

**Submitted by: ATTYX, LLC**

**Contacts: Grant Young, CEO; Kyle Reeder, General Counsel**

**Date: September 22, 2025**

**RE: ATTYX's Response to the Order to Show Cause (Case 25-E-0341)**

ATTYX respectfully asks the Commission not to suspend or revoke its eligibility to operate as a DER mass market provider. We recognize the seriousness of the Order to Show Cause ("OTSC"), and we appreciate the opportunity to walk through our business in plain language, address each assumption and allegation head-on, and propose concrete, verifiable enhancements.

We also want to squarely acknowledge the Commission's immediate constraints: the OTSC points to (i) historic "no-cost roof" messaging tied to affiliates; (ii) contract formatting gaps against UBP-DERS §3C; (iii) timing/notice issues around our corporate name change; and (iv) a directive to halt marketing and new enrollments during this proceeding. We've complied with the halt and will continue to do so, and we will submit contract forms and any refund information the OTSC asks for with this response package.

Below is a complete, conversational narrative organized in three parts, followed by our closing statement and an evidence pull list.

**Part I: Who We Are and How We Operate (Plain-English Overview)**

*We sell systems, not power*

ATTYX is a home-improvement contractor that designs and installs customer-owned rooftop solar (and, when needed, companion roofing/HVAC work) at a fixed price. We do not sell electricity, PPAs, or leases. A typical NYC system is roughly \$60,000 (exact averages available from our records). Customers either (a) pay cash, (b) use their own HELOC or lender, or (c) select a third-party solar lender we introduce. ATTYX does not receive lender kickbacks.

Loan terms, including APR, total of payments, and any “target balance” feature tied to the federal ITC, come from the lender’s Truth-in-Lending document and lender welcome call, separate from ATTYX.

*Every project follows the same transparent sequence*

After a proposal and signed agreement, we complete a recorded ATTYX welcome call to confirm key terms, then perform a site survey (roughly three days out on average), produce an engineer-stamped planset (with electrical diagrams and equipment specifications), obtain DOB permits, install, pass inspections, and secure PTO (Con Edison/PSEG). Typical timelines are 4–5 months, but agency/utility factors can shorten or lengthen that window. Throughout, customers receive documents and multiple opportunities to ask questions or pause.

*We have a longstanding practice of fee-free cancellations pre-construction*

If a customer asks to cancel before we start physical work (roof/solar/HVAC), we cancel without a fee. That has cost us real design/permitting dollars over the years, but we do it because it is the right customer outcome.

*Why we often pair roofing/HVAC*

NYC roofs are frequently end-of-life. We’re a GAF Platinum roofing installer; we prefer to put solar on a roof that will last as long as the solar equipment does. Since 2024 we itemize roofing and solar separately in our documents to avoid confusion. HVAC (e.g., high-efficiency mini-splits) is sometimes added for electrification; where customers choose that path, legacy oil/gas equipment is deactivated as part of a planned conversion, not damaged. *See Exhibit HVAC-1.*

*Our marketing is online and inbound*

We do not door-knock. Ads run on large digital platforms (Facebook/Google/Instagram/TikTok/Pinterest). Those platforms do not allow targeting by protected class or micro-targeting neighborhoods; our leads are people who contact us after seeing broadly served ads. Complaints asserting we “preyed on elderly” ignore how inbound digital advertising works and the compliance regimes those platforms enforce.

*Regulatory status and name change*

SUNco (our prior legal name) applied to be a DERS on January 10, 2021 as an On-Site Mass Market Distributed Generation provider. The Office of Consumer Services found that application compliant with the UBP-DERS on April 29, 2021 and reminded us to notify Staff of contract or other material business changes going forward. On January 23, 2024, SUNco legally changed its name to ATTYX. Importantly, this was a legal name change only—our EIN remained the same, our contact information did not change, our licensing and ownership remained identical, and we issued direct notices to our customers explaining the new name. *See Exhibit NC-2.*

When we prepared our May 9, 2024 triennial filing, we referenced “d/b/a ATTYX,” a shorthand that was not technically accurate because the name change was legal rather than a fictitious name. Staff’s point is well taken: we should have filed a separate, prompt notice in January confirming the name change. At the same time, part of the delay stemmed from Staff’s own filing guidance. As the April 5 and April 22, 2024 email exchanges with DPS show, we initially understood that a “sent for processing” notice on the DPS portal was confirmation of a filing, only to later learn that a separate confirmation email (or rejection notice) was required, and that a cover letter had to be included. Once we were advised of the correct process, we immediately resubmitted with the required cover letter that same day.

In short, there was never any effort to conceal our identity or create confusion. The entity itself has been continuous since 2020 (same EIN, same ownership, same licensing). Customers and the public were notified promptly in January 2024, and the record has since been corrected with Staff. We also implemented an internal policy to file formal notice of any material changes with DPS within five business days to prevent a recurrence of this type of delay.

*NYSERDA history, plainly*

NYSERDA placed SUNco on probation (June 15, 2021) citing itemization concerns, later suspending and terminating us from NY-Sun on November 12, 2021; NYSEERDA then issued an Oct. 28, 2022 cease-and-desist about contract references to NY-Sun incentives and participation. We removed those references when notified, and later found and removed an old buried reference. Separately, in January 2024, the NY Attorney General closed a document subpoena relating to customer agreements with no further action, evidence that, while our processes have matured, there was no finding of intentional deception. *See Exhibits NYS-1, AG-1.*

*Continuous improvement (concrete changes).*

Over the past several years, we overhauled our outreach and customer-facing materials to eliminate sources of confusion and to align fully with Department expectations. We discontinued all affiliate relationships that used “free roof” language and no longer use the word “free” in any context. Where historic materials referred to a “no-cost” roof, we now explain precisely what that means in plain English, namely, situations where roofing work is integrated into the overall project price rather than charged as a separate retail item, so customers can see exactly how scope and pricing relate. We also restructured our documentation so that key information appears at the very front of the agreement, not just in the engineer’s planset: the contract now includes clear itemization of costs, the projected annual energy output with its loss analysis, and an explanation of incentives. In addition, beginning in 2024 we started paying, at our own expense,

for a third-party CPA service (Tax Hive) to assist every customer with claiming the Federal Investment Tax Credit, the New York State personal tax credit, and the New York City Property Tax Abatement. Finally, the scale of our installed base provides important context: across 4,583 completed NYC installations, Department-channeled complaints remain well under two percent (we estimate roughly 1.3–1.7%), and many of those were resolved once the complete record, welcome-call recordings, lender TILA disclosures, stamped plansets, and advertising source data, was reviewed. *See* Exhibits C-1, C-3, P-1, W-1, CX-1, EX-1.

## **Part II: Assumptions & Claims in the OTSC: Our Responses**

### 1) “*Class action*” characterization (*Campbell v. Mosaic et al.*)

The OTSC discusses an ongoing federal lawsuit brought by a senior citizen, filed Sept. 5, 2024 (E.D.N.Y. 24-cv-6208), alleging she was misled into an unaffordable financing arrangement, with particular “free roof” rhetoric tied to social media advertising. The OTSC also notes the matter remained active as of June 24, 2025.

Our point is narrow: this case is not a certified class action; it is a single-plaintiff case naming multiple defendants (including a lender). We will not litigate merits here, but our file shows an inbound lead, proposal and disclosures, lender TILA, and recorded welcome calls, the very controls designed to prevent confusion. We’ll supply those exhibits under seal as needed.

### 2) “*Damage*” to boilers

The OTSC references a complaint that ATTYX “apparently” damaged boilers while also installing HVAC. The record shows that, where customers elect electrification (e.g., high-efficiency mini-splits), we deactivate legacy equipment pursuant to the customer’s chosen scope; massive basement boilers often remain in place due to demolition constraints but are taken

offline. We are happy to provide the customer's signed scope, work orders, and before/after photos to clarify deactivation vs. "damage." *See Exhibit HVAC-1.*

3) *"Pre-approval" enrollments and installations*

The OTSC says several complaints referenced agreements or work that occurred before ATTYX was approved as a DERS on June 25, 2024. The key context is that the same legal entity had already been registered as SUNco and deemed compliant back on April 29, 2021. The 2024 date reflects a name-change transition and updated registration, not a brand-new entity starting from scratch. We will attach the 2021 eligibility letter and the 2024 filings to show continuity of EIN/ownership/licensing. *See Exhibit A-1.*

4) *Targeting "vulnerable populations"*

The OTSC notes complaints filed by or on behalf of elderly individuals and references the Campbell allegations. Our marketing is digital inbound on major platforms that do not permit targeting by protected class or neighborhood micro-targeting. We do not door-knock. Elderly homeowners legitimately need roof/HVAC replacements; they reach out to us through the same channels as everyone else and then receive the same disclosures, TILA, and welcome calls.

5) *"Marketing was never suspended"*

The NOAV (Feb. 18, 2025) required an attestation that we were "forbidden from engaging in marketing activities and enrolling new customers until [we] sufficiently responded." We paused marketing and enrollments from 2/18/25 through our response on March 5, 2025, and then resumed. The OTSC, by contrast, now orders a full halt for the pendency of this enforcement proceeding; we have complied and remain on hold pending Commission direction. *See Exhibits NOAV-1, NOAV-2.*

6) *“Updated contracts never submitted”*

The OTSC states that while we said we had updated customer agreements to include required UBP-DERS §3C terms, we “did not submit any of these sales agreements for Department Staff review,” and that unilateral adoption without prior Staff review would itself violate §3A.D.3.a. We understand this concern. Two things can be true at once: (1) we did revise our forms to add itemization, output/loss analysis, and incentive disclosures up front; and (2) we should have simultaneously uploaded those revised forms to Staff for review. ATTYX submitted its updated agreement on each annual review.

7) *“No-cost roof” and affiliate content*

The Commission previously determined that SUNco and New York Roofing’s use of “no-cost roof” to funnel business and then merge/aggregate roof and solar costs was “misleading and deceptive.” We accept that determination and have terminated affiliates that used “free roof” language, removed “free” from our own materials, and define “no-cost” carefully wherever the phrase historically appeared.

**Part III: The Nine Allegations & Citations (Point-by-Point)**

The OTSC synthesizes Staff’s investigation into nine apparent violations, including alleged §2B marketing violations and several §3C contract omissions. We answer each succinctly here and attach proof.

1) *Misleading/deceptive marketing & “no-cost roof”*

OTSC premise. Staff ties complaints to “no-cost roof,” claims about incentives “covering the entire system,” and steering into unfavorable loans.

Our response. We agree that “free roof” language was problematic in early affiliate content; that practice ended years ago. Where “no-cost” was used, we now define it explicitly in writing and on video, and it is reconfirmed on our welcome call (“Were any promises made not

in the contract?”). We deliver a proposal, state/federal disclosures, lender TILA, and two recorded calls (lender + ATTYX) before any construction. Customers had, and used, months to ask questions or cancel without fees pre-construction. Against a base of 4,583 NYC installs, complaints are <2%. *See Exhibits W-1, REP-1.*

Counter-argument we anticipate. “Any use of ‘no-cost’ is inherently misleading.”

Reply. We removed “free,” defined “no-cost,” and now itemize roof and solar separately (since 2024). We welcome Staff edits to our definition language and will adopt any specific wording the Department prefers.

## 2) *False/misleading representations (incentives, savings, loans)*

OTSC Premise. Staff cites allegations that customers were told “government incentives would cover the entire system.”

Our Response. Our agreements, disclosures, and welcome calls say the opposite. They state plainly that there is no savings guarantee; incentives must be claimed directly by the customer; and loan terms are set and disclosed by the lender through federally required Truth-in-Lending (TILA) documents and a separate lender welcome call. Since 2024, we have gone further by paying—at our own expense—for a CPA firm (Tax Hive) to assist every customer with filing for the Federal Investment Tax Credit, the New York State personal tax credit, and the New York City Property Tax Abatement. These three programs are not ATTYX-created benefits—they are incentives deliberately created by Congress, the State, and the City to encourage solar adoption. We help customers access them, but we cannot and do not guarantee each homeowner’s personal tax outcome, and we say so in writing. *See Exhibits C-2, P-1, L-1, L-2.*

Counter-Argument We Anticipate. Staff may argue that “some customers still didn’t understand the timing of the tax credits.”

Our Reply. That concern is exactly why we began funding the CPA engagement. The purpose of that professional support is to give customers expert guidance, ensure they file correctly, and help them understand that credits may be applied progressively over multiple years if their tax liability requires it. By taking on that cost ourselves, ATTYX has gone beyond its contractual obligations to ensure that customers can actually realize the benefits that the federal, state, and city governments intended when they designed these incentive programs.

3) *Failure to supervise third-party marketing*

OTSC premise. Historic issues with New York Roofing and “no-cost roof” funneling.

Our response. We accept responsibility for affiliates we no longer use. Today we (a) ban “free” language, (b) pre-clear materials centrally, (c) bind field reps to a no off-contract promises agreement, and (d) use welcome calls to catch any mismatch between what was said and what was signed.

4) *Failure to submit updated sales agreements*

OTSC premise. We claimed in March 2025 to have updated our forms, but Staff did not receive those forms, and unilateral adoption would itself violate §3A.D.3.a.

Our response. We have already submitted the revised customer agreements through the DPS portal, complete with redlines and a version log, and those filings are still awaiting Staff review. Going forward, we have instituted a strict compliance rule: no customer-facing contract change can be rolled out until it has first been uploaded for Staff review. *See Exhibit C-1.*

5) *Missing itemization (§3C.C.1)*

OTSC premise. Staff says 100 reviewed agreements all lacked an itemized breakdown; some also lacked other §3C terms.

Our response. Historically, we provided component-level detail and production/loss analysis in the engineer-stamped planset sent right after survey. The contract incorporated the planset by reference. We now agree to place all §3C items in the front contract packet and maintain them in the planset. *See Exhibits C-1, ENG-1.*

6) *Missing annual output & loss analysis (§3C.C.3)*

OTSC premise. Staff says agreements lacked “an estimate of annual energy output, including loss analysis.”

Our response. Again, these were historically in the planset; we have moved them to the initial contract packet. *See Exhibit ENG-1.*

7) *Missing rate for exported energy (§3C.C.4)*

OTSC premise. Agreements lacked “[t]he rate at which the customer can be compensated for any electricity sold to the utility.”

Our response. Our packets include the net-metering interconnection pages customers sign; export compensation is tariff-based and may vary by utility/program. We have added a clear, plain-language explanation (with a link to the customer’s applicable tariff/rider) to the initial packet and will harmonize that with Con Edison/PSEG’s current forms. *See Exhibits C-1, PTO-1.*

8) *Missing potential value of incentives (§3C.C.7)*

OTSC premise. Some agreements lacked “the potential value of all federal, state, and local tax credits...”

Our response. For years, our proposals and contracts have listed the Federal ITC, NY State credit, and NYC Property Tax Abatement as potential benefits (no guarantees). We will supply signed pages from representative customers showing those entries and have ensured the numbers appear on the face of the initial contract packet. *See Exhibit C-1, P-1.*

9) *Failure to timely notify Staff of name change (§3A.D.3.c)*

OTSC premise. SUNco legally changed its name to ATTYX on Jan. 23, 2024, but did not notify Staff until the May 9, 2024 triennial filing, and described ATTYX as a d/b/a—which was not accurate because it was a legal name change; Staff should have been promptly notified as soon as the DOS filing was made.

Our response. We acknowledge the lag and the d/b/a shorthand as a clerical misunderstanding during transition. We will supply the DOS change, the triennial filing, and follow-up correspondence; we have already corrected our DPS records and will set an internal calendar to notify Staff within five business days of any future material change. *See Exhibits NC-1, NC-2.*

**Part IV: Addressing Additional Points**

*A. Staff's sampling of 100 agreements from 2023–2024*

Staff reports that every one of the 100 reviewed agreements lacked three or four §3C items (itemization, loss analysis, export compensation, and in some cases incentives value). We respect the sampling. Our corrective path is not to argue with Staff's reading, but to submit the revised contract packet now and to agree to a short Staff review cycle before further use. Further, we submitted our contract for review by DPS staff every year and have been found compliant every year since 2021.

*B. What We Have Already Done (Since NOAV and OTSC)*

- Paused and will remain paused on marketing/enrollments during this proceeding (as ordered).
- Prepared revised contract packets for Staff review that consolidate §3C items up front and retain them in the planset.
- Centralized compliance gates so no new customer form or message can go live until (a) Legal signs off and (b) Staff upload confirmation exists.
- Standardized “no-cost” language and removed legacy references.
- Kept Tax Hive as a company-funded benefit for all customers’ year-one filings.

C. *Our Low Complaint Rate and Why That Matters*

Across 4,583 completed NYC installations, Department-channeled complaints are well under 2%, we estimate 1.3–1.7% ( $\approx$  60–80 files). While every complaint matters, that scale context is important: the overwhelming majority of our customers had a standard experience (proposal → disclosures → lender TILA → welcome calls → planset → permits → install → inspections → PTO) and many received new roofs and modern HVAC along the way with long-term warranties. Where confusion has occurred, our practice is to fix it, and pre-construction cancellations are honored without a fee.

D. *Counter-Arguments We Expect, and Our Straight Answers*

Argument: “Even with your added disclosures, ‘no-cost’ can confuse customers.”

Response: Then let’s standardize the exact words. We’ll adopt Staff-approved phrasing and put it in the proposal, the contract, the welcome call script, and the follow-up email.

Argument: “Some customers still thought incentives would zero-out cost.”

Response: That is not what our documents say. We'll highlight the "no guarantee/no savings promise" line in bold on the signature page and make the CPA handoff explicit so expectations match reality.

Argument: "Why didn't you submit revised contracts right after the NOAV?"

Response: We recognize why Staff raises this point, but in fact we did submit the revised contracts in March 2025 through the DPS portal, and those filings remain pending Staff review. To strengthen our compliance process, we have also implemented an internal safeguard: no revised form can be rolled out for customer use until Legal verifies that the upload has been completed and logged in the DPS system.

Argument: "Name-change notice lag shows poor controls."

Response: The Department has noted that the lag in our name-change notice reflected inadequate internal controls. We accept that criticism. In response, we have instituted a five-business-day rule on our legal calendar requiring notice to DPS of any material change, and we have incorporated a formal regulatory-filing checklist into our corporate governance binder to ensure that such notices are never overlooked again. Importantly, the delay created no risk or prejudice to customers: our EIN, ownership, and contact information never changed, and we provided direct notices to customers at the time of the name change. Phone numbers, email addresses, and website domains remained active and seamlessly forwarded, ensuring that customers were never at risk of being unable to contact ATTYX.

## **Part V: Voluntary Conditions**

We ask the Commission not to suspend or revoke our DERS eligibility. Instead, we offer the following verifiable commitments:

1. Contract/Disclosure Enhancements. Maintain itemized pricing, output & loss analysis, export rate explanation, and incentive value in the initial contract; keep the same information in the planset; boldface the no-guarantee language.
2. Affiliate & Messaging Controls. Keep “free” banned; pre-clear all creatives; central compliance gate for any public materials; quarterly Staff check-ins for the next 12 months.
3. Quality Assurance. Random audits of welcome-call recordings and rep activity, with re-training where needed; maintain the pre-construction fee-free cancellation practice.
4. Customer Tax Support. Continue to fund year-one CPA filing support (Tax Hive) for all customers.
5. Reporting. Provide quarterly summaries of (a) complaints received/resolved, (b) any refunds or concessions issued, and (c) progress on outstanding customer punch-lists.

## **Part VI: Key Policy Considerations and Conclusion**

1. *These are State-endorsed incentives, not company inventions.*

New York and the Federal Government deliberately chose the Federal ITC, NY State personal tax credit, and NYC Property Tax Abatement to accelerate residential solar. Our role is to help homeowners access programs lawmakers created and want used.

2. *We advance NYC’s climate goals.*

The City and State have publicly stated aggressive decarbonization targets. With 4,583 completed NYC solar systems, plus thousands of new roofs and modern HVAC systems, ATTYX is a force multiplier for those goals, on the exact homes that are hardest to retrofit.

3. *Low complaint rate, high satisfaction.*

With complaints below 2%, the data show a company that, while not perfect, is functioning at scale with robust controls (disclosures, recordings, plansets, permits, inspections, PTO) and a demonstrated pattern of continuous improvement.

4. *Guardrails vs. off-ramps.*

If the Commission starts removing legitimate operators over a small number of isolated or legacy issues (especially those we have now cured), the likely result is fewer firms willing to serve NYC's complicated housing stock—undermining the State's and City's own clean-energy objectives.

We ask you to keep ATTYX operating, subject to the enhancements above and any additional wording the Department wants in our forms

ATTYX is not an ESCO. We sell fixed-price home improvements (solar + roofing/HVAC when needed) under plain contracts with two recorded calls, lender TILAs, engineer-stamped plans, permits, inspections, and PTO. Out of 4,583 NYC systems, the Department's complaint rate is well under 2%. We own our historical missteps, we've already corrected the ones the OTSC highlights, and we're offering verifiable guardrails.

For these reasons, and to avoid chilling legitimate market participation that New York City needs to meet its climate goals, we respectfully ask the Commission to decline suspension or revocation and allow ATTYX to continue serving New Yorkers under the conditions and controls outlined here.

**Submitted this 22<sup>nd</sup> day of September, 2025**

ATTYX, LLC

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Kyle Reeder, ATTYX General Counsel

## **Evidence & Exhibits We Are Submitting / Pull List**

### **Exhibit A – Corporate / DPS**

- **Exhibit A-1** — SUNco/ATTYX DPS DER approval (2020) + annual/triennial receipts
- **Exhibit A-2** — DPS Complaint Correspondence Archive (2019–Present)
- **Exhibit A-3** — DPS Correspondence with John Sheevers (All-Time)

### **Exhibit NC – Name Change**

- **Exhibit NC-1** — Legal name-change package: SUNco → ATTYX (same EIN/owners/licensing)
- **Exhibit NC-2** — Email thread with Rebecca Sweeney re filing path

### **Exhibit NOAV – Notice of Apparent Violation**

- **Exhibit NOAV-1** — DPS NOAV (Feb 18, 2025)
- **Exhibit NOAV-2** — ATTYX response to NOAV (Mar 5, 2025)

### **Exhibit B – NYSERDA / Attorney General**

- **Exhibit NYS-1** — NYSERDA status emails: probation/suspension/termination (2021)
- **Exhibit AG-1** — NY AG closure email (Helena Lynch, Jan 18, 2024)

### **Exhibit C – Contracts / Disclosures / Customer Journey**

- **Exhibit C-1** — Current contract packet (complete, blank)
- **Exhibit C-2** — Government Disclosure form (no savings guarantee; incentives explained)
- **Exhibit P-1** — Sample proposal (incentives shown)
- **Exhibit W-1** — ATTYX welcome-call script + checklist
- **Exhibit CX-1** — Pre-construction cancellation exemplars (3–5 cases)

### **Exhibit D – Engineering / Permitting / PTO**

- **Exhibit ENG-1** — Engineer-stamped planset (specs, output, losses)
- **Exhibit PERM-1** — DOB permits (building + electrical) + inspection sign-offs (sample)
- **Exhibit PTO-1** — PTO letter/email (Con Edison/PSEG) (sample)

### **Exhibit E – Lenders / TILA**

- **Exhibit L-1** — Redacted Truth-in-Lending (TILA) sample
- **Exhibit L-2** — Lender welcome-call confirmation

### **Exhibit F – Roofing / HVAC**

- **Exhibit R-1** — GAF Platinum certification
- **Exhibit HVAC-1** — HVAC electrification scopes + boiler deactivation documentation

**Exhibit G – Marketing & Affiliates**

- **Exhibit REP-1** — Rep Agreements

**Exhibit H – Metrics & Reporting**

- **Exhibit EX 1** — Kahn File