STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on July 16, 2026

COMMISSIONERS PRESENT:

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

CASE 26-M-0426 - Proceeding on Motion of the Commission to Seek Consequences against API Energy LLC for Violations of the Uniform Business Practices

ORDER INSTITUTING PROCEEDING AND TO SHOW CAUSE

(Issued and Effective July 30, 2026)

BY THE COMMISSION:

INTRODUCTION

In this Order, the Public Service Commission (Commission) finds that Department of Public Service staff (Staff) has identified sufficiently credible evidence in the record of this case to support the issuance of an Order to Show Cause (OTSC) concerning API Energy, LLC’s (API) apparent failure to comply with Uniform Business Practices (UBP) Section 2.D.1. We now provide API with an opportunity to respond to Staff’s contentions. Accordingly, API is ordered to show cause within 28 days why its authorization to act as an Energy Services Company (ESCO) in New York State should not be revoked, or, alternatively, why other consequences as set forth in the Commission’s UBP should not be imposed.

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

BACKGROUND

UBP Section 2.D.1 requires each ESCO to submit, by January 31 of each year, either a statement that the information and attachments in the ESCO's initial Retail Access Application Form (RAAF) are still current and accurate (Annual Compliance Filing), or file corrections to those submissions.

According to Staff, it appears that API, an ESCO, failed to file: (1) a 2026 Annual Compliance Filing that the information and attachments in API's most recent RAAF are still current and accurate, or (2) file corrections to those submissions. Consistent with the UBP, API was obligated to submit these documents by January 31, 2026.

On April 22, 2026, Staff issued a Notice of Apparent Violation (NOAV) letter to API for failure to file its Annual Compliance Filing with the Secretary to the Commission. It further appears that API failed to respond to the Department's April 22, 2026 NOAV letter.

THE DEPARTMENT'S INVESTIGATION AND FINDINGS

As noted above, the following contentions and discussions are based on Staff's review of Department records. API has an opportunity to address and respond to the allegations and contentions.

On September 19, 2019, Staff deemed API eligible as an ESCO to serve large commercial and industrial gas and electric customers in New York State. Although API is still considered eligible to operate in New York, data reported by the utilities indicates that API is not serving any electric or gas customers. Staff contacted API via email on several occasions to notify API of the Annual Compliance Filing and of its apparent failure to submit the required information. Specifically, Staff sent an email on December 31, 2025, to remind API that the filing was due January 31, 2026. On February 12 and February 24, 2026, Staff sent an overdue email to the contacts on API's most recent RAAF, providing compliance filing instructions and indicating that the January 31 filing was overdue. Staff also attempted to contact API via telephone on March 2, 2026, but was unsuccessful in reaching anyone.

UBP Section 2.D.6.a.1 provides that, in determining an appropriate consequence when an ESCO fails to comply with the UBP, the Department shall first notify the ESCO of such failure(s) and request that the ESCO take corrective action within a prescribed "cure" period, which is based on a reasonable amount of time given the nature of the issue to be cured.

Staff contends that API apparently failed to submit its Annual Compliance Filing by January 31, 2026, and subsequently failed to respond to any of Staff's requests or inquiries. On April 22, 2026, Staff sent an NOAV letter via email and U.S. Mail to API and instructed API to file its required Annual Compliance Filing by May 13, 2026.[1] The NOAV letter made clear that, if the Department did not receive the

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[1] See Matter 26-00468, April 22, 2026 NOAV letter to API Energy, LLC.

filing by June 5, 2026, Staff would seek from the Commission an Order to Show Cause to find API in violation of UBP Section 2.D.1 and to seek further remedies, including the possible revocation of API's authorization to operate as an ESCO in the State of New York.

LEGAL AUTHORITY

The Commission has "the authority to condition ESCOs' eligibility to access utility [distribution systems] on such terms and conditions that the [Commission] determines to be just and reasonable."[2] The Commission's UBP was adopted pursuant to this authority and set forth various regulatory eligibility requirements for ESCOs to begin accessing, and to continue accessing, utility distribution systems for the purpose of selling energy services to customers. The Commission has the authority to enforce those terms and conditions by imposing consequences on ESCOs that fail to abide by them

DISCUSSION AND CONCLUSION

Every ESCO in New York State must comply with the UBP and with all applicable Commission Orders to maintain eligibility to operate. Staff has identified sufficiently credible information that API apparently did not submit its Annual Compliance Filing, an apparent violation of UBP Section 2.D.1. In addition, UBP Section 2.D.6.b identifies potential consequences that the Commission may impose upon an ESCO for non-compliance in one or more categories set forth in UBP Section 2.D.5, including possible revocation of eligibility.

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[2] Matter of National Energy Marketers Assn. v. New York State Pub. Serv. Comm., 33 N.Y.3d 336, 351 (2019); see generally UBP Section 2.d.6.a.1.b.

Consistent with the contentions discussed in this Order, the Commission therefore orders API to show cause why, based upon the allegations described herein, its eligibility to provide services as an ESCO in New York should not be revoked. API should further show cause why other consequences should not be imposed.

The Commission orders:

1. A proceeding is instituted, and API Energy, LLC is ordered to show cause within 28 days of the date of this Order why the Commission should not revoke its eligibility to operate as an Energy Services Company in the State of New York, or impose other consequences, as described in Uniform Business Practices Section 2.D.6.

2. In the Secretary's sole discretion, the deadline 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.

3. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary