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John B. Rhodes, Chair

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## **Consumer Complaints Against Brooklyn-Based ESCO Prompts Action by the Public Service Commission**

**— Commission also decides which ESCOs may continue to serve low-income customers, who are frequent targets of overcharging by some energy service companies—**

**ALBANY** — The New York State Public Service Commission (Commission) today said the energy service company MPower Energy could be barred from operating in New York following more than 100 complaints about deceptive sales and marketing practices by the Brooklyn-based ESCO. In separate orders, the Commission also clarified which ESCOs in New York can continue to serve low-income customers.

Following an investigation into complaints dating back to 2015, the Commission said MPower must offer proof within 30 days on why it should be allowed to continue operating in New York. Within seven days, the firm must also show why it should be allowed to serve low-income customers, who are frequently the victims of aggressive and misleading sales practices by ESCOs.

Allegations against MPower Energy include customer complaints that MPower enrolled some customers without their permission, an illegal practice known as “slamming.” One customer alleged that MPower salesman “rang my bell and banged on my door multiple times (before) they yelled, ‘Building Verification!’” When the resident asked for identification, the sales agent yelled “Building Verification!” again and threatened to assault the resident when she voiced her displeasure.

MPower has served approximately 90,000 residential and small commercial customers in New York City. In another complaint, a customer of Green Mountain Energy was allegedly told that Green Mountain no longer served that area and they should switch service to MPower. Typical of many ESCO complaints across the state, an MPower sales agent allegedly claimed to be a representative of the local utility and not an ESCO salesman, according to complaints against MPower.

“These complaints demonstrate that MPower sales agents may be using many deceptive and misleading marketing tactics when marketing to customers, including misrepresentation of identity, and promising savings that are not guaranteed,” the Commission stated in its order. The investigation by the Department of Public Service also found that MPower “has not provided appropriate sales agreements to its non-English speaking customers.”

The Department staff issued a Notice of Apparent Failure on June 6, 2016 following consumer complaints against MPower and a second notice on March 21, 2017 after more complaints were filed.

Another 43 complaints have been filed since then alleging slamming and other forms of misleading or deceptive sales practices. These include claims that MPower sales agents misrepresented their identity, enrolled customer accounts without proper authority to do so and did not provide contracts in the customer's native language.

To protect low-income ratepayers from paying too much for electricity and natural gas, the Commission banned most ESCOs from serving low-income customers in an order approved last December. The Commission said it would consider waivers for any ESCO that promises to offer bill savings or that can guarantee benefits to low-income customers.

In today's session, the Commission voted to allow three energy service companies – Just Energy NY Corp., National Fuel Resources and Zone One Energy – to continue serving low-income customers, while waiver requests were denied for five other ESCOs: Agway Energy Services, Stream Energy, South Bay Energy, and New Wave Energy.

A 30-month, statewide audit of ESCO charges found that low-income New Yorkers paid \$96 million more than what a utility would have charged for gas or electricity. The Commission is now pursuing a broader, in-depth investigation into ESCO practices to determine what, if any, new regulations or actions are necessary to protect all consumers. The current hearings underway into ESCO practices began after the Commission determined that retail markets have not provided sufficient competition or innovation to properly serve mass-market consumers.

"Despite efforts to realign the retail market, customer abuses and overcharging persist, and there has been little innovation, particularly in the provision of energy efficiency and energy management services," the Commission stated in ordering the in-depth probe last December. Following the submission of exhibits and rebuttal testimony, ESCO representatives will be questioned in sworn testimony scheduled for later this year.

Today's decisions may be obtained by going to the Commission Documents section of the Commission's Web site at [www.dps.ny.gov](http://www.dps.ny.gov) and entering Case Number 12-M-0476 in the input box labeled "Search for Case/Matter Number." Many libraries offer free Internet access. Commission documents may also be obtained from the Commission's Files Office, 14th floor, Three Empire State Plaza, Albany, NY 12223 (518-474-2500). If you have difficulty understanding English, please call us at 1-800-342-3377 for free language assistance services regarding this press release.

### **About Reforming the Energy Vision:**

Reforming the Energy Vision (REV) is Governor Andrew M. Cuomo's strategy to lead on climate change and grow New York's economy. REV is building a cleaner, more resilient and affordable energy system for all New Yorkers by stimulating investment in clean technologies like solar, wind, and energy efficiency and generating 50 percent of the state's electricity needs from renewable energy by 2030. Already, REV has driven 600 percent growth in the statewide solar market, enabled over 105,000 low-income households to permanently cut their energy bills with energy efficiency, and created thousands of jobs in manufacturing, engineering, and other clean tech sectors. REV is ensuring New York State reduces statewide greenhouse gas emissions 40 percent by 2030 and achieves the internationally-recognized target of reducing emissions 80 percent by 2050. To learn more about REV, including the Governor's \$5 billion investment in clean energy technology and innovation, please visit [www.ny.gov/REV4NY](http://www.ny.gov/REV4NY) and follow us at @Rev4NY.