

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

NATIONAL ENERGY MARKETERS ASSOCIATION;
BLUEROCK ENERGY, INC.; BOUNCE ENERGY NY,
LLC; DIRECT ENERGY BUSINESS MARKETING,
LLC; DIRECT ENERGY BUSINESS, LLC; DIRECT
ENERGY SERVICES LLC; ENERGETIX, INC.;
GATEWAY ENERGY SERVICES CORP.; NORTH
AMERICAN POWER & GAS, LLC; NYSEG
SOLUTIONS, INC.; RESIDENTS ENERGY, LLC; and
VERDE ENERGY USA NEW YORK, LLC,

Petitioners/Plaintiffs,

against

NEW YORK STATE PUBLIC SERVICE
COMMISSION,

Respondents/Defendants.

Index No.

IAS Part

Justice

**REPLY AFFIRMATION OF
JASON CYRULNIK IN
FURTHER SUPPORT OF
PLAINTIFFS' APPLICATION
FOR A PRELIMINARY
INJUNCTION**

STATE OF NEW YORK)
): ss:
COUNTY OF WESTCHESTER)

16 MAY -9 AM 9:16
ALBANY, NY

JASON CYRULNIK, an attorney duly admitted to practice before the courts of the State of New York, hereby affirms under the penalty of perjury and pursuant to CPLR § 2106 as follows:

1. I am a member of the law firm Boies, Schiller & Flexner LLP and counsel to Petitioners/Plaintiffs National Energy Marketers Association; BlueRock Energy, Inc.; Bounce Energy NY, LLC; Direct Energy Business Marketing, LLC; Direct Energy Business, LLC; Direct Energy Services, LLC; Energetix, Inc.; Gateway Energy Services Corp.; North American Power & Gas, LLC; NYSEG Solutions, Inc.; Residents Energy, LLC; and Verde Energy USA New York, LLC ("Petitioners"), in the above-captioned matter.

2. I am a member in good standing of the Bar of New York.
3. I am fully familiar with the facts and circumstances set forth in this affirmation, which I make in support of Petitioners' Motion for a Preliminary Injunction.
4. At the hearing on Petitioners' motion for a temporary restraining order in this case on March 3 and 4, 2016, the Commission informed the Court that they intended to issue the February 23, 2016, Order without giving ESCOs notice and time to restructure their product offerings in light of the new requirements.
5. Attached hereto as Exhibit 1 is the Affirmation of Craig Goodman in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 6, 2016.
6. Attached hereto as Exhibit 2 is the Affirmation of Jason Klaben in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 6, 2016.
7. Attached hereto as Exhibit 3 is the Affirmation of Thomas FitzGerald in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 6, 2016.
8. Attached hereto as Exhibit 4 is the Affirmation of William J. Kinneary in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 6, 2016.
9. Attached hereto as Exhibit 5 is the Affirmation of Alan Schwab in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 6, 2016.
10. Attached hereto as Exhibit 6 is a copy of the April 6, 2016 Rule Making Activities Section of the New York State Register.
11. Attached hereto as Exhibit 7 is a copy of the State of New York Public Service Commission Uniform Business Practices dated February 2016.
12. Attached hereto as Exhibit 8 is the Affirmation of Christopher H. Kallaher in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 9, 2016.

13. Attached hereto as Exhibit 9 is the Affirmation of Mae Naber in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 9, 2016.

14. Attached hereto as Exhibit 10 is the Affirmation of Bruce Fischer in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 9, 2016.

15. Attached hereto as Exhibit 11 is the Affirmation of Thomas Luther in Further Support of Plaintiffs' Application for a Preliminary Injunction dated May 9, 2016.

16. Attached hereto as Exhibit 12 is the Affirmation of Jessica Chiavara in Support of Plaintiffs'/Petitioners' Application by Order to Show Cause for a Temporary Restraining Order, Preliminary Injunction, and Expedited Discovery dated May 9, 2016, including exhibits thereto.

Affirmed to be True: Armonk, New York
May 9, 2016

 /PF
Jason Cyrulnik