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-0431 - Proceeding on Motion of the Commission to Seek Consequences against Median Energy Corp. 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) renders a preliminary conclusion that Department of Public Service staff (Staff) has identified sufficiently credible evidence to support the issuance of an Order to Show Cause (OTSC) concerning Median Energy Corp.’s (Median or the Company) apparent failure to comply with the Uniform Business Practices (UBP) and a January 25, 2021 Commission Order

Addressing ESCO Petitions Requesting Authorization to Provide Additional Products and Services[1] (January 2021 Order).

This Order does not constitute final findings of facts or conclusions of law. We now provide Median with the opportunity to respond to Staff's contentions. Median is ordered to show cause within 28 days why its eligibility 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.

BACKGROUND

A. The UBP

In 1999, the Commission adopted the UBP. The UBP sets forth various 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 adopted revisions to the UBP on multiple subsequent occasions aimed at enhancing these procedures. The most recent UBP update went into effect in April 2026.

As relevant to this proceeding, UBP Section 2.B.1 outlines application requirements for ESCOs, including information and attachments that must be submitted to Staff to gain eligibility to the ESCO market in New York State. Among other things, ESCOs must submit a list of entities that will market to customers on behalf of the ESCO.[2] Additionally, UBP Section 2.D outlines the requirements for ESCOs to maintain eligibility status in New York. One such requirement is that

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[1] Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Service Companies, Order Addressing ESCO Petitions Requesting Authorization to Provide Additional Products and Services (issued January 25, 2021).

[2] UBP Section 2.B.1.o.

ESCOs must submit a description of any major change to their Retail Access Eligibility Application Form, which includes changes to sales agreements.[3] Furthermore, ESCOs must post a price for each product that it offers to residential customers at least once every thirty days on the Power to Choose website.[4]

UBP Section 5 establishes the practices for changing a customer's electricity or natural gas provider and for obtaining a customer's authorization for the change. Of particular importance to this proceeding is the Third Party Verification (TPV) requirement, which requires an Independent Third Party to obtain customer authorization for any sales resulting from telephone solicitation or door-to-door marketing.[5]

UBP Section 10 describes the marketing standards that ESCOs and ESCO representatives must follow when marketing to customers in New York. As relevant to this proceeding, when an ESCO marketing representative contacts a customer in person at a location other than the ESCO's place of business, the ESCO representative must first introduce themselves by stating the name of the ESCO that they represent, identify that they represent the ESCO, and specify that they do not represent the distribution utility.[6] Another important marketing standard pertinent to this proceeding is that "ESCOs shall [n]ot engage in misleading or deceptive conduct as defined by State or federal law, or by Commission rule, regulation, or Order."[7] Additionally, "ESCOs shall [n]ot make false or misleading

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[3] UBP Section 2.D.4.a.

[4] UBP Section 2.D.4.d.

[5] UBP Section 5, Attachment 1.A.

[6] UBP Section 10.C.1.a.

[7] UBP Section 10.C.4.a.

representations [regarding] rates or savings offered by the ESCO."[8]

The Commission has authority to enforce the requirements of the UBP by imposing consequences on ESCOs that fail to abide by the UBP's terms and conditions.[9] An ESCO may be subject to the consequences listed in UBP Section 2.D.6.b for multiple reasons, including, but not limited to, "failure to comply with customer protections" (UBP Section 2.D.5.c); "failure to comply with ... Department oversight requirements" (UBP Section 2.D.5.d); "failure to provide notice to the Department of any material changes in the information contained in the Retail Access Eligibility Form ...." (UBP Section 2.D.5.e); "failure to comply with UBP terms and conditions ...." (UBP Section 2.D.5.f); "repeated failures to comply with price reporting requirements ...." (UBP Section 2.D.5.h); "a material pattern of consumer complaints on matters within the ESCO's control" (UBP Section 2.D.5.l); and "failure to comply with any of the Marketing Standards set forth in Section 10 of the UBP" (UBP Section 2.D.5.n).

B. The Commission issued the Home Warranty Order

On January 25, 2021, the Commission issued an Order Addressing ESCO Petitions Requesting Authorization to Provide Additional Products and Services (Home Warranty Order). In that Order, the Commission granted authorization to ESCOs to market home warranty products.[10] The Commission found that the bundling of commodity service with a maintenance agreement ensured that

[8] UBP Section 10.C.4.b.

[9] UBP Section 2.D.6.a.2

[10] Case 15-M-0127 et al., In the Matter of Eligibility Criteria for Energy Service Companies, Order Addressing ESCO Petitions Requesting Authorization to Provide Additional Products and Services (issued January 25, 2021), p. 15.

customers could use electricity and/or natural gas in a manner that provides essential services to the customers.[11] The Commission further found that the products are designed to insure against high-cost repair bills which consumers may be unable to afford and therefore threaten the consumers' access to essential services such as lighting, heating and cooling air, and heating water.[12]

Thereafter, the Commission ordered that ESCOs wishing to offer home warranty products must file proposed sales agreements and supporting information for review and approval by Staff.[13] Staff was tasked with ensuring that home warranty products comply with the UBP and Commission orders.[14] The Commission directed that "ESCOs may not market or sell such products without first obtaining Staff approval."[15]

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."[16] Consistent with this authority, the Commission's orders and the UBP set 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

[11] Id., p. 16.

[12] Id.

[13] Id., p.17.

[14] Id.

[15] Id.

[16] Matter of National Energy Marketers Assn. v. New York State Pub. Serv. Comm., 33 N.Y.3d 336, 343, 351 (2019); see generally UBP Section 2.D.

authority to enforce these conditions by imposing consequences on ESCOs that fail to abide by the terms of the UBP.[17]

THE DEPARTMENT'S INVESTIGATION AND FINDINGS

The following summary is based upon Staff's investigation to date; it does not constitute final findings or conclusions by the Commission, and Median will have an opportunity to respond to the contentions.

A. July 30, 2025 Notice of Apparent Violation

In 2025, Staff began an investigation into Median's business practices after reviewing several complaints filed by Median's customers. During the investigation, Staff found that Median:

1) Apparently violated UBP Section 2.B.1.o by failing to inform the Staff of its use of a third-party vendor Paradigm for marketing services;
2) Apparently violated UBP Section 2.D.4.d by failing to post offers to the Power to Choose website while marketing to residential customers in New York during 2024-2025;
3) Apparently violated UBP Section 2.D.4.a by failing to provide updated contracts to Staff which included the "Golden Ticket" promotional item prior to use;
4) Apparently violated UBP Sections 10.C.1.a, 10.C.4.a, and 10.C.4.b when Median door-to-door representatives engaged in deceptive marketing by failing to differentiate themselves from the default utility and promised savings to customers; and
5) Apparently violated UBP Section 5, Attachment 1.A by failing to conduct independent third-party verification

[17] UBP Section 2.D.6.a.2.

phone calls outside of the presence of Median's sales representative.

Following its initial investigation, Staff issued a Notice of Apparent Violation (NOAV) to Median on July 30, 2025, alleging the above-mentioned violations.[18] The NOAV letter made clear that if Staff found Median's reply to be insufficient or evidenced failure to comply with the UBP, Staff may seek an OTSC which sought penalties up to an including the possible revocation of Median's ability to operate as an ESCO in New York.[19] On August 29, 2025, Median responded to the July 30, 2025 NOAV.[20]

1. Median's Response to the July 30, 2025 NOAV

In Median's response to the July 30, 2025 NOAV, the Company disagrees with the allegations put forth by Staff as being violations of the UBP.[21] Median argued that it did not believe that the record supports findings of systemic non-compliance.[22] Median committed to using the NOAV process to "evaluate our operations, strengthen our compliance framework, and ensure our practices meet Commission requirements ...."[23] As part of this effort, Median paused door-to-door marketing activity in New York and hired a Director of Operations who would examine the Company's policies and procedures, as well as

[18] Matter 25-01584, In the Matter of Notice of Apparent Violation against Median Energy Corp., Notice of Apparent Violation (dated July 30, 2025).

[19] Id., p. 5.

[20] Matter 25-01584, supra, Median's Response to July 30, 2025 NOAV (filed August 29, 2025).

[21] Id., p. 1.

[22] Id., p. 2.

[23] Id.

assist in developing "enhanced compliance measures."[24] Median then responded to each apparent violation in due course.

Median admitted to failing to advise Staff that it was using Paradigm as a third-party vendor for marketing as required in UBP Section 2.B.1.o. Median admitted to failing to post its offers to the Power to Choose website while marketing to residential customers in New York as required in UBP Section 2.D.4.d.

Median disputed the allegation that the company failed to provide an updated contract which included the "Golden Ticket" promotion as required in UBP Section 2.D.4.a. Median argued that the promotion was never authorized for use in New York but acknowledged that "the references to Golden Ticket rebates in some customer complaints underscores the need for greater clarity and vendor instructions."[25] Furthermore, Median tacitly admitted that "[Golden Ticket] references may have appeared in past triennial filings or marketing content, [as a] result of an administrative oversight."[26]

Median disputed the allegation that its sales representatives engaged in deceptive marketing by misrepresenting themselves as the default utility in violation of UBP Sections 10.C.1.a and 10.C.4.a. Median also disputed that its representatives promised savings to customers in violation of UBP Section 10.C.4.b. Median argued that Staff did not cite specific statements or materials to support the allegation and that Staff only provided customer complaint case numbers. Notably, Median paused door-to-door sales marketing in New York to address this concern.

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[24] Id.

[25] Id., p.4.

[26] Id., p.5.

Lastly, Median disputed the allegation that its sales representatives were present during TPV phone calls in violation of UBP Section 5, Attachment 1.A. In response, "Median ... suspended all door-to-door marketing in New York while it reviews and strengthens protocols to guarantee that TPVs are conducted independently and without representative influence."[27]

B. April 20, 2026 Notice of Apparent Violation

In July 2025, Median submitted its triennial compliance filing to Staff. During Staff's review of the triennial compliance filing, Staff found revisions were necessary to Median's Home Warranty Product to bring it into compliance with the Home Warranty Order. On January 21, 2026, Staff issued a triennial compliance letter to Median noting that the Company's Home Warranty Product was still under review and should not be offered until Median received confirmation that it is approved.

On April 2, 2026, Staff discovered that Median was offering a Home Warranty Product (HWP) and posted that product offering on the Power to Choose website despite Staff's explicit direction to not offer it without approval. Staff immediately notified Median and directed the Company to remove the offers from the website. Thereafter, Staff issued a NOAV to Median on April 20, 2026.[28] Staff alleged that Median apparently violated the Commission's Home Warranty Order[29] by offering a HWP to consumers in New York State before Staff approval. Additionally, Staff requested that Median provide (1) proof that

[27] Id., p. 9.

[28] Matter 26-00774, In the Matter of Notice of Apparent Violation against Median Energy Corp., Notice of Apparent Violation (dated April 20, 2026).

[29] Case 15-M-0127 et al., supra, Order Addressing ESCO Petitions Requesting Authorization to Provide Additional Products and Services (issued January 25, 2021).

the Company removed the HWP from the Power to Choose website; (2) the total number of mass market customers enrolled on a HWP from January 21, 2026, to present; (3) copies of all customer contracts that include the HWP and were enrolled from January 21, 2026, to present; (4) copies of the Company's sales agreements containing the HWP that were used for mass market customer enrollment from January 21, 2026, to present; and (5) an explanation as to why the company offered the HWP when Staff had not approved it.[30]

1. Median's Response to the April 20, 2026 NOAV

On May 15, 2026, Median responded to the April 20, 2026 NOAV.[31] Median explained that it removed all HWP offers from the Power to Choose website on April 3, 2026. As proof, Median provided a copy of an internal email discussing the removal of HWP offers. Median further explained that it enrolled 463 mass market customers on a HWP between January 21, 2026, and May 8, 2026. Median provided a spreadsheet which listed all the customers that were enrolled on a HWP during this time period, as well as their relevant information. Median also provided copies of customer contracts which were enrolled on a HWP.

Median disputed Staff's allegation that the Company was offering an unapproved HWP. Median reasoned that it was eligible to offer a HWP based upon a May 8, 2023 letter from Staff advising the company that it was eligible to offer the HWP.[32] Median, however, acknowledged that Staff notified the

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[30] Matter 26-00774, supra, Notice of Apparent Violation, p. 2.

[31] Matter 26-00774, supra, Median's Response to April 20, 2026 NOAV (filed May 15, 2026).

[32] See Revised Eligibility Letter from John Sheevers (dated May 8, 2023).

Company that it should not offer the HWP until receiving confirmation that the sales agreement was approved for use.

Median further argued that it believed Staff's approval of the HWP submitted with its 2025 Triennial compliance filing was contingent upon the inclusion of affirmative-consent language that was required under the Commission's November 13, 2025 Order modifying the UBP,[33] but that the requirement deadline had been extended by the Secretary of the Commission.[34] Therefore, Median believed that it was not offering an unapproved product.

2. Staff's Review of Median's Response

After reviewing Median's response to the April 20, 2026 NOAV, Staff now contends that the company has committed further apparent violations. Review of customer contracts executed from January 21, 2026, to May 8, 2026, revealed that Median was using non-compliant sales agreements in apparent violation of the UBP and a prior Commission Order. Specifically, Median was using contracts which failed to include the broker compensation disclosure. This is an apparent violation of UBP Section 5.B.4.k, as well as the Commission's June 23, 2023 Order.[35]

[33] Case 98-M-1343, In the Matter of Retail Access Business Rules, Order Adopting Modifications to the Uniform Business Practices (issued November 13, 2025).

[34] Case 98-M-1343, supra, Notice Extending Deadlines (issued December 30, 2025).

[35] Case 23-M-0106 et al, In the Matter of Commission Registration of Energy Brokers and Energy Consultants Pursuant to Public Service Law Section 66-t, Order Adopting Energy Broker and Energy Consultant Registration Requirements (issued June 23, 2023).

DISCUSSION AND CONCLUSION

Every ESCO in New York must comply with the UBP and all applicable Commission orders including, without limitation, the January 2021 Order, to maintain eligibility to operate in New York. Staff alleges that Median has failed to comply with the terms of the UBP, the January 2021 Order, and the June 2023 Order.

The Commission notes that the presentation of Staff's allegations herein does not reflect a final determination of facts or legal conclusions. However, at this initial stage of the proceeding, the Commission finds that Staff's investigation has identified sufficient credible information to support Staff's contention that Median:

1) Apparently violated UBP Section 2.B.1.o by failing to inform the Staff of its use of a third-party vendor Paradigm for marketing services;
2) Apparently violated UBP Section 2.D.4.d by failing to post offers to the Power to Choose website while marketing to residential customers in New York during 2024-2025;
3) Apparently violated UBP Section 2.D.4.a by failing to provide updated contracts to Staff which included the "Golden Ticket" promotional item prior to use;
4) Apparently violated UBP Sections 10.C.1.a, 10.C.4.a, and 10.C.4.b when Median door-to-door representatives engaged in deceptive marketing by failing to differentiate themselves from the default utility and promising savings to customers;
5) Apparently violated UBP Section 5, Attachment 1.A by failing to conduct independent third-party verification phone calls outside of the presence of Median's sales representatives;

6) Apparently violated the Home Warranty Order by posting a Home Warranty Product on the Power to Choose website without Staff's approval; and
7) Apparently violated UBP Section 5.B.4.k and the Commission's June 2023 Order by enrolling customers using non-compliant sales agreements which failed to include a broker compensation disclosure.

Staff contends that Median's apparent violations were not isolated events but rather encompass numerous instances of non-compliance that extend across the Company's business practices that may reflect a pervasive disregard of the UBP and the Commission's January 2021 and June 2023 Orders. Based on the information identified by Staff, and for the reasons discussed in this Order, the Commission therefore orders Median to show cause why, based upon the allegations and contentions described herein, its eligibility to provide services as an ESCO in New York should not be revoked. Median should further show cause why other consequences should not be imposed.

The Commission orders:

1. A proceeding is instituted, and Median Energy Corp. 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 UBP 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