



**Department  
of State**

**2017 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 JOHN J. FLANAGAN  
SPEAKER OF THE ASSEMBLY CARL E. HEASTIE**

**April 23, 2018**

**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 commencing on January 1, 2017 and concluding on December 31, 2017.

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, financial literacy, 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 (the “DNC Law”).

## **CONSUMER ASSISTANCE UNIT**

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 Unit (“CAU”). The CAU 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 CAU 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 2017, the CAU staff handled 15,740 complaints and inquiries. These activities saved New York consumers an estimated \$736,077.41 and facilitated \$132,846.35 in avoided costs. A chart of the top ten consumer concerns addressed in 2017 is contained in 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. (Chapter 279, Laws of 2008)

On September 7, 2017, Equifax, a national consumer credit reporting agency, announced a massive data breach affecting 143 million consumers, which included 8.3 million New Yorkers. On October 12, 2017, Equifax announced more affected consumers, the totals rising to 145.5 million consumers nationwide and 8.4 million New Yorkers.

The Equifax data breach was a unique event with the (1) number of consumers exposed, and the (2) nature of the exposure, which included a combination of consumer names, addresses, social security numbers, credit card numbers and/or driver’s license numbers. All the key data points necessary to perpetuate an identity theft were criminally accessed.

Accordingly, the Division adopted Emergency Identity Theft Prevention and Mitigation Program Regulations to assist consumers in the wake of the Equifax data breach and hold consumer credit reporting agencies accountable via disclosure requirements.

The Division also issued an Equifax Data Breach Consumer Alert, a consumer guidance document to educate and empower consumers.

## **OUTREACH AND EDUCATION PROGRAM**

Executive Law §94-a(3)(a)(3) directs the Division to “initiate and encourage consumer education programs.” In 2017, the Division provided presentations on Identity Theft Prevention and Mitigation, Scam Prevention, Financial Literacy, the DNC Law, and Product Safety. The Division delivered live 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 alerts and related media coverage.

Of special note, during the reporting year, the Division collaborated with the U.S. Consumer Product Safety Commission (“CPSC”) to deliver live fire safety education presentations. The Division also collaborated with the CPSC’s Anchor It! Program to co-brand furniture tip-over prevention and education materials. To that end, the Division’s 2017 product safety education seminars emphasized the hazards unsecured furniture and televisions present to children.

In Spring 2017, the Division collaborated with the New York State Home Builders Association to educate families at Home Shows in Rochester, Binghamton and Utica about the importance of securing furniture to keep children safe. The Division shared options available in the marketplace to secure potentially hazardous furniture, televisions, and other appliances.

The Division continued its outreach partnership with LiveOn-NY Senior Medicare Patrol—a nationwide education and assistance program working with seniors and caregivers to prevent, detect and report Medicare fraud and waste. Live presentations were conducted on specific scams as they relate to healthcare fraud and senior citizens. The Division, along with LiveOn-NY conducted 44 presentations reaching approximately 750 senior citizens, social workers, direct service providers and caregivers around the New York City area.

## **DO-NOT-CALL INVESTIGATION UNIT**

The New York State DNC Law, which became effective in 2001, allowed consumers to place their home landline and personal mobile telephone numbers on a central registry in order 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. Subsequently, New Yorkers were able to register their home and mobile phone numbers on the National Do-Not-Call Registry and file complaints using the FTC’s website.

Using the National Registry to retrieve the complaints of aggrieved New Yorkers, the Department investigated alleged violations with the goal of ending unlawful conduct. As of December 31, 2016, there were 14,786,570 New York telephone numbers on the National Registry, an increase of 282,205 telephone numbers over the previous year. In 2017, the Department received 468,092 consumer complaints concerning violations of the Do-Not-Call Law and collected \$48,950 in penalties related thereto.

## **UTILITY INTERVENTION UNIT**

Executive Law §94-a(4)(b) sets forth the powers and duties of the Utility Intervention Unit (“UIU”). The UIU is generally charged 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 Interagency Task Force, Natural Gas Reliability Advisory Group, Chairperson of the Targeted Accessibility Fund, and National Association of State Utility Consumer Advocates.

In 2017, UIU analyzed documents, submitted testimony and briefs, engaged in settlement discussions in PSC and FERC regulatory proceedings, and actively attended evidentiary hearings and settlement negotiations. The UIU continues to serve as the designated 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, the UIU assists in developing rules and procedures that help to ensure that an adequate supply of reasonably priced electricity exists in the State.

During 2017, the UIU participated in twenty PSC utility rate and policy proceedings, as noted in Appendix C. In each of the rate proceedings, the UIU advocated aggressively on behalf of consumers with the goal of limiting the utilities’ proposed rate increases with a focus on customer service, cost of service, revenue allocation, and rate design. It is important to note that utility rate cases are lengthy processes. An entire utility rate case is generally an eleven-month process where the first four months focus on conducting discovery, analyzing responses, and developing testimony. While each case is unique, once initial and rebuttal testimony is filed the remainder of the months may be spent on settlement negotiations, drafting of a joint proposal, evidentiary hearings, initial and reply briefs, etc. In each of the policy proceedings, the UIU focused on a variety of consumer-related issues such as mass-market rate design, energy service provider abuses and overcharges, and growth in the distributed energy resources market.

2017 has been a culmination of UIU’s many years of effort to protect customers from Energy Service Company (“ESCO”) abuses and overcharges. UIU partnered with the New York State Office of Attorney General to develop expert testimony and litigate on behalf of consumers as part of the PSC case that is considering if ESCOs should be prohibited from serving residential and small commercial customers, and, if so, how such a prohibition should be implemented.

Recognizing the need for consumer protections in the developing Distributed Energy Resource (DER) market to avoid the problems that exist in the ESCO market, UIU advocated the need to finalize the Uniform Business Practices for Distributed Energy Resource Suppliers (“UBP-DERS”). The Commission’s March 2017 Order on the Value of DER Phase One recognized UIU’s recommendations and included a process for expediently establishing these vital consumer protections in a UBP-DERS. The PSC issued the UBP-DERS in October 2017.

## **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 2017, the Department conducted a child product safety testing campaign to ensure compliance with applicable New York State and federal safety standards. All testing was conducted 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 the presence of lead and phthalates. Where appropriate, certain products amongst the sampling received mechanical hazards testing. Nine out of the ten products tested compliant with applicable State and federal standards.

The MOD Modified Street Runner, which contained four die cast cars in varied colors, was manufactured by Hunson Trading Ltd. (China), distributed by JPW International Inc. (Commerce, California), and sold by Dollar N Things (Albany, NY). The car set failed the mechanical hazards testing, when torque testing revealed sharp metal points at the rear wing of two of the four die cast cars. The Division provided the results to the retailer, distributor and CPSC, with a recommendation for the product to be removed from the stream of commerce.

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

### ***CONSUMER PRODUCT SAFETY COMMISSION DESIGNEE ACTIVITIES***

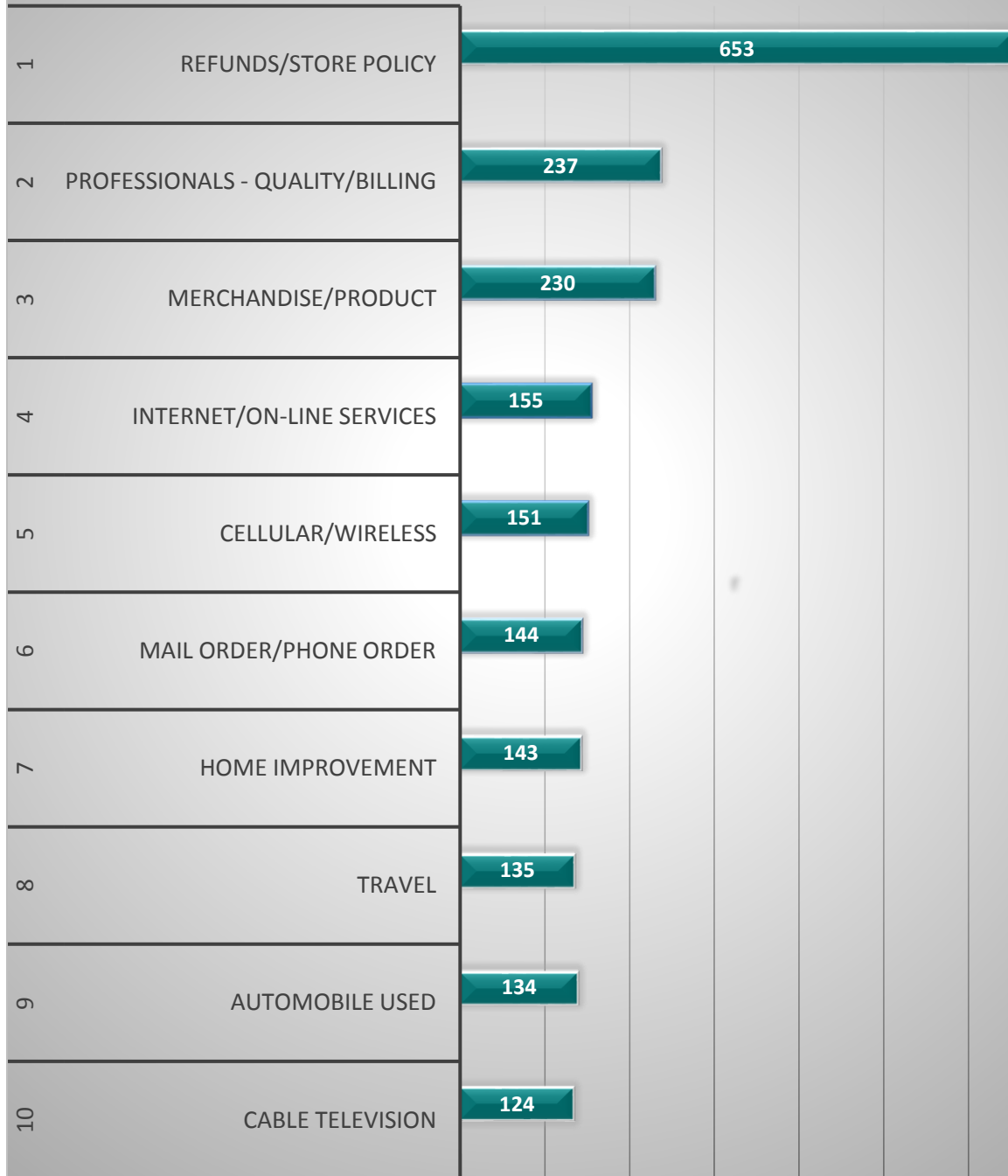
The Division serves as the CPSC's New York State designee for product safety. Together, the Division and the CPSC work to promote product safety programs throughout the State. In this role, the Division conducted 28 recall effectiveness checks in 2017.

## **CONCLUSION**

In 2017, the Division successfully carried out its numerous charges set forth in Executive Law 94-a. Whether mitigating harms that have occurred or educating consumers to prevent future harm, the Division serves to assist and protect consumers navigating the ever-changing marketplace.

## APPENDIX A

# 2017 Top Ten Categories of Consumer Assistance



## **APPENDIX B**

### **Division of Consumer Protection 2017 Outreach Events and Presentations**

#### **January**

1. PSS Morrisania Senior Center – Bronx County  
Topic: Senior Scams
2. Bay Senior Center Senior Center – Kings County  
Topic: Senior Scams
3. Hadassah Women's Group – Nassau County  
Topic: Identity Theft and Scams
4. JASA Senior Center – Bronx County  
Topic: Senior Scams
5. Special Services for Senior Citizens – Kings County  
Topic: Senior Scams
6. LiveOn NY - Senior Medicare Patrol – New York County  
Topic: Senior Scams and Identity Theft
7. Eileen C. Dugan AMICO Senior Center – Kings County  
Topic: Senior Scams
8. SNAP Innovative Senior Center of Eastern Queens – Queens County  
Topic: Senior Scams
9. JASA Bartow Senior Center – Bronx County  
Topic: Senior Scams
10. JASA Cadman Plaza Senior Center – Kings County  
Topic: Senior Scams

#### **February**

11. Emerald Isle Immigration Center – Bronx County  
Topic: Senior Scams
12. Van Dyke Senior Center – Kings County  
Topic: Senior Scams

13. Huguenot Park Library – Richmond County  
Topic: Senior Scams
14. Roosevelt Island Senior Center – New York County  
Topic: Senior Scams
15. GTM Payroll Services, Inc. – Saratoga County  
Topic: Identity Theft and Scam Prevention
16. NYS Association of Black and Puerto Rican Legislative Caucus – Albany County  
Topic: All DCP Educational Materials
17. NYS Senator Elaine Phillips District Outreach (Washington, NY) – Nassau County  
Topic: Senior Scams

### **March**

18. Independence Care Systems – New York County  
Topic: Scam Prevention
19. Hannaford Kidz Expo – Albany County  
Topic: Tip Over Prevention
20. Public Employees Federation Retiree Chapter – Albany County  
Topic: Senior Scams
21. National Consumer Protection Week with the United States Postal Inspection Service –  
New York County  
Topic: Child Identity Theft
22. NYS Senator Elaine Phillips District Outreach (Albertson, NY) – Nassau County  
Topic: Senior Scams
23. NYS Senator Elaine Phillips District Outreach (Hicksville, NY) – Nassau County  
Topic: Senior Scams
24. Hamilton Grange Library – New York County  
Topic: Senior Scams
25. SOMOS EI Futuro Conference – Albany County  
Topic: All DCP Educational Materials
26. Southern Tier Home Builders & Remodelers Association – Broome County  
Topic: Tip Over Prevention
27. Rochester Home Builders Association – Monroe County  
Topic: Tip Over Prevention



## **April**

28. The NYS Builders & Remodelers of the Mohawk Valley Home Show – Oneida County  
Topic: Tip Over Prevention
29. Forest Hills Co-op – Queens County  
Topic: Senior Scams
30. Wakefield Public Library – Bronx County  
Topic: Identity Theft
31. Cadman Plaza Towers – Kings County  
Topic: Senior Scams
32. NYS Senator Kemp Hannon – Nassau County  
Topic: Senior Scams
33. Throggs Neck Public Library – Bronx County  
Topic: Child Identity Theft
34. NYS Senator Elaine Phillips District Outreach (Neck, NY) – Nassau County  
Topic: Senior Scams
35. NYS Senator John Brooks District Outreach – Nassau County  
Topic: Senior Scams
36. Kew Gardens Community Center – Queens County  
Topic: Senior Scams
37. Parkchester Public Library – Bronx County  
Topic: Senior Scams
38. Baychester Public Library – Bronx County  
Topic: Senior Scams

## **May**

39. Low Income Forum on Energy (LIFE), New York State Energy and Research Development Authority (NYSERDA) – Queens County  
Topic: Child Identity Theft
40. Low Income Forum on Energy (LIFE), New York State Energy and Research Development Authority (NYSERDA) – Suffolk County  
Topic: Child Identity Theft
41. NYS Senator Leroy Comrie Outreach – Queens County  
Topic: General DCP & Credit Management

- 42. NYS Senator Elaine Phillips District Outreach (New Hyde Park, NY) – Nassau County  
Topic: Senior Scams
- 43. Washington Heights Public Library – Bronx County  
Topic: Child ID Theft
- 44. Low Income Forum on Energy (LIFE), New York State Energy and Research Development Authority (NYSERDA) – Dutchess County  
Topic: Child Identity Theft
- 45. CSEA, INC. - DOCCS Local Presidents' Conference – Essex County  
Topic: Identity Theft and Scams
- 46. Knowledge is Key, Inc. – Queens County  
Topic: Credit Management
- 47. Union Settlement – New York County  
Topic: Senior Scams

**June**

- 48. Aging Concerns Unite Us (ACUU) Annual Conference – Albany County  
Topic: Senior Scams
- 49. NYS Senator Elaine Phillips District Outreach (Floral Park, NY) – Nassau County  
Topic: Senior Scams
- 50. NYC Councilmember Carlos Menchaca (United Senior Center) – Kings County  
Topic: Senior Scams
- 51. Geddes Federal Savings & Loan Association – Onondaga County  
Topic: Identity Theft and Scam Prevention
- 52. NYS Senator Kemp Hannon – Nassau County  
Topic: Senior Scams
- 53. Retired Older Man Eating Out (ROMEO Senior Group) – Nassau County  
Topic: Senior Scams
- 54. NYS Senator John Brooks District Outreach – Suffolk County  
Topic: Senior Scams
- 55. NYC Councilmember Carlos Menchaca (Miccio Senior Center) – Kings County  
Topic: Senior Scams

- 56. NYC Department of Design and Construction – Queens County  
Topic: Identity Theft and Scam Prevention
- 57. NYS Assemblymember Melissa Miller (Oceanside, NY) – Nassau County  
Topic: Senior Scams
- 58. NYS Assemblymember Melissa Miller (Long Beach, NY) – Nassau County  
Topic: Senior Scams
- 59. NYS Assemblymember Michael Montesano – Nassau County  
Topic: Senior Scams

## **July**

- 60. NYS Senator John Brooks District Outreach (Massapequa, NY) – Nassau County  
Topic: Senior Scams

## **August**

- 61. Island Park Senior Center – Nassau County  
Topic: Senior Scams
- 62. Arturo Schomburg Senior Center (Acacia Network) – Bronx County  
Topic: Senior Scams

## **September**

- 63. Floral Park Senior Center – Nassau County  
Topic: Senior Scams
- 64. Actors Fund at the Rodney Kirk Center at Manhattan Plaza – New York County  
Topic: Senior Scams
- 65. Isabella Geriatric Center – New York County  
Topic: Senior Scams
- 66. NYS Senator Kemp Hannon – Nassau County  
Topic: Senior Scams
- 67. NYS Senator Elaine Phillips District Outreach (Mineola, NY) – Nassau County  
Topic: Senior Scams

## **October**

- 68. Capital District Child Care Council Early Education Conference – Rensselaer County  
Topic: Tip Over Prevention and Child Identity Theft
- 69. NYS Senator John Brooks Golden Gathering Senior Health Fair – Nassau County  
Topic: Identity Theft, Senior Scams and Varied DCP Materials

70. NYS Senator John Brooks Golden Gathering Senior Health Fair – Suffolk County  
Topic: Identity Theft, Senior Scams and Varied DCP Materials

### **November**

71. Identity Theft Prevention Panel hosted by NYS Senator David Carlucci – Rockland County  
Topic: Identity Theft
72. EAP Health Fair – Albany County  
Topic: All DCP Educational Materials
73. PTA Conference – Niagara County  
Topic: Equifax Data Breach Consumer Alert and Identity Theft
74. Military Family Yellow Ribbon Event – Schenectady County  
Topic: All DCP Educational Materials

### **December**

75. NY Army National Guard Yellow Ribbon Event – Warren County  
Topic: All DCP Educational Materials
76. NYS Senator Joe Robach Outreach – Monroe County  
Topic: All DCP Educational Materials

**APPENDIX C**  
**Utility Intervention Unit**  
**List of 2017 Utility Rate Cases & PSC Proceedings**

<b>Case #</b>	<b>Company</b>	<b>Case Description</b>	<b>Category</b>
17-E-0459 & 17-G-0460	Central Hudson	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric and Gas Service	Rate Case
17-E-0238 & 17-G-0239	Niagara Mohawk	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation. for Electric and Gas Service Company d/b/a National Grid for Gas Service	Rate Case
17-E-0058 & 17-G-0059	NYSEG/RGE	Petition of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation for Authorization for Full-Scale Deployment of Advanced Metering Infrastructure and to Establish an Electric AMI Surcharge	Petition
17-01278	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Low and Moderate-Income Customers.	Policy Case
17-01277	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design.	Policy Case
17-01276	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Value Stack	Policy Case
16-M-0429	NYSEG/RGE	In the Matter of Earnings Adjustment Mechanism and Scorecard Reforms Supporting the Commission's Reforming the Energy Vision	Petition
16-G-0369	Corning Natural Gas	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Corning Natural Gas Corporation for Gas Service	Rate Case
16-C-0122	Verizon	Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Retail Service Quality Process and Programs	Policy Case
16-G-0058 & 16-G-0059	KeySpan Long Island & KeySpan New York	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corporation and the Brooklyn Union Gas Company d/b/a National Grid for Gas Service	Follow-up Rate Case Collaborative

16-E-0060 & 16-G-0061	Con Edison	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric and Gas Service	Follow-up Rate Case Collaborative
16-01007	Clean Energy Advisory Council	In the Matter of the CEAC's Low & Moderate Income Clean Energy Initiatives Working Group	Policy Case
15-M-0127	Retail Access Value Added Services Collaborative	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	DPS	In the Matter of the Value of Distributed Energy Resources	Policy Case
15-E-0082	Community Net Metering	Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program	Policy Case