

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 23, 2025

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 24-E-0296 - Proceeding on Motion of the Commission to Seek
Consequences against Monolith Solar Associates,
LLC for violations of the Uniform Business
Practices for Distributed Energy Resource
Suppliers.

ORDER REVOKING ELIGIBILITY

(Issued and Effective January 28, 2025)

BY THE COMMISSION:

INTRODUCTION

On July 31, 2024, the New York State Public Service
Commission (Commission) issued an Order Instituting Proceeding
and to Show Cause (OTSC) after the New York State Department of
Public Service (Department or Staff) investigated Monolith Solar
Associates, LLC (Monolith) and identified sufficient credible
evidence indicating that Monolith had apparently failed to
comply with the Uniform Business Practices for Distributed

Energy Resource Suppliers¹ (UBP-DERS) Sections 3F.B and 3A.D.1. In the OTSC, the Commission ordered Monolith to show cause within thirty days why its eligibility should not be revoked, or, in the alternative, other consequences should not be imposed upon it, as described in UBP-DERS Section 2F.

Monolith did not respond to any Staff requests or to the April 26, 2024 Notice of Apparent Violation (NOAV) letter that preceded the OTSC. Monolith also failed to respond to the OTSC. Accordingly, by this Order, the Commission revokes Monolith's eligibility to serve energy customers in New York State.

BACKGROUND AND LEGAL AUTHORITY

The Commission's UBP-DERS established a framework in 2017 that governs the integration of DER Suppliers/DER Providers into New York State's electric system, as well as the rights and responsibilities of DER Suppliers and customers. The UBP-DERS provisions regarding reporting and responding to information requests "are necessary to ensure that Department of Public Service Staff and the Commission have the tools needed to monitor these growing markets and identify and resolve potential issues."²

The UBP-DERS Section 3A.D.1 requires each DER Provider to submit an Annual Compliance Statement by March 31 of each year, verifying that the information and attachments in the DER

¹ Case 15-M-0180, In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers, Appendix A (issued October 19, 2017).

² Case 15-M-0180, supra, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers, p. 2.

Provider's initial registration form are still current and accurate. The UBP-DERS Section 3F.B also requires each DER Provider to file an Annual Compliance Report by March 31 containing customer information from the previous calendar year, including the "aggregate number of customers served, a summary of services provided, and information on the number and classification of complaints received[.]"³ The Annual Compliance Statement and the Annual Compliance Report are collectively known as the Annual Compliance Filing(s).

The Commission has authority to enforce the requirements of the UBP-DERS by imposing consequences on DER Providers, including the revocation of eligibility to operate in New York State.⁴ A DER Provider may be subject to consequences for a "failure to comply with relevant reporting requirements or Department oversight requirements" and/or a "failure to comply with the UBP-DERS."⁵ The UBP-DERS Section 2F.C.2.h also authorizes the Commission to take "[a]ny other measures that the Commission may deem appropriate" as a consequence of violating the UBP-DERS.

As detailed below, according to Department Staff, it appears that Monolith, a DER Provider, failed to file: (1) a 2023 Annual Compliance Statement verifying that the information and attachments in Monolith's initial registration form are still current and accurate; and (2) a 2023 Annual Compliance Report, which is the required annual compliance spreadsheet that Staff developed. Consistent with the UBP-DERS, Monolith was

³ UBP-DERS §3F.B. See also Case 15-M-0180, supra, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers, Appendix B: DER Oversight Requirements Table, p. B-3.

⁴ See UBP-DERS §2F.

⁵ UBP-DERS §§2F.5 and 2F.7.

obligated to submit these documents by March 31, 2024.

THE DEPARTMENT'S INVESTIGATION AND FINDINGS

Department Staff contacted Monolith via email on several occasions to notify Monolith of the March 31, 2024 deadline for the 2023 Annual Compliance Filing and of its apparent failure to submit the required information. Specifically, Department Staff sent an e-mail on March 1, 2024, to remind Monolith that the filing was due March 31, 2024. On April 5, Department Staff sent Monolith an overdue notice via email. Department Staff subsequently attempted to call Monolith between Thursday, April 18, 2024, and Monday, April 22, 2024, and left a message with the regulatory contact on record, informing Monolith that Staff had not received its filing and directing Monolith to submit its Annual Compliance Filing.

The requirements of the UBP-DERS, contained in Section 3, provide that in determining an appropriate consequence when a DER Provider fails to comply with the UBP-DERS, the Department shall first notify the DER Provider of such failure(s) and request that the DER Provider take corrective action within a prescribed "cure" period, as stated in Section 2F.C.1.a. The "cure period" in this provision is "based on a reasonable amount of time given the nature of the issue to be cured." Department Staff contends that Monolith failed to submit its Annual Compliance Filing by March 31, 2024, and subsequently failed to respond to any of Department Staff's requests to cure.

On April 26, 2024, Department Staff sent an NOAV letter via e-mail and U.S. Mail to Monolith Solar Associates, LLC and instructed the Company once again to file its required

Annual Compliance Filing, and to do so by May 10, 2024.⁶ The NOAV letter made clear that if the Department did not receive the filing by May 10, 2024, Department Staff would seek from the Commission an Order to Show Cause to find Monolith Solar Associates, LLC in violation of UBP-DERS Sections 3A.D.1 and 3F.B and to seek further remedies, including the possible revocation of Monolith's authorization to operate as a DER Provider in the State of New York.

On July 31, 2024, the Commission issued the OTSC, ordering Monolith to show cause within 30 days why its authorization to act as a DER Provider should not be revoked or why other consequences, as set forth in UBP-DERS Section 2F.C, should not be imposed. Monolith did not respond to the Commission's July 2024 OTSC.

DISCUSSION AND CONCLUSION

Every DER Provider in New York State must comply with the UBP-DERS and with all applicable Commission Orders to maintain eligibility to operate.

The Commission finds that Monolith did not submit its 2023 Annual Compliance Filing, in violation of UBP-DERS Sections 3A.D.1 and 3F.B. The UBP-DERS Section 2F.C identifies potential consequences that the Commission may impose upon a DER Provider for non-compliance, including "[a]ny other measures that the Commission may deem appropriate," for one or more of the categories set forth in UBP-DERS Section 2F.B.

Consistent with the findings discussed in this Order and given the above violations of the UBP-DERS, the Commission hereby revokes Monolith's eligibility to serve energy customers as a DER Provider in New York State.

⁶ See April 26, 2024 NOAV letter to Monolith Solar Associates, LLC filed under Matter 24-00866.

The Commission orders:

1. The eligibility of Monolith Solar Associates, LLC to operate as a DER Provider in the State of New York is hereby revoked.

2. This proceeding is closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary