

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on July 17, 2025

COMMISSIONERS PRESENT:

Rory M. Christian, Chair  
James S. Alesi  
David J. Valesky  
John B. Maggiore  
Uchenna S. Bright  
Denise M. Sheehan

CASE 25-E-0341 - Proceeding on Motion of the Commission to Seek  
Consequences against ATTYX, LLC (f/k/a Sunco  
Capital LLC) for Violations of the Uniform  
Business Practices for Distributed Energy  
Resource Suppliers

ORDER TO SHOW CAUSE

(Issued and Effective July 22, 2025)

BY THE COMMISSION:

INTRODUCTION

In this Order, the Public Service Commission  
(Commission) finds that Department of Public Service  
(Department) Staff has identified sufficiently credible evidence  
to support the issuance of an Order to Show Cause (OTSC)  
concerning ATTYX, LLC (f/k/a Sunco Capital LLC) (ATTYX or the

Company).<sup>1</sup> Specifically, Department Staff alleges that ATTYX has apparently failed to comply with multiple sections of the Uniform Business Practices for Distributed Energy Resource Suppliers (UBP-DERS).

We now provide ATTYX with an opportunity to respond to Department Staff's contentions. ATTYX is ordered to show cause within 30 days why its authorization to act as a Distributed Energy Resource (DER) Supplier in New York State should not be revoked or, alternatively, why other consequences as set forth in the Commission's UBP-DERS should not be imposed.

The summary of events presented herein is based on allegations and information obtained and presented by Department Staff and summarized in this Order. We note that this Order to Show Cause does not constitute final factual findings or legal conclusions by the Commission. This Order initiates a proceeding and provides ATTYX with an opportunity to address and respond to the allegations.

#### LEGAL AUTHORITY

The Commission's UBP-DERS established a uniform framework of regulation which governs the integration of all DER Suppliers (DERS) into New York State's electric system, as well as the rights and responsibilities of all DERS. The Order Establishing Oversight Framework and Uniform Business Practices

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<sup>1</sup> As detailed later, Department Staff alleges that name history records from the New York State Department of State (DOS) Division of Corporations indicate that ATTYX and another business, Sunco Capital LLC (Sunco), are the same entity, and that Sunco changed its name to ATTYX on or about January 23, 2024. See Exhibit A (a screenshot of ATTYX's name history from the DOS website). In this OTSC, Department Staff specifies when either ATTYX or Sunco took a certain action and generally uses the term "the Company" to refer to either business.

for Distributed Energy Resource Suppliers in Case 15-M-0180, which created the UBP-DERS, set forth clear rules for DER market and program participants to ensure that customers “are not subject to fraud or abusive marketing.”<sup>2</sup> That Order also observed that oversight in the DER market “is needed to prevent false promises, exploitative pricing, and other deceptive or intentionally confusing behavior in marketing to residential customers and small businesses.”<sup>3</sup> As the Commission has stated, these UBP-DERS requirements “are necessary to ensure that Department of Public Service Staff and the Commission have the tools needed to monitor ... growing [DER] markets and identify and resolve potential issues.”<sup>4</sup> In adopting marketing and advertising standards in the Order, the Commission further noted its intention to “ensure that deceptive or unreasonably high-pressure marketing do not occur.”<sup>5</sup>

DERS in New York must comply with the UBP-DERS and all applicable orders from the Commission to maintain eligibility to operate in New York.<sup>6</sup> Among other things, the UBP-DERS mandates that DERS shall “[n]ot engage in misleading or deceptive conduct as defined by state or federal law, or by Commission rule, regulation, or Order[.]”<sup>7</sup> DERS are also forbidden from making false or misleading statements regarding their offerings such as

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<sup>2</sup> Case 15-M-0180, In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers, p. 2 (issued October 19, 2017).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id., p. 42.

<sup>6</sup> See UBP-DERS §2 (noting, in relevant part, that the UBP-DERS “appl[ies] to all DER suppliers that participate in Commission-authorized ... program or market”).

<sup>7</sup> UBP-DERS §2B.A.1.

promised rates or savings.<sup>8</sup>

To the extent that third parties may be working on behalf of a DER provider, UBP-DERS Section 2D.A states that “[i]f a DER supplier enlists a third party to assist them in ... any ... activity, that DER supplier is responsible for making commercially reasonable efforts to ensure that the third party’s activities conform with the relevant regulations and requirements.” UBP-DERS Section 2F.A also confirms that “[a] DER supplier may be held responsible for actions by ... third-party agents acting on its behalf or under its direction.”

The Department also oversees DERS through UBP-DERS reporting provisions. For instance, UBP-DERS Section 3A.D.3 requires certain types of DERS, including On-Site Mass Market Distributed Generation providers, to submit certain updated information throughout the year. Pursuant to UBP-DERS Section 3A.D.3.a, DERS must submit revised “description[s] of any material revision in the terms and conditions applicable to the business relationship between the Provider and its customers,” and “[f]or any such revisions, the Provider shall provide a copy of the revised portions.” UBP-DERS Section 3A.D.3.c further requires that DERS update Staff on “[c]hanges in the Provider’s business and customer service information provided in the application [package]” as those changes occur.

The UBP-DERS additionally implements certain requirements for sales agreements used by DERS to ensure that consumers are protected and adequately informed. UBP-DERS Section 3C.C contains specific terms that must be included in On-Site Mass Market Distributed Generation sales agreements, “including the make and model of major system components, and an outline of system specifications.” These requirements include

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<sup>8</sup> UBP-DERS §2B.A.2.

specific items such as, “[f]or purchased systems, the total system purchase price, itemized costs of system components, and any other taxes, fees or overheads that are the responsibility of the customer[,]” “[a]n estimate of annual energy output, including loss analysis[,]” “[t]he rate at which the customer can be compensated for any electricity sold to the utility,” and “[t]he potential value of all federal, state, and local tax credits ... incentives, or rebates that the customer may receive and/or be required to sign over to the DER provider[.]”<sup>9</sup>

The Commission has the authority to enforce the requirements of the UBP-DERS by imposing consequences on DERS and third parties acting at the direction of DERS.<sup>10</sup> DERS may be subject to consequences listed in UBP-DERS Section 2F.C.2, including the revocation of eligibility to operate in New York State, for multiple reasons, including failure to follow policies and procedures in sales agreements, failure to comply with required consumer protections, failure to inform the Department of material changes to information contained in registration forms or registration packages, and failure to comply with the UBP-DERS generally.<sup>11</sup>

#### FACTUAL BACKGROUND

As noted above, the following contentions and discussion are based on the Department’s investigation. ATTYX has an opportunity to address and respond to the allegations and contentions.

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<sup>9</sup> UBP-DERS §§3C.C.1, 3C.C.3, 3C.C.4, and 3C.C.7, respectively.

<sup>10</sup> UBP-DERS §2F.A.

<sup>11</sup> UBP-DERS §§2F.B.2, 2F.B.4, 2F.B.6, and 2F.B.7. See also UBP-DERS §2F.C.2.

A. Sunco Participated in NY-Sun, Registered with the Department as Sunco, and Was Terminated from NY-Sun.

Sunco filed Articles of Organization with the DOS on August 1, 2019, registering its name as Sunco Capital, LLC. Approximately one year later, on July 29, 2020, Sunco received approval from the New York State Energy Research and Development Authority (NYSERDA) to participate in the NY-Sun program, which provides incentives and financing for solar projects, as well as access to a network of solar installers. In December 2020, NYSERDA informed Sunco and other NY-Sun installers that they would need to immediately initiate the DERS registration process with the Department or be subject to suspension or termination from the NY-Sun program.<sup>12</sup>

Accordingly, on January 10, 2021, Sunco applied to be a DERS with the Department's Office of Consumer Services (OCS). In that application, Sunco identified itself as an On-Site Mass Market Distributed Generation provider. On April 29, 2021, an OCS Staff member sent Sunco a letter advising that its application had been reviewed and was found to be compliant with the UBP-DERS. This letter also advised that, in order to maintain its DERS eligibility, and pursuant to the UBP-DERS, Sunco was to notify Department Staff of any contract changes or material legal, financial, or business-related changes.

In the meantime, NYSERDA had started receiving complaints from Sunco customers expressing concerns about their solar installations. On June 15, 2021, NYSERDA placed Sunco on probation from the NY-Sun program, contending that the sales agreements associated with customers' complaints failed to comply with the NY-Sun Program Manual requirements. NYSERDA

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<sup>12</sup> Normally DERS must first register with the Department prior to applying to participate in NY-Sun, but Sunco was approved to participate in NY-Sun before this requirement was in place.

observed that "SunCo customer agreements do not include the breakdown between roof replacement and the PV system costs," as NYSERDA claimed was required by that manual.

NYSERDA further notified the Company that its sales agreements appeared to violate the UBP-DERS. NYSERDA apparently did not receive any response from Sunco regarding action plan items to come into compliance. Thus, NYSERDA suspended and ultimately terminated Sunco from the NY-Sun program, effective November 12, 2021. Despite this termination, Sunco apparently continued to represent that it was an active participant in the NY-Sun program. This led NYSERDA to issue a cease and desist letter to Sunco, dated October 28, 2022, directing the Company to stop referencing the NY-Sun program incentive in its sales agreements and representing itself as a NY-Sun participating contractor.

B. The Company Changed its Name to ATTYX and Registered with the Department as ATTYX.

On January 23, 2024, Sunco formally changed its name to ATTYX with the DOS. However, Sunco did not inform Department Staff that it was operating under the name ATTYX for the first time until its triennial filing, dated May 9, 2024. In that filing, when asked to provide a certificate of assumed name and state if the Company "intend[ed] to market [its] services under a [d/b/a, or doing business as]" name, the Company indicated that ATTYX was its d/b/a name and provided DOS name change documentation from several months prior.

After informing Department Staff of Sunco's name change to ATTYX, on June 21, 2024, the Company submitted a separate DERS registration application to OCS using its new

name, ATTYX.<sup>13</sup> That DERS application also included a sample sales agreement for ATTYX. Notably, in the section entitled "Financial Breakdown," the Company indicated that it would provide additional financial details, including a "System Cost Overview," before subsequently disclosing the total price of the solar system. OCS approved ATTYX to serve as a DERS on June 25, 2024.

C. The Department Received Complaints Regarding the Company's Marketing and Advertising Tactics.

After Department Staff approved ATTYX's DERS application, the Department received numerous complaints from ATTYX customers detailing issues with ATTYX's marketing techniques and sales agreement terms.<sup>14</sup> Many complainants described responding to social media advertisements for a "free roof" or solar panel installation with a roof replacement or repair. The Department discovered that, when customers inquired with the Company about the terms of this offer, ATTYX apparently subjected several customers to high-pressure enrollment tactics. Some customers alleged that they were unaware of the terms to which they were agreeing and/or did not consent to accept certain fees. Customers also expressed concerns regarding the loan amount for their solar panels, especially given that some customers were apparently advised that government incentives

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<sup>13</sup> Despite registering separately as ATTYX, Sunco (d/b/a ATTYX) continued to be a registered DERS with the Department. On January 9, 2025, Sunco inquired with the Department about withdrawing from serving as a DERS in New York State. However, given the pending investigation, the Department has not processed Sunco's informal withdrawal request.

<sup>14</sup> Although this OTSC primarily focuses on apparent issues with ATTYX's marketing techniques and sales agreements, Sunco customers also filed a number of complaints with the Department, NYSEERDA, and third-party review websites such as Yelp, alleging similar enrollment and disclosure problems.

would entirely cover the cost of the solar panels. One complainant alleged that ATTYX contracted to not only replace an existing solar system, but also install new HVAC systems, apparently damaging the customer's boilers as a result. Several complaints that the Department received reference executed sales agreements or installation labor that apparently occurred *before* ATTYX received Department approval to operate as a DERS on June 25, 2024.

Additionally, some complaints the Department received were filed by or on behalf of vulnerable populations, including elderly individuals. Several complaints made to the Department apparently mirror the allegations contained in an ongoing class action lawsuit, Campbell v. Solar Mosaic, LLC, SUNco Capital, LLC, ATTYX UTAH LLC, ATTYX LLC, and WebBank, that the Legal Aid Society filed in the United States District Court for the Eastern District of New York on September 5, 2024, under Case No. 24-cv-6208. The plaintiff in that case, a senior citizen, contends that the Company misled and pressured her to enroll in

an unaffordable financing agreement to replace her roof and install new solar panels.<sup>15</sup>

D. Staff Identified Deficiencies with the Company's Sales Agreements.

During its investigation, Department Staff also became aware of potential deficiencies with the Company's sales agreements. These issues are particularly highlighted in the Commission's October 17, 2024 determination (Commission Determination) regarding ATTYX's appeal of an informal hearing officer (IHO) decision.<sup>16</sup> The Commission Determination affirmed the IHO's finding that a Sunco sales agreement violated multiple

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<sup>15</sup> The complaint in that lawsuit alleges that, after the plaintiff responded to an advertisement for a free roof on Facebook, Sunco met with the plaintiff and promised, among other things, to install a free new roof, install new solar panels, and eliminate her electric utility bills. Sunco allegedly indicated that incentives and tax credits would reduce the total cost to less than \$30,000, with \$184 monthly payments. Allegedly, Sunco never disclosed that the plaintiff would be signing a financing agreement, with a total cost of more than \$160,000 and monthly payments of \$535.90. After the plaintiff decided to cancel the agreement, Sunco apparently returned to the plaintiff's home, pressured her to ignore the terms of the financing agreement, and wrote out and insisted that Sunco's original terms applied. After convincing the plaintiff to continue with the contract, the plaintiff received emails (that Sunco allegedly instructed her to ignore), again indicating that her loan payment would be \$535.90. The plaintiff then repeatedly attempted to cancel the contract to no avail, and the financing company placed a lien on her home. A February 28, 2025 letter filed in Case No. 24-cv-06208 states that the parties attempted to settle the case but, as of June 24, 2025, the litigation apparently remains active and ongoing.

<sup>16</sup> Case 24-M-0320, In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR in Relation to Complaint Procedures - Appeal by SUNco Solar LLC of the Informal Decision Rendered in Favor of Brian Williams (264891), Commission Determination (issued October 17, 2024).

sections of UBP-DERS Section 3C because that agreement failed to include required information such as an itemized breakdown of system components, a description of the solar system that details the make and model of major components, and an estimate of the annual energy output (including a loss analysis).<sup>17</sup>

The Commission summarized the IHO's finding that the complainant clicked a social media advertisement through an apparently affiliated company, New York Roofing, to obtain a free roof, filled in personal information, was contacted by an Sunco representative, and ultimately entered into a sales agreement with Sunco and a financing agreement for over \$70,000 for a solar system.<sup>18</sup> Although the Commission ultimately modified the IHO's decision as to the remedy available to the complainant, the Commission determined that "Sunco and New York Roofing's use of 'no cost' roof marketing to funnel business to Sunco and then merging and aggregating the cost of the roof and the cost of the solar system is misleading and deceptive in violation of the UBP-DERS."<sup>19</sup> As detailed below, Department Staff's analysis of multiple other ATTYX sales agreements similarly revealed that the Company apparently failed to include several provisions required by UBP-DERS Section 3C in those other, additional agreements.

E. The Notice of Apparent Violation and Response.

In response to the numerous complaints and apparent sales agreement issues, on February 18, 2025, the Department issued a Notice of Apparent Violation (NOAV) to ATTYX.<sup>20</sup> Among

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<sup>17</sup> Id., pp. 25, 30.

<sup>18</sup> Id., pp. 26-27.

<sup>19</sup> Id., p. 27.

<sup>20</sup> Matter 24-02573, In the Matter of Notice of Apparent Violation against ATTYX, LLC, Notice of Apparent Violation to ATTYX, LLC (filed February 18, 2025).

other things, the NOAV contends that ATTYX apparently violated UBP-DERS Section 2B by using improper and misleading marketing tactics. The NOAV describes a few examples of customer complaints in which customers were apparently promised a “no cost” roof, incorrectly informed that government incentives would cover the cost of their entire solar system, and/or enticed to enter into an unfavorable loan agreement to fund the cost of their system. The NOAV also contends that, based on the Commission Determination, the Company apparently violated multiple provisions in UBP-DERS Section 3C.C by failing to include required information about customers’ solar systems in its sales agreements.

Given ATTYX’s apparent UBP-DERS violations, the NOAV instructed the Company to provide the following information within ten business days: (1) a list of ATTYX’s 2024 enrollments and other relevant identifying information for customers in New York State; (2) a corresponding contract and enrollment package for those customers; (3) all of ATTYX and its affiliates’ advertisements; (4) “confirmation and attestation ... that the Company acknowledges it is forbidden from engaging in marketing activities and enrolling new customers until the Company has sufficiently responded to the issues outlined in this notice”; and (5) policies, procedures, and contractual arrangements with relevant lending entities.<sup>21</sup>

In its response to the NOAV, dated March 5, 2025, ATTYX presented brief bullet points to address Department Staff’s concerns and allegations. ATTYX claimed that it submitted all requested documentation to Department Staff, including a contract associated with a complaint that Staff had requested in the NOAV but had not received to date. ATTYX

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<sup>21</sup> *Id.*, pp. 4-5.

further stated that it had "reviewed and updated its customer sales agreements to include all required provisions" and updated its agreements with all external sales personnel.<sup>22</sup>

Regarding Department Staff's concerns about ATTYX's marketing, the Company represented that it had "ceased all marketing campaigns that may misrepresent financial obligations, including references to 'no cost' roofing and claims regarding government incentives covering full costs," severed ties with any misleading marketing affiliations (including New York Roofing), and would ensure that any third party entities that the Company uses comply with the UBP-DERS.<sup>23</sup> However, ATTYX did not acknowledge that it would cease enrolling customers pending a determination that its response was satisfactory, as requested by Staff.

#### THE DEPARTMENT'S INVESTIGATION

Based on Department Staff's investigation of ATTYX to date, as well as ATTYX's response to the NOAV, Department Staff has identified nine apparent violations of the UBP-DERS.

##### A. Apparent Misleading Marketing (UBP-DERS Sections 2B.A.1, 2B.A.2, and 2D.A)

Given the concerning allegations raised by several complainants, Staff requested that the Company provide all ATTYX and ATTYX affiliate advertisements for review. In response to the NOAV, ATTYX produced 124 video clips that appear to be a mix of draft and final advertisements. Based on their titles, ATTYX apparently aired or intended to air these videos on social media

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<sup>22</sup> Matter 24-02573, In the Matter of Notice of Apparent Violation against ATTYX, LLC, ATTYX LLC - Response to Notice of Apparent Violation (filed March 7, 2025), p. 1.

<sup>23</sup> Id., pp. 1-2.

websites such as Facebook, Instagram, TikTok, and YouTube. Notably, only a handful of these clips reference the Company's solar offerings at all; the vast majority of these videos instead claim that customers could obtain a new roof either at "no cost" or "with no money down" or sometimes, confusingly, both. ATTYX often used its apparent affiliate or a related company, New York Roofing, to advertise these "no cost" or "no money down" roofs on ATTYX's behalf. Department Staff identified multiple references online to suggest that ATTYX and New York Roofing are at the very least connected, if not one and the same company.<sup>24</sup>

Staff alleges that several of these 124 videos or portions thereof circulated online. For example, an advertisement that apparently ran on Facebook from December 8, 2022, through March 30, 2023, features a New York Roofing spokesperson stating: "Get a roof at no cost. The brand-new Inflation Reduction Act is covering the cost of new roofs for homeowners in New York City. If you need a new roof and don't want to pay for it, apply now." This video appears to be the same one ATTYX provided to Department Staff as "Tanner IA Video #1." Similarly, in a video posted on New York Roofing's Instagram reels page on or about February 3, 2022, a man states that he decided to "look into this program" with New York Roofing when he "heard that [he] could get a new roof with no money down instead of spending \$15,000." Department Staff confirmed that this video appears to include a portion of an

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<sup>24</sup> A screenshot of the New York Roofing Facebook page taken on March 20, 2025, lists a reference email address as [apply@suncoproject.com](mailto:apply@suncoproject.com). See Exhibit B. Similarly, multiple video advertisements that ATTYX submitted to Department Staff, such as "New-York\_Roof\_Local-Programs\_Landscape," feature an individual in a New York Roofing hat claiming to be from ATTYX.

advertisement ATTYX provided to Department Staff entitled "Lenny and his New Free Roof, NEW YORK PROGRAMS."

Based on the advertisements ATTYX provided to Department Staff, as well as those Department Staff independently located online, Department Staff contends that ATTYX apparently violated UBP-DERS Section 2B.A.1, which forbids ESCOs from "engag[ing] in misleading or deceptive conduct as defined by state or federal law, or by Commission rule, regulation, or Order." New York State General Business Law (GBL) Section 349(a) prohibits "[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state." In addition, GBL Section 350 states that "[f]alse advertising in the conduct of any business, trade or commerce in the furnishing of any service in this state is hereby declared unlawful."

Deceptive acts or practices in violation of GBL Sections 349 and 350 include: (1) consumer-oriented conduct that is (2) materially misleading, causing (3) a plaintiff to suffer an injury because of the allegedly deceptive act or practice.<sup>25</sup> Thus, it appears that ATTYX engaged in "misleading or deceptive conduct" as covered by those statutes. Relatedly, Department Staff alleges that ATTYX appears to have violated UBP-DERS Section 2B.A.2, which prohibits ESCOs from engaging in false or misleading conduct, including misrepresenting savings.

Department Staff alleges that several ATTYX advertisements that circulated online constitute deceptive conduct because, based on the complaints the Department received, the Company did not necessarily offer a "free roof," no strings attached. Rather, ATTYX apparently failed to fully and transparently disclose all expenses associated with roof

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<sup>25</sup> Koch v. Acker, Merrall & Condit Co., 18 N.Y.3d 940, 941 (2012).

replacement, including loans and financing for solar panel installation or replacement, or otherwise conflated or confused the total costs of roof replacement and a financed solar system installation. This apparently deceptive conduct saddled numerous clients with unaffordable loan payments. Prospective customers may also have contacted the Company to obtain a "no cost roof" without even realizing they were signing up for solar panel installation, as most of the advertisements Staff reviewed fail to mention solar. In some cases, customers' promised savings from government incentives also appear to have been exaggerated or did not materialize.

Much of this confusion seems related to the fact that a customer could easily conflate ATTYX and its apparent affiliate or related company, New York Roofing. Although the Company claims to have "severed any misleading marketing affiliations (including NY Roofing Group)," this admission does not remedy the fact that the marketing ATTYX and/or New York Roofing group engaged in was misleading. Thus, Department Staff further alleges that ATTYX apparently violated UBP-DERS Section 2D.A by failing to take commercially reasonable efforts to ensure New York Roofing complied with regulations and requirements, including those in the UBP-DERS. Instead of properly supervising New York Roofing, Department Staff contends that ATTYX permitted and facilitated New York Roofing's false and misleading advertising.

Finally, Department Staff notes that the NOAV requested that ATTYX confirm it would cease "marketing activities and enrolling new customers" generally, pending a determination that ATTYX had "sufficiently responded" to Department Staff's requests. The Company was not permitted to only suspend marketing campaigns that it apparently determined,

in its own judgment, "misrepresent[ed] financial obligations."<sup>26</sup> ATTYX's response to the NOAV also did not acknowledge that it would refrain from enrolling new customers. Department Staff is therefore unaware if ATTYX complied with this directive.

B. Apparent Omission of Required Sales Agreement Provisions and Apparent Failure to Notify Staff of Revised Sales Agreements (UBP-DERS Sections 3C.C.1, 3C.C.3, 3C.C.4, 3C.C.7, and 3A.D.3.a)

As an initial matter, the above-referenced timeline regarding Sunco's suspension, probation, and termination from the NY-Sun program indicates that the Company was aware *since at least 2021* that its sales agreements omit material provisions and do not comply with the UBP-DERS. NYSERDA's notice of probation informed the Company that its customer agreements improperly excluded "the breakdown between roof replacement and the PV system costs" - a provision that is also required by UBP-DERS Section 3C.C.1 - and generally informed the Company that it appeared to be in violation of the UBP-DERS.

Despite these warnings, ATTYX apparently ignored regulatory attempts to bring the Company into compliance and continued to use the same or similar problematic sales agreements even after being terminated from the NY-Sun program. Staff contends that the fact that NYSERDA had to resort to issuing a cease and desist letter to compel the Company to remove NY-Sun language from its sales agreements nearly one year after its termination from NY-Sun speaks volumes about the Company's apparently problematic business practices.

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<sup>26</sup> Matter 24-02573, In the Matter of Notice of Apparent Violation against ATTYX, LLC, ATTYX LLC - Response to Notice of Apparent Violation (filed March 7, 2025), p. 1.

Department Staff has concluded that the Company's non-compliant sales agreement issues have apparently persisted. Department Staff conducted a detailed review of a random sample of 100 sales agreements of the 859 agreements<sup>27</sup> that ATTYX submitted. Most of these sales agreements were executed with ATTYX in 2024, although Department Staff identified a few agreements that were executed with Sunco in 2023. Department Staff determined that *every single one* of the 100 reviewed sales agreements reflected either three or four apparent violations of the UBP-DERS. All reviewed sales agreements apparently failed to include: (1) an itemized breakdown of system components, as required by UBP-DERS Section 3C.C.1; (2) a loss analysis that informs the customer about the available solar resource that the system will yield (accounting for losses from normal operation), as required by UBP-DERS Section 3C.C.3; and (3) the rate at which the customer can be compensated for any electricity sold to the utility, as required by UBP-DERS Section 3C.C.4. Some sales agreements apparently failed to include a fourth term: the total number of the potential value of all federal, state, local tax credits, or any other relevant incentives that would assist the customer in purchasing the generation system, as required by UBP-DERS Section 3C.C.7.

In its response to the NOAV, ATTYX stated that it "reviewed and updated its customer sales agreements to include all required provisions, including an itemized breakdown of system components, loss analysis, installation location, and applicable tax credits and incentives."<sup>28</sup> However, the Company

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<sup>27</sup> ATTYX originally submitted 1,718 sales agreements for Department Staff review. However, it appears that this number reflects duplicates of 859 unique sales agreements.

<sup>28</sup> Matter 24-02573, In the Matter of Notice of Apparent Violation against ATTYX, LLC, ATTYX LLC - Response to Notice of Apparent Violation (filed March 7, 2025), p. 1.

did not submit any of these sales agreements for Department Staff review after making this representation several months ago. Unilaterally adopting sales agreements incorporating these significant modifications without first providing them to Department Staff for review is contrary to UBP-DERS Section 3A.D.3.a. That UBP-DERS provision requires On-Site Mass Market Distributed Generation Providers such as ATTYX to submit “[a] description of any material revision in the terms and conditions applicable to the business relationship between the Provider and its customers” as well as “a copy of the revised portions” as those revisions occur throughout the year.

The provisions ATTYX omitted from its sales agreements materially and directly impact the relationship between the Company and its customers and are specifically required by UBP-DERS Sections 3C.C.1, 3C.C.3, 3C.C.4, and 3C.C.7. Thus, it seems that ATTYX’s response to the NOAV not only failed to address Department Staff’s concerns but also exposed the Company to an apparent violation of UBP-DERS Section 3A.D.3.a.

C. Apparent Failure to Timely Notify Staff of Name Change  
(UBP-DERS Section 3A.D.3.c)

It also appears that ATTYX violated UBP-DERS Section 3A.D.3.c, which requires DERS to inform Department Staff of any changes in business information provided in the Company’s application package as those changes occur throughout the year. Additionally, in Sunco’s initial eligibility letter, sent on April 29, 2021, OCS advised the Company that it was to notify Department Staff of any material business-related changes, consistent with the UBP-DERS.

The Company apparently did not inform Department Staff about Sunco’s January 23, 2024 name change to ATTYX until May 9, 2024, when Sunco submitted its routine triennial filing. As

previously noted, the Company indicated that ATTYX was its d/b/a name in this filing. However, that is not entirely accurate. A d/b/a is a fictitious or trade name for a company that operates under a different name than its legal name, whereas Sunco legally changed its name to ATTYX on or about January 23, 2024. Regardless, Department Staff should have been promptly and separately notified about this material change to the Company's business as soon as the Company made its January 23, 2024 DOS filing.

#### DISCUSSION AND CONCLUSION

Every DER Provider in New York must comply with the UBP-DERS and all applicable orders from this Commission to maintain its eligibility to operate in New York, including, without limitation, Case 15-M-0180, In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued October 19, 2017).

The Commission notes that the presentation of Department Staff's allegations does not reflect a final determination of facts or legal conclusions. However, at this initial stage of the proceeding, and consistent with the apparent conduct referenced in this Order, the Commission finds that the Department's investigation has identified sufficient credible information to support Department Staff's contentions that ATTYX, LLC (f/k/a SunCo Capital LLC):

1. Apparently violated UBP-DERS Section 2B.A.1 by "engag[ing] in misleading or deceptive conduct as defined by state or federal law, or by Commission rule, regulation, or Order";

2. Apparently violated UBP-DERS Section 2B.A.2 by "mak[ing] false or misleading representations including misrepresenting rates or savings offered";
3. Apparently violated UBP-DERS Section 2D.A by failing to "mak[e] commercially reasonable efforts to ensure that [a] third party's activities conform with the relevant regulations and requirements";
4. Apparently violated UBP-DERS Section 3A.D.3.a by failing to timely submit revised "description[s] of any material revision in the terms and conditions applicable to the business relationship between the Provider and its customers" and "provide a copy of the revised portions" to Department Staff;
5. Apparently violated UBP-DERS Section 3C.C.1 by failing to include "the total system purchase price, itemized costs of system components, and any other taxes, fees or overheads that are the responsibility of the customer" in multiple sales agreements;
6. Apparently violated UBP-DERS Section 3C.C.3 by failing to include "[a]n estimate of annual energy output, including loss analysis" in multiple sales agreements;
7. Apparently violated UBP-DERS Section 3C.C.4 by failing to include "[t]he rate at which the customer can be compensated for any electricity sold to the utility" in multiple sales agreements;
8. Apparently violated UBP-DERS Section 3C.C.7 by failing to include "[t]he potential value of all federal, state, and local tax credits, electric utility rate credits, Renewable Energy Credits, incentives, or rebates that the customer may receive and/or be required to sign over to the DER provider" in multiple sales agreements; and

9. Apparently violated UBP-DERS Section 3A.D.3.c by failing to timely submit “[c]hanges in [its] business and customer service information provided in the application [package]” to Department Staff.

Department Staff contends that ATTYX’s apparent violations are not isolated events but rather encompass multiple instances of non-compliance that extend across the Company’s overall business practices, reflecting a pervasive disregard of the Commission’s DERS requirements outlined in the UBP-DERS and further summarized in Commission orders. Based on the information identified by Department Staff, and for the reasons discussed in this Order, the Commission therefore orders ATTYX (and its apparent affiliates, including New York Roofing) to show cause why, based upon the allegations and contentions described herein, its eligibility to provide services as a DERS in New York State should not be revoked. ATTYX (and its affiliates) should further show cause why other consequences listed in the UBP-DERS should not be imposed.

The Commission orders:

1. A proceeding is instituted, and ATTYX, LLC is ordered to show cause within 30 days of the date of this Order why the Commission should not revoke its eligibility to operate as a DERS in the State of New York, or impose other consequences, as described in UBP-DERS Section 2F.C.2.
2. In connection with the response to this Order referenced in Ordering Clause No. 1, ATTYX, LLC shall submit revised sales agreements for Department review.
3. In connection with the response to this Order referenced in Ordering Clause No. 1, ATTYX, LLC shall submit for Department review information regarding any customer funds that should have been refunded and/or returned to customers either as

a result of enforcement actions NYSERDA took against ATTYX, LLC and/or its former entity, Sunco Capital LLC, or as a result of its corporate name change.

4. During the pendency of this enforcement proceeding, ATTYX, LLC shall immediately halt all marketing, enrollments, and otherwise cease efforts to obtain new business in New York State relating to On-Site Mass Market Distributed Generation, pending further instruction from the Commission. This Ordering Clause does not relieve ATTYX, LLC of continuing to honor its sales agreements, contracts, warranties, installations, or other obligations to its existing customers.

5. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary

Exhibit A

**Department of State  
Division of Corporations**

Entity Name History

[Return to Results](#)

[Return to Search](#)

Entity Details

<b>ENTITY NAME:</b> ATTYX, LLC	<b>DOS ID:</b> 5597621
<b>FOREIGN LEGAL NAME:</b>	<b>FICTITIOUS NAME:</b>
<b>ENTITY TYPE:</b> DOMESTIC LIMITED LIABILITY COMPANY	<b>DURATION DATE/LATEST DATE OF DISSOLUTION:</b>
<b>SECTION OF LAW:</b> 203 LLC - LIMITED LIABILITY COMPANY LAW	<b>ENTITY STATUS:</b> ACTIVE
<b>DATE OF INITIAL DOS FILING:</b> 08/01/2019	<b>REASON FOR STATUS:</b>
<b>EFFECTIVE DATE INITIAL FILING:</b>	<b>INACTIVE DATE:</b>
<b>FOREIGN FORMATION DATE:</b>	<b>STATEMENT STATUS:</b> CURRENT
<b>COUNTY:</b> NASSAU	<b>NEXT STATEMENT DUE DATE:</b> 08/31/2025
<b>JURISDICTION:</b> NEW YORK, UNITED STATES	<b>NFP CATEGORY:</b>

[ENTITY DISPLAY](#)

**[NAME HISTORY](#)**

[FILING HISTORY](#)

[MERGER HISTORY](#)

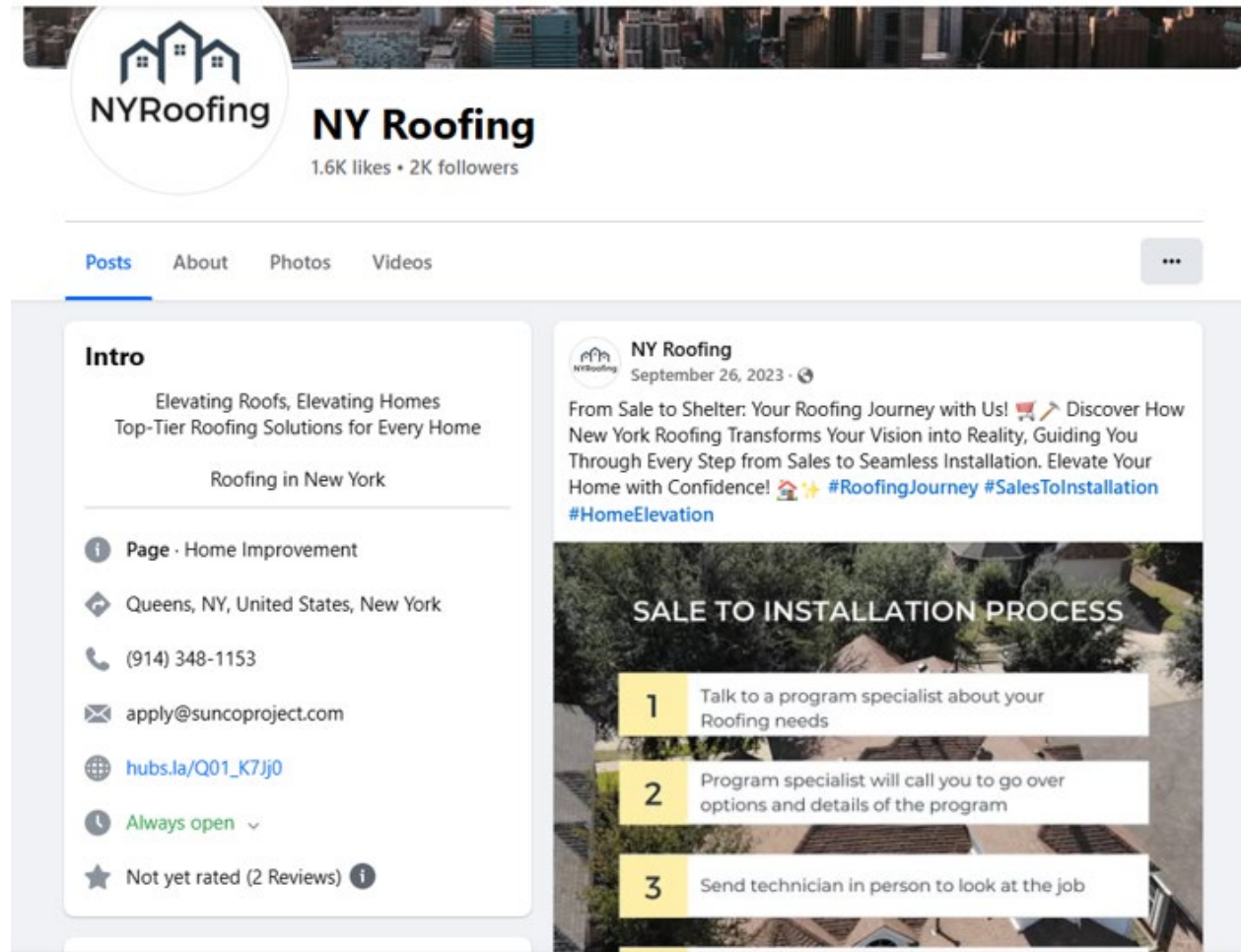
[ASSUMED NAME HISTORY](#)

Search

File Date	Document Type	Entity Name	File Number
08/01/2019	ARTICLES OF ORGANIZATION	SUNCO CAPITAL, LLC	190801010467
01/23/2024	CERTIFICATE OF AMENDMENT	ATTYX, LLC	240123003655

Rows per page: 5

Exhibit B



The image shows a Facebook profile for NY Roofing. The profile picture is a circular logo with three houses and the text 'NYRoofing'. The cover photo is a cityscape at night. The profile name is 'NY Roofing' with 1.6K likes and 2K followers. The navigation tabs are 'Posts', 'About', 'Photos', and 'Videos'. The 'Intro' section includes the tagline 'Elevating Roofs, Elevating Homes' and 'Top-Tier Roofing Solutions for Every Home'. The 'About' section lists the page type as 'Home Improvement', location as 'Queens, NY, United States, New York', phone number '(914) 348-1153', email 'apply@suncoproject.com', and a link to 'hubs.la/Q01\_K7Jj0'. The 'Post' section features a post from September 26, 2023, titled 'From Sale to Shelter: Your Roofing Journey with Us!'. The post includes a shopping cart icon and a link icon, and contains the text: 'Discover How New York Roofing Transforms Your Vision into Reality, Guiding You Through Every Step from Sales to Seamless Installation. Elevate Your Home with Confidence! 🏠🌟 #RoofingJourney #SalesToInstallation #HomeElevation'. Below the text is a graphic titled 'SALE TO INSTALLATION PROCESS' with three numbered steps: 1. Talk to a program specialist about your Roofing needs; 2. Program specialist will call you to go over options and details of the program; 3. Send technician in person to look at the job.

**NYRoofing**  
1.6K likes • 2K followers

Posts About Photos Videos

**Intro**  
Elevating Roofs, Elevating Homes  
Top-Tier Roofing Solutions for Every Home  
Roofing in New York

Page · Home Improvement  
Queens, NY, United States, New York  
(914) 348-1153  
apply@suncoproject.com  
hubs.la/Q01\_K7Jj0  
Always open  
Not yet rated (2 Reviews)

**NY Roofing**  
September 26, 2023 · 🌐

From Sale to Shelter: Your Roofing Journey with Us! 🛒 ➦ Discover How New York Roofing Transforms Your Vision into Reality, Guiding You Through Every Step from Sales to Seamless Installation. Elevate Your Home with Confidence! 🏠🌟 #RoofingJourney #SalesToInstallation #HomeElevation

**SALE TO INSTALLATION PROCESS**

- 1 Talk to a program specialist about your Roofing needs
- 2 Program specialist will call you to go over options and details of the program
- 3 Send technician in person to look at the job