



**Department  
of State**

**2021 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**

**March 21, 2022**

**Kathy Hochul  
Governor**

**Robert J. Rodriguez  
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, 2021 through December 31, 2021.

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.

In 2021, the CAP staff handled 21,855 complaints and inquiries. These activities returned nearly three million dollars to the wallets of New York consumers. Specifically, \$2,831,611 expended by consumers was returned, and \$86,414 in obligated consumer costs were eliminated. A chart of the top ten consumer concerns addressed in 2021 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.

In 2021, the Division mediated 94 identity theft complaints and responded to 661 calls regarding identity theft via its Consumer Helpline. Thereby providing direct, personal identity theft prevention and mitigation assistance to 755 consumers. The Division also hosted 18 identity theft prevention and mitigation education programs reaching 479 consumers statewide.

Additionally, the Division received and reviewed 30 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 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 2021, the Division provided presentations on Identity Theft Prevention and Mitigation, Scam Prevention, Credit Management, Child Safety, and Product Safety. The Division delivered live and 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.

Additionally, the Division collaborated with the U.S. Consumer Product Safety Commission (“CPSC”) to deliver virtual Fire Safety, Carbon Monoxide Safety, Safe Families, and Pool Safety programs. The Division delivered 11 presentations to 192 participants as part of the partnership.

In 2021, the Division’s Outreach and Education Program issued 25 consumer alerts and participated in 47 events statewide, reaching approximately 1,900 consumers. Appendix C enumerates these statewide activities in a map by 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 2021, the Division investigated 56,793 alleged violations and collected \$55,250 in penalties related thereto. As of December 31, 2021, there were 15,576,996 New York telephone numbers on the National Registry, an increase of 152,330 telephone numbers over the previous year. New York saw an increase in consumer complaints concerning violations of the Do Not Call Law with 274,014 in 2021, compared to 247,301 in 2020.

## **UTILITY INTERVENTION UNIT**

Executive Law § 94-a(4)(b) sets forth the powers and duties of the Utility Intervention Unit (UIU). UIU is responsible for 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 Integrated Energy Data Resource Advisory Group, Low Income Forum on Energy Steering Committee, Home Energy Assistance Program (HEAP) Interagency Task Force, Natural

Gas Reliability Advisory Group, Targeted Accessibility Fund, and National Association of State Utility Consumer Advocates.

To fulfill its mandate, UIU staff engaged in extensive analysis across multiple issue areas, including: electric and gas utility rate cases with a specialized focus on cost of service, revenue allocation, rate design and service quality; 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 provide 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 2021, UIU participated in 20 PSC utility rate, acquisition, and policy proceedings and three FERC cases, as noted in Appendix D. Participation in these proceedings involves rigorous analysis of technical documents and data, the submission of expert witness testimony and legal briefs, and participation in confidential settlement negotiations and evidentiary hearings. Utility rate cases are lengthy processes, generally encompassing schedules that last at least 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, UIU submitted several legal memoranda in response to legislation sent to the Governor for signature, to advise on the potential impact to consumers and make recommendation on whether to ultimately sign legislation into law. UIU has also advocated for equitable contributions to customer benefit charge for Long Island consumers.

While the primary focus of UIU's efforts continued to be on rate cases, we also focused on several policy cases. In rate case proceedings, UIU advocated aggressively on behalf of consumers to lower cost impact to customers that would result from utilities' proposed rate increases, including evaluating policy-driven cost impacts on customers and recommending alternative, more cost-efficient approaches; and focusing on reasonable and balanced approaches to cost of service and revenue allocation along with customer service rate design, and policy-driven depreciation proposals. In policy case filings and related follow-up working group meetings, UIU strives to advocate for positions that would reduce costs and investment risks to customers. Often, policy cases involve not only the regulated utilities, but also third parties with private financial interests that would benefit from shifting risk and costs directly to consumers or to utilities that are then indirectly paid by consumers. UIU's advocacy in this regard is essential to protecting NY consumers from unnecessary cost impact.

In an effort to keep consumers abreast of issues before them, the UIU utilized the Division's Facebook and Twitter accounts to disseminate important utility consumer information. Many of these communications notified the public of information such as opportunities for public input on rate cases and the status of HEAP funds available.

In light of the COVID-19 pandemic, New York consumers were protected from utility service terminations through the termination moratorium that expired in December 2021. Due to the rise in arrears over the course of the pandemic moratorium, an Energy Affordability Policy Working Group, of which UIU is a member, met several times in 2021 and continues to meet to explore ways to alleviate arrears for low-income consumers.

Finally, UIU continues to serve as the designated Statewide Consumer Advocate at the NYISO, which oversees the wholesale electricity markets in New York. As a voting member on several of the NYISO's decision making committees, UIU assists in developing rules and procedures that help ensure an adequate supply of reasonably priced electricity exists for consumers in the State. In 2021, UIU filed a limited protest at FERC regarding the NYISO proposed tariff changes for new supplemental reserves because the tariff language did not provide

sufficient detail of the terms and conditions that are necessary for supporting just and reasonable rates. In response to UIU's limited protest, and after several other parties adopted UIU's argument, FERC rejected the supplemental reserve tariff language.

Additionally, the New York Transmission Owners<sup>1</sup> (NYTOs) sought tariff amendments that would have permitted them to receive the right of first refusal to fund investment upgrades associated with new electric resources, thereby permitting them to earn a regulated return on those investments and at the cost of ratepayers. UIU, in addition to other parties, filed a protest on the basis that the NYTOs did not provide evidence that the existing tariff was unjust and unreasonable. FERC rejected the proposed tariff amendments.

## **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 2021, 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 9 children's toys were tested for lead and phthalates. Where appropriate, specific products were tested for mechanical hazards. Eight of the nine items tested compliant. A Super Car Racing Car set purchased at Cosmos at the Colonie Center mall in Albany, NY was found non-compliant for lead. Specifically, the undercarriage of each of the eight car toys in the Super Car Racing Car set contained 140parts per million (ppm) of lead, a level far in excess of the 100-ppm standard.

The Division shared testing results with the Consumer Product Safety Commission (CPSC) and called upon the federal regulator to initiate a recall. The Division also provided the results to the retailer, Cosmos and the manufacturer, Cathay Depot Inc. Cathay Depot responded to the Division's recommendation and removed the dangerous product from the stream of commerce. The Division followed up with a visit to the retailer, Cosmos, to ensure the product was no longer being sold. Finding the Cosmos and Cathay Depot, Inc. responses satisfactory, the Division closed the matter.

The eight positive compliance results served as a safety assurance for the State's children's product consumers, while the one failure 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. The Division performed 10 recall safety checks during 2021. The Division also utilized its social media platforms, Facebook and Twitter, to inform consumers of any new recalls impacting New Yorkers.

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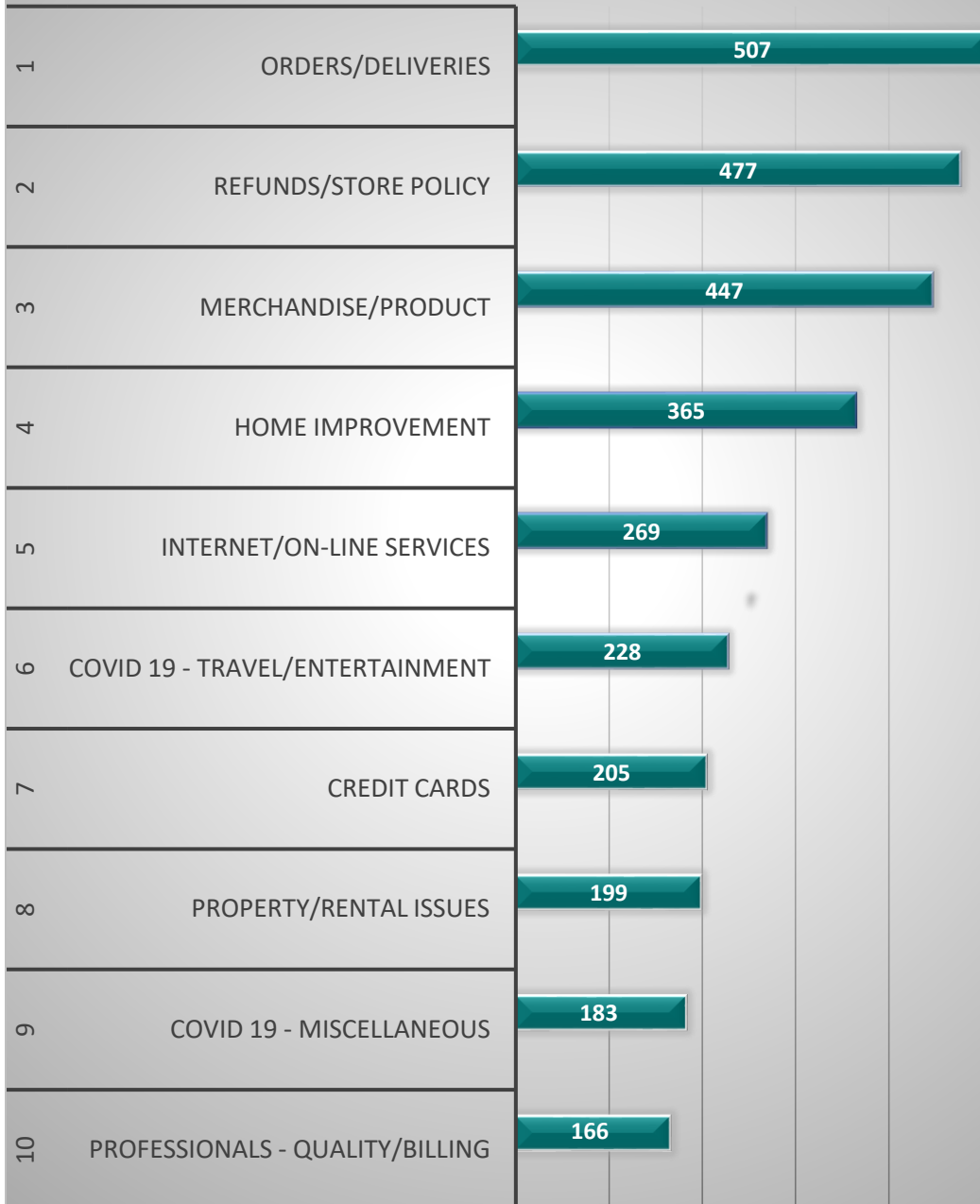
<sup>1</sup> Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corporation; New York State Electric & Gas Corporation; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

## **CONCLUSION**

In 2021, 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 the continuation of the COVID-19 pandemic 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

# 2021 Top Ten Categories of Consumer Assistance



## **APPENDIX B**

### **Division of Consumer Protection 2021 Outreach Events and Presentations**

#### **January**

1. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
2. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
3. NYC Department of Health – New York City Region  
Topic: Child and Family Safety (Spanish)
4. NYC Department of Health – New York City Region  
Topic: Identity Theft and Scams Targeting Older Adults

#### **February**

5. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
6. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
7. NYS Department of Labor – Capital Region  
Topic: Preventing and Responding to Identity Theft
8. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
9. NYC Department of Health – New York City Region  
Topic: Child and Family Safety

#### **March**

10. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
11. NY Department of State – Capital Region  
Topic: Preventing and Responding to Identity Theft
12. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips



13. NY Department of State – Capital Region  
Topic: Savvy Shopping Tips for Smart Consumers

### **April**

14. NYC Department of Transportation Safety Education and Outreach – New York City Region  
Topic: Avoiding Identity Theft and Scams Targeting Older Adults
15. NYS Department of Labor – Capital Region  
Topic: Fire Safety and Carbon Monoxide Safety
16. NYS Department of Labor – Capital Region  
Topic: Credit and Credit Management
17. Community Agency for Senior Citizens of Staten Island in partnership with NY Connects – New York City Region  
Topic: Identity Theft and Scams Targeting Older Adults
18. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
19. NYS Senator Kevin Thomas Virtual Community Presentation – Long Island Region  
Topic: Credit and Credit Management

### **May**

20. NYS Department of Labor – Capital Region  
Topic: Credit and Credit Management
21. NYS Department of State, Division of Community Services and NYS Community Action Association – Finger Lakes, Southern Tier, and Western New York Regions  
Topic: Preventing and Responding to Identity Theft
22. NYS Senator John Liu Community Presentation– New York City Region  
Topic: Preventing and Responding to Identity Theft
23. NYC Department of Health and Mental Hygiene – New York City Region  
Topic: Identity Theft and Scams Targeting Older Adults
24. NYS Department of State, Division of Community Services and NYS Community Action Association – Capital, Central New York, Finger Lakes, North Country, and Southern Tier Regions  
Topic: Preventing and Responding to Identity Theft
25. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips

26. Erie County Office of Public Advocacy – Western New York Region  
Topic: Keeping Families Safe

### **June**

27. NY Department of State, Division of Community Services and NYS Community Action Association – Capital, Hudson Valley, Long Island, Mohawk Valley, and Southern Tier Regions  
Topic: Preventing and Responding to Identity Theft
28. Queens Public Library – New York City Region  
Topic: Preventing and Responding to Identity Theft
29. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips

### **July**

30. Clinton County for the Aging – North Country Region  
Topic: Identity Theft Prevention and Avoiding Scams
31. NYC Department of Transportation – New York City Region  
Topic: Summer and Water Safety
32. Connequot Public Library – Long Island Region  
Topic: Identity Theft Prevention and Avoiding Scams
33. NY Department of State – Capital Region  
Topic: Summer and Water Safety

### **August**

34. NY Department of State – Capital Region  
Topic: Identity Theft and Scam Prevention
35. NY Department of State, Office for New Americans – Capital Region  
Topic: Broadband Access Benefit

### **September**

36. NYC Department of Mental Health – New York City Region  
Topic: Identity Theft and Scams Targeting Older Adults
37. Hunter College AANAPISI Project – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
38. NY Department of State – Capital Region  
Topic: Child and Family Safety

### **October**

- 39. NYS Senator John E. Brooks Community Presentation – Long Island Region  
Topic: Identity Theft and Scams Targeting Older Adults
- 40. LifeSpan E-MDT – Finger Lakes Region  
Topic: About DCP
- 41. NY Department of State – Capital Region  
Topic: Credit and Credit Management; Fire Safety

### **November**

- 42. NYS Assemblymember Daniel Rosenthal Community Presentation – New York City Region  
Topic: Identity Theft and Scams Targeting Older Adults
- 43. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
- 44. NYC Department of Mental Health – New York City Region  
Topic: Child and Family Safety

### **December**

- 45. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
- 46. Hunter College – New York City Region  
Topic: Credit and Debt Management with Student Loan Tips
- 47. National Church Residence, Castle Hill – Capital Region  
Topics: Identity Theft and Scams Targeting Older Adults; Carbon Monoxide Poisoning

# APPENDIX C

## Division of Consumer Protection 2021 Outreach Events and Presentations, Regions Served



## Appendix D

### Utility Intervention Unit 2021 Utility Rate Cases & PSC Proceedings

Case #	Company	Case Description	Category
21-G-0073 & 21-E-0074	Orange and Rockland	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities	Rate Case
21-G-0577	St. Lawrence	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Liberty Utilities (St. Lawrence Gas) Corp.	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-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	Rate Case
21-G-0394	Corning	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Corning Natural Gas Corporation	Rate Case
21-G-0260	Corning	Joint Petition of, Corning Natural Gas Corporation and ACP Crotona Corporation	Acquisition
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
19-G-0309 & 19-G-0310	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
14-M-0224	DPS	Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs	Policy Case
20-E-0197	DPS	Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth Act	Policy Case

Case #	Company	Case Description	Category
20-M-0082	DPS	Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data	Policy Case
15-M-0742	Telecom Companies	Proceeding on Motion of the Commission to Review the State Universal Service Fund	Policy Case
19-C-0046, 18-C-0125, 18-C-0335, & 18-C-0497	Various Telecom 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-0266	DPS	Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service	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
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	Policy Case
15-E-0751 et al.	DPS	In the Matter of the Value of Distributed Energy Resources	Policy Case
15-02754	DPS	In the Matter of Examining the Potential Benefits of Retail Competition for Long Island Electric Customers	Policy Case
18-E-0138	DPS	Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure	Policy Case
21-W-0338	Suez New York, Inc. and Veolia North America, Inc.	Joint Petition of Veolia Environnement S.A., Veolia North America, Inc., Suez S.A., and Suez Water New York, Inc. for approval Pursuant to Section 89-h of Public Service Law of the Acquisition of Suez S.A. by Veolia Environnement S.A.	Acquisition
RM21-17-000	FERC	Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection	A Notice of Proposed Rule Making

Case #	Company	Case Description	Category
EL21-66-000 & ER21-1647-000	FERC	Complaint, et al. of the New York Transmission Owners	Protest
ER21-1018-000	FERC	New York Independent System Operator, Inc.'s Proposed Tariff Amendments to Revise the Operating Reserves Demand Curves and to Establish the Process to Procure Supplemental Reserves	Protest