



**Department
of State**

2020 ANNUAL REPORT

**ACTIVITIES OF THE
DIVISION OF CONSUMER PROTECTION**

Pursuant to Section 94-a (5)(a) of the Executive Law

**FOR SUBMISSION TO:
TEMPORARY PRESIDENT OF THE SENATE ANDREA STEWART-COUSINS
SPEAKER OF THE ASSEMBLY CARL E. HEASTIE**

**Andrew M. Cuomo
Governor**

**Rossana Rosado
Secretary of State**

INTRODUCTION

In compliance with the requirements set forth in Executive Law § 94-a (5)(a), the Department of State (“Department”) respectfully submits this report regarding the activities of the Division of Consumer Protection (“Division”). This report covers the period of January 1, 2020 through December 31, 2020.

During the reporting period, the Division accomplished its goals of educating and protecting the public by: (1) providing direct assistance and mediation to resolve marketplace complaints; (2) delivering mitigation assistance for victims of identity theft; (3) conducting education campaigns related to scam prevention, identity theft prevention, credit management, and product safety; (4) advancing cost effective and quality electric, gas, telephone, and cable service by representing consumers at utility rate and policy proceedings before State and federal regulators; and (5) enforcing the State’s Do Not Call Law (“DNC Law”).

CONSUMER ASSISTANCE PROGRAM

Executive Law § 94-a (3)(a)(1) charges the Division to “receive complaints of consumers, attempt to mediate such complaints where appropriate, and refer complaints to the appropriate unit of the department, or federal, state, or local agency authorized by law for appropriate action on such complaints.” This statutory mandate is met through the Consumer Assistance Program (“CAP”). The CAP operates a Consumer Assistance Helpline five days per week, 8:30 a.m. to 4:30 p.m. Consumers also have the option of filing a consumer complaint electronically 24 hours per day, seven days per week, via the Department’s website. Among other issues, the CAP mediates and resolves complaints regarding product refunds and returns, credit card disputes, debt collection and consolidation practices, internet services, cellular services, credit report errors, and identity theft mitigation.

On March 7, 2020, Governor Cuomo issued Executive Order 202 declaring a State Disaster Emergency in response to the COVID-19 novel coronavirus outbreak. The Governor then directed the Division to launch an investigation into reports of unfair price increases of consumer products such as household cleaning supplies and hand sanitizer amid the COVID-19 novel coronavirus outbreak. New Yorkers were encouraged to report suspected price gouging to the Consumer Assistance Helpline, which expanded its hours to operate daily from 8:30am to 8:30pm. The CAP received 2,164 COVID-19 price gouging complaints in 2020. In response, the Division formed a new partnership with the New York State Office of Attorney General (OAG) to effectuate enforcement. After the Division investigated the claims, 1,228 complaints were forwarded to the OAG for action. The Division’s investigations also identified 57 distributors that appeared to be price gouging retailers and forwarded those details to the OAG for action.

The 2020 consumer marketplace was fraught with disruptions, cancellations, and consumer uncertainty due to the COVID-19 pandemic. Subsequently, the CAP received 19,577 consumer phone calls related to COVID-19 and 1,602 COVID-19-related consumer marketplace complaints.

Beginning on March 9, 2020, the CAP Consumer Assistance Helpline also supported a free hand sanitizer effort, the “New York Clean” initiative, to support the State’s health and safety. New Yorkers were encouraged to call the Consumer Assistance Helpline to report any person or business selling the hand sanitizer for profit.

The impact of the Executive Order and many marketplace initiatives to help everyday New Yorkers navigating COVID-19 were significant. In 2020, the CAP staff handled 31,689 complaints and inquiries. These activities returned nearly three million dollars to the wallets of New York consumers, a record breaking 240% increase in money returned to New Yorkers from the prior year. Specifically, \$2,672,551 expended by consumers was returned, and \$158,849 in obligated consumer costs were eliminated. A chart of the top ten consumer concerns addressed in 2020 is attached. (Appendix A)

IDENTITY THEFT PREVENTION AND MITIGATION PROGRAM

Executive Law § 94-a (3)(a)(9) directs the Division to “establish a process by which victims of identity theft will receive assistance and information to resolve complaints,” which includes promulgating rules and regulations to administer the Identity Theft Prevention and Mitigation Program.

The Coronavirus Aid, Relief and Economic Security (CARES) Act expanded states’ ability to provide unemployment insurance for many workers impacted by the COVID-19 pandemic. The increase and expansion of unemployment benefits lead to a sharp rise in unemployment insurance (UI) identity theft. The Division assisted consumers affected by UI identity theft by partnering with the NYS Department of Labor on their behalf, counseling the consumers to help mitigate any damage, and providing affirmative strategies to thwart any future theft.

In 2020, the Division mediated 46 identity theft complaints and responded to 741 calls regarding identity theft via its Consumer Helpline, thereby providing direct, personal identity theft prevention and mitigation assistance to 787 consumers. The Division also hosted 9 identity theft prevention and mitigation education programs reaching 201 consumers statewide.

Additionally, the Division received and reviewed 17 consumer credit reporting agency annual filings to ensure compliance with Identity Theft Prevention and Mitigation Program regulations. The regulations serve to hold consumer credit reporting agencies more accountable and better assist consumers navigating their credit report, the most critical financial imprint created by the consumer credit reporting agencies.

OUTREACH AND EDUCATION PROGRAM

Executive Law § 94-a (3)(a)(3) directs the Division to “initiate and encourage consumer education programs.” In 2020, the Division provided presentations on Identity Theft Prevention and Mitigation, Scam Prevention, Credit Management, Child Safety, and Product Safety. The Division delivered live presentations early in 2020. Then subsequent to the March 16, 2020, New York on Pause Executive Order, the Division pivoted to create and deliver live virtual seminars to community groups, organizations, and educational institutions across the State, a list of which is provided in Appendix B. The Division also educated consumers by utilizing social media channels Facebook and Twitter, issuing consumer alerts and contributing to Statewide consumer media coverage.

To support consumers during the novel coronavirus outbreak, the Division created a virtual presentation on COVID-19 Scams and issued 17 consumer alerts specific to COVID-19 marketplace concerns, including: children’s online safety, data privacy, identity theft, telemarketing during the state of emergency, online shopping tips, consumers’ travel rights, and scams related to testing, vaccinations, economic impact payments, government impersonators and spoofing.

Additionally, the Division collaborated with the U.S. Consumer Product Safety Commission (“CPSC”) to deliver virtual Keeping Families Safe and Carbon Monoxide Safety presentations. The Division delivered 12 presentations to over 400 participants through the partnership.

In 2020, the Division’s Outreach and Education Program issued 34 consumer alerts and participated in 41 events statewide, reaching approximately 5,600 consumers. Appendix C enumerates these statewide activities in a map by county and region.

DO NOT CALL ENFORCEMENT PROGRAM

The New York State Do Not Call Law became effective in 2001, allowing consumers to place their telephone numbers on a central registry to reduce the number of unsolicited telemarketing calls they receive. In 2003, the Federal Trade Commission (“FTC”) and the Federal Communications Commission collaborated to create the National Do Not Call Program and Registry. As a result, New Yorkers started registering their home and mobile phone numbers on the National Do Not Call Registry (National Registry) and filing complaints using the FTC’s website.

Using the National Registry to retrieve the complaints of aggrieved New Yorkers, in 2020, the Division investigated 56,127 alleged violations and collected \$127,500 in penalties related thereto. As of December 31, 2020, there were 15,424,666 New York telephone numbers on the National Registry, an increase of 113,900 telephone numbers over the previous year. Despite the increase in registrants, New York saw a decrease in consumer complaints concerning violations of the Do Not Call Law with 247,301 in 2020, compared to 281,504 in 2019.

In 2020, telephone scams involving impersonations of New York State agencies grew with the onset of the COVID-19 pandemic. In response, the Division worked to identify these scams in the early stages by monitoring the Federal Trade Commission’s Sentinel fraud complaint database. The Division then partnered with the telecommunications industry to initiate “tracebacks” to identify the actual nefarious callers, despite their use of spoofed caller ID phone numbers. A scam affecting the Department of Public Service was ultimately disrupted, consumer alerts were issued and a referral for further investigation and enforcement was made to the Office of New York State Attorney General.

UTILITY INTERVENTION UNIT

Executive Law §94-a(4)(b) sets forth the powers and duties of the Utility Intervention Unit (UIU). UIU is tasked with representing the interests of consumers before federal, state, and local agencies engaged in the regulation of energy, water, and telecommunication services. UIU staff participate in cases before the Public Service Commission (PSC), the New York Independent System Operator (NYISO), and the Federal Energy Regulatory Commission (FERC) as well as several utility and energy-related interagency working groups, task forces, and committees, including the Low Income Forum on Energy Steering Committee, Home Energy Assistance Program (HEAP) Interagency Task Force, Natural Gas Reliability Advisory Group, Chairperson of the Targeted Accessibility Fund, and National Association of State Utility Consumer Advocates.

To fulfill this requirement, UIU staff engaged in extensive analysis across multiple issue areas, including: electric and gas utility rate cases, with a specialized focus on rate design and revenue allocation; resource adequacy serving wholesale electricity markets; discount calculation methodology for low-income customers; rate design in evolving end-user markets; and proliferation of advanced meters across utility service territories. While this list is not exhaustive, the wide range of UIU’s involvement in multiple proceedings, confidential settlement

negotiations, and policy issues affecting consumers across the State provides a unique perspective and insight from which to advocate for financial equity and fairness for utility customers as consumers. This role has become more important during the implementation of significant and important policy changes relating to utility service in New York State.

During 2020, UIU participated in 20 PSC utility rate and policy proceedings, as noted in Appendix D. Participation in these proceedings involves rigorous analysis of technical documents and data, the submission of witness/expert testimony and legal briefs, participation in confidential settlement negotiations and evidentiary hearings. The vast majority of UIU's efforts during this year focused on rate cases, due to the scheduling of several concurrent cases that represented approximately 3.2 million electric customers and 3.0 million gas customers. In each of these rate proceedings, UIU advocated aggressively on behalf of consumers with the goal of limiting the utilities' proposed rate increases while considering policy implications to customers' rates; and focusing on customer service, cost of service, revenue allocation, and rate design. UIU routinely utilized Facebook and Twitter to notify the public of information such as opportunities for public input on the rate cases and the status of HEAP funds to be available.

Utility rate cases are lengthy processes, generally encompassing eleven-months. The first four months focus on conducting discovery, analyzing responses, and developing testimony with experts. Often after rebuttal testimony is filed, the remainder of the months may be spent on settlement negotiations and drafting a joint proposal, evidentiary hearings, initial and reply briefs, etc.

Additionally, during this unprecedented era of COVID-19 that has impacted the health and economy of New York, the PSC instituted a generic proceeding to assess its impact on utility service in June 2020. In light of COVID-19 issues, in May 2020, the City of New York filed a petition seeking relief for low-income electric customers during the summer cooling season. In September 2020, Niagara Mohawk (National Grid) filed a petition seeking approval to use funds from existing deferral accounts to offer bill credits for customers in its energy affordability program and to provide support to distressed businesses. UIU responded to each of these two petitions by filing comments in support of the proposed immediate relief to support those customers in need and provided insight into areas that may need to be re-evaluated regarding utility rates, practices, and programs in the PSC's generic proceeding regarding COVID-19 issues.

Finally, UIU continues to serve as the designated Statewide Consumer Advocate at the NYISO, which oversees the wholesale electricity markets in New York, and is a voting member on several of the NYISO's decision-making committees. In that role, UIU assists in developing rules and procedures that help ensure an adequate supply of reasonably priced electricity exists for consumers in the State. In 2020, UIU joined other New York State entities' opposition to the Cricket Valley Energy Center LLC and the Empire Generating Company LLC complaint at the FERC regarding buyer side mitigation issues. Additionally, UIU participated in the LS Power Grid New York Corporation (LSPG-NY) FERC proceeding where it sought: (1) a formula rate template and protocols to determine and recover the costs of its transmission investments in the NYISO region; and (2) to establish certain transmission rate incentives for its portion of a transmission project.

CONSUMER MARKETPLACE SAFETY

CHILDREN'S PRODUCT TESTING

Executive Law § 94-a (3)(a)(11) grants the Division the power and duty to "conduct product research and testing and, where appropriate, contract with private agencies and firms for the performance of such services." In 2020, the Division conducted a child product safety testing campaign to ensure compliance with applicable New York State and federal safety standards. All testing was performed by a third-party Consumer Product Safety Commission ("CPSC") accredited laboratory.

A random sampling of 10 children's toys were tested for compliance with applicable New York State and Federal standards for product labeling and the presence of 8 heavy metals (lead, antimony, arsenic, barium, cadmium, chromium, mercury and selenium), and phthalates. Where appropriate, certain products among the sampling received mechanical hazards testing. Eight items tested compliant with applicable State and Federal standards, and two items were identified as areas of concern.

The two products found to have insufficient package warning label notices were sold by Dollar Tree. The small parts warning font was deficient on a small 5-inch Doll. A small ball warning was deficient on a Slime Egg Laying Chicken. The Division provided the results to Dollar Tree, the retailer and importer, with a recommendation for the product packaging to be corrected. The Division found the Dollar Tree response satisfactory, and the matter was closed.

The eight positive compliance results served as a safety assurance for the State's children's product consumers, while the two failures served as an important call for vigilance to continue to test children's products for hazards to keep the State marketplace safe for our children.

CONSUMER PRODUCT SAFETY COMMISSION DESIGNEE ACTIVITIES

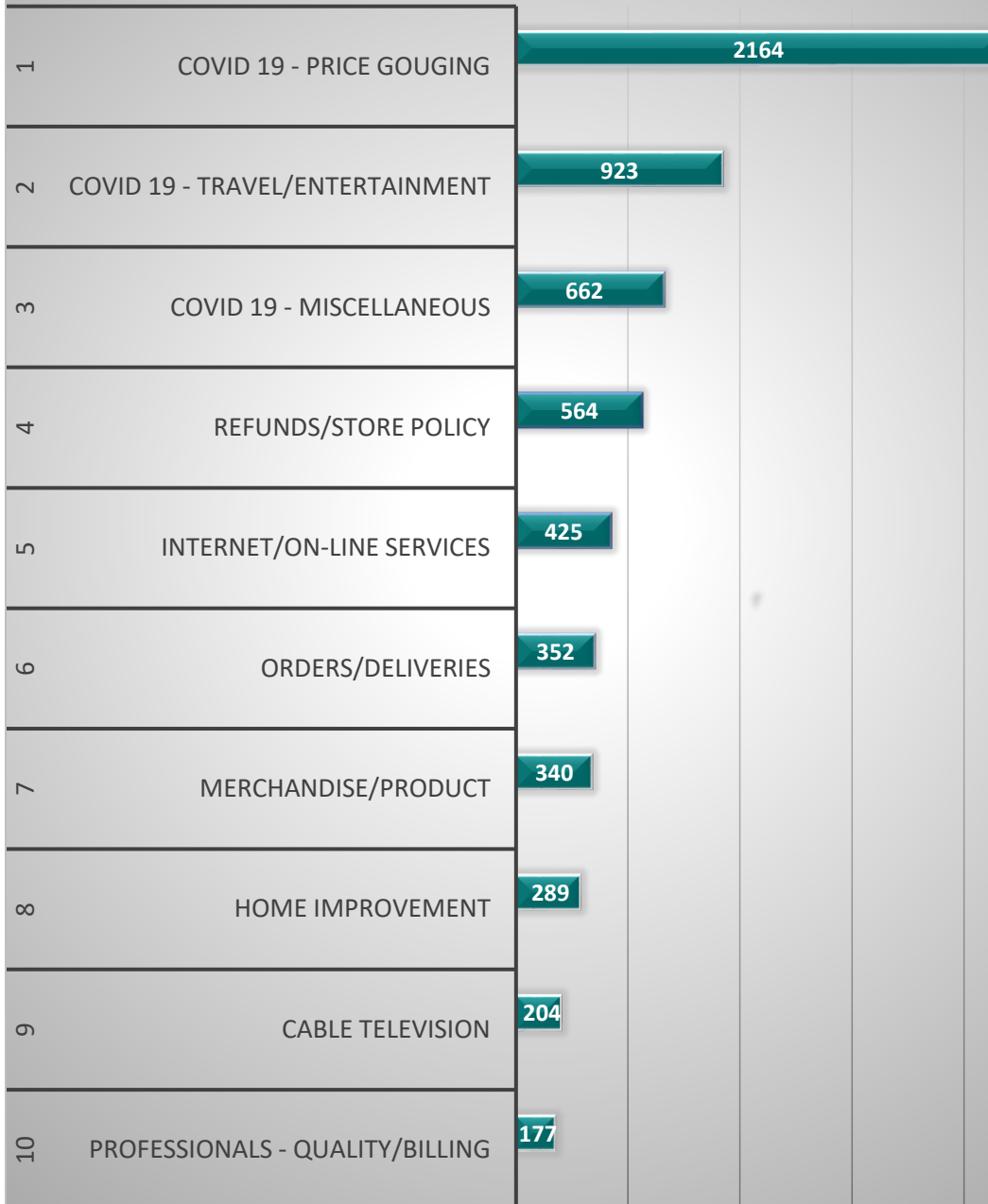
The Division serves as the CPSC's New York State designee for product safety. Together, the Division and the CPSC work to promote product safety programs throughout the State. Due to the COVID-19 Pandemic, the Division was unable to perform recall safety checks or resale store safety education visits during 2020. The Division did utilize its social media platforms, Facebook and Twitter, to inform consumers of any new recalls impacting New Yorkers.

CONCLUSION

In 2020, the Division successfully carried out its numerous charges set forth in Executive Law 94-a and supported consumers in responding to the unique marketplace struggles COVID-19 presented. Whether mitigating harms that have occurred, educating consumers to prevent future harm or advocating on behalf of consumers before the relevant regulatory authorities, the Division serves to assist and protect consumers navigating the ever-changing marketplace.

APPENDIX A

2020 Top Ten Categories of Consumer Assistance



APPENDIX B

Division of Consumer Protection 2020 Outreach Events and Presentations

January

1. NYC Department of Health and Mental Hygiene: Healthy Homes Program – New York County
Topic: Child Identity Theft and Toy Safety
2. Charlton Seniors at Charlton Community Services – Saratoga County
Topic: Avoiding Scams

February

3. NYC Department of Health and Mental Hygiene: Healthy Homes Program – New York County
Topic: Child Safety
4. NYS Association of Black and Puerto Rican Legislators 49th Annual Legislative Conference – Albany County
Topic: All DCP Educational Materials
5. Annual Conference of the Association of Towns of the State of New York – New York County
Topic: All DCP Educational Materials
6. 2020 New York State Interfaith Breakfast – New York County
Topic: All DCP Educational Materials
7. U.S. Committee for Refugees and Immigrants – Albany County
Topic: Avoiding Scams
8. About DOS Series – Albany County
Topic: All DCP Educational Materials

March

9. National Consumer Protection Week 2020 – New York County
Topic: Online Shopping
10. SOMOS Albany Conference – Albany County
Topic: All DCP Educational Materials

April

11. NYC Bar Association Consumer Protection Subcommittee, with Public Utility Law Project – New York County
Topic: Utility Rate Cases and Petitions

June

12. NYC Department of Health and Mental Hygiene – New York County
Topic: Child Safety

July

13. Community Health Center of Richmond, Inc. – Richmond County
Topic: Child Safety
14. NYC Department of Health and Mental Hygiene – New York County
Topic: Child Safety

August

15. NYC Department of Health and Mental Hygiene – New York County
Topic: Senior Scams and CPSC Carbon Monoxide Safety

September

16. NYS Senator Kevin Thomas – Nassau County
Topic: Identity Theft and CPSC Carbon Monoxide Safety
17. NYC Department of Health and Mental Hygiene – New York County
Topic: Child Safety and CPSC Family Safety
18. NYS Senator Kevin Thomas Hispanic Heritage Townhall – Nassau County
Topic: All DCP Educational Materials
19. Office for New Americans – NY Statewide
Topic: All DCP Educational Materials and CPSC Carbon Monoxide Safety
20. U.S. Committee for Refugees and Immigrants – Albany County
Topic: Avoiding Scams

October

21. SelfHelp – Queens County
Topic: Avoiding COVID-19 Scams
22. NYC Department of Health: Healthy Homes Program – New York County
Topic: DCP Online Resources and CPSC Carbon Monoxide Safety
23. Golden Door – Westchester County
Topic: Child Safety and CPSC Fire Safety
24. Neighbors Link – Westchester County
Topic: Child Safety and CPSC Fire Safety
25. NYC Department of Health: External Emergency Partner Engagement Coalition – New York County
Topic: Avoiding COVID-19 Scams
26. At Home on the Sound – Westchester County

Topic: Senior Scams and CPSC Carbon Monoxide Safety

27. U.S. Committee for Refugees and Immigrants – Albany County
Topic: Child Safety and CPSC Fire Safety

28. NYC Department of Health: External Emergency Partner Engagement Coalition – New York County
Topic: Avoiding COVID-19 Scams

November

29. Patchogue-Medford Library – Suffolk County
Topic: Avoiding COVID-19 Scams

30. Staten Island Community Action Network – Richmond County
Topic: CSPC Fire Safety

31. NYC Department of Health: External Emergency Partner Engagement Coalition – New York County
Topic: Holiday Safety and CPSC Fire Safety

32. NYS Department of State – NY Statewide
Topic: Holiday Season Safety and CPSC Fire Safety

33. Maimonides Medical Center – Kings County
Topic: Child Safety and CPSC Carbon Monoxide Safety

34. NYC Department of Health: Healthy Homes Program – New York County
Topic: Child Safety and CPSC Carbon Monoxide Safety

December

35. Neighbors Link – Westchester County
Topic: Child Safety and CPSC Fire Safety

36. NYC Bar Association: Consumer Affairs Committee – New York County
Topic: All DCP Educational Materials

37. NYS Department of State: Division of Consumer Protection Lunch and Learn – Albany County Topic:
Holiday Season Safety

38. NYS Department of State: Division of Consumer Protection – Albany County
Topic: Holiday Season Safety and Carbon Monoxide Safety

39. NYS Department of State Lunch and Learn – Albany County
Topic: Holiday Season Safety

40. Hunter College (session #1) – New York County
Topic: Credit and Debit Management and Student Loan Tips

41. Hunter College (session #2) – New York County
Topic: Credit and Debit Management and Student Loan Tips

APPENDIX C

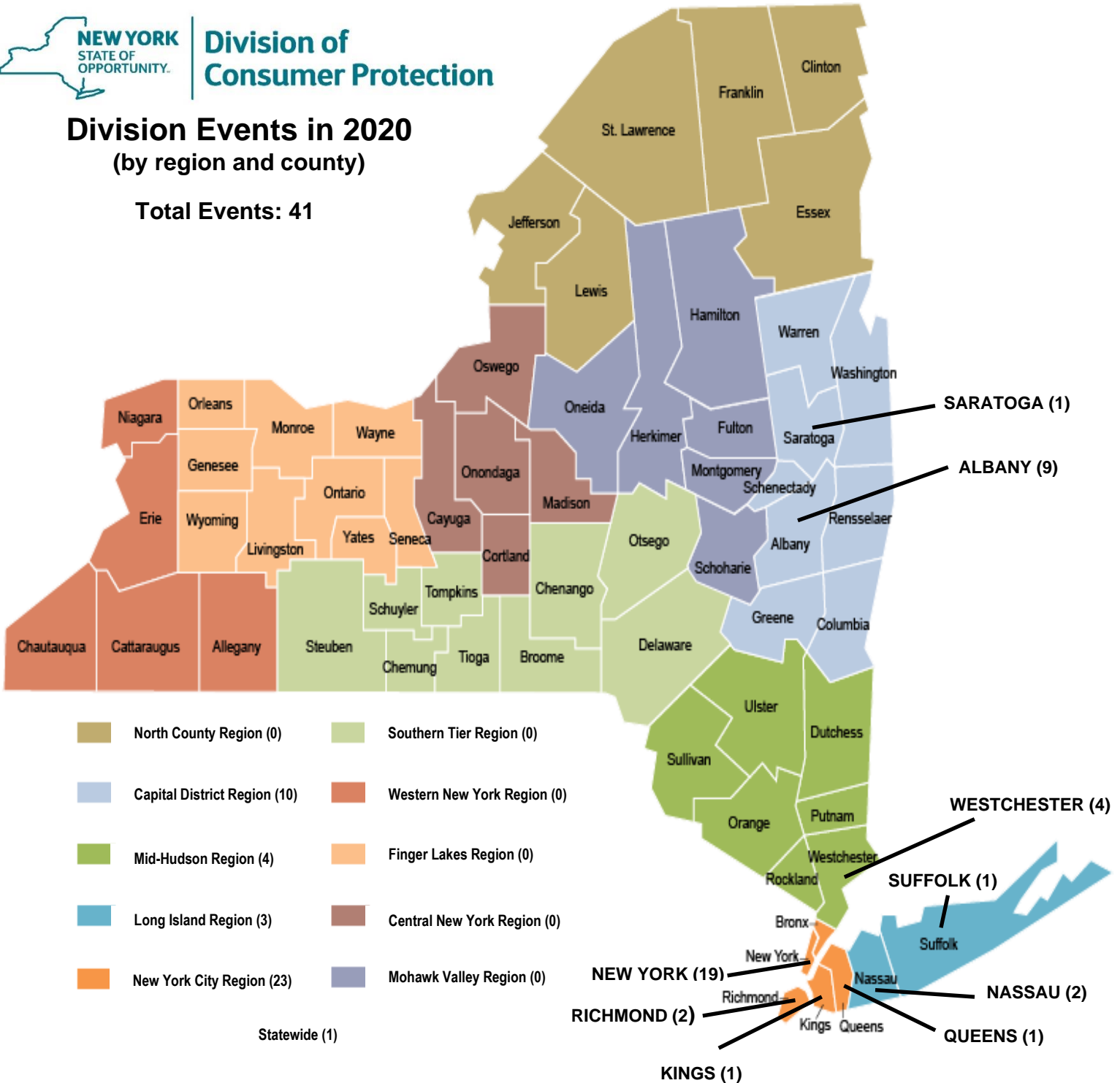
Division of Consumer Protection 2020 Outreach Events and Presentations



Division of Consumer Protection

Division Events in 2020 (by region and county)

Total Events: 41



Appendix D

Utility Intervention Unit 2020 Utility Rate Cases & PSC Proceedings

Case #	Company	Case Description	Category
<u>19-G-0309 & 19-G-0310</u>	KEDNY/KEDLI	Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of The Brooklyn Union Gas Company and KeySpan Gas East Corp. d/b/a National Grid NY for Gas Service	Rate Case
19-E-0378 & 19-G-0379	NYSEG	Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service	Rate Case
19-E-0380 & 19-G-0381	RG&E	Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Electric Service	Rate Case
20-G-0101	Corning	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Corning Natural Gas Corporation	Rate Case
20-E-0380 & 20-G-0381	Niagara Mohawk	Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service	Rate Case
20-E-0428 & 20-G-0429	Central Hudson	Proceedings on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas and Electric Corporation	Rate Case
20-M-0479	Niagara Mohawk	Petition of Niagara Mohawk Power Corporation d/b/a National Grid for Approval to Implement a COVID-19 Customer Assistance Program	Petition
15-M-0742	Telecommunication Companies	Proceeding on Motion of the Commission to Review the State Universal Service Fund	Policy
19-C-0046, 18-C-0125, 18-C-0335, & 18-C-0497	Various Telecommunication Companies	Several wireless companies filed Petitions Pursuant to Public Service Law 92-h to Participate in the New York State Targeted Accessibility Fund and for Establishment of Distribution	Petition
20-M-0231	Con Edison	Petition of City of New York for Emergency Relief to Vulnerable Utility Customers Arising from the COVID-19 Pandemic	Petition

Case #	Company	Case Description	Category
20-M-0266	DPS	Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service	Policy Case
19-E-0530	DPS	Proceeding on Motion of the Commission to Consider Resource Adequacy Matters	Policy Case
18-E-0130	DPS / NYSERDA	In the Matter of Energy Storage Deployment Program	Monitoring
18-M-0084	DPS / NYSERDA	In the Matter of a Comprehensive Energy Efficiency Initiative	Monitoring
98-M-1343, 12-M-0476, & 15-M-0127	DPS	Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State	Monitoring
17-01277	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design	Policy Case
15-E-0751	DPS	In the Matter of the Value of Distributed Energy Resources	Policy Case
18-E-0067	Orange and Rockland	Orange and Rockland Utilities Proposal for a Three-Part Rate	Policy Case
14-M-0565	DPS	Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers	Policy Case
15-02754	DPS	In the Matter of Examining the Potential Benefits of Retail Competition for Long Island Electric Customers	Policy Case
EL21-7-000	FERC	Cricket Valley Energy Center v NYISO	Protest