

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 14, 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 23-M-0287 - Proceeding on Motion of the Commission to Seek
Consequences against Mpower Energy LLC for
Violations of the Uniform Business Practices.

ORDER TO SHOW CAUSE

(Issued and Effective May 14, 2026)

BY THE COMMISSION:

INTRODUCTION

In this Order, the Commission determines that the Department of Public Service staff (Staff) has identified sufficiently credible evidence to support the issuance of an Order to Show Cause (OTSC) concerning Mpower Energy LLC's (Mpower or the Company) apparent failure to comply with the Uniform Business Practices (UBP) and the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.¹ We now provide Mpower with the opportunity to respond

¹ Cases 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) (December 2019 Order).

to Staff's contentions. Mpower 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 set forth in the UBP should not be imposed.

LEGAL AUTHORITY

a. The UBP

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."² 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. Consistent with the authority that the State Legislature delegated to the Commission to regulate ESCO eligibility, the Commission adopted the UBP to set 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 authority to enforce these conditions by imposing consequences on ESCOs that fail to abide by the terms of the UBP.³

UBP §4.B outlines the customer authorization process for an ESCO to receive information from the distribution utility, once authorized by the customer. These requirements are established through a set of Electronic Data Interchange (EDI) standards. Customer authorization is the basis for such

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

³ UBP §2.D.6.a.1.b.

arrangements, and the EDI standards allow the utility to assume that the ESCO has obtained prior customer authorization via a sales agreement.⁴ Specifically, UBP §4.B.1 states, in relevant part: "An ESCO shall obtain customer authorization to request information, in accordance with the procedures in UBP Section 5, Changes in Service Providers, Attachments 1, 2, and 3. An ESCO shall inform its customers of the types of information to be obtained, to whom it will be given, how it will be used, and how long the authorizations will be valid."⁵ In addition, pursuant to UBP §4.B.2, "[a] distribution utility and a Meter Data Service Provider (MDSP) shall assume that an ESCO obtained proper customer authorization if the ESCO is eligible to provide service and submits a valid information request."⁶ Finally, UBP §4.B.3 requires an ESCO to "retain, for a minimum of two years or for the length of the sales agreement whichever is longer, verifiable proof of authorization for each customer. Verification records shall be provided by an ESCO, upon request of the Department, within five calendar days after a request is made."⁷

UBP §5 establishes the requirements for a change in service providers, including transferring customers from one ESCO to another, from an ESCO to a distribution utility, and from a distribution utility to an ESCO. Pursuant to UBP §5.A, when enrolling a customer with an ESCO, "the first step is obtaining customer agreement, and any required third-party verification, to accept electric and/or natural gas service according to the terms and conditions of the offer. A sales

⁴ UBP §5.B.1.b.

⁵ UBP §4.B.1.

⁶ UBP §4.B.2.

⁷ UBP §4.B.3.

agreement establishes the terms and conditions of the customer's business arrangement with the ESCO."⁸ UBP §5.D.4 further explains that "[a]n ESCO shall submit an enrollment request after it obtains customer authorization, and third-party verification where required, and it has provided the sales agreement to the customer."⁹

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.¹⁰ An ESCO may be subject to the consequences listed in UBP §2.D.6.b for multiple reasons, including but not limited to a company's failure to comply with applicable "reporting requirements, or Department oversight requirements" (UBP §2.D.5.d) and failure to comply with Commission Orders, Rules or Regulations (UBP §2.D.5.i).

b. The December 2019 Order

The Commission has "authority to condition ESCOs' eligibility to access utility [distribution systems] on such terms and conditions that the [Commission] determines to be just and reasonable."¹¹ Consistent with this authority, 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."¹²

⁸ UBP §5.A.

⁹ UBP §5.D.4.

¹⁰ UBP §2.D.6.A.1.b.

¹¹ Matter of National Energy Marketers Assn. v. New York State Pub. Serv. Comm., 33 N.Y.3d 336, 351 (2019); see Public Service Law §§5(1)(b), 65(1), 66-d(2); see generally General Business Law §349-d(11).

¹² December 2019 Order, p. 1.

The December 2019 Order “reset” the ESCO market by establishing a new paradigm for ESCO business practices, reining in undesirable ESCO conduct, and instituting stricter eligibility requirements to ensure that ESCOs comply with regulations, rules, and the overarching policy goals of New York State.

Among these new requirements, the December 2019 Order mandated that ESCOs “enroll new residential or small non-residential customers (mass-market customers) or renew existing mass-market customer contracts for gas and/or electric service” on certain products.¹³ Specifically, going forward, ESCOs serving mass-market customers were only permitted to serve: (1) a product with “guaranteed savings over the utility price, as reconciled on an annual basis”; (2) a product “priced at no more than 5% greater than the trailing 12-month average utility supply rate”; and (3) “a renewably sourced electric commodity product” with renewable percentage, location and delivery, and information transparency requirements.¹⁴ After the Commission addressed certain ESCOs’ petitions for rehearing on some ordering clauses of the December 2019 Order, relevant provisions of that order went into effect on April 16, 2021. On January 25, 2021, the Commission allowed for an additional product offering by issuing an Order permitting ESCOs to offer a home warranty product.¹⁵

¹³ Id., p. 108.

¹⁴ Id.

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

FACTUAL BACKGROUND

In March 2009, the Department approved Mpower's application for eligibility to operate as an ESCO in New York State. Mpower is currently eligible to serve both residential and non-residential (mass-market) natural gas and electric customers.¹⁶

Following the issuance of the December 2019 Order, Mpower participated in the revised eligibility application process for ESCOs. Mpower submitted a new application for Staff to review, which included examples of all customer contracts for each compliant product offering the Company intended to market. On April 15, 2021, Staff granted Mpower revised eligibility to market: (1) a guaranteed savings product (GSP); (2) a fixed rate product with a five percent (5%) cap; (3) a renewable electric product; and (4) a home warranty product.

THE DEPARTMENT'S INVESTIGATION

The following summary is based on Staff's investigation to date; it does not constitute final conclusions

¹⁶ Mpower operates in the service territories of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Electric & Gas Corporation, Orange and Rockland Utilities, Inc., KeySpan Gas East Corporation d/b/a National Grid, and The Brooklyn Union Gas Company d/b/a National Grid NY.

by the Commission, and Mpower will have an opportunity to respond to Staff's contentions.¹⁷

Pursuant to the December 2019 Order, Staff monitors the GSP credit or refund process through reporting from ESCOs and utilities.¹⁸ By November 30 of every year, ESCOs are required to submit an accounting of all customers served on a GSP product into Matter 25-02240. This report includes a list of criteria that identifies whether or not a customer received a refund, the date and amount that was issued to the customer, and the percentage of savings that the customer received. The December 2019 Order requires that a GSP provide a credit or refund to the customer that is at least as large as the difference between what the customer would have been billed had the customer remained on the utility supply rate.

On December 3, 2025, Mpower filed its annual GSP report for its electric and natural gas GSPs.¹⁹ Staff contends that this report apparently showed that Mpower failed to include

¹⁷ Staff notes that this is the third Order to Show Cause that Mpower has received, all of which can be found in Case 23-M-0287. On November 27, 2023, the Commission ordered Mpower to show cause within 30 days why its eligibility to act as an ESCO should not be revoked or, alternatively, why other consequences set forth in the Commission's UBP should not be imposed, based on Mpower's alleged failure to comply with the December 2019 Order and UBP §§2.5.b and 5.B.5.d. Mpower responded to that Order to Show Cause on May 9, 2024. Further action remains pending. In addition, on August 19, 2025, the Commission ordered Mpower to show cause within 30 days why its eligibility to act as an ESCO should not be revoked or, alternatively, why other consequences set forth in the Commission's UBP should not be imposed, based on Mpower's alleged failure to comply with other terms in the December 2019 Order. Mpower received an extension, and its response was due no later than March 9, 2026. To date, Mpower has not responded to the August 19, 2025, Order to Show Cause.

¹⁸ December 2019 Order, p. 41.

¹⁹ Matter 25-02240, Item 44, filed December 3, 2025.

its own supply charges for certain customers. Additionally, in six instances, Mpower's GSP spreadsheet showed that certain customers were issued refunds on December 9, 2025, at percentages ranging from 10% to 65% below the utility rate. Staff found this data to be of interest for two reasons. First, Mpower apparently failed to include its supply rate that would allow Staff to evaluate whether Mpower provided a savings compared to the utility supply rate for 14 electric and three gas accounts. Second, Mpower reported a wide range of commodity discounts that far exceeded the minimum requirement of the GSP offering. Accordingly, on February 2, 2026, Staff emailed a list of follow up questions to Mpower along with a request for copies of customer sales agreements for all customers listed in the electric and natural gas GSP report.

On February 10, 2026, Mpower filed a revised GSP report, a response to Staff's email regarding data provided in the Company's spreadsheet, and some - but not all - of the sales agreements Staff had requested.²⁰ In a February 13, 2026 email to Staff, Mpower further stated that the Company had provided all contracts that it could locate thus far, explained that a mismatch between former Mpower account numbers and utility account numbers assigned in 2023 had caused this delay, and stated that "some of the accounts were enrolled as long as 15 years ago and the corresponding contracts are contained in storage boxes. The digital copies of many of those older contracts were destroyed due to a catastrophic failure in Mpower's server more than ten years ago." Upon reviewing the revised GSP report, Staff noticed that Mpower had removed from the spreadsheet entries for the six accounts that appeared to have been the only accounts that were issued refunds.

²⁰ Matter 25-02240, Items 47 and 48, filed February 10, 2026.

After additional follow up from Staff, on February 17, 2026, the Company submitted another filing. In that filing, Mpower informed Staff that it could not locate written customer consent for certain accounts. Mpower explained that "Section 5 of the UBP establishes practices for receiving, processing, and fulfilling requests for changing a customer's electricity or natural gas provider and obtain a customer's authorization for the change. Mpower does not constitute a customer under any conceivable interpretation of the term. Nor did Mpower need to contract with itself for the supply of energy to itself." Mpower identified these accounts in a separate filing the Company referred to as the "cross-reference table." Mpower stated that these accounts consist of employees, employees' families, and employees' family friends, which the Company claimed "are not customers of Mpower and are provided with service free of charge or for a negligible amount."²¹ Finally, Mpower stated that, "[a]lthough Mpower requires a written agreement signed by the customer before any account can be enrolled, it should be understandable that such requirement would not apply to Mpower itself, and that an employee might deem that requirement to be inapplicable when enrolling their own account."²²

Regarding the removal of the six accounts that Mpower previously indicated had received refunds, in a subsequent letter to Staff, dated February 26, 2026, Mpower explained that "[t]here were no refunds issued for electric or natural gas customers for the period of 10/1/2024 through 9/30/2025. Upon review of Mpower's 2024-2025 GSP report filed in December 2025, it was determined that all accounts for which a refund was

²¹ Matter 25-02240, Item 51, filed February 17, 2026.

²² Id.

indicated were not guaranteed savings accounts and were included in the GSP report due to the search logic used for searching our database for accounts served a guaranteed savings product.”²³ Mpower asserted that the Company had removed the six accounts from the initial GSP report because they did not fall into one of two categories: “(1) Internal Mpower accounts, which are billed at a ‘0’ rate” or “(2) employee and employee family accounts, which are billed at a ‘0’ rate or a fixed rate lower than the utility rate at the time of enrollment.”²⁴

In addition, Staff’s review of the sales agreements that Mpower submitted revealed that the Company apparently did not include sales agreements for four out of these six accounts. Mpower explained that, in lieu of sales agreements, it had provided affidavits for these four accounts to confirm under oath that each responsible person had authority to make decisions regarding the account, chose to enroll their account(s) with Mpower, was fully aware of the terms of service prior to enrolling their account(s) with Mpower and, at all times, received service in accordance with those terms. Regarding the other two out of these six accounts, one account was apparently enrolled on a compliant product, and Mpower submitted the corresponding sales agreement to Staff for review. However, the Company apparently enrolled the second account on an electric product via a third-party verification (TPV) in 2015 but did not transition that customer to a compliant product after the effective date of relevant portions of the December 2019 Order, which was April 16, 2021.

Given these apparent issues, Staff sought to understand how many customers listed on the GSP report were

²³ Matter 25-02240, Item 53, filed February 26, 2026.

²⁴ Id.

receiving commodity service from Mpower without a corresponding sales agreement. Staff requested that Mpower thoroughly identify each customer and their connection to Mpower. In its February 26, 2026 filing, Mpower submitted a revised cross-reference document, which listed each account and identified the customer's name, account number, and their relationship with Mpower.²⁵ In total, Mpower reported a combined total of 11 electric and gas accounts that did not have sales agreements but instead submitted affidavits regarding energy service for those accounts. In addition, it appeared that Mpower's principal, Lavie Popack, had three electric and three natural gas accounts, but the Company did not provide any sales agreements or affidavits for these accounts. Lastly, Mpower provided information for four other accounts that appeared to be associated with Mpower's offices but did not provide any sales agreements associated with these accounts.

Staff noted that all affidavits were executed in February 2026, even though some of these accounts have received commodity service from Mpower as far back as 2010 and as recently as 2024. Mpower again affirmatively represented that "many electronic enrollment records from prior to 2014 were destroyed due to a catastrophic system failure that resulted in the loss of these records."²⁶ Mpower further complained of the arduous task of searching for sales agreements but indicated that the Company would "continue searching through boxes of paper copies of contracts produced from that time period."²⁷

²⁵ Matter 25-02240, Item 53, filed February 26, 2026.

²⁶ Id.

²⁷ Matter 25-02240, Item 51, filed February 17, 2026.

THE DEPARTMENT'S FINDINGS

1) Mpower Apparently Did Not Obtain Proper Customer Consent When It Failed to Enroll Certain Customers on Sales Agreements, in Violation of UBP §§4.B.1, 4.B.3, and 5.D.4.

As noted above, UBP §4.B outlines the requirements for a customer to take commodity service from the ESCO rather than the utility. UBP §4.B.1 explains that ESCOs shall obtain customer authorization to request information related to ESCO service and requires ESCOs to inform customers about how this information will be handled, while UBP §5.B.1 describes the acceptable forms of customer authorization. Pursuant to UBP §5.D.4, ESCO service can only be initiated once customer authorization has been obtained and the customer has received the corresponding sales agreement. In addition, UBP §4.B.3 requires that ESCOs retain verifiable proof of customer authorization for a minimum of two years, or for the length of the sales agreement, whichever is longer. That provision further mandates that ESCOs provide verification records to the Department upon request, and that such records be provided within five calendar days of the date of the request.

Here, although Mpower claimed that employees, employees' family, and employees' family friends "are not customers of Mpower," any provision of commodity supply to another entity or person is a retail sale that would establish an ESCO-customer relationship. Employees, employees' families, employees' family friends, and any other individuals receiving ESCO service are considered mass-market customers.²⁸ The UBP also does not make any exceptions for any ESCO customer to take service without first obtaining affirmative customer consent

²⁸ See December 2019 Order, p. 1 (noting that residential and small commercial customers in the retail energy market are considered mass-market customers).

based on established terms and conditions in an accompanying sales agreement. Furthermore, Staff contends that Mpower has not demonstrated that the customers who signed affidavits in lieu of sales agreements were ever enrolled on a sales agreement. The affidavits were all signed in February 2026, but Staff verified with the utility that all of these accounts began taking commodity service from Mpower for many years prior. Thus, Staff alleges that Mpower appears to have violated UBP §§4.B.1 and 5.D.4 by failing to obtain proper customer authorization to enroll its employees, employees' families, and employees' family friends on ESCO service.

In addition, Mpower acknowledged that it was aware that certain sales agreements were missing, yet it appears that the Company did not take affirmative steps to execute new sales agreements with these customers. Even if Staff were to assume that these agreements were destroyed due to an electronic system failure more than a decade ago, because those customers continued to be served by Mpower after that failure, the Company was obligated to execute new sales agreements and retain those agreements pursuant to UBP §4.B.3. That UBP provision mandates that ESCOs retain these documents for a minimum of two years or for the length of the sales agreement, whichever is longer, but Mpower was unable to produce records for these current customers. As Mpower appears to have disregarded these record retention requirements, Staff contends that Mpower apparently violated UBP §4.B.3.

2) Mpower Apparently Failed to Enroll Customers on Compliant Products Following the Effective Date of the December 2019 Order, in Violation of the December 2019 Order.

In the December 2019 Order, the Commission required all ESCOs to enroll new or renew existing mass-market customers

on a specific set of products.²⁹ Here, Staff requested copies of sales agreements for all customers who were listed in Mpower's GSP reports. By providing Staff with affidavits rather than actual, executed sales agreements, Mpower failed to show the terms and conditions established in these agreements, thereby preventing Staff from verifying the contract terms.

According to Staff, the December 2019 Order should have triggered Mpower to examine all customer sales agreements to ensure that all its customers were being served on compliant products. Instead, Mpower appears to have only engaged certain mass-market customers - some of whom have apparently received energy service from Mpower for more than a dozen years - to sign affidavits after Staff requested that Mpower produce original sales agreements associated with these customers' energy supply. As Staff was unable to verify the terms and conditions of these products, and considering that most of the customers who signed these affidavits attested to taking commodity service from Mpower prior to the implementation of the December 2019 Order, it is reasonable for Staff to assume that these customers are currently not being served on compliant products. The continued use of these products apparently violates the December 2019 Order.

In addition, through a March 27, 2026 email to the Department's Records Access Officer, Mpower provided two TPV recordings based on Staff's March 10, 2026 request for sales agreements or contracts for 18 customers whom Mpower indicated in its GSP reports had received the Company's internal "Guaranteed Savings Rate" while these customers awaited return

²⁹ December 2019 Order, p. 108.

to their default utility service.³⁰ These recordings indicate to Staff that these two customers were apparently served on non-compliant products. Specifically, Staff alleges that, based on data provided by the distribution utility, one of these customers - who signed up for Mpower service in 2015 - apparently continues to receive energy supply through Mpower to this day. The TPV recording for that individual indicated that they were enrolled on a fixed rate 12-month electric product on November 24, 2015. This account was not included in the revised GSP report. It is therefore unclear to Staff whether this TPV was erroneously provided or how it relates to the requested data. Regardless, Staff contends that the contract connected to this TPV expired, and the customer needed to be transitioned to a compliant product - and administered an updated TPV - when the December 2019 Order took effect, at the latest. The TPV recording for the second individual reflects that that customer was enrolled on a fixed rate 12-month renewable electric product and a fixed rate 12-month gas product on March 22, 2019. The utility confirmed that this individual received energy supply through Mpower until 2025. Staff contends that Mpower had an obligation to transfer both of these customers to other compliant products at the end of these 12-month terms but apparently did not.

Additionally, the December 2019 Order requires that ESCOs obtain affirmative customer consent to transition a customer onto a variable rate renewable sales agreement at the expiration of a fixed term renewable sales agreement. It appears that Mpower did not obtain this affirmative consent after relevant provisions of the December 2019 Order took

³⁰ Recordings cannot be uploaded to the Commission's online filing system; accordingly, there is no citation for these recordings.

effect. In addition, in the case of a fixed term sales agreement, Ordering Clause 2 of the December 2019 Order established that customers can only default to a GSP at the expiration of their term.³¹ Mpower repeatedly denied that it served any mass-market customers on a GSP. Therefore, Staff contends that this apparent failure to serve customers on compliant products and obtain their affirmative consent to do so constitutes additional violations of the December 2019 Order. Finally, because Staff alleges that Mpower apparently failed to comply with the December 2019 Order,³² the Company is subject to the potential consequences outlined in UBP §2.D.6.b.

3) Mpower Apparently Enrolled a Customer on a GSP Despite Repeatedly Denying Enrolling Customers on a GSP, in Apparent Violation of UBP §2.D.5.d.

Staff contends that Mpower apparently violated UBP §2.D.5.d by providing inconsistent and potentially misleading information in connection with a Department inquiry.

As previously noted, Staff requested copies of all sales agreements for all electric and natural gas accounts that were included in the Company's GSP report. Mpower submitted a filing on February 13, 2026, that included sales agreements for "most of the non-Mpower accounts listed in its GSP report."³³ Mpower explained to Staff, "[a]gain, Mpower does not offer a [GSP] to consumers and does not contractually guarantee savings. Mpower's contracts explicitly disclaim any guarantee of savings relative to the utility company."³⁴ However, in the filing

³¹ December 2019 Order, p. 108.

³² See UBP §2.D.5.i (regarding failure to comply with Commission Orders, Rules or Regulations).

³³ Matter 25-02240, Item 49, filed February 13, 2026.

³⁴ Id.

submitted on February 13, 2026, Mpower provided a sales agreement for a mass-market customer that was enrolled in a GSP sales agreement. This product is clearly identified as a "Month to Month Variable with Guaranteed Savings."³⁵ This customer was enrolled on this agreement on April 15, 2025, and the agreement specifically states that "Mpower guarantees savings as compared to the utility."³⁶

Based on these statements, it appears that Mpower repeatedly changed its representations to Staff in a way that is not congruent or explicable. The Company filed its electric and natural gas GSP report, then emphatically denied serving any customers on a GSP, only to submit an executed GSP sales agreement that clearly guarantees savings. As mentioned above, Mpower also claimed to have experienced an electronic system failure but then blamed the delay for providing sales agreements on the arduous task of combing through physical boxes of files. Based on these representations, Staff is concerned that Mpower's recordkeeping practices make it difficult for Staff to verify compliance with the UBP, or that these sales agreements may never have existed in the first place. Comprehensive and retrievable recordkeeping plays a key implementation and compliance role.

In sum, Staff contends that the Company's shifting stories indicate that Mpower is either providing misleading information in response to Staff's requests or the Company is unable to provide accurate information. Based on these conflicting narratives, Staff alleges that Mpower has apparently failed to comply with "reporting requirements" and "Department oversight requirements," as required by UBP §2.D.5.d. This

³⁵ Id., p. 325.

³⁶ Id.

apparent failure subjects the Company to the potential consequences described in UBP §2.D.6.b.

DISCUSSION AND CONCLUSION

Every ESCO in New York must comply with the UBP and applicable orders from this Commission to maintain its eligibility to operate in New York, including, without limitation, the December 2019 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 the Department's investigation has identified sufficient credible information to support Staff's contentions that Mpower:

1) Apparently violated UBP §4.B.1, which requires ESCOs to obtain customer authorization when enrolling customers. Staff contends that Mpower failed to obtain proper customer consent to enroll with Mpower.

2) Apparently violated UBP §5.B.1, which requires ESCOs to obtain customer authorization when initiating commodity service. Staff contends that Mpower failed to follow the proper enrollment process to enroll certain customers on an approved product.

3) Apparently violated UBP §4.B.3, which requires ESCOs to retain verifiable proof of authorization for each customer and produce this proof to Staff within five calendar days of a Staff request. Staff contends that Mpower failed to produce requested sales agreements within five calendar days.

4) Apparently failed to transition and enroll customers on a compliant product, in violation of the December 2019 Order. Staff received customer affidavits regarding Mpower's energy service rather than sales agreements indicating the specific product(s) on which those customers were enrolled.

5) Apparently violated UBP §2.D.5.d by providing inconsistent and potentially misleading information to Staff, contrary to "reporting requirements, or Department oversight requirements." Staff contends that Mpower denied offering a GSP product but submitted an active sales agreement with a GSP product to Staff.

Staff contends that Mpower's apparent violations are not isolated events but rather encompass continuous instances of non-compliance that extend across its business practices, potentially reflecting a pervasive disregard of the UBP and the Commission's December 2019 Order. Based on the information identified by Staff and for the reasons discussed in this Order, the Commission, therefore, orders Mpower 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. Mpower should further show cause why other consequences should not be imposed.

The Commission orders:

1. A proceeding is instituted, and Mpower Energy LLC 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 §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