



2010 QUESTIONNAIRE FOR CANDIDATES FOR THE
OFFICE OF ATTORNEY GENERAL

Citizens Union would appreciate your responses to the following questions related to policy issues facing the State of New York and our interest in reforming how state government operates. Responses to these questions will be one of several factors Citizens Union will use to evaluate candidates running for office in order to determine our "Preferred Candidates" for the primary election and "Endorsed Candidates" for the general election.

We plan to make public your responses to this questionnaire in our Voters Directory and in other appropriate venues.

We thank you very much for your response.

Candidate Name: Richard Brodsky Age: 64

Campaign Address: 155 White Plains Rd. Tarrytown NY 10591

Campaign Telephone Number: (914) 332-4940 Fax: (914) 332-4983

Party Affiliation(s): Democrat Campaign Manager Name: Jon Lipshutz

Website & Email: www.richardbrodsky.com campaign@richardbrodsky.com

Education: Brandeis, Harvard Law

Occupation/Employer (or years in currently held elected office): 28 Years in NYS Assembly

Previous Offices and Campaigns: a County Legislator from Westchester for four terms

Are you willing to be interviewed by CU's Local Candidates Committee? YES NO

(Please note: Citizens Union can grant its "Preferred Candidate" and "Endorsed Candidate" rating only to candidates we have interviewed.)

Have you completed requisite campaign finance filings? YES NO

Signature of Candidate: _____
POLICY ISSUES

Andrew Gooding

_____ Date: 7/30/10 _____

1. What would be your top priorities if elected to the Office of Attorney General?
Successful, effective reform of the AG's office, the institutions of state government, and of aspects of the social and economic life of the people of the state.

2. How would your approach to the position and priorities while in office differ or resemble that of your predecessor?

Statewide elected officials have been unsuccessful at bringing fundamental institutional reform to state government. The political conversation of 2010 is eerily similar to that of the 2006 election which yielded Governor Spitzer's hammer and tongs approach to questions of change and reform, which in turn yielded much heat and no concrete results. The next AG needs political skills, principled policies, and a proven ability to bring change and reform to New York. The most substantial reform of state government in 30 years is the Public Authorities Reform Act, which has fundamentally and permanently reformed the state authority system which I shepherded through the legislature and got the Governor to sign. Those same skills need to be applied to issues of statewide change and reform in order to achieve real, effective and successful change. Specific areas of improvement will include making the AG the effective protector of the people of the state with respect to issues as varied as the environment and public health, constitutional change, a citizen's right to privacy, and other important matters.

3. What are your thoughts on striking the appropriate balance between the attorney general's role as the lawyer representing the state's officials, and as an independently elected government official?

That distinction is a part of our campaign and distinguishes our efforts from those of our opponents. 80% of the work of the AG is defending state agencies. The balance is now largely taken up by certain prosecutions, largely under the Martin and Donnelly Acts, and certain consumer protection activities. All of these responsibilities must continue to be discharged. But as the chief legal officer of the state, the AG is uniquely positioned to use political as well as legal skills to move forward on social and political reforms. Unique among the candidates, I have a longstanding record of doing so, in the midst of otherwise unsuccessful but well-intentioned efforts for reform.

4. If elected, how would you leverage the Office of the Attorney General to protect the public from fraud and/or the misuse of taxpayer funds in the public or private sector?

I have a long and continuing record in this area. We are currently investigating the payment of excessive "bonuses" at public and quasi-public entities (Fulton County Economic Development Corporation and NYC Off-Track Betting Corporation, most recently and most notably). We have an appended a list of other investigations that we have successfully conducted. The AG must be an effective partner in the enforcement of the Public Authority Reform Act, which I authored, and which is beginning to fundamentally change the way the state's 700 public authorities operate. No-bid contracts, whistleblower protections, new fiduciary duty, MWBE standards, the enforcement capacity of the Authorities Budget Office and other reforms must be part of the AG's activities. The effective application of the Martin Act and the Tweed Act will also allow us to pursue corrupt and illegal activities in the private sector.

5. What, if any, are the key social issues of the state that you would address should you be elected to the Office of Attorney General. How would you address them?

I've put out a specific agenda of actions involving the AG that would deal with environment and public health protection, excessive property taxes, privacy, and reduction of energy costs. Although counterintuitive, the AG's role in dealing with social policy questions can be much broader than it is

currently. At the heart of our campaign is a vision of the office which transforms it into an entity whose primary responsibility is the protection of the rights and real life situations of average New Yorkers, which includes social issues.

6. What, if any, would be your top legislative priorities to pursue should you be elected to the Office of Attorney General. What specific solutions would you put forward?

The legal authority of the AG to pursue public corruption.

Reform of the Martin Act.

Political reform of institutions, including reapportionment, campaign finance, and the budget process.

Protection of the public's right of privacy.

REFORM ISSUES

7. How would you address public misconduct of elected officials and what novel approaches would you use to reform state government? How would you use the enforcement mechanisms provided to the Office of Attorney General in pursuing violations of the state's campaign finance and ethics laws? Do you believe that greater responsibility should be given to the office to investigate corruption and how would you achieve that?

Greater responsibility should be given by enactment of legislation to give the AG direct authority to investigate matters of public misconduct, including public corruption. The tools currently available, including the Tweed Act are adequate but in the end insufficient. While the AG should not become a "super-DA," the ability to understand public corruption issues in a broad statewide public context, would require an expansion of the authority of the AG.

Reform of state government does not require novel approaches. The failure of the reform movement in recent years to effectively change public institutions is be a consequence of inadequate and misapplied political activities and skills. The AG in New York is elected, not appointed, and as an elected official has a special responsibility to effectively lead the movement for change and reform. That requires more than harsh rhetoric or an ability to state and re-state the nature of the problem. Real reform, such as that accomplished with respect to the state authority system, requires the ability to bring new ideas, create "yessable propositions," persuade other parties, negotiate, compromise, and use the public and the press to cajole and force change. These are classic political skills which I have applied to the reform effort successfully and unlike any other candidate in the race.

8. Do you support measures to limit the role of money in elections and politics, such as substantially reducing contribution limits and/or instituting a matching public campaign financing system at the state level? Absent a change in the law, what would you do as a candidate, or attorney general, to set an example in diminishing the influence of money in campaigns?

Yes, and have voted do so repeatedly. We all hope the State Senate will adopt the same position. However, creative applications of existing statues may give us an opportunity to limit the destructive role of money in New York's politics. These creative approaches include ways of limiting the damage done by the recent Supreme Court decision allowing for unrestricted corporate expenditures.

9. What role do you see the Office of Attorney General playing in monitoring non-profits receiving member items funds?

The AG supervisory power over non-profits is strong and underutilized. I would not limit the inquires, however, to member items. Abuses in the not-for-profit sector go well beyond not-for-profit issues and include excessive and secret compensation plans, and activities outside the mission of a not-for-profit.

10. Do you support stricter limits on gifts and other benefits, such as honoraria, public officials may receive from lobbyists, contractors and others attempting to influence the political process?

Yes and have reflected that in my legislative voting record.

11. Do you believe there is a conflict of interest in raising funds from companies you may regulate and have to take action against? Are there parameters you set or you believe should be established in statute to limit potential conflicts of interest?

The potential for such conflict is real but I would not limit such concerns. If the AG receives broader authority to investigate public corruption then similar conflicts will arise if large donations are accepted from candidates or public officials. In the current race for AG that is a real and provable problem.

12. Do you support a system of selecting Supreme Court judges through an appointment process where candidates are recommended by citizens' committees on the basis of merit and qualifications? If not, what judicial selection mechanisms do you support?

Yes, as long as the selection process is not dominated by the executive branch. The politics of governors are not necessarily an improvement over the politics of voters.

13. What do you believe is the proper role of the Office of Attorney General in overseeing public authorities?

As the author of Public Authorities Reform Act I wrote the AG into the bill with respect to the new fiduciary duty of board members, the whistleblower requirements, and certain residual enforcement powers of the office. True institutional reform will require the participation of the AG at all stages of the effort. For example, I am currently investigating excessive "bonus" payments made by certain public authority and non-for-profit corporations. The supervisory authority of the AG over such entities has to be exercised with or without referral and before systematic abuses become rampant. Obviously they also have to be exercised when facts emerge requiring additional actions including protections.

Please provide any additional information about your positions as well as actions that you have taken or plan to take to advance your positions on the above issues either below or on a separate sheet of paper.

I have attached materials outlining my litigation record and my reform record with respect to legislation. I urge you to examine them as part of your consideration of these issues.

**Please return to: Citizens Union, Local Candidates Committee
299 Broadway, Suite 700 New York, NY 10007
Or via fax at 212.227.0345**

CAMPAIGN PROMISES MADE TO VOTERS (PAST and CURRENT)

In addition to evaluating their stances on the issues above, Citizens Union will assess incumbents on how well they kept the promises they made to voters during the previous election.

As an elected official who currently holds an office other than the one for which you are running,

- a. what were the top five promises or goals you made to your constituents when you ran for your current seat and what progress has been made in keeping those promises, and

Reform and improvement of the school aid system which has been partially adopted.

Additional property tax relief which was accomplished through the STAR program.

Reform of government institutions locally and statewide which was accomplished locally by changes at the Westchester County Medical Center, Westchester County Government, and statewide by the Public Authority Reform Act which fundamentally reformed all state authorities.

Protection of public health and the environment which was accomplished by my authorship of the Clean Air Act, the Environmental Protection Fund, the Biodiversity Institute, the state cancer map and many other laws.

Effective and honest representation, upholding the highest ethical standards, while getting things done.

- b. what are the top five promises or goals you are making to the voters during this campaign?

Transformation of the office of AG into the center of reform efforts dealing with political institutions and the social and economic conditions of the state.

An end to corporate pollution and a reassertion of the "polluter pays" principle.

Effective and successful reform of state political institutions.

An end to the financial abuses by Wall Street and other large corporations.

Enhanced personal right of privacy.

We thank you very much for your response. Please feel free to use additional paper if the space provided is not sufficient.

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via fax to 212.227.0345 or via email to acamarda@citizensunion.org

Laws Authored by Assemblyman Richard Brodsky

Assemblyman Brodsky has championed significant laws and legislative initiatives including reforming public authorities, campaign finance reform, comprehensive budget reform, regulating the securities industry, economic development reform, procurement and contract reform and a host of other reform efforts. Some of Assemblyman Brodsky's efforts are described below.

Reform, Finance and Oversight Laws

Chapter 174 of 2010 (MWBE Participation) Creates strong diversity practice regulations with state public authorities, and creates increased fairness in MWBE contracting by authorities.

Chapter 39 of the Laws of 2010 (Non-Disclosure Agreements) Banned all public authorities from making their employees sign non-disclosure agreements during their tenure.

Chapter 506 of the Laws of 2009 (Public Authorities Reform Act [PARA]) Established regulations for the Authorities Budget Office, and also instituted the most sweeping and comprehensive reform of the public authorities system in New York State history- including transparent reporting requirements, MWBE requirements, auditing requirements, lobbyist disclosures and other oversights.

Chapter 545 of the Laws of 2008 (State Internet Regulations) Directed the State Education Commissioner to develop age-appropriate resources for schools to provide to students and their parents concerning the safe and responsible use of the Internet

Chapter 629 of the Laws of 2007 (Prevailing Wage Notifications) Requires that workers receive written notification of the prevailing wage rates and supplements at the beginning, and during the performance, of every public works contract.

Chapter 593 of the Laws of 2006 (Westchester Medical Center Financial and Management Reform): Designated Westchester County Health Care Corporation's general hospital as a regional medical center; provided for increased inpatient reimbursements in the form of a supplemental general hospital adjustment for certain regional medical centers.

Chapter 766 of the Laws of 2005 (*The Public Authority Accountability Act of 2005*): Establishes the most comprehensive set of reforms for statewide authorities including, financial and auditing rules, board of director governance, an statewide authority inspector general, a statewide authority budget office and rules governing the sale of authority property.

Chapter 726 of the Laws of 2005 (Dissolution of Nonprofits): Established rules and reforms governing the dissolution of nonprofit corporations.

Chapter 389 of the Laws of 2005 (Westchester Medical Center Capital Projects): Authorized the County of Westchester to finance and undertake certain capital projects of the Westchester County Medical Center.

Chapter 628 of the Laws of 2004 (Special Act School Oversight and Reform): Reformed governance of Special Act Schools to require public members on the schools' boards.

Chapter 495 of the Laws of 2004 (Health Insurance for Part-Time Employees): For the first time, created COBRA benefits for part-time workers in certain industries.

Chapter 450 of the Laws of 2004 (Eminent Domain Notification): Requires that a condemnor serve written notice of a required pre-acquisition public hearing to each assessment record billing owner or

his or her attorney or the record. The federal Second Circuit Court of Appeals called the law a "wise policy decision."

Chapter 98 of the Laws of 2003 (Proprietary Schools Oversight): Extended the reform and transparency provisions of the proprietary schools reform act.

Chapter 484 of the Laws of 2002 (STAR Exemption): Requires notification to tenants of rights to STAR tax credit.

Chapter 456 of the Laws of 2001 (Property Disclosure Form): Required sellers of certain residential real property to disclose known defects to prospective purchasers of such property.

Chapter 653 of the Laws of 1998 (Actions against Monopolies): Allows persons injured by large monopolies to seek legal redress.

Chapter 412 of the Laws of 1996 (Environmental Bond Act): Authorized the creation of state investment in creating the clean water/clean air bond act of 1996.

Chapter 413 of the Laws of 1996 (Environmental Bond Act): Implemented the clean water/clean air bond act of 1996 and made appropriations for environmental remediation.

Chapter 11 of the Laws of 1997 (Westchester County Health Care Corporation): Reformed the governance of Westchester Medical Center by creating a public benefit corporation, while retaining the public responsibility to underserved populations and ensuring quality care for all citizens.

Chapter 887 of the Laws of 1990 (Proprietary Schools Oversight and Reform): Enacts a comprehensive set of reforms to provide transparency and accountability over proprietary schools as well as establishing a student tuition recovery fund to reimburse students payments to schools that had mismanagement problems.

Chapter 103 of the Laws of 1984 (Financial Emergency Act for the City of Yonkers): Created the Yonkers Emergency Financial Control Board to fix the City's debilitating fiscal problems and ongoing budget crisis. At the time, Yonkers faced a \$48 million budget gap. The result of the law was a renewed fiscal prudence and health.

Other Laws

Chapter 638 of the Laws of 2008 (Statewide Cancer Incidence Mapping): Creates the first ever statewide mapping system of cancer incidences in efforts to assist researchers and agencies, and define cancer clusters statewide.

Chapter 391 of the Laws of 2008 (Expands those eligible for cancer screening time off): Amended Chapter 111 of 2007 to include all state employees.

Chapter 111 of the Laws of 2007 (Mandates time off for cancer screenings) Amended civil service law to allow men and women who are municipal employees a guaranteed four hours off of work so they can get breast cancer and prostate cancer screenings.

Chapter 64 of the Laws of 2006 (Anti-Phishing Act): Prohibits the misuse of the Internet to obtain identifying information by misrepresenting oneself as an online business.

Chapter 558 of the Laws of 2006 (Computer Breaking and Entering): Creates the crime of computer and entering to protect the online privacy and personal information of citizens.

Chapter 650 of the Laws of 2006 (Modem Hijacking): Enacts the first of its kind law to stop fraudsters from hijacking computer modems, cell phone modems and other communications technology to defraud consumers.

Chapter 165 of the Laws of 2006 (Meningitis): Requires certain camps, secondary schools and colleges which have housing for students to provide information on meningococcal meningitis.

Chapter 622 of the Laws of 1996 (Environmental Enforcement): Requires the DEC to issued enforcement guidelines to ensure compliance with environmental laws.

Chapter 218 of the Laws of 1994 (Superfund Management Board): Extended the existence and reformed the Superfund Management Board.

Chapter 9 of the Laws of 1990 (Cable Protection Act): Fundamentally reformed the cable industry to provided consumer protections and various rules governing public access channels.

Assemblyman Richard Brodsky's Record of Civil and Administrative Litigation

Assemblyman Richard Brodsky has been personally involved in administrative and civil proceedings on a range of issues including defense of the Legislature's right to receive information, abuse of public health and the environment, constitutional rights of New Yorkers and many other areas. This includes proceedings that returned well over [\$100 million to NYS citizens][Note from SKR – this may be closer to \$300m when you add in on Con Ed I from 2000 and the LIC Outage case from 2006]. All matters were handled without charge.

2010

- **Indian Point DEC Water Quality Certificate Application**

In April 2010, the NYS DEC denied Entergy's application for a Federal Clean Water Act Water Quality Certificate in connection with Entergy's request for its extension of the operation license for the Indian Point facilities. Entergy has appealed the denial and Assemblyman Brodsky and other parties are actively participating to ensure that the Hudson River pollution is abated prior to the granting of any certifications to Entergy.

2009

- **Indian Point Southern District of New York Federal Litigation, Docket #09-10594**

Assemblyman Brodsky continued his litigation against the NRC over its failure to follow proper procedure by granting Entergy an exemption from critical fire safety standards at Indian Point. The case is pending.

- **Public Service Commission Universal Service Fund Case #09-m-0527**

Assemblyman Brodsky participated in long-standing discussions about the temporary extension of the transition fund created in 2003 to enable affordable phone service to rural New Yorkers and which was agreed to by the parties and approved by the PSC in 2010. He is continuing his participation in ongoing discussions with all parties to ensure affordable rural phone service through a state high cost service fund.

- **Re Taxpayer Funding of the New Yankee Stadium**

Assemblyman Brodsky subpoenaed top Yankee executives and voluminous documentation in order to investigate possible improper public financing of the stadium.

2008

- **Indian Point Second Circuit Federal Litigation, Docket #08-1454**

Assemblyman Brodsky initiated litigation against the U.S. Nuclear Regulatory Commission ("NRC") over its failure to follow proper procedure by granting Entergy an exemption from critical fire safety standards at Indian Point. For procedural reasons, the case was moved the Southern District of New York in 2009.

- **PSC Case # 08-E-0077, In the Matter of Entergy Corporation's Proposed Transfer of its Nuclear Facilities to a New Entity**

Assemblyman Brodsky and the other parties to the matter successfully argued that Entergy should not be allowed to spin-off its nuclear facilities to a shell company with no assets. The PSC agreed and on July 12, 2010, Entergy officially withdrew its petition for reorganization.

2006

- *PSC Case # 06-E-0894, In the Matter of Consolidated Edison's Long Island City Electric Network July 17 - 25, 2006*

The 2006 outage occurred from July 17 through July 25, and affected about 174,000 people in Western Queens (Sunnyside, Woodside, Long Island City, and Astoria). Following the outage, the New York State Public Service Commission, the state administrative agency that regulates New York's investor-owned energy utilities, conducted a review of the events in a prudence investigation. After extensive settlement discussions, the active parties in that proceeding (including Con Edison, Staff of the Department of Public Service, New York State Consumer Protection Board, the City Of New York, NYS Assemblyman Richard L. Brodsky, the Public Utility Law Project, and Western Queens Power for the People) reached agreement on a settlement that was approved by the PSC in July 2008 and netted \$12 million in settlements for residential customers and \$55 million for commercial customers.

- *Avella v. Batt, App. Div., 3rd Dept., Index No. 5954/04 (argued 2-16-06) ["Avella II"]*

Assemblyman Brodsky was successfully defended Albany County District Attorney candidate David Soares, and the Working Families Party, on appeal of the lower court Avella decision, seeking to stop the unconstitutional use of the Election Law to restrain the First Amendment rights of minor political parties to support their nominated candidates.

- *Entergy v. DEC, Environmental Respondents & Brodsky, Albany County Index No. 6747-03, App. Div. Index No. 97809*

Entergy's appeal of the Appellate Division's decision in Entergy II was denied.

2005

- *Michael Avella (Treasurer of NYS Republican Committee), Shawn Levine (Executive Director, NYS Conservative Party), Lawrence Rosenbaum (Chair of Albany County Independence Party) & Steven Morgan & Robert Haggerty (Democratic voters) v. William Batt (Treasurer of Friends of David Soares), John Kest (Treasurer of Working Families Party) & the Center for Policy Reform, Sup. Ct. Albany County, 785 N.Y.S.2d 305 ["Avella I"]*

Assemblyman Brodsky successfully defended Albany County District Attorney candidate David Soares, and the Working Families Party, against an attempt to enjoin them from campaigning in the 2005 District Attorney's race.

- *Buono & Pataki v. Brodsky, Sup. Ct. Albany County, Index No. 8031-04*

Successful litigation enforcing a subpoena against the Pataki Administration with respect to questionable practices concerning the Thruway Authority/Canal Corp's Erie Canal contracts; Chairman Brodsky successfully required the Pataki Administration to submit to legislative oversight in a case where the Governor asserted Executive Privilege (the "Nixon Doctrine") regarding the documents in question.

- *Entergy v. DEC, Environmental Respondents & Brodsky, 805 N.Y.S.2d 429, App. Div., 3rd Dept. ["Entergy II"]*

Entergy unsuccessfully appealed the decision in Entergy I.

- *PSC Case 05-C-0616, Competition III Proceeding*

Chairman Brodsky is party to a proceeding seeking to deregulate New York's telecommunications industry and abandon the State's long-held policy of universal and affordable telephone access and service.

- *PSC Case 05-C-0237, Verizon-MCI Merger Proceeding*

Chairman Brodsky was a party to the proceeding; his comments influenced the PSC to insulate consumers against any costs arising from the merger and from as yet undiscovered problems with MCI's accounting.

- *PSC Case 05-M-0250, Petition for a Declaratory Ruling by the Town of Babylon, Cable Television Association of New York (CTANY) & CSC Holdings, Inc.*

Chairman Brodsky was a party to this proceeding and petitioned the PSC for greater transparency in the proceeding and to refrain wherever possible from impairing existing legal rights of the municipal, corporate and consumer stakeholders.

2004

- *Entergy v. DEC, Assemblyman Brodsky, Riverkeeper, Scenic Hudson, & Natural Resources Defense Council, Intervenor, 777 N.Y.S.2d 591, Sup. Ct. Alb. County, Index No. 6747-03 ["Entergy I"]*

After Assemblyman Brodsky's success in *Brodsky v. Crotty*, Entergy (the owner of the Indian Point Nuclear plant) sought to have DEC regulation 6 NYCRR 704.5 declared unconstitutional; Assemblyman Brodsky and a coalition of environmentalists successfully intervened to uphold the statute and the principal that DEC must enforce New York's anti-pollution regulations against major polluters of the Hudson River.

- *Entergy Indian Point 2&3 SPDES, Administrative Proceeding at NYS DEC*

State Pollution Discharge Environmental Standard (SPDES) permit proceeding to determine the Best Available Technology that Entergy must use to reduce the thermal pollution from Indian Point's discharges into the Hudson River. The matter is ongoing at the DEC.

- *Petition to the Federal Emergency Management Agency (FEMA) to Withdrawal its Approval of the Indian Point Radiological Emergency Preparedness Plan (filed under 44 CFR 350.13)*

The first administrative petition to request FEMA to withdraw its approval of a nuclear plant's radiological emergency evacuation plans (for the four surrounding counties) on the grounds that a plan was dangerously flawed, insufficient and inadequate as a matter of federal law.

2003

- *Richard L. Brodsky, Peter & Toshi Seeger, et al. v. Erin Crotty as Commissioner of DEC & Entergy Nuclear Indian Point, Supreme Court, Albany County Index. No. 7136-02*

["Brodsky v. Crotty"]

This successful litigation forced the Pataki Administration to issue a water quality permit for Indian Point Nuclear Plant in order to reduce pollution in the Hudson River.

- **PSC Case 03-C-0971, Verizon Service Quality**

Chairman Brodsky was a party in this proceeding concerning inadequate telephone service in upstate New York and lax oversight by the Public Service Commission, which led to his Committee's *Interim Report on Verizon Service Quality*, which stopped Verizon's attempt to abandon the upstate New York telephone service market.

2002

- **Con Edison v. Governor George E. Pataki & NY Public Service Commission, Sheldon Silver and Richard L. Brodsky, Intervenor-Defendants, 292 F.3d 338 (2nd Cir. 2002) ["Con Ed II"]**

The 2nd Circuit upheld the District Court ruling in Con Ed I.

- **Brodsky, Petitioner v. Pataki & Con Edison, Respondents.**

A Certiorari Petition to the Supreme Court of the United States seeking review of the Con Ed II decision was denied.

- **People of the State of New York v. Marilyn Elie, Town of Cortlandt Justice Court, Docket No. 095097**

Assemblyman Brodsky successfully defended a local citizen's First Amendment right to free speech, petition and assembly against criminal prosecution for establishing an informational booth concerning the health risks to children from radioactive releases at the Indian Point Nuclear Plant.

- **PSC Case 03-C-0821, Triennial Rate Review Orders (UNE & Wholesale Element pricing)**
PSC Case 04-C-0420, Telecommunications Competition Post USTA II
PSC Case 04-C-0529, Unbundled Network Elements

Chairman Brodsky is a party in these three related proceedings to protect consumer and/or business interests in telecommunications issues before the PSC.

2000

- **Con Edison v. Governor George E. Pataki, et al. and Sheldon Silver and Richard L. Brodsky, Intervenor-Defendants, 117 F.Supp.2d 257 (N.D.N.Y. 2000) ["Con Ed I"]**

A successful intervention in litigation concerning a statute requiring Con Edison to refund \$200,000,000 to ratepayers because of their own negligence at the Indian Point Nuclear Plant Two (see PSC Case # 00-E-0612 below). Con Edison sued the State to have the statute struck down, and was successful.

- **In the Matter of the New York State Department of Transportation's Proposed Transportation Management Center for the Hudson Valley Region (2000-2001)**

A successful intervention in a DOT proceeding concerning the potential intrusion upon the privacy of lower Hudson Valley drivers by a new video surveillance system, Assemblyman Brodsky innovatively used the State Environmental Quality Review Act to compel the Department of Transportation to

accede to a comprehensive privacy policy and regulations to limit data mining by private companies during the new surveillance system.

- **PSC Case # 00-E-0612, In the Matter of Consolidated Edison's Pass Through of Costs Associated with the February 15, 2000 Outage at the Indian Point Two Nuclear Power Plant**

Assemblyman Brodsky's successful petition called for a hearing into Con Edison's negligent actions with regard to the Indian Point Nuclear Reactor Two release of radiation and forced shutdown, and resulted in a return to ratepayers of \$135 million dollars.

1997

- **Brodsky v. Zagata, 652 N.Y.S. 2D 401 ["G.E. Subpoena case"]**

Successful litigation upholding Chairman Brodsky's right to subpoena DEC documents related to a failure to enforce environmental law against General Electric, and also upheld the principle of legislative oversight over executive agencies.

1996

- **Brodsky v. Zagata, 638 N.Y.S.2d, 167 Misc. 2d 175 ["DEET III"]**

DEC's third attempt to amend the DEET rule took place in a normal administrative rulemaking that was upheld by the Court.

- **Brodsky v. Zagata, 646 N.Y.S.2d 188 ["DEET III Appeal"]**

The Appellate Division upheld the lower court ruling in DEET III.

1995

- **Brodsky v. Zagata, 629 N.Y.S.2d 373, 165 Misc. 2d 510 ["DEET I"]**

Assemblyman Brodsky brought a successful Article 78 suit to stop the Pataki Administration's effort on behalf of the chemical industry to repeal by "emergency rule" a DEC prohibition against the sale of dangerous, high-concentration DEET insect repellent.

- **Brodsky v. Zagata, Sup. Ct. Albany County, July 17, 1995 ["DEET II"]**

A second successful litigation stopping the Pataki Administration from repealing the DEET restriction.