

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 22, 2026

COMMISSIONERS PRESENT:

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

CASE 23-M-0106 - In the Matter of Commission Registration of
Energy Brokers and Energy Consultants Pursuant
to Public Service Law Section 66-t.

CASE 15-M-0180 - In the Matter of Regulation and Oversight of
Distributed Energy Resource Providers and
Products.

CASE 98-M-1343 - In the Matter of Retail Access Business Rules.

ORDER ADOPTING ENERGY BROKER AND CONSULTANT
FINANCIAL ASSURANCE REQUIREMENTS

(Issued and Effective January 28, 2026)

BY THE COMMISSION:

INTRODUCTION

Public Service Law (PSL) §66-t requires energy brokers and consultants (EB&Cs) to register with the Public Service Commission (Commission) and demonstrate financial accountability "by a bond or other method of financial accountability."¹ In the Order Adopting Energy Broker and Energy Consultant Registration Requirements, issued in June of 2023, the Commission determined

¹ PSL §66-t(3).

that EB&Cs must demonstrate financial accountability through a standby letter of credit.² This requirement was suspended in accordance with a preliminary injunction issued by the New York State Supreme Court, Albany County. Through this Order, the Commission again implements the requirement that registered EB&Cs must provide a demonstration of financial accountability and also adopts a proposal filed by Department of Public Service staff (Staff) to allow EB&Cs to demonstrate financial accountability through a surety bond or a letter of credit.

BACKGROUND

On December 23, 2022, the Governor signed into law PSL §66-t, which requires that the Commission establish a registration process for EB&Cs.³ As part of this registration process, EB&Cs are required to demonstrate financial accountability "by a bond or other method of financial accountability" in an amount not less than \$100,000 for energy brokers and not less than \$50,000 for energy consultants.⁴ On June 23, 2023, the Commission issued the Order Adopting Energy Broker and Energy Consultant Registration Requirements, which effectuated the provisions of PSL §66-t through modifications to the Uniform Business Practices (UBP) and Uniform Business Practices for Distributed Energy Resource Suppliers (UBP-DERS). Under the June 2023 Order, the Commission determined that EB&Cs must provide an irrevocable letter of credit to satisfy the statute's financial accountability requirement.⁵

² Cases 23-M-0106 et al., Order Adopting Energy Broker and Energy Consultant Registration Requirements (issued June 23, 2023) pp. 36-37 (June 2023 Order).

³ Chapter 787 of the Laws of 2022.

⁴ PSL §66-t(3).

⁵ June 2023 Order, pp. 36-37.

Following the June 2023 Order, the Commission received three petitions for rehearing and one related petition for a declaratory ruling. The Commission addressed those petitions in an April 18, 2024, Declaratory Ruling and Order on Rehearing.⁶ The Rehearing Order rejected arguments that the Commission must accept a surety bond as a method of financial accountability.

Following the Rehearing Order, certain regulated entities and one industry organization (collectively, the petitioners) commenced two separate CPLR article 78 proceedings challenging certain aspects of the Commission's orders. The petitioners primarily argued that the statute allows EB&Cs to demonstrate financial accountability via a surety bond. The Commission had thus, in the petitioners' view, misinterpreted the statute by requiring a letter of credit instead. On September 12, 2024, the New York State Supreme Court, Albany County, issued a preliminary injunction enjoining the Commission's enforcement of the financial accountability requirement. Accordingly, on September 19, 2024, the Secretary suspended the requirement that applicants provide a method of financial accountability until further notice. On June 25, 2025, New York State Supreme Court, Albany County, held that PSL §66-t allows regulated entities to satisfy the financial accountability requirement with a bond.⁷ The Court, therefore, permanently enjoined the Commission from "removing bonds as an acceptable form of financial accountability."⁸ On all other issues, the Court sided with the Commission.

⁶ Cases 23-M-0106 et al., Declaratory Ruling and Order on Rehearing (issued April 18, 2024) (Rehearing Order).

⁷ Diversegny, LLC et al. v. New York State Pub. Serv. Comm'n, No. 907356-24, at 5 (N.Y. Sup. Ct., Albany County June 25, 2025).

⁸ Id.

STAFF PROPOSAL

On August 28, 2025, Staff filed a proposal to modify §11.B.1.j of the UBP and §4.B.1.j of the UBP-DERS to reflect the Court's order and to specifically include a bond as an acceptable demonstration of financial accountability. The Staff proposal would allow EB&Cs to demonstrate financial accountability through a surety bond issued by a reputable financial institution on a form prescribed by the Department of Public Service (Department) with a penal sum of \$100,000 for registering energy brokers and \$50,000 for registering energy consultants and would require that the bond meet the following conditions:

1. The Department shall be named as the obligee;
2. As a condition of the bond, the applicant and its employees are required to comply with all applicable provisions of the laws of the State of New York and the rules, regulations, and orders of the Commission and of the Department, including, but not limited to, the UBP and UBP-DERS;
3. If the applicant breaches the bond's conditions, the Department may recover against the bond for the reimbursement of fees or other charges that the Department has determined were improperly collected from customers; for the payment of past due fees or other charges owed by the applicant to the Department, including any unpaid penalties; and for any customer reimbursements or other remedial or financial obligations of the applicant in the event of the applicant's insolvency, liquidation, or bankruptcy or the expiration, surrender, or revocation of the applicant's registration;
4. Immediately upon recovery on any claim or action on or under the bond, the applicant shall file a new or

supplemental bond restoring the face amount of the bond to the required amount;

5. The bond shall be continuous and shall remain in force until the surety is released from liability by the Department or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to the cancellation, the surety may cancel the bond on ninety days' advance notice in writing sent by mail to the applicant and to the Department;
6. The bond's termination shall not terminate or otherwise affect any liability of the applicant or its employees to its customers or to the Department;
7. The surety will give prompt notice to the applicant and to the Department of any notice received or action filed alleging the insolvency or bankruptcy of the surety or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's authority to do business. In the event the surety becomes unable to fulfill its obligation under the bond for any reason, notice shall be given immediately to the applicant and to the Department;
8. All commissions, fees, and other charges with respect to the surety bond shall be paid by the applicant.

The Staff proposal also recommended that EB&Cs be given until 60 days after the issuance of a Commission Order addressing the proposal to come into compliance with any revisions to UBP §11.B.1.j and UBP-DERS §4.B.1.j.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on September 10, 2025 [SAPA No. 23-M-

0106SP5]. The time for submission of comments pursuant to the Notice expired on November 10, 2025. Moreover, the Secretary issued a Notice Soliciting Comments on September 10, 2025, inviting comments to be submitted on the proposal by November 10, 2025. Only one comment was received and this comment is addressed below.

LEGAL AUTHORITY

PSL §66-t provides that EB&Cs shall register with the Commission and that such registration authorizes EB&Cs to act in a manner prescribed by the Commission, provided that an energy broker demonstrates financial accountability as evidenced by a bond or other method of financial accountability in an amount not less than \$100,000 and an energy consultant demonstrates financial accountability as evidenced by a bond or other method of financial accountability in an amount not less than \$50,000. The statute also authorizes the Commission to refuse to register an energy broker or energy consultant, or revoke a registration if, in the Commission's judgement, there is cause for revocation or suspension of operations.

DISCUSSION AND CONCLUSION

Through this Order, the Commission lifts the suspension of the requirement that energy brokers and energy consultants demonstrate financial accountability and adopts the Staff proposal to allow applicants to use a surety bond to satisfy this requirement.

Only one public comment was received on the Staff proposal. Stand Energy Corporation states that it supports the requirement for financial accountability for EB&Cs but argues that there should also be a requirement of minimal competency and industry knowledge, a requirement that EB&Cs disclose that

their fee is earned in the form of a charge per dekatherm of gas, and a requirement that customers state how their prior energy supplier was paid.

The Commission declines to adopt either a requirement for minimal competency and industry knowledge or a requirement that customers state how their prior energy supplier was paid. As an initial matter, such requirements are not the subject of this rulemaking and notice of such requirements was not provided in accordance with SAPA. Therefore, it would be improper for the Commission to consider adopting these requirements through this Order. Furthermore, full and transparent compensation disclosure is a cornerstone of the Commission's regulation of EB&Cs. The UBP and UBP-DERS currently require EB&Cs to disclose the form and amount of their compensation to the customer and, as previously stated by the Commission, EB&Cs "shall disclose their method of compensation as it is known at the time of contracting, whether it be a flat fee, a recurring fee, or a fee per unit of energy"⁹ As such, EB&Cs are required to disclose that their compensation is earned in the form of a charge per dekatherm of gas if that is the method of compensation.

The Staff proposal recommends that EB&Cs be given 60 days from the date of this Order to provide a demonstration of financial accountability that complies with the requirements of UBP §11.B.1.j and UBP-DERS §4.B.1.j. The Commission will require every registered energy broker and energy consultant to provide a demonstration of financial accountability that complies with the requirements set forth in UBP §11.B.1.j and UBP-DERS §4.B.1.j by April 30, 2026. Any registered energy broker or energy consultant that does not submit an adequate

⁹ June 2023 Order, p. 28; UBP §11.E.2; UBP-DERS §4.E.2.

demonstration of financial accountability by April 30, 2026, may be subject to enforcement action and possible revocation of registration.

Staff will complete review of timely submitted standby letters of credit and surety bonds and issue letters notifying EB&Cs of approval or denial by October 31, 2026. In accordance with the September 12, 2024 preliminary injunction issued by Supreme Court, Albany County, Staff paused review of standby letters of credit that had been provided at that time by EB&Cs. Staff shall, likewise, complete review of any standby letters of credit that are currently held by the Department and issue letters notifying EB&Cs of approval or denial by October 31, 2026.

The Staff proposal also states that the surety bond must be on a form prescribed by the Department. In consideration of the additional risk associated with obtaining payment under a surety bond, the Commission finds that requiring EB&Cs to submit a bond on a specific template provided by the Department is an appropriate measure. This will ensure that each surety bond received by the Department is compliant with the UBP and UBP-DERS, as modified in this Order, and contains the terms that the Commission finds to be most protective of customers, including that the surety be authorized to transact business in New York State by the Superintendent of Insurance of New York State. Accordingly, Staff will provide access to the surety bond template set forth in Appendix B to this Order on the Department's website within three days of the issuance of this Order.

The Commission finds that the Staff proposal properly effectuates the requirements of PSL §66-t in accordance with the June 25, 2025 ruling of the New York State Supreme Court, Albany County, in Diversegy, LLC et al. v. New York State Public

Service Commission and, therefore, the Commission adopts the Staff proposal.

The Commission orders:

1. The Secretary's September 19, 2024 suspension of the requirement that applicants provide a method of financial accountability is lifted.

2. The Department of Public Service staff proposal regarding energy broker and consultant financial assurance requirements is adopted, as discussed in the body of this Order.

3. Revisions to the Uniform Business Practices and Uniform Business Practices for Distributed Energy Resource Suppliers are adopted as shown in Appendix A to this Order. These revisions shall be effective April 30, 2026.

4. Department of Public Service staff shall, within 15 days of the effective date of this Order, file the revised Uniform Business Practices in this proceeding and update the Uniform Business Practices posted on the Public Service Commission's website to reflect the changes made in this Order.

5. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Corning Natural Gas Corporation, Liberty Utilities (St. Lawrence Gas) Corporation, National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, FirstEnergy Pennsylvania Electric Company, and Valley Energy, Inc. are directed to file tariff amendments or addenda to incorporate or reflect in their tariffs the revisions to the Uniform Business Practices and Uniform Business Practices for Distributed Energy Resource Suppliers directed in

this Order. The tariff revisions shall be filed, on not less than fifteen days' notice, to become effective on or before April 30, 2026.

6. The requirements of Public Service Law Section 66(12)(b) as to newspaper publication of the tariff revisions filed in accordance with Ordering Clause No. 5 are waived because the process in this proceeding and this Order give adequate notice of the changes.

7. Energy brokers and energy consultants shall comply with the requirements of the Uniform Business Practices and Uniform Business Practices for Distributed Energy Resource Suppliers, as applicable, commencing April 30, 2026, as discussed in the body of this Order and the Appendices thereto.

8. Energy brokers and energy consultants shall provide a demonstration of financial accountability that adheres to the requirements set forth in the Uniform Business Practices and Uniform Business Practices for Distributed Energy Resource Suppliers, as applicable, commencing April 30, 2026, as discussed in the body of this Order and the Appendices thereto.

9. Department of Public Service staff shall, by October 31, 2026, review any standby letter of credit or surety bond that has been provided before the April 30, 2026, deadline, and any standby letter of credit that is currently held by the Department as discussed in the body of this Order.

10. Department of Public Service staff shall, within four days of the issuance of this Order, provide access to the surety bond template on the Department's website, as discussed in the body of this Order.

11. 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

CASES 23-M-0106 et al.

the extension, and must be filed at least three days prior to the affected deadline.

12. These proceedings are continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

APPENDIX A: REDLINES TO UBP
§11.B.1.J AND UBP-DERS
§4.B.1.J

j. A demonstration of financial accountability in the form of either:

i. An irrevocable standby letter of credit issued by a reputable financial institution in the amount of \$100,000 for registering Energy Brokers; and \$50,000 for registering Energy Consultants, that meets the following conditions:

~~ii~~ 1. The New York State Department of Public Service shall be named as beneficiary and the letter of credit applicant shall be clearly named;

~~iii~~ 2. Any number of partial drawings shall be permitted from time to time;

~~iiii~~ 3. The process for making a drawing, including any required forms and communications or delivery instructions shall be stated;

~~iv~~ 4. If a drawing is made, payment shall be made to the beneficiary within 5 business days;

~~v~~ 5. Any expiration date shall be specified and options for renewal, including automatic renewal, shall be stated.

~~vi~~ 6. The applicant's filing for bankruptcy, receivership, or any other debt-relief petition shall in no way affect the issuer's liability to the beneficiary under the letter of credit.

~~vii~~ 7. All commissions, fees, and other charges with respect to the letter of credit shall be paid by the applicant;

~~viii~~ 8. Except for increases to the amount, the letter of credit shall not be amended, changed, or modified without express written consent of the beneficiary;

~~ix~~ 9. The beneficiary shall not be deemed to have waived any rights under the letter of credit unless an authorized representative thereof has signed a dated

written waiver. No such waiver, unless expressly stated therein, shall be effective as to any subsequent transaction, nor to any continuance of a breach; and

* 10. If the beneficiary should require a replacement of the letter of credit due to loss or destruction of the original, the issuer will provide one upon request; or

ii. A surety bond issued by a reputable financial institution on a form to be prescribed by the Department with a penal sum of \$100,000 for registering Energy Brokers; and \$50,000 for registering Energy Consultants, that meets the following conditions:

1. The New York State Department of Public Service shall be named as the obligee;

2. As a condition of the bond, the applicant and its employees are required to comply with all applicable provisions of the laws of the State of New York and the rules, regulations, and orders of the Commission and of the Department, including, but not limited to, the Uniform Business Practices and the Uniform Business Practices for Distributed Energy Resource Suppliers;

3. If the applicant breaches the bond's conditions, the Department may recover against the bond for the reimbursement of fees or other charges that the Department has determined were improperly collected from customers; for the payment of past due fees or other charges owed by the applicant to the Department, including any unpaid penalties; and for any customer reimbursements or other remedial or financial obligations of the applicant in the event of the

applicant's insolvency, liquidation, or bankruptcy or the expiration, surrender, or revocation of the applicant's registration;

4. Immediately upon recovery on any claim or action on or under the bond, the applicant shall file a new or supplemental bond restoring the face amount of the bond to the required amount;

5. The bond shall be continuous and shall remain in force until the surety is released from liability by the Department or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to the cancellation, the surety may cancel the bond on ninety days' advance notice in writing sent by mail to the applicant and to the Department;

6. The bond's termination shall not terminate or otherwise affect any liability of the applicant or its employees to its customers or to the Department;

7. The surety will give prompt notice to the applicant and to the Department of any notice received or action filed alleging the insolvency or bankruptcy of the surety or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's authority to do business. In the event the surety becomes unable to fulfill its obligation under the bond for any reason, notice shall be given immediately to the applicant and to the Department;

8. All commissions, fees, and other charges with respect to the surety bond shall be paid by the applicant.

APPENDIX B: SURETY BOND
TEMPLATE

NEW YORK STATE ENERGY BROKER AND ENERGY CONSULTANT SURETY BOND

Bond Number: _____ **Effective Date:** _____

This agreement and any communications regarding it shall be submitted to:

Department of Public Service
Attn: Finance and Budget Section
New York State Department of Public Service
3 Empire State Plaza, 16th Floor
Albany, NY 12223-1350

KNOW ALL PERSONS BY THESE PRESENTS, that _____

(Principal), having his/her/its principal place of business at _____

, as Principal, and _____

(Surety), authorized to transact business as a surety in the State
of New York by the Superintendent of Insurance of New York State and having its principal place of
business at _____

, as surety, are held and firmly bound unto the New York State Department of Public
Service in the sum of _____ Dollars (\$ _____) for the
payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators,
successors and assigns, jointly and severally.

WHEREAS the Principal has applied to the New York State Department of Public Service for
registration as an energy broker and/or energy consultant pursuant to Public Service Law Section 66-t;

NOW, THEREFORE, the conditions of this bond are that:

1. The Principal and its employees shall comply with all applicable provisions of the laws of the State of New York and the rules, regulations, and orders of the New York State Public Service Commission and of the New York State Department of Public Service, including, but not limited to, the Uniform Business Practices (UBP) and the Uniform Business Practices for Distributed Energy Resource Suppliers (UBP-DERS);
2. If the Principal breaches the bond’s conditions, the New York State Department of Public Service may recover against the bond for the reimbursement of fees or other charges that the New York State Department of Public Service has determined were improperly collected by the Principal from its customers; for the payment of past due fees or other charges owed by the Principal to the New York State Department of Public Service, including any unpaid penalties; and for any customer reimbursements or other remedial or financial obligations of the Principal in the event of the Principal’s insolvency, liquidation, or bankruptcy or the expiration, surrender, or revocation of the Principal’s registration;
3. The bond shall be continuous and shall remain in force until the Surety is released from liability by the New York State Department of Public Service or until the bond is canceled by the Surety. Without prejudice to any liability accrued prior to the cancellation, the Surety may cancel the bond on ninety days’ advance notice in writing sent by mail to the Principal and to the New York State Department of Public Service;
4. The bond’s termination shall not terminate or otherwise affect any liability of the Principal or its employees to its customers or to the New York State Department of Public Service;
5. The Surety will give prompt notice to the Principal and to the New York State Department of Public Service of any notice received or action filed alleging the insolvency or bankruptcy of the Surety or alleging any violations of regulatory requirements which could result in suspension or revocation of the Surety’s authority to do business. In the event the Surety becomes unable to fulfill its obligation

NEW YORK STATE ENERGY BROKER AND ENERGY CONSULTANT SURETY BOND

under the bond for any reason, notice shall be given immediately to the Principal and to the New York State Department of Public Service; and

- 6. All commissions, fees, and other charges with respect to the surety bond shall be paid by the Principal.

IN WITNESS WHEREOF, the Principal; and Surety have hereunto set their hands and seals on this _____ day of _____, 20_____.

Signature of Principal

If Principal is a person, complete this part:

(Signature of Principal)

(Type or Print Name of Principal)

If Principal is a business entity, complete this part:

(Print Name of Principal)

By: _____
(Signature of Authorized Representative of Principal)

Name: _____
(Type or Print Name of Authorized Representative of Principal)

Title: _____
(Type or Print Title of Authorized Representative of Principal)

Signature of Surety

(Print Name of Surety)

By: _____
(Signature of Authorized Representative of Surety)

Name: _____
(Type or Print Name of Authorized Representative of Surety)

Title: _____
(Type or Print Title of Authorized Representative of Surety)

NEW YORK STATE ENERGY BROKER AND ENERGY CONSULTANT SURETY BOND

Acknowledgment of Principal

If Principal is a person or a business entity other than a corporation, complete this part:

STATE OF _____)
) S.S.:
COUNTY OF _____)

On this _____ day of _____, 20_____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

If Principal is a corporation, complete this part:

STATE OF _____)
) S.S.:
COUNTY OF _____)

On this _____ day of _____, 20_____, before me, personally came _____, to me known, who, being by me duly sworn, did depose and say that he/she resides in _____; that he/she is the _____ of _____, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like authority.

Notary Public

