

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on July 17, 2025

COMMISSIONERS PRESENT:

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

CASE 25-E-0346 - Proceeding on Motion of the Commission to Seek  
Consequences against Elite Design and  
Construction for Violations of the Uniform  
Business Practices.

ORDER TO SHOW CAUSE

(Issued and Effective July 22, 2025)

BY THE COMMISSION:

INTRODUCTION

In this Order, the Commission finds that Department of Public Service (Department) staff has identified sufficiently credible evidence in the record of this case to support the issuance of an Order to Show Cause (OTSC) concerning Elite Design and Construction's (Elite Designs) apparent failure to comply with the applicable Uniform Business Practices for Distributed Energy Resource Suppliers<sup>1</sup> (UBP-DERS) Sections 3F.B and 3A.D.1. We now provide Elite Designs with an opportunity to

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<sup>1</sup> 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 (issued October 19, 2017), Appendix A.

respond to Department staff's contentions. Accordingly, Elite Designs is ordered to show cause within 30 days why its authorization to act as a Distributed Energy Resource (DER) Provider in New York State should not be revoked, or, alternatively, why other consequences as set forth in the Commission's UBP-DERS should not be imposed.

The summary of events presented here is based on the allegations and information obtained and presented by Department staff and summarized in this Order. We note that this Order to Show Cause does not constitute final factual findings or legal conclusions by the Commission. This Order initiates a proceeding and provides Elite Designs with an opportunity to address and respond to the allegations.

#### BACKGROUND

The UBP-DERS Section 3A.D.1 requires each DER Provider to submit, by March 31 of each year, a statement that the information and attachments in the DER's initial registration form are still current and accurate (Annual Compliance Statement). Additionally, the UBP-DERS Section 3F.B requires each DER Provider to file an annual report by March 31 of each year containing customer information from the previous calendar year (Annual Compliance Report).<sup>2</sup>

The Annual Compliance Statement and the Annual Compliance Report are collectively known as the Annual Compliance Filing. According to Department staff, it appears that Elite Design, a DER Provider, failed to file: (1) a 2025 Annual Compliance Statement that the information and attachments

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<sup>2</sup> See also Case 15-M-0180, supra, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued October 19, 2017), Appendix B: DER Oversight Requirements Table, p. B-3.

in Elite Design's initial registration form are still current and accurate; and (2) a 2024 Annual Compliance Report, which is the required Annual Compliance spreadsheet that has been developed by Department staff. Consistent with the UBP-DERS, Elite Design was obligated to submit these documents by March 31, 2025.

On May 2, 2025, the Department issued a Notice of Apparent Violation (NOAV) letter to Elite Design for failure to file with the Secretary to the Commission its Annual Compliance Filing. It further appears that Elite Design failed to respond to the Department's May 2, 2025 NOAV Letter.

THE DEPARTMENT'S INVESTIGATION AND FINDINGS

As noted above, the following contentions and discussions are based on Department staff's review of Department records. Elite Design has an opportunity to address and respond to the allegations and contentions.

On March 11, 2024, Department staff deemed Elite Design eligible to operate as a DER Provider in New York State. Department staff contacted Elite Design via email on several occasions to notify Elite Design of the 2024 Annual Compliance Filing and of its apparent failure to submit the required information. Specifically, Department staff sent an email on March 1, 2025, to Elite Design that the filing was due March 31, 2025. On March 11, March 19, and March 26, Department staff sent a reminder email to all available contacts at the company, providing compliance filing instructions and indicating that the March 31 due date was rapidly approaching.

On April 7, 2025, Department staff sent Elite Design an overdue notice via email. Department staff subsequently attempted to call Elite Design between April 21, 2025, and April 22, 2025, to inform Elite Design that Department staff had not

received its filing and directing Elite Design 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 (Section 2F.C.1.a), which for this provision is based on a reasonable amount of time given the nature of the issue to be cured.

Department staff contends that Elite Design apparently failed to submit its Annual Compliance Filing by March 31, 2025, and subsequently failed to respond to any of Department staff's requests or inquiries. On May 2, 2025, Department staff sent an NOAV letter via email and U.S. Mail to Elite Design and instructed Elite Design to file its required Annual Compliance Filing by May 16, 2025.<sup>3</sup> The NOAV letter made clear that, if the Department did not receive the filing by May 16, 2025, Department staff would seek from the Commission an Order to Show Cause to find Elite Design in violation of UBP-DERS Section 3A.D.1 and UBP-DERS Section 3F.B and to seek further remedies, including the possible revocation of Elite Design's authorization to operate as a DER Provider in the State of New York.

#### LEGAL AUTHORITY

The Commission's UBP-DERS established a framework of regulation which governs the integration of DER Suppliers/DER Providers into New York State's electric system, as well as the

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<sup>3</sup> See May 2, 2025 NOAV letter to Elite Design and Construction filed under Matter 25-00942.

rights and responsibilities of DER Suppliers. The UBP-DERS requirements 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."<sup>4</sup>

The UBP-DERS Section 3A.D.1 requires each DER Provider to submit an Annual Compliance Statement that the information and attachments in the DER 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 containing the "aggregate number of customers served, a summary of services provided, and information on the number and classification of complaints received[.]"<sup>5</sup>

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.<sup>6</sup> 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."<sup>7</sup> 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.<sup>8</sup>

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<sup>4</sup> Case 15-M-0180, supra, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued October 19, 2017), p. 2.

<sup>5</sup> UBP-DERS §3F.B.

<sup>6</sup> See UBP-DERS §2F.

<sup>7</sup> UBP-DERS §§2F.5 and 2F.7.

<sup>8</sup> UBP-DERS §2F.C.2.H.

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. Department staff has identified sufficiently credible information that Elite Design apparently did not submit its Annual Compliance Filing, an apparent violation of UBP-DERS Section 3A.D.1 and Section 3F.B. The UBP-DERS Section 2F.C identifies potential consequences that the Commission may impose upon a DER Provider for non-compliance in one or more categories set forth in UBP-DERS Section 2F.B.

Consistent with the contentions discussed in this Order, the Commission therefore orders Elite Design to show cause why, based upon the allegations described herein, its eligibility to provide services as a DER Provider in New York should not be revoked. Elite Design should further show cause why other consequences should not be imposed.

The Commission orders:

1. A proceeding is instituted, and Elite Design and Construction is ordered to show cause within 30 days of the date of this Order why the Commission should not revoke its eligibility to operate as a Distributed Energy Resource Provider in the State of New York, or impose other consequences, as described in the Uniform Business Practices for Distributed Energy Resource Suppliers Section 2.F.C.

2. 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 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