OF ANY PROVISION OF LAW, RULE, REGULATION OR POLICY ENFORCEA-  
2 BLE BY THE COMMISSION OR THE LONG ISLAND POWER AUTHORITY.

3 6. NOTHING IN THIS SECTION SHALL LIMIT THE AUTHORITY OF THE COMMISSION  
4 OR THE LONG ISLAND POWER AUTHORITY TO ADOPT ADDITIONAL ORDERS, GUIDE-  
5 LINES, PRACTICES, POLICIES, RULES OR REGULATIONS RELATING TO THE MARKET-  
6 ING PRACTICES OF ENERGY SERVICES COMPANIES TO RESIDENTIAL, SMALL NON-RE-  
7 SIDENTIAL AND COMMERCIAL CUSTOMERS, WHETHER IN PERSON (INCLUDING DOOR TO  
8 DOOR), OR BY MAIL, TELEPHONE OR OTHER ELECTRONIC MEANS, THAT ARE NOT  
9 INCONSISTENT WITH THE PROVISIONS OF THIS SECTION.

10 S 2. This act shall take effect on the ninetieth day after it shall  
11 have become a law; provided however that the public service commission  
12 is authorized and directed to take any and all actions, including but  
13 not limited to the promulgation of any orders, guidelines, practices,  
14 policies, rules and regulations necessary to implement the provisions of  
15 this act on or before such effective date.