

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 24-M-0482 - Proceeding on Motion of the Commission to Seek  
Consequences against Polaris Power Services LLC  
for Violations of the Uniform Business  
Practices.

ORDER REVOKING POLARIS POWER SERVICES LLC'S  
ELIGIBILITY TO SERVE CUSTOMERS IN NEW YORK

(Issued and Effective July 22, 2025)

BY THE COMMISSION:

INTRODUCTION

On November 20, 2024, the New York State Public Service Commission (Commission) issued an Order to Show Cause (OTSC) after the New York State Department of Public Service (Department or Staff) investigated Polaris Power Services LLC (Polaris Power or the Company) and identified sufficiently credible evidence indicating that Polaris Power apparently failed to comply with the Uniform Business Practices (UBP) and the December 12, 2019 Commission Order Adopting Changes to the

Retail Access Energy Market and Establishing Further Process<sup>1</sup>  
(December 2019 Order).

In the OTSC, the Commission ordered Polaris Power to show cause within thirty days why its eligibility to operate as an energy service company (ESCO) in the State of New York should not be revoked or, in the alternative, why other consequences set forth in the UBP should not be imposed. On April 10, 2025, approximately 100 days after the deadline, Polaris Power belatedly submitted a response to the OTSC (OTSC Response). After reviewing the OTSC Response, the Commission has found that the Company either admitted to Staff's allegations or failed to fully resolve Staff's concerns. Accordingly, by this Order, the Commission finds that Polaris Power has failed to comply with the UBP and the December 2019 Order and determines that the appropriate enforcement consequence is to revoke Polaris Power's eligibility to serve energy customers in New York State.

#### BACKGROUND

On December 12, 2019, the Commission issued the December 2019 Order, which "strengthen[ed] protections for residential and small commercial customers (mass-market customers) in the retail energy market."<sup>2</sup> The December 2019 Order instituted stricter eligibility requirements to ensure that ESCOs complied with regulations, rules, and the overarching policy goals of New York State and that their operations demonstrated a consistent commitment to regulatory compliance. The December 2019 Order specified that:

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<sup>1</sup> Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Service Companies, Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process (issued December 12, 2019).

<sup>2</sup> Id., p. 1.

ESCOs shall enroll new residential or small non-residential customers (mass market customers) or renew existing mass market customers for gas and/or electric service only if at least one of the conditions is met: (1) enrollment includes a guaranteed savings over the utility price, as reconciled on an annual basis; (2) enrollment is for a fixed-rate commodity product that is priced at no more than 5% greater than the trailing 12-month average utility supply rate; (3) enrollment is for a renewably sourced electric commodity product that (a) has a renewable mix that is at least 50% greater than the ESCO's current Renewable Energy Standard (RES) obligation, (b) the ESCO complies with the RES location and delivery requirements when procuring Renewable Energy Credits (RECs) or entering into bilateral contracts for renewable commodity supply, and (3) there is transparency of information disclosures provided to the customers with respect to pricing commodity sourcing.<sup>3</sup>

The December 2019 Order established a new paradigm for ESCO business practices and reined in undesirable ESCO conduct. Following petitions for clarification or rehearing on some ordering clauses of the December 2019 Order, ESCO requirements applicable here went into effect on April 16, 2021.

Polaris Power was initially granted approval to operate as an ESCO in New York State on August 28, 2020. During the revised eligibility application process, which occurred as a result of the December 2019 Order, all ESCOs were required to submit a new application package to Staff for review that included samples of sales agreements for each compliant product offering they wished to market.<sup>4</sup> As part of that revised application process, on March 19, 2021, Staff granted Polaris Power eligibility to provide and serve New York customers with

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<sup>3</sup> Id., p. 108.

<sup>4</sup> Id., pp. 15, 109-110.

two different products: (1) a fixed-rate commodity product priced at no more than 5 percent greater than the trailing 12-month average utility supply rate; and (2) a renewably sourced electric commodity product to mass market consumers in New York State. The Company is currently eligible to serve both residential and non-residential natural gas and electric customers in New York State with those permitted products.<sup>5</sup>

LEGAL AUTHORITY

The Commission has broad "authority to condition ESCO's eligibility to access utility [distribution systems] on such terms and conditions that the [Commission] determines to be just and reasonable."<sup>6</sup> Consistent with this authority, the UBP sets forth various eligibility conditions for ESCOs to begin accessing, and to continue accessing, utility distribution systems for the purpose of selling energy services to customers. The Commission has authority to enforce these conditions by imposing consequences on ESCOs that fail to abide by the terms of the UBP,<sup>7</sup> including revocation of an ESCO's ability to operate in New York.<sup>8</sup>

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<sup>5</sup> Polaris Power operates in the service territories of Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation.

<sup>6</sup> Matter of National Energy Marketers Assn. v. New York State Pub. Serv. Comm., 33 N.Y.3d 336, 343, 351, reargument denied, 33 N.Y.3d 1130 (2019); see generally UBP §2.D.6.a.1.b.

<sup>7</sup> UBP §2.D.6.a.1.b.

<sup>8</sup> UBP §2.D.6.b.6.

DISCUSSION

In February of 2024, Staff initiated an investigation into Polaris Power's contracts after a routine renewable energy review revealed multiple concerns regarding the Company's business practices. As a result of that investigation, on November 20, 2024, the Commission issued the OTSC, providing Polaris Power an opportunity to respond to allegations that it: (1) apparently violated UBP Section 2.5.b by failing to honor the terms of its sales agreements, that required the Company to purchase a specific percentage of Renewable Energy Credits (RECs); and (2) apparently failed to enroll mass market customers on compliant products, in violation of the Commission's December 2019 Order.

Regarding the UBP Section 2.5.b violation, Staff alleged that Polaris Power failed to timely disclose that the Company served customers on renewable products in 2022, despite multiple reminders from Staff in 2023 regarding this disclosure obligation. Polaris Power belatedly acknowledged that it "did serve customers on a renewable product in 2022," but did not make this disclosure to Staff until February 13, 2024. Staff reviewed the retirements Polaris Power made in the New York Generation Tracking System (NYGATS) for 2022 and discovered that the Company retired zero RECs in its Environmental Disclosure Program subaccount in NYGATS toward its voluntary renewable load, as required by the terms of its contractual sales agreements with customers.<sup>9</sup>

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<sup>9</sup> A 2022 sales agreement indicates that Polaris Power contracted with its customers that "50% of customer's usage during the term of this contract will be offset by the purchase and retirement of renewable energy credits." Polaris Power customer sales agreement, Document Matter Management (DMM) Matter 22-00900, Item No. 191 (filed March 1, 2024).

Staff also alleged that Polaris Power violated the December 2019 Order by enrolling customers on non-compliant products. Staff's review of the Company's contracts revealed multiple enrollment errors. For instance, Staff contended that Polaris Power enrolled most of its mass-market customers on commercial contracts rather than compliant mass-market contracts. In a letter submitted to Staff, dated March 19, 2024 (but filed in DMM on October 9, 2024), Polaris Power admitted that 888 mass-market (non-demand metered) accounts were linked to a demand-meter customer account. Staff also noticed multiple other inconsistencies in Polaris Power's submissions that raised compliance concerns. For instance, Staff noticed customer names on commercial sales agreements that were not associated with mass-market customer names and account numbers included in the addendum to those sales agreements. In one case, the Company submitted a commercial sales contract containing a customer name that was not associated with any account in the utility territory where that customer is served. Polaris Power admitted that these underlying facts did occur and characterized them as "clerical errors." In some instances, the Company was unable to explain how or why these uncontested errors occurred.

On April 10, 2025, after receiving multiple extensions, Polaris Power belatedly filed the OTSC Response.<sup>10</sup> For the reasons discussed below, the Commission finds Polaris Power's response did not effectively dispute the contentions in the OTSC. Indeed, the Company appears to concede various contentions presented by Staff. Other arguments by the Company are unpersuasive on a legal or factual basis. Accordingly, the Commission further determines that the Company's failure to

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<sup>10</sup> The OTSC Response is dated April 4, 2025, but was filed on April 10, 2025.

abide by the terms of the UBP and the December 2019 Order warrants revocation of its eligibility to serve energy customers in the State of New York.

A. Failure to Honor Terms of Sales Agreements

In the OTSC Response, Polaris Power first offers to “comply with the renewable obligations in its contracts with customers” by offsetting 50 percent of customers’ usage by purchasing RECs or making alternative compliance payments (ACPs) to the New York State Energy Research and Development Authority (NYSERDA) upon receipt of an invoice from NYSERDA.<sup>11</sup> The Company argues that it should now be permitted to make ACPs in lieu of purchasing RECs for 2022, and affirmatively represents that its 2022 REC compliance obligation should be approximately \$17,482.<sup>12</sup> Polaris Power further states that “the delay in providing its 2022 REC report ... should not result in penalties beyond payment of the required ACPs since there have previously been several other ESCOs that have had similar compliance issues that were not found in violation of Department rules.”<sup>13</sup> The Company also contends that it “previously paid all other NYSERDA invoices associated with its 2022 [Renewable Energy Standard] requirements, including those for Tier 1 RECs and Zero Emissions Credits.”<sup>14</sup> Finally, Polaris Power urges leniency for its admitted and uncontested failure to comply with its contractual obligations to purchase 2022 voluntary RECs, contending that this failure represents “a solitary occurrence that will not be repeated.”<sup>15</sup>

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<sup>11</sup> OTSC Response, p. 2.

<sup>12</sup> Id., pp. 5-7.

<sup>13</sup> Id., pp. 7-8.

<sup>14</sup> Id., p. 8.

<sup>15</sup> Id.

By way of background, ESCOs such as Polaris Power have an obligation to: (1) comply with the Renewable Energy Standard (RES), a State requirement that all load-serving entities annually purchase and retire Tier 1 RECs or, in the alternative, make ACPs, based on a percentage of their overall loads; and (2) purchase and retire RECs or, in the alternative, make Voluntary Compliance Payments (VCPs) to honor any contractual obligations for voluntary renewable products sold to their customers.<sup>16</sup> Here, the Company *only* satisfied the first of these two obligations - its 2022 RES payments - in a timely manner.<sup>17</sup> Polaris Power admittedly failed to adhere to the process by not reporting its renewable contract load obligations according to the timeline for its second obligation, until after the close of the 2022 compliance years' reconciliation process.

While the Commission understands that the Company now is willing to address its admitted 2022 voluntary REC shortfall for this second obligation (whether with RECs or VCPs), the Commission has substantial concerns about the Company's response to Staff's inquiries on this subject over time. Polaris Power not only delayed in providing the relevant data at the appropriate time in June 2023, at the close of the compliance period for VCPs, it also ignored several email inquiries from Staff on this subject in 2023, and only indicated for the first

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<sup>16</sup> To avoid confusion, and in order to distinguish these payments from the typical Tier 1 ACP, Staff and NYSERDA have adopted use of the term VCP for payments made to NYSERDA in relation to ESCO voluntary renewable product offerings.

<sup>17</sup> The Commission notes, however, that while Staff has confirmed that Polaris Power did make necessary RES payments to NYSERDA, Attachment 3 to the OTSC Response, which purports to show that Polaris Power "previously paid all other NYSERDA invoices associated with its 2022 RES requirements, including those for Tier 1 RECs and Zero Emissions Credits," only includes NYSERDA invoices, not conclusive proof of payment.

time that it served customers on a renewable product in 2022 on February 13, 2024. Furthermore, Polaris Power only acknowledged that it served renewable load in 2022 after Staff requested copies of all active customer contracts, which conclusively demonstrated that Polaris Power served customers on renewable products during that year. Thus, Polaris Power ignored its contractual obligations to its customers who chose to enroll in a product that committed Polaris Power to retire RECs or pay VCPs to match its customers' electric load for 2022, and also ignored multiple Staff inquiries on this subject and thus ignored the regulatory framework underlying its ability to market to consumers in New York.

Turning to Polaris Power's statement that other ESCOs had "similar compliance issues" but were not found to have committed a violation of the UBP, Polaris Power cites to Case 23-E-0678, regarding Just Energy New York Corp. (Just Energy).<sup>18</sup> That case is readily distinguishable from Polaris Power's situation. Just Energy *did* retire the appropriate number of 2022 RECs to match its load, but simply failed to retire those RECs in the appropriate NYGATS subaccount.<sup>19</sup> Here, Polaris Power admittedly *did not* retire 2022 RECs, as required, and did not

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<sup>18</sup> Case 23-E-0678, Petition of Just Energy New York Corp. for a Declaratory Ruling that the Company Complied with the Requirements of the Environmental Disclosure Labeling Program Rules for the 2022 Compliance Year, Petition of Just Energy New York Corp. for a Declaratory Ruling that the Company Complied with the Requirements of the Environmental Disclosure Labeling Program Rules for the 2022 Compliance Year (filed November 16, 2023).

<sup>19</sup> See *id.*, p. 2 (noting that "Just Energy purchased and retired qualifying RECs to meet its voluntary renewable obligations for the 2022 compliance period... and there is no dispute that Just Energy purchased and retired enough Tier 1 RECs to satisfy its *Clean Energy Standard* (CES) mandates.") (emphasis in original).

acknowledge that it had this renewable load until more than a year after that compliance period ended. As previously noted, Staff contacted Polaris Power on several occasions inquiring about its 2022 voluntary renewable load but received no response or acknowledgment that the Company served customers on renewable products until February 13, 2024.

In sum, the Commission finds that Polaris Power's failure to honor the terms of customer sales agreements on such a large scale is not a "solitary occurrence," as the Company contends. The Commission holds that Polaris Power's pattern of behavior, as outlined above, is indicative at minimum of insufficient internal compliance practices and, moreover, represents a failure to comply with a core compliance condition in the retail market space. Indeed, the Company's OTSC Response does not address several other Staff allegations regarding Polaris Power's internal recordkeeping, including the Company's failure to properly associate customer names and account numbers with sales agreements. The record here demonstrates more than a solitary compliance failure. Polaris Power has therefore demonstrated a pattern of consistent disregard for the consumer protections and regulations set forth in the UBP.

B. Failure to Enroll Customers on Compliant Products

In response to Staff's contention that Polaris Power violated the terms of the December 2019 Order by failing to enroll customers on compliant products, Polaris Power first states that it "originally relied heavily on third parties" to ensure compliance with relevant Commission rules and admits that this practice resulted in improper customer enrollments and classifications.<sup>20</sup> The Company then asserts that it "did not

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<sup>20</sup> OTSC Response, pp. 8-9.

become aware of these [enrollment] issues until the Department requested additional information about the 2022 REC audit.”<sup>21</sup>

Polaris Power also attempts to minimize the impact of these enrollment errors and misclassifications, arguing that these undisputed mistakes caused a subset of customers to be charged approximately \$33,000 less than what they would have been charged by the utility, with the remaining customers charged approximately \$45,000 more than what they would have been charged by the utility.<sup>22</sup> Polaris Power observes that “the net difference amounts to approximate overcharges of only \$12,000” before offering to re-rate \$45,000 to impacted customers.<sup>23</sup>

Much of the Company’s argument as to why it should not be penalized for violating the December 2019 Order centers on what it describes as “confusion ... amongst the Department and the utilities as to how to classify certain customers.”<sup>24</sup> Polaris Power attempts to analyze correspondence between Staff and a utility that it claims “appears” to demonstrate confusion regarding classification of mass-market and small commercial accounts.<sup>25</sup> Based on this reading of select emails, Polaris Power concludes that Staff and the utility are using a definition of mass-market customers that does not comport with the Commission’s definition in the February 23, 2016 Order Resetting Retail Energy Markets and Establishing Further

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<sup>21</sup> Id., p. 9.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id., p. 10.

<sup>25</sup> Id., pp. 10-11.

Process.<sup>26</sup> In light of what it calls this “confusion amongst all parties,” Polaris Power contends that it would be improper to penalize it for misunderstanding the Commission’s requirements.

As an initial matter, the Commission finds it concerning that Polaris Power attempts to explain away hundreds of instances of non-compliance by blaming third parties. It appears that the Company accepted the advice of third parties and/or contract enrollments facilitated by third parties without subsequently reviewing contracts to ensure compliance with Commission orders and regulations. Polaris Power did not even become aware of these contract issues until Staff began its inquiry, demonstrating that the Company’s internal compliance protocols (to the extent they exist) are ineffective.<sup>27</sup>

The Commission issued the December 2019 Order to protect consumers by requiring, among other things, that ESCOs serving mass-market customers are limited to serve customers on a defined list of compliant products. ESCOs must perform due diligence to ensure customers are classified properly. ESCOs can also access customer service classifications through the respective utilities at several junctures during the enrollment

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<sup>26</sup> Cases 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Service Companies, Order Resetting Retail Energy Markets and Establishing Further Process (issued February 23, 2016), p. 4, n. 2.

<sup>27</sup> The Commission has rejected other arguments attempting to place responsibility on third-party or “rogue” contractors or marketing representatives. See generally Case 20-M-0446, Proceeding on Motion of the Commission to Seek Consequences against Josco Energy Corp for Violations of the Uniform Business Practices, Order Confirming Revocation of Eligibility (issued May 16, 2022) and Case 20-M-0589, Proceeding on Motion of the Commission to Seek Consequences Against SunSea Energy, LLC for Violations of the Uniform Business Practices, Order Denying SunSea Energy, LLC’s Petition for Rehearing and Reconsideration (issued September 16, 2022).

process, including during Electronic Data Interchange. Therefore, claiming a customer was enrolled on an incorrect product due to an unintentional, accidental, or clerical error demonstrates poor business practices by Polaris Power. While the Commission recognizes Polaris Power's offer to re-rate customers \$45,000, it is unclear how Polaris Power arrived at this re-rate number. The lack of Company information to support or vet this number diminishes and undercuts its utility or accuracy. The Commission also finds that Polaris Power's offer is insufficient because the Company enrolled the vast majority of its customers on non-compliant contracts. Moreover, Polaris Power did not offer to come into compliance with the December 2019 Order by switching customers who were improperly enrolled on commercial contracts to compliant mass-market contracts. Additionally, Polaris Power's argument about account classification only serves to distract from its admitted failures and is not persuasive.<sup>28</sup> The arguments the Company puts forth in the OTSC Response cannot remedy its extensive non-compliance.

#### CONCLUSION

Every ESCO in New York must comply with the UBP and all applicable Commission orders including, without limitation, the December 2019 Order, to maintain eligibility to operate in

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<sup>28</sup> Polaris Power relies heavily on an isolated email exchange to insinuate that Commission action is unwarranted because Staff and the utility "appear" to be confused about customer classifications. This email exchange simply reflects Staff's attempt to clarify mass market and commercial customer classifications after the Company submitted its contracts for Staff review. Given Staff's observation of glaring enrollment discrepancies in Polaris Power's submission, it was appropriate for Staff to seek to confirm its assessment and interpretation of information.

New York. Polaris Power has failed to comply with the terms of the UBP and the December 2019 Order. Specifically, the Commission finds that Polaris Power:

- 1) Failed to honor the terms of its sales agreement to purchase a specified percentage of RECs, in violation of UBP Section 2.5.b.; and
- 2) Failed to enroll mass market customers on compliant contracts, in violation of the December 2019 Order.

These violations were not isolated events, but rather encompass numerous instances of non-compliance that extend across the Company's business practices that reflect a pervasive disregard of the UBP and the Commission's December 2019 Order. The Commission therefore revokes Polaris Power's eligibility to serve as an energy services company in New York State. Polaris Power shall return its customers to full utility service within 60 days of the effective date of this Order. These transfers shall occur on the customers' regularly scheduled meter reading dates.

The Commission orders:

1. Polaris Power Services LLC's eligibility to operate as an energy services company in New York State is revoked, consistent with the discussion in the body of this Order and with the obligations described in Ordering Clause 2.

2. Polaris Power Services LLC shall, within 60 days from the effective date of this Order, return each of its customers to full utility service in the utility service territories it operates, with transfers occurring on the customers' regularly scheduled meter reading dates.

3. To facilitate compliance, the distribution utilities in whose service territories Polaris Power Services

LLC operates - Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation - shall, as of 60 days from the effective date of this Order, switch any customers who remain with Polaris Power Services LLC to full utility service.

4. The Secretary is directed to provide notification of this Order to each distribution utility identified in Ordering Clause 3 above.

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, include a justification for the extension, and be filed at least three days prior to the affected deadline.

6. This proceeding is closed pending compliance with Ordering Clauses 2 and 3.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary