

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on October 16, 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 25-M-0244 - Proceeding on Motion of the Commission to Seek
Consequences Against Energo Power & Gas LLC for
Violations of the Uniform Business Practices
and Apparent Failure to Comply with a
Commission Order.

ORDER TO REVOKE

(Issued and Effective October 21, 2025)

BY THE COMMISSION:

INTRODUCTION

On June 23, 2025, the Public Service Commission of the
State of New York (Commission) issued an Order Instituting
Proceeding and to Show Cause (OTSC) against Energo Power and
Gas, LLC's (formerly known as Marathon Power LLC d/b/a Marathon

Energy, formerly known as Marathon Energy Corporation)¹ for an apparent failure to comply with the Commission's Order Adopting a Clean Energy Standard² (CES Order), the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process (December 2019 Order),³ and the Order Imposing Consequences against Marathon Energy Corporation for Violations of the Uniform Business Practices (June 2020 Order).⁴

The Commission ordered Energo to show cause within thirty days why its eligibility should not be revoked, or, in the alternative, have other consequences imposed upon it, as described in the Commission's rules governing energy services companies (ESCO) eligibility in the Uniform Business Practices (UBP) Section 2.D.6. Energo did not respond to the Commission's June 2025 OTSC within the specified thirty-day timeframe and has therefore defaulted. By this Order, the Commission revokes

¹ On June 12, 2020, the Commission imposed consequences against Marathon Power, LLC's eligibility to serve customers in New York State after finding multiple regulatory violations. Case 16-M-0434, Proceeding on Motion of the Commission to Seek Consequences Against Marathon Energy Corporation for Violations of the Uniform Business Practices, Order Imposing Consequences (issued June 12, 2020); see also Marathon Power, LLC v. Public Service Commission, 209 A.D.3d 1245 (3d Dept. 2022) (affirming the Commission's revocation), motion for leave denied, 39 N.Y.3d 913 (2023).

² Case 15-E-0302 et al., Proceeding on the Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (issued August 1, 2016) (CES Order).

³ Case 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).

⁴ Case 16-M-0434, Proceeding on the Motion of the Commission to Impose Consequences against Marathon Energy Corporation for Violations of the Uniform Business Practices, Order Imposing Consequences (issued June 12, 2020) (June 2020 Order).

Energco's eligibility to serve energy customers in New York State.

BACKGROUND

Energco was deemed eligible to serve both residential and non-residential natural gas and electric customers in New York State.⁵ As a consequence of the Commission's December 2019 Order, ESCOs were required to submit a new application package to Department staff for review that included copies of all customer contracts for each compliant product offering they intended to market.⁶ Energco received a revised eligibility acknowledgement on March 17, 2021, deeming it eligible to serve a renewable energy product, a home warranty product, and a fixed-rate within price cap product to both electric and gas mass market customers in New York State.

LEGAL AUTHORITY

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."⁷ The Commission's UBP was adopted pursuant to this authority and set forth various regulatory eligibility

⁵ Energco Power and Gas, LLC operates in the service territories of Central Hudson Gas & Electric Corporation, KeySpan Gas East Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY, Niagara Mohawk Power Corporation d/b/a National Grid, National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

⁶ December 2019 Order, p. 109.

⁷ Matter of National Energy Marketers Assn. v. New York State Pub. Serv. Commn., 33 N.Y.3d 336, 351, rearg. denied, 33 N.Y.3d 1130 (2019).

requirements for ESCOs to begin accessing, and to continue accessing, utility distribution systems for the purpose of selling energy service to customers.⁸ The Commission has authority to enforce those terms and conditions by imposing consequences on ESCOs that fail to abide by them.

THE DEPARTMENT'S INVESTIGATION AND FINDINGS

As set forth in the June 2025 OTSC, Department staff contends that Energo failed to comply with multiple Commission Orders. During the investigation, Department staff identified information that Energo:

- 1) violated the CES Order by failing to satisfy its annual obligation to purchase Zero-Emissions Credit (ZEC) and the Renewable Energy Standard (RES) obligation to procure and retire Tier 1 Renewable Energy Credits (REC) or alternatively submit an Alternative Compliance Payment (ACP);
- 2) violated UBP Section 2.D.5.b by failing to honor the terms of its sales agreement, which required Energo to purchase a specific percentage of voluntary RECs to satisfy contractual obligations; and
- 3) failed to comply with a Commission order to re-rate adversely affected customers impacted by Energo's (formerly known as Marathon) upward rate adjustment.⁹

⁸ 33 N.Y.3d at 343.

⁹ June 2020 Order, p. 2.

Failure to Comply with the Clean Energy Standard

On July 3, 2024, NYSERDA issued an invoice to Energo for \$2,540,835.75 due to a shortfall in Energo's EDP subaccount. Energo failed to submit payment to NYSERDA. Documents obtained by Department staff indicate that on August 8, 2024, August 14, 2024, and again on August 27, 2024, NYSERDA sent email reminders for the overdue payment and received no response from Energo. Energo has not paid the outstanding ACP invoice to satisfy its RES compliance obligation, and therefore Energo has violated the Commission's CES Order.¹⁰

On October 10, 2024, NYSERDA issued an invoice to Energo for its annual ZEC reconciliation for 2023 in the amount of \$35,833.68, due on November 9, 2024.¹¹ Energo failed to make payment to NYSERDA by the required deadline. On November 26, 2024, NYSERDA issued a past due notice to Energo to an executive contact for Energo. Energo has not paid NYSERDA for its ZEC obligation, and therefore Energo violated the CES Order.¹²

Failure to Honor Terms of Sales Agreements

Energo had eligibility to offer customers a renewable electric product. During an annual compliance filing, Staff

¹⁰ CES Order, p. 154.

¹¹ The ZEC compliance year is April through the month of March. A uniform wholesale, per MWh charge, is applied to each LSE'S actual wholesale load to calculate its monthly ZEC obligations. The reconciliation period occurs in mid-late September, allowing for a true-up resulting in each LSE being issued a refund for overpayment or issued an invoice for underpayment, to complete its annual ZEC obligation. Case 15-E-0302, Clean Energy Standard, Final Zero Emissions Credit Implementation Plan (filed October 21, 2019).

¹² CES Order, p. 156.

reviewed Energo's renewable electric sales agreement.¹³ In the Customer Disclosure Statement, the Renewable Energy section reads: "50% above RES or up to 100% of the energy sourced under this agreement shall be matched with renewable energy credits that are associated with renewable resources as specified in this Agreement. See section 23 - Renewable Sourced Energy." In the sales agreement, Energo states, "electricity usage, based on your selection above, is matched by the generation of energy from renewable resources by retiring renewable energy certificate (RECs)."¹⁴

Energo provided 2023 renewable load data indicating that it was obligated to match a portion of its customers' load with 50% and 100% renewable electric energy.¹⁵ Its total voluntary renewable load obligation after calculating its percentage of load based on contractual obligations was 6,570 MWh. In its response to the 2023 renewable review, Energo indicated its intent to make Voluntary Compliance Payments (VCPs) in lieu of purchasing and retiring RECs.¹⁶

Department staff's investigation discovered that Energo did not retire any RECs in its NYGATS account to match its voluntary renewable load obligation. On October 7, 2024, NYSERDA issued an invoice to Energo for 6,570 VCP's totaling

¹³ Matter 14-02554, Energo Annual Compliance Filing, filed February 3, 2023 (DMM Item #5107).

¹⁴ Id. Energo's contract continues with "RECs must be purchased from eligible renewable generators through NYGATS; by purchasing Tier 1 RECs from NYSERDA; by procuring RECs from eligible renewable generators through bilateral contracts; by entering into bundled energy and REC purchase agreements with eligible renewable generators; or making Alternative Compliance Payments to NYSERDA."

¹⁵ Matter 22-00900, Energo Renewable Response, filed June 18, 2024 (DMM Item #245).

¹⁶ Id.

\$209,517.30, which was due on October 22, 2024. Energo did not submit payment to NYSERDA. Energo failed to meet the contractual obligation to its customers by failing to make VCP payments to match its customer's electric consumption. Therefore, Energo violated the UBP Section 2.D.5.b by failing to "adhere to the policies and procedures described in its Sales Agreement."¹⁷

Failure to Comply with a Prior Commission Directive

On March 20, 2020, the Commission issued an Order to Show Cause against Energo (formerly known as Marathon¹⁸ Energy Corporation) for an apparent failure to comply with the Commission's UBP and conditions for continuing eligibility pursuant to a previous Contingency Order.¹⁹ The Commission found Energo violated the Contingency Order and the UBP by modifying fixed rate contracts, and on June 12, 2020, issued an Order Imposing Consequences.²⁰

¹⁷ UBP Section 2.D.5.b ("An ESCO may be subject to the consequences listed in UBP Section 2.D.6.b for reasons, including, but not limited to: failure to adhere to the policies and procedures described in its Sales Agreement.")

¹⁸ Marathon Power LLC changed its name to Energo Power & Gas LLC, in December 2022. Energo's own website announced the change: "Marathon Energy, a full-service independent retail energy provider based in Woodside, New York, announced it is changing its company name to Energo and unveiled a new logo. This change is in response to its accelerated growth, and only impacts the company name and logo. There is no change in ownership and in no way impacts or changes customer accounts." See <https://energo.com/marathonisnowenergo/> (dated January 3, 2023).

¹⁹ Case 16-M-0434, Proceeding on Motion of the Commission to Seek Consequences Against Marathon Energy Corporation for Violations of the Uniform Business Practices, Order to Show Cause (issued March 20, 2020) (March 2020 Order).

²⁰ June 2020 Order.

In response to the June 2020 Order, Energo filed a petition for Rehearing and Reconsideration of the Order Imposing Consequences on July 10, 2020.²¹ In an Order issued on November 22, 2022, the Commission set its final deadlines established at the conclusion of the appellate process, re-establishing the obligations set forth in Ordering Clauses 1 and 2 of the June 2020 Order. The Order required Energo to reimburse adversely affected customers by July 17, 2023, and it additionally required Energo to provide proof to the Commission of reimbursement efforts by August 1, 2023.

Ordering Clause 1 of the June 2020 Order explicitly required Energo to "re-rate all customers adversely impacted by Energo's upward adjustment of the rate for commodity services in those customers' fixed rate contracts."²² Ordering Clause 2 of the June 2020 Order requested proof of compliance including supporting calculations.²³

Energo has failed to refund all impacted customers. Energo's reported data does not include any customer-specific metrics, nor does it include any proof that customers received a reimbursement. Department staff has attempted to utilize alternative data sources to track Energo's alleged efforts, but NYGATS load data appears to show that Energo stopped serving electric customers in May of 2024. Department staff has also

²¹ Case 16-M-0434, Petition of Marathon Power LLC D/B/A Marathon Energy for Rehearing and Reconsideration of the Order Imposing Consequences, (filed July 10, 2020) (July 2020 Petition). The Commission denied the July 2020 Petition and the Commission's actions were upheld during the appellate process. Marathon Power, LLC v. Public Service Commission, 209 AD3d 1245 (3d Dept. 2022). Energo sought leave to appeal to the Court of Appeals, which was denied on May 18, 2023. Marathon Power, LLC v. Public Service Commission, 39 NY3d 913 (2023).

²² June 2020 Order, p. 13.

²³ Id.

obtained utility migration data that shows drops in the number of Energo's customers, potentially indicating that some customers appeared to have been transferred to other ESCOs at various times during the 2024 calendar year. Energo did not adequately rerate its customers, and therefore violated the Commission's June 2020 Order.

DISCUSSION AND CONCLUSION

Every ESCO in New York must comply with the UBP and all applicable Commission orders to maintain eligibility to operate in New York. As set forth above, the Commission holds that Energo has violated the CES by failing to satisfy its annual obligation to purchase ZECs and its RES obligation to purchase and retire Tier 1 RECs or make ACP's. Energo has failed to pay over \$2.5 million to NYSERDA, demonstrating a flagrant disregard for the Commission's orders and regulatory authority.

Additionally, the Commission finds that Energo failed to honor the terms of its sales agreements in violation of the UBP Section 2.D.5.b. and failed to comply with a previous Commission order to rerate adversely affected customers. Energo has failed to respond to the Commission's June OTSC, and has therefore defaulted. The Commission hereby revokes Energo's eligibility to serve energy customers in New York State.

The Commission orders:

1. The eligibility of Energo Power & Gas LLC to operate as an energy services company in New York is hereby revoked.

2. This proceeding is closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary