

## FALL 2019: GREAT MEETINGS... AWESOME SEMINARS!

On September 12th MACC Presents

## SURVIVE & THRIVE

Featuring Speakers Kerry O'Brien of T.F. O'Brien and  
Joseph DeMicco of Amplify Industrial Marketing + Guidance

*See page 3 for more information.*

### Trouble Shooting Gas Heating

October 19, 2019

*See details on page 16*

### Membership Meeting

November 7, 2019

*See details on page 16*

### INSIDE THIS ISSUE:

- ✓ Editor's Notes: Preliminary Discussions  
Regarding PSEG/HomeServe
- ✓ Spotlight on Tommy Williams
- ✓ Special Article: War on Natural Gas



### PHOTOS FROM MACC GOLF OUTING

### PLAN AHEAD!

**COMING NOVEMBER 16**  
**Customer Relations  
for Technicians**



**Jimmy Moyaen**  
First Choice Mechanical

## From the President

On August 5th, we hosted our 41st Annual Golf Outing at the Village Club at Lake Success. The outing is always a great day to be outside, catch up with old friends, and make new ones! This year was no different, with more than 125 golfers and guests in attendance.

We were proud to continue our yearly donation of \$2,000 to the Make-A-Wish Foundation. To date, more than 315,000 children in the United States have had their wish granted by this incredible organization. MACC is honored to be a supporter of Make-A-Wish Foundation. If you would like to make a donation of your own to the Make-A-Wish Foundation, visit their website, [www.wish.org](http://www.wish.org).

Our annual Survive and Thrive event will take place on Thursday, September 12th at Trattoria 35 in Bayside. Each year, we invite industry experts to speak on how they "survive and thrive" in the HVAC industry. Throughout the years we have heard great stories and advice and are greatly looking forward to this year. In the meantime, reserve your spot for the meeting by registering on our website.

As the Summer is nearing its end, training classes will resume, starting with Trouble Shooting Gas Heating on Saturday, October 19th. This hands-on class will teach you how to troubleshoot components related to gas heating, how to conduct a combustion analysis on a gas fire furnace and much more. The next class being offered, and the last class of 2019, is Customer Relations for Technicians, which will be held on Saturday, November 16th. This 4-hour class will go over the skills that are crucial to be an efficient and effective communicator. Space is limited for all our classes, so be sure to sign up early. Visit our website for more information!

I look forward to seeing you in September at our Survive and Thrive event!

Jimmy Moyaen



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# LEARNING OPPORTUNITIES FOR FALL

## First Up:

### HOW TO: **survive & thrive** IN THE HVAC INDUSTRY

**When: Thursday, September 12**

**Where: Trattoria 35, 213-15 35th Avenue, Bayside NY**

**6pm – 8pm**

Please join us as industry experts, Kerry O'Brien & Joseph DeMicco share their tips to survive & thrive in the HVAC industry!



**Kerry O'Brien**  
President, T.F. O'Brien & Co., Inc.

Founded by Thomas Francis O'Brien in 1934, T.F. O'Brien's initial focus was on commercial refrigeration repair. Over the years, the company has evolved into a full-service HVAC dealer, offering cooling, heating and more for commercial and residential properties. In 2014, Kerry became President of T.F. O'Brien. Kerry credits over three-quarters of a century of success to the generations of his family before him who embraced the latest technologies and remained at the forefront of industry trends.



**Joseph DeMicco**  
Founder & CEO, Amplify Industrial Marketing + Guidance (AIMG.com)

Joseph is a digital marketing and strategic growth specialist with almost 30 years' experience successfully helping B2B and B2C clients across various industries grow their businesses. Joe is founder and CEO of Amplify Industrial Marketing + Guidance, an integrated marketing and web development firm he started in 1992. Over the past two decades, Joe and his diverse team of in-house specialists have worked on thousands of successful web development, branding, sales / lead generation, and new market penetration projects for clients around the world.

**MACC launched the Survive & Thrive series in 2016, inviting leading industry professionals to share their tips, war stories, successes and challenges with fellow HVAC professionals. This valuable and successful series is a popular annual event you will not want to miss!**



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## Special Article

*(The following article originally appeared in National Review - <https://www.nationalreview.com>)*

### Cuomo's Silly War on Natural Gas

By Robert Bryce  
Nationalreview.com

By locking out gas, New York governor Andrew Cuomo is locking in higher energy prices (and carbon dioxide emissions). Thanks to the shale revolution, the United States is awash in natural gas. Since 2005, domestic gas production has nearly doubled, and American companies are now sending liquefied natural gas all over the world, including Chile and China. And pretty soon, U.S. liquid natural gas will be on its way to, of all places, Saudi Arabia.

But good luck getting that gas in Yonkers or New Rochelle. Thanks to Governor Andrew Cuomo's continuing blockade on new gas pipelines, New York consumers aren't benefiting from this low-cost, low-carbon fuel. Instead, places such as Westchester County, along with parts of New England, are facing moratoriums on new gas hookups. In addition, earlier this month, with approval from Cuomo, New York legislators passed the Climate and Community Protection Act, which requires 70 percent of the state's electricity to come from renewables by 2030 and an 85 percent reduction in greenhouse-gas emissions by 2050.

Cuomo has dubbed the CCPA "the most aggressive climate change program in the United States of America, period." Cuomo's energy policies may be aggressive, but they are also going to hammer the New York economy and New York consumers. They will also — get this — mean higher carbon dioxide emissions.

Since 2016, the governor's appointees at the New York Department of Environmental Conservation have repeatedly blocked permits for new pipelines that could increase the flow of gas into New York. The latest pipeline monkeywrenching occurred last month, when the NYDEC refused to provide a permit for the Northeast Supply Enhancement project, a 24-mile pipeline that would deliver about 400 million cubic feet of gas per day from coastal New Jersey through Raritan Bay and Lower New York Bay to the western end of Long Island. It was the second time the state has blocked the project. (Earlier this month, the New Jersey Department of Environmental Protection denied a permit for the same pipeline.)

In response to the ongoing blockade of the pipelines, two of New York's biggest gas utilities, Consolidated Edison and National Grid, have said they will quit providing new gas connections to customers in their service areas in and around New York City. As I show in a new report for the Manhattan Institute, about 800,000 New Yorkers are now living in communities subject to gas-hookup moratoriums. About 300,000 New Englanders are facing the same predicament.

(Continued on page 12)





## Editor's Notes

By Anthony N. Carbone

### PSEG/HOMESERVE UNITE TO UNFAIRLY COMPETE AGAINST INDEPENDENT CONTRACTORS

Here we go again with unfair utility competition and what looks like cross-subsidization. You might remember this story once upon a time with our old fight against KeySpan Energy. Back then it was the evolution from LILCO which handled electric and gas services as a monopoly utility on Long Island.

This monster operation was taken over by Brooklyn Union Gas and became known as KeySpan Energy.

The HVAC industry suddenly found itself competing with a company called KeySpan Home Energy Services. The end-user could not distinguish this separate company from the utility behemoth. Therefore, it was undoubtedly unfair competition.

Eventually, after mandates from the Public Service Commission, KeySpan was split into LIPA, an oversight agency headed by Richard Kessel who empowered National Grid to oversee the electric grid a British-based company who also took over the natural gas distribution for Long Island.

National Grid eventually sold off the Home Energy Service Business that directly competed with independent heating and air conditioning contractors.

Another British company had taken over the KeySpan Home Energy Service business and their name is HomeServe.

Did HomeServe receive all of their data information from the natural gas monopoly utility National Grid?

We, as contractors, had given the electric utility LIPA tons of information about our clients for rebates and of course, they had every single ratepayer's account from their monthly billing.

HomeServe has an inordinate amount of specific information which has led to massive mailings and they have amassed thousands of service agreements. . . But, as of late, a new Wolf in Sheep's clothing has emerged. . .

It's PSEG. . . the monopoly utility company that oversees the electrical grid which took over from National Grid's maintenance and oversight!!!! The New Jersey based utility has been put in place after the poor maintenance which was revealed by Super Storm Sandy. PSEG appeared to come in as a white knight ready to re-energize and reorganize the faulty electric grid by doing some badly needed maintenance. They have become the keeper of the electric grid for Long Island.

Well, PSEG also has now decided to partner with HomeServe, the independent British-owned HVAC service company by bombarding the Long Island region with deceiving mailings and postcards that say PSEG Worry-Free Service being executed by HomeServe. PSEG is outfitting trucks to say PSEG Worry Free with HomeServe lettering also.

An evident partnership that is clearly deceptive. It appears as if the consumer is working with PSEG.

This is clearly an attempt to confuse the public to think that they are dealing with the monopoly utility.

This is the same PSEG operation that accepts thousands of pieces of information from independent contractors as they are processing all of the PSEG Cool Homes utility rebates, customers' information, and equipment information.

This is clearly unfair competition. Why wouldn't this behemoth utility PSEG offer the same "Worry-Free" contractor status to every independent local contractor.

Was this a back-office deal to license the PSEG logo and name to an independent, foreign-based contractor???? Who paid to have the PSEG Worry-Free Service Agreement mailings???

I made a complaint to the Public Service Commission about the obvious confusion and asked for them to stop this public deception and evident unfair competition. Is this fair to independent contractors that have to work with PSEG for rebates and clients who pay their monthly utilities?

Since I have had this experience in the past and my company participates in the Cool Homes PSEG Rebates Program, I decided to produce a post-card that stated I was a "PSEG Worry-Free Contractor" that mirrored PSEG/Home Serve's solicitation.

Low and behold, my company received a Cease & Desist letter from PSEG Energy Group demanding I stop using the PSEG logo and the Worry-Free name.

PSEG stated my advertising added confusion to the marketplace per their attorney and sent four letters in many different forms to stop using the name and logo.

In addition, with a very non-descriptive piece of white paper enclosed in your monthly PSEG electric bill, an odd disclaimer from PSEG states, "HomeServe and PSEG Worry-Free are separate from and operate independently of PSEG Long Island. You have no obligation to purchase these services from Home Serve. . . "

This is the biggest scam in the history of unfair competition and cross-subsidization that has ever been perpetrated against independent HVAC contractors.

Call every agency you can to assault this Trojan horse including the Public Service Commission (PSC) , local legislators, Dept. of Consumer Affairs, the Governor's office, all and every news media agency that you can think of... and I will be happy to assist you in describing to them this intentional confusion perpetrated against the public and ratepayers to steal your HVAC service business and provide your client information regarding your clients to HomeServe via PSEG Long Island.

.....

**If you need more information... please email or call me to discuss this.**  
**Anthony Carbone@ (516) 482-1375 or Anthony@SystematicControl.com**  
**Editor, MACC News**



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## FROM THE DESK OF ROOF SERVICES

# Roof Penetration Flashing Heights

By Dyami Plotki

Manager of Repair & Maintenance Division, Roof Services

When penetrations such as curbs, ducts, stub columns and other penetrations associated with mechanical units are installed through the roof, it is important to maintain proper heights relative to the surface of the roof so that the new roof flashings can be effective and comply with the roof manufacturers warranty specifications. The standard height for roof flashings to meet warranty specifications is 8" above the finished roof height. While this may sound simple to use a 12" curb, recent changes to building envelope energy code and roof building code makes this much more complicated than it used to be.

Over the past 20 years, energy code has gone from R-20 to R-30 for roof insulation. The means of measuring the R-value of roof insulation has also changed from standard R-value to long term thermal resistance value (LTTR). This has resulted in lower R-values for the same thickness which translates to greater thickness for the same R-value. Current state energy code requires R-30. In order to achieve R-30 two (2) layers of 2.6" polyisocyanurate insulation for a total insulation thickness of 5.2" is required.

Until the most recent code change, the R-value of tapered insulation was measured as an average. With the most recent code change, the measuring of tapered insulation R-value has changed to a minimum. Now instead of having tapered insulation assemblies that are average 5.2" thick, they are a minimum of 5.2" thick. Further changes to the roofing code have changed the required pitch from one-eighth inch per foot to one-quarter inch per foot. This results in tapered insulation assemblies which increase dramatically in their thickness as they move away from the low points, and often result in insulation thicknesses of 12" to 16".

Further complicating this roof thickness issue is the recent popularity of recovery boards. It is becoming more and more common to install a ½" high density polyisocyanurate or high-density gypsum board over the thermal insulation to provide stronger walking surface and prevent crushing damage.

This combination of R-30, ¼" per ft. tapered insulation with minimum R-values, and the addition of a cover board results in a minimum roof thickness of 5.2" for code compliance assemblies and a maximum thickness in the mid to high teens. When minimum 8" base flashings are considered in light of these new and increased roof thicknesses, a simple 12" curb is no longer sufficient. Given the new rules associated with roof insulation, roof penetrations must be coordinated with the roofer in order to ensure that they achieve proper height and warrantable roof flashings can be installed.

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*Dyami Plotke, MACC's Board Secretary, is Manager of the Repair and Maintenance Division, Roof Services, in Deer Park, NY. Dyami was instrumental in the creation of Roof Service's Repair & Maintenance Division, which has proven to be their fastest growing division as more customers are made aware of the advantages of preventive maintenance to extend the life of their roofing systems while minimizing lifecycle costs. A graduate of the State University of New York at Geneseo, Dyami's continued education includes professional training at Design, Consulting & Forensics LLC, NRCA, NYSRCA, Carlisle-Syntec, Hunter Panels, Metal Building Components LP, and the Center for the Advancement of Roofing Excellence. Dyami is an accredited Green Roof Professional (GRP) with Green Roofs for healthy Cities.*

Statement from Stuart S. Zisholtz, Esq.

## NEVER LET YOUR LIEN TIME RUN OUT

In many of my articles I address the importance of filing a Mechanic's Lien. Many times it is the difference between collecting and not collecting.

A Mechanic's Lien is valid for one year. In a commercial project, it can be renewed the first time without a court order and then two more times with a court order. A residential Mechanic's Lien can be renewed two times only with a court order. Once a lien expires, it cannot be revived or renewed.

In order to establish a valid Mechanic's Lien, you must prove that there is a balance running from the owner to the General Contractor and from the General Contractor to you as the subcontractor. If payment has been made in full to the General Contractor, or back charges exist, which off-set the amount due the General Contractor, your Mechanic's Lien will be extinguished. This determination does not prevent you for pursuing a breach of contract claim against the General Contractor. Those two claims are separate and apart.

Many times we receive a claim that is over a year old and the Mechanic's Lien has been renewed at least once. Some of these claims are in the high six figures and have been lingering for a long time.

I always advise my clients that if you have not heard anything or negotiations have not commenced within sixty days after initially filing the Mechanic's Lien, then you need to institute an action to foreclose to bring the claim to a head. Waiting more than one year to commence a foreclosure action is not going to get you paid. Simply renewing the Mechanic's Lien year after year and having it remain on the property is not a guarantee for payment. Sometimes, you need to be aggressive to collect the money that is owed to you.

While many legitimate business reasons exist for not commencing a foreclosure lawsuit, every lienor must understand that a Mechanic's Lien is not a guarantee for payment. Renewing a Mechanic's Lien, year after year, does nothing more than maintain the status quo. Without pressure of a foreclosure action and the threat of a possible judgment, you may be wasting your hard earned money and time by continuously renewing the Mechanic's Lien.

Never Let your lien time run out!

For a free copy of a pamphlet pertaining to Mechanic's Liens and payment bond claims, kindly contact me or the Association.



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## Cuomo's Silly War on Natural Gas (Continued from page 5)

Cuomo's appointees have claimed that the gas pipelines will cause environmental harm and that the state can replace natural gas with efficiency and renewable energy. But as I show in my report, by locking out natural gas, New York is locking in oil for both heating and electricity production, and therefore increased carbon dioxide emissions and higher costs for consumers. Indeed, shortages of natural gas will hinder the state's progress in switching buildings away from fuel oil and therefore slow efforts to reduce greenhouse-gas emissions. Switching from heating oil to natural gas cuts carbon dioxide emissions by about 27 percent. Fuel switching has cut heating-oil consumption in the region by about 900,000 barrels per year and carbon dioxide emissions in New York by about 200,000 tons per year.

The shortage of natural gas means higher energy costs. In January, about two weeks after Con Ed announced a moratorium on new gas connections in southern Westchester County, the utility announced it would be seeking an 11 percent hike in residential natural-gas rates and a nearly 6 percent increase in residential electricity rates.

Those increases will be added to the state's already high energy prices. In 2018, residential electricity customers in New York were paying about 18.5 cents per kilowatt-hour, while average U.S. residential customers were paying about 12.9 cents. Thus, New Yorkers are paying about 44 percent more for electricity than the national average.

Anti-gas activists like to claim — without any evidence — that renewables can meet the state's energy needs. But upstate New York communities are increasingly opposed to the encroachment of big wind and solar projects. Over the past four months alone, about 300 megawatts of new wind capacity and 100 megawatts of new solar capacity have been halted due to local opposition from upstate communities. The result: According to the American Wind Energy Association, no wind projects are currently under construction in New York, and only 34 megawatts of wind capacity is now under construction in New England.

Many of those same climate activists — from groups such as the Natural Resources Defense Council and Alliance for Clean Energy New York — are now touting offshore wind. New York and other states have announced big plans — by my count, some 14,000 megawatts of offshore wind capacity has been proposed — but that will require installing thousands of offshore platforms over hundreds of square miles in some of the most heavily navigated and heavily fished waters on the Eastern Seaboard. The offshore wind projects are being vigorously fought by the Long Island Commercial Fishing Association and commercial fishing groups from New Jersey, Rhode Island, and Massachusetts. The fishermen believe the offshore wind projects will lock them out of some of their most productive fisheries.

Finally, Cuomo's gas blockade is occurring at the same time the state is relying more heavily on the fuel to produce electricity. Since 2004, gas-fired electricity production in the state has nearly doubled. New York's dependence on gas-fired electricity will increase in the months ahead due to the looming closure of the two nuclear reactors at the Indian Point Energy Center in Buchanan. Unit 2 will be shuttered next April, and Unit 3 in April 2021. Together, they produce about 25 percent of the electricity used in New York City. When they are retired, their output will largely be replaced by gas-fired generators.

The punch line here is apparent: Cuomo has chosen to make natural gas the enemy at the very same time New York (and New England) needs more natural gas to reduce its emissions and keep the lights on. It's time for the governor to give up his ill-reasoned blockade and accept the fact that natural gas plays an irreplaceable role in the Northeast's energy economy

*Robert Bryce is a senior fellow at the Manhattan Institute and the author of the institute's new study "OUT OF GAS: NEW YORK'S BLOCKED PIPELINES WILL HURT NORTHEAST CONSUMERS." @pwrhungry*



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**SPOTLIGHT****TOMMY WILLIAMS - VP of Sales, USI Insurance Services**

Meet Tommy Williams, our newest MACC Board Member!

Tommy was born and raised on Long Island, graduating from LIU/ Post with a degree in Finance and Economics in 2014. With an office in Uniondale, and a residence in Westbury, Tommy is a true Long Islander through and through.

During his four years at LIU, Tommy played Outside Linebacker/Safety and was elected Team Captain in his senior year by his teammates. As a student athlete, Tommy gained invaluable skills that proved paramount to his professional career, including time management, leadership, work ethic, communications and establishing and accomplishing goals. "As a safety and captain of the defense, I was in the position of making important split second decisions. I learned how to understand, comprehend and apply large amounts of information in a short period of time."

While working toward his MBA at LIU, Tommy met with a family friend who introduced him to the world of insurance. "As I listened to the many facets of the insurance business and the opportunities that exist in the industry, I saw its amazing potential and decided that it was a perfect fit for my skill set and characteristics," he said.

Tommy started his career at USI Insurance Services in 2014, first as an account manager, then transitioning into his current role as VP of Sales for the past 3 years.

USI specializes in Construction Insurance, with its own in-house loss control, claims and analytics experts. The company presently insures over 300 HVAC/Mechanical contractors, including many MACC members. "The HVAC/Construction industry is very unique, especially in NY," emphasizes Tommy. "It is vitally important that HVAC contractors take all the necessary steps to protect themselves from claims ... in particular, from NY Labor Law Claims. The right coverage for all potential exposures is essential. And you need to make sure all your policy's exclusions and endorsements are explained thoroughly and that they are not a potential gap in coverage."

We are honored to have USI as a valuable member of the MACC organization for over 20 years and to welcome Tommy Williams ... our newest Board Member. "I look forward to learning the vital issues that affect the HVAC industry and I'm eager to join my fellow MACC members in helping this fantastic association grow and prosper," concludes Tommy.

Judging from Tommy's knowledge, background and skills, we are confident he will bring many great ideas and a world of new possibilities to our association!



## COMING SOON...

### MEMBERSHIP MEETING

**When:** Thursday, November 7, 2019

**Where:** Westbury Manor

110 Jericho Turnpike, Westbury, NY

6:00 pm – 8:00 pm

### TECHNICAL TRAINING WORKSHOPS

#### TROUBLE SHOOTING GAS HEATING

**When:** Saturday, October 19

**Where:** Electrical Training Center

65 Elm Street, Copiague, NY

8:00 am – 4:00 pm

**Price:** MACC Members, \$199; Non-Members, \$299

#### CUSTOMER RELATIONS FOR TECHNICIANS

**When:** Saturday, November 16

**Where:** Electrical Training Center

65 Elm Street, Copiague, NY

8:00 am

**Pricing:** MACC Members, \$99,  
Non-Members, \$129

**TO REGISTER FOR COURSES PLEASE VISIT [WWW.MACCNY.ORG](http://WWW.MACCNY.ORG) OR  
CONTACT THE MACC OFFICE AT 516-922-5832 OR AT [INFO@MACCNY.ORG](mailto:INFO@MACCNY.ORG).**

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# People & The Workplace

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## New York State Expands Workplace Harassment Protections

During the tail-end of the New York State Legislature's 2019 legislative session, the New York State Legislature passed bills that considerably amend New York's anti-harassment and anti-discrimination laws. If signed by Governor Andrew Cuomo, employers will face greater potential liability as a result of the new legislation. Below we have provided the key takeaways for New York employers.

### Effective immediately upon enactment:

- Courts are instructed to liberally construe the laws in order to maximize deterrence. Accordingly, any exceptions specified in the legislation are to be narrowly interpreted.
- The prevailing party "shall" be awarded attorneys fees. Rather than an award of attorneys fees being discretionary, the New York State Human Rights Law (NYSHRL) will mandate the prevailing party be awarded attorneys fees. A prevailing employer seeking attorneys fees must first demonstrate the lawsuit was filed frivolously or continued in bad faith.
- Employers will be required to provide all New York-based employees with a notice of the employer's written anti-harassment policy. This written notice must be provided to employees when they are hired and at every annual training for sexual harassment prevention. The notice must be provided in English and the language identified by each employee as their primary language.

### Effective 60 days after enactment to claims filed after that date:

- Complainants will have a lower burden of proof when bringing claims for state law harassment, discrimination, and retaliation claims. Previously, an employee would be required to demonstrate the harassment or discrimination they faced was considered "severe or pervasive" in order for their claim to be actionable. Similar to New York City law, New York State law will require that an employee demonstrate the alleged discrimination, harassment, or retaliation only rises above the level of a "petty slight and trivial inconvenience." In addition, employers will no longer be permitted to assert the common defense that the employee failed to utilize the employer's internal measures to file a complaint.
- Punitive damages will become available as a remedy for claims brought asserting harassment, discrimination, and retaliation under the NYSHRL against private employers.
- Mandatory arbitration clauses will be prohibited for all claims of discrimination, harassment or retaliation. In 2018, New York enacted legislation prohibiting mandatory arbitration clauses only relating to claims of sexual harassment. However, it is expected that federal law will pre-empt this part of the law and that arbitration clauses will actually be permitted.
- Nondisclosure agreements (NDAs) in cases relating to discrimination, harassment or retaliation will no longer be permitted unless it is the complainant's preference to enter into an NDA. Previously, the legislature only restricted the use of NDAs in sexual harassment cases. This restriction will now apply to all cases relating to discrimination, harassment or retaliation.
- Domestic workers and non-employees will be covered under the NYSHRL, regardless of size, on the same grounds as other types of employees. Currently, New York provides limited protections for domestic workers which do not apply during instances where the domestic worker observes harassment that is not directed at them and they are retaliated against for complaining about the harassment.

### Effective 180 days after enactment to claims filed after that date:

- All employers, regardless of size, are covered under the New York State Human Rights Law (NYSHRL). Aside from claims brought for sexual harassment, the NYSHRL only applied to employers with four or more employees. Now, all employers are subject to claims brought under the NYSHRL.

### Effective 1 year after enactment to claims filed after that date:

- The statute of limitations for claims of sexual harassment will be extended from one to three years from the date of the alleged discriminatory behavior. All other claims for discrimination or retaliation will still be subject to a one-year statute of limitation.

### Effective January 1, 2020:

- All NDAs included in employment contracts must contain a carve-out that provides

employees and future employees with the ability to disclose information related to a future claim of discrimination to law enforcement, the Equal Employment Opportunity Commission, the New York State Division of Human Rights, a local commission on human rights, or an attorney retained by the employee or potential employee.

What employers must understand is that much of the actual legislation is designed to encompass all claims of discrimination, harassment, and retaliation, not just claims for sexual harassment, and will apply to all employers regardless of size.

### New York's New Pay Equity Law

On July 10, 2019, Governor Cuomo signed into law a bill that greatly expands New York's Pay Equity Law to provide pay protections not only based on gender, but based on age, race, creed, color, gender identity or expression, sexual orientation, genetic characteristics, family status, marital status, military status, disability, and domestic violence victim status. Effective October 8, 2019, employers will be required to provide equal pay to employees who perform "substantially similar" or "equal" work. The law now lowers an employee's burden of proof when asserting a claim under the law by eliminating the requirement to show that the employee and a comparator performed "equal" work. The pool of comparators has been widely expanded to allow employees to compare themselves to workers that do not necessarily perform the same job as they do but that do share similar skills, responsibilities, and working conditions.

The law still allows for pay differentials based on the following factors: (i) a merit system; (ii) a seniority system; (iii) a methodology that measures earnings by quality or quantity; or (iv) a bona-fide reason other than the employee's protected status, such as experience, training, or education. The bona-fide factor must be job-related and consistent with a specific business necessity, such as geographic location.

To ensure your company will comply with this new law, employers should perform a pay equity analysis across all employees and protected categories. Potential legal actions taken against employers for violations of this law will likely be brought in the form of class actions because employers' pay policies normally impact multiple employees. Thus, employers should seriously review their pay practices to protect themselves since the new law has lowered a claimant's burden of proof to prove pay inequities.

### New York's Salary History Ban

Effective January 6, 2020, New York law will prohibit employers from asking applicants and current employee for their salary history as a requirement for employment or promotion. In addition, employers are not permitted to refuse to consider, promote, or employ an applicant or current employee based on the fact that they refused to provide their salary history. This new state law is similar to New York City's ban on salary history, but the state law is now applicable to both job applicants and current employees. The law further bars employers from deciding an applicant's rate of pay based on their salary history. However, nothing prohibits an applicant or current employee from disclosing their salary history when negotiating a promotion, raise, or rate of pay. Employers should note that the law permits them to verify the applicant's salary history if the applicant cites their prior salary while rejecting an existing job offer.

Employers must review all job applications to verify they comply with the salary history ban. Employers should also ensure managers and supervisors are trained not to ask a job applicant about their salary history when interviewing job candidates and not to ask current employees about their salary history when discussing a job promotion.

If you have any questions about this article or any labor or employment matter, please call Alan Pearl or Brian Shenker at 516-921-3400 or send an email to [abpearl@pmpHR.com](mailto:abpearl@pmpHR.com) or [bshenker@pmpHR.com](mailto:bshenker@pmpHR.com).



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## NEWS CLIPS

### Carrier Innovations Named Finalists Consulting-Specifying Engineer Magazine Product of the Year Competition

Carrier is pleased to announce that both the Weather Series Rooftop Unit (RTU) with EcoBlue™ Technology and the AquaEdge® 19DV water-cooled chiller have been named finalists in Consulting-Specifying Engineer<sup>1</sup> (C-SE) magazine's Product of the Year competition.

The C-SE competition named the Weather Series RTU with EcoBlue Technology a finalist in the "HVAC" category. Designed to improve performance and efficiency while decreasing maintenance and installation costs, it's the industry's first beltless direct-drive vane axial fan for RTUs. In fact, due to its ability to lower operating, installation and maintenance costs, it was already named a Money Saving Product of the Year by BUILDINGS<sup>2</sup> magazine. Other enhancements include a direct-drive electronically commutated motor that enables greater efficiency, a dynamically balanced blade fan for reliable performance, a new control board and coil technology, permanently lubricated motor bearings, tool-less filter access doors and more.

"Building owners, their occupants and the contractors who install the Weather Series RTUs with EcoBlue Technology will all benefit from the many technological advancements we have delivered," said Chris Opie, vice president, Product Marketing & Platform Strategy, Carrier Commercial HVAC Global Equipment. "The level of innovation is a nod to the engineering genius Carrier is known for since it first brought modern air conditioning to the world in 1902."

Also named a finalist is the AquaEdge 19DV water-cooled centrifugal chiller, in the competition's "Chiller" category. It features breakthrough technologies, Greenspeed® intelligence and a low global warming potential (GWP) refrigerant R1233zd(E), which has a GWP of ~1. Its innovative features offer incredible versatility and a full-system approach to improve cooling efficiency while allowing for effective heat recovery and free cooling all in the same machine.

"The 19DV delivers on customer demands for ultimate performance, leading efficiency and environmental responsibility," said Opie. "We're pleased to see the 19DV receive the industry acknowledgement it deserves for achieving optimal performance, efficiency, reliability and control. It's an incredibly groundbreaking system."

### Fujitsu General America Unitary Ducted Equipment Offerings Expanded

Fujitsu General America has expanded its line of unitary ducted products. They now offer a broader selection of residential air conditioners, heat pumps, and gas furnaces as well as a new line of light commercial equipment. These new high-efficiency residential split system products, residential packaged units, and light commercial rooftop equipment allows Fujitsu to compete with all major competitors in the marketplace. New residential products include air conditioners with two-stage or fully-modulating inverter scroll compressors with efficiencies up to 20 SEER and 13 EER. Fujitsu gas furnaces now offer 80 percent AFUE models with LoNox options, and 96-98 percent AFUE models with two-stage or fully-modulating gas valves and ECM motor technology. New light commercial package rooftops are available in three through 25 tons, including air conditioning only, gas/electric, heat pump, and re-heat models in a wide variety of efficiency options.

Fujitsu's 7.5-12.5-ton platform is compatible with some competitive manufacturer footprints, eliminating the need for adapter curbs while also aligning with gas/other utility connections.



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