



# Public Service Commission

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Rory M. Christian, Chair

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## **PSC Acts to Protect Customers of Energy Brokers and Energy Consultants**

### **Commission Establishes Consumer Protection Rules and Regulations Regarding Energy Brokers and Consultants**

**ALBANY** — The New York State Public Service Commission (Commission) today implemented a new section in the Public Service Law which requires persons, firms, associations or corporations acting as an energy broker or consultant to register with the Commission. Establishing a registration process for energy brokers and consultants will allow the Commission to oversee these entities and establish enforcement procedures and consumer protections.

“Today we brought accountability to a formerly unregulated area of the clean-energy economy in New York” **said Commission Chair Rory M. Christian.** “Equally important, by increasing transparency and oversight of an important and rapidly growing market, we have significantly strengthened consumer protections.”

The new regulations establish a registration process for energy brokers and energy consultants that requires an annual registration package consisting of a registration form, a \$500 registration fee, and a demonstration of financial accountability. In addition, the new rules require disclosure of compensation by brokers and establish enforcement procedures. Brokers and consultants will be given until August 31, 2023, to become fully registered with the Commission.

The registration form for brokers and consultants requires:

- Contact information for the company and identification of any affiliates of the applicant conducting energy-related business;
- Identification of any corporate entity with an ownership interest of 10 percent or more in the applicant and information on the methods by which the applicant intends to market energy products and services;
- Identification of other states in which the applicant operates and identification of any criminal or regulatory sanctions from any jurisdiction imposed against the applicant, or any senior officer of the applicant;
- Identification of any pending regulatory actions or investigations from any jurisdiction involving the applicant, identification of any acquisitions, mergers, dissolutions, or bankruptcy involving the applicant in the previous 36 months; and a list and description of any security breaches associated with customer information.

A broker or consultant would be subject to an enforcement action for a violation of any law, rule, or regulation. The new requirements also require compensation disclosure to customers so customers will be aware of how and why the broker and consultant are being paid, and whether the payments could misalign the interests of consumers and the market. The law also prohibits rebates from the broker/consultant to the ratepayer or any representative of the ratepayer, since such rebates could tend to obscure the actual price of clean energy products. If there is customer harm, the Commission can order the broker/consultant to provide refunds to customers. If the broker/consultant is unwilling or unable to pay, then the Commission can provide refunds to customers by drawing upon a letter of credit the brokers/consultants will have to provide as financial accountability.

The modifications to the Uniform Business Practices (UBP) rules and UBP-distributed energy resources also require brokers and consultants to adhere to certain standards for marketing and responding to customer inquiries and requires them to take certain steps to protect customer data.

Public Service Law §66-t defines an energy broker as an entity that assumes the contractual and legal responsibility for the sale of electric supply service, transmission or other services to end-use retail customers, but does not take title to any of the electricity sold, or an entity that assumes the contractual and legal obligation to provide for the sale of natural gas supply service, transportation or other services to end-use retail customers, but does not take title to any of the natural gas sold.

The term energy consultant is similarly inclusively defined to mean any, person, firm, association or corporation who acts as broker in soliciting, negotiating or advising any electric or natural gas contract, or acts as an agent in accepting any electric or natural gas contract on behalf of energy service companies.

Today's decision may be obtained by going to the Commission Documents section of the Commission's Web site at [www.dps.ny.gov](http://www.dps.ny.gov) and entering Case Number 23-M-0106 in the input box labeled "Search for Case/Matter Number". Many libraries offer free Internet access. Commission documents may also be obtained from the Commission's Files Office, 14th floor, Three Empire State Plaza, Albany, NY 12223 (518-474-2500). If you have difficulty understanding English, please call us at 1-800-342-3377 for free language assistance services regarding this press release.