

**REDACTED VERSION -- SUBJECT TO PROTECTIVE ORDER IN NY PSC CASES 12-E-0201 AND/OR 12-G-0202**

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Proceeding on Motion of the Commission  
as to the Rates, Charges, Rules and Regulations  
of Niagara Mohawk Power Corporation  
d/b/a National Grid**

**CASE 12-E-0201**

**Proceeding on Motion of the Commission  
as to the Rates, Charges, Rules and Regulations  
of Niagara Mohawk Power Corporation  
d/b/a National Grid**

**CASE 12-G-0202**

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**TESTIMONY OF WILLIAM D. YATES, CPA**

**FOR**

**PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.**

**Dated: August 31, 2012**

**REDACTED VERSION -- SUBJECT TO PROTECTIVE ORDER IN NY PSC CASES 12-E-0201 AND/OR 12-G-0202**

1 **Q. PLEASE STATE YOUR NAME, ADDRESS, AND IDENTIFY FOR WHOM YOU**  
2 **ARE PRESENTING TESTIMONY IN THIS PROCEEDING.**

3 **A.** My name is William D. Yates, and my office address is at Public Utility Law Project of  
4 New York, Inc., P.O. Box 10787, Albany, NY 12201. I am presenting testimony in this  
5 proceeding for the Public Utility Law Project of New York, Inc.

6 **Q. PLEASE DESCRIBE THE PUBLIC UTILITY LAW PROJECT OF NEW YORK,**  
7 **INC. AND YOUR RELATIONSHIP TO THE ORGANIZATION.**

8 **A.** The Public Utility Law Project of New York, Inc., (“PULP”) is a New York not for profit  
9 corporation. PULP was formed in 1981 to promote and defend the legal rights of utility  
10 consumers, *inter alia*, by educating the public about rates for utility service, conducting  
11 research on the legal rights of utility consumers, and litigation in the public interest with  
12 a primary emphasis on the rights of low income utility consumers. I have been employed  
13 by PULP in various capacities since July 1990. Currently, I oversee PULP's accounting  
14 and financial systems, and I provide financial analysis and technical assistance in support  
15 of PULP’s advocacy on behalf of residential utility and energy consumers.

16 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND, YOUR PROFESSIONAL**  
17 **QUALIFICATIONS, AND YOUR EMPLOYMENT HISTORY?**

18 **A.** I am a graduate of Colgate University (B.A.) and a graduate of the New York University  
19 Stern School of Business Administration (M.S. in Accounting). I am a Certified Public  
20 Accountant (CPA), licensed to practice in New York State, and I am a member of the  
21 American Institute of Certified Public Accountants (AICPA). I am familiar with

1 software applications and in the course of my work I write custom computer applications  
2 using various languages. After completing my graduate work, I worked for several years  
3 in New York City for a major accounting firm, Deloitte & Touche. After relocating to  
4 the Albany area, in addition to my work for PULP, I have also worked as an independent  
5 consultant to a variety of enterprises.

6 **Q. WHAT IS THE GENERAL PURPOSE FOR YOUR TESTIMONY?**

7 **A.** [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 [REDACTED] It also indicates a need for Niagara Mohawk to  
17 [REDACTED] address the affordability issues and to improve its low-income  
18 programs, as proposed by PULP witness Barbara R. Alexander.

19 **Q. IS RELIABLE INFORMATION COMPARING ESCO COSTS WITH THOSE OF**  
20 **TRADITIONAL UTILITY SERVICE FROM NIAGARA MOHAWK READILY**  
21 **AVAILABLE TO CONSUMERS?**

**REDACTED VERSION -- SUBJECT TO PROTECTIVE ORDER IN NY PSC CASES 12-E-0201 AND/OR 12-G-0202**

1     **A.**     The New York State Public Service Commission (“PSC” or “Commission”) at its website  
2             advises the public that “[i]n a competitive market, electricity prices should be lower than  
3             they would be under government regulation.... You as a consumer, and the state as a  
4             whole, will benefit.... You could save money by shopping for lower cost power from an  
5             ESCO. It is important to compare the prices offered by any supplier who sells electricity  
6             and to know what you are signing up for.” *Energy Choices - The Facts from the PSC*  
7             available at <http://www.dps.ny.gov/energychoices.htm> (Accessed August 31, 2012).

8             There is no reliable public information available of which I am aware to make the price  
9             comparison urged by the Commission. The Commission does require ESCOs to report  
10            their prices once a month, but intra-month changes need not be reported.<sup>1</sup> Comparing  
11            bills which include ESCO charges with what Niagara Mohawk’s charges would be for  
12            full service is not easy. I am not aware of any report or study addressing the factual  
13            question whether Niagara Mohawk’s residential utility customers who switch to ESCOs  
14            actually save money over time on charges for supply service.

15     **Q.**     **PLEASE DESCRIBE THE INFORMATION PULP REQUESTED FROM NIAGARA**  
16             **MOHAWK REGARDING ITS COMPARISON OF BILLS FOR CUSTOMERS WITH**  
17             **ESCO SERVICE WITH BILLS FOR CUSTOMERS RECEIVING TRADITIONAL**  
18             **BUNDLED NIAGARA SERVICE**

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<sup>1</sup> "ESCOs may also continue to make offers to consumers at prices other than those reported.... Moreover, because reporting is limited to the price snapshots, ESCOs may promptly revise their offers after the snapshots are submitted...." Case 06-M-0647, et. al, *In the Matter of Energy Service Company Price Reporting Requirements, Order Adopting ESCO Price Reporting Requirement and Enforcement Mechanisms* (issued November 8, 2006).

**REDACTED VERSION -- SUBJECT TO PROTECTIVE ORDER IN NY PSC CASES 12-E-0201 AND/OR 12-G-0202**

1     A.     Niagara Mohawk initially was asked by PULP, in its Information Request 91 (“PULP IR-  
2           91”), to provide "any internal analysis of whether residential customers receiving  
3           commodity service from ESCOs whose charges are billed by Niagara Mohawk paid more  
4           or less than full (bundled) service customers for their electric or gas service for 2008  
5           through 2011 and monthly for 2012 to date." In its IR-92, PULP asked a similar  
6           question: whether Niagara Mohawk had analyzed whether its *low-income* customers  
7           who subscribe to ESCO service paid more or less than they would have paid had they not  
8           switched from Niagara Mohawk to an ESCO for supply service. Niagara Mohawk  
9           responded to PULP IRs-91 and 92 with a report which showed the differences between  
10          Niagara Mohawk’s bills to customers who had bought supply from ESCOs and what  
11          their charges would have been had the customer not switched to the ESCO, for two  
12          months: July and December 2011. That Responses showed, *inter alia*, for each ESCO,  
13          the “delta” (the difference, positive or negative) by which the ESCO customers owed less  
14          or more to Niagara Mohawk in comparison to what their bills would have been had they  
15          received full service from the utility. More than a two-month sample of bill comparisons  
16          was needed, because, as stated by Niagara Mohawk, “looking at single points in time  
17          cannot provide a complete answer to the question of whether customers are paying more  
18          or less from taking service from an ESCO. For a complete study, the period of time  
19          would need to reflect multiple cycles and consider the terms of individual ESCo contracts  
20          with customers.” *Niagara Mohawk Response to PULP IR-91*. PULP then requested the  
21          most recent 24-month history of the same type of data already provided for July and

1 December 2011, in PULP IR-107. The Retail Energy Supply Association (“RESA”) then  
2 moved to bar discovery of the data requested in PULP IR-91 and 107, arguing it is a trade  
3 secret and is not relevant. The Administrative Law Judges (“ALJs”) ruled it is relevant,  
4 and Niagara Mohawk produced the two years’ historical data in response to PULP IR-  
5 107 subject to a confidentiality order, pending a later ruling on the confidentiality issue.  
6 The data contained in the Response of Niagara Mohawk to PULP IR-107 is attached as  
7 Exhibit A.<sup>2</sup>

8  
9 **Q. DOES THE INFORMATION PROVIDED DESCRIBE THE UTILITY BILLS OF ALL OF**  
10 **NIAGARA MOHAWK’S RESIDENTIAL ESCO CUSTOMERS?**

11 It appears to be quite comprehensive. In PULP IR-90, PULP asked Niagara Mohawk  
12 what percentage of its ESCO customers received separate bills from ESCOs and what  
13 percentage received bills from Niagara Mohawk. Niagara Mohawk responded that

14 Based on the May 2012 Electric Migration Report, 99% (257,046) of Residential  
15 Customers in NMPC are under the One Bill Purchase of Receivables Program.  
16 Residential customers whose bills are sent separately by the ESCO are less than  
17 1% (1,839) of total Residential Customers in Niagara Mohawk.

18  
19 Based on the August 2012 Gas Migration Report, 99% (130,901) of Residential  
20 Customers in NMPC are under the One Bill POR Program. Residential customers  
21 whose bills are sent separately by the ESCO are less than 1% (1,240) of total  
22 Residential Customers in Niagara Mohawk.

23  
24  

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<sup>2</sup> This testimony and the exhibits to it are being filed confidentially, pending the decision on whether they will be made part of the public record of this proceeding.

1 Q. BASED ON THE INFORMATION CAN YOU DRAW A FIRM

2 CONCLUSION [REDACTED]

3 [REDACTED]

4 A. To the extent that the data provided, which encompasses 24 consecutive months  
5 (two years) of billing, is typical of any 2-year period of billing for the population  
6 of Niagara Mohawk's ESCO customers, it is my firm conclusion that [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. MORE SPECIFICALLY, WHAT DOES THE DATA PROVIDED BY  
13 NIAGARA MOHAWK IN ITS RESPONSE TO PULP IR-107 REVEAL?

14 A. The data attached to my testimony [EXHIBIT A REDACTED], received in  
15 response to PULP IR-107, shows:

16 For the 24 months August 2010 through July 2012, the data shows that

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20

1 For low-income customers, [REDACTED]  
2 [REDACTED]  
3 [REDACTED]

4  
5 For regular (i.e., non low-income  
6 customers), [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9  
10 The data also shows that [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]



1 [REDACTED]

2 [REDACTED]

3  
4 For low-income ESCO customers, [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14  
15 For regular ESCO customers, [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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[REDACTED]

The data also shows that, of the ESCO customers [REDACTED]

[REDACTED]

For low-income ESCO customers [REDACTED]

[REDACTED]

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For regular ESCO customers [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

I prepared several charts and a summary table to illustrate the data provided in Niagara Mohawk’s Response to PULP IR 107 relating to the experience of low-income customers with ESCO service. The charts and table I prepared are attached to this testimony as Exhibit B. [EXHIBIT B REDACTED]

**Q. WHAT DOES THE INFORMATION INDICATE REGARDING THE EXPERIENCE OF LOW-INCOME NIAGARA MOHAWK WHO SWITCHED TO ESCO SERVICE?**

**A.** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]

7 **Q. ARE NIAGARA MOHAWK’S ESCO CUSTOMERS HAVING**  
8 **DIFFICULTIES IN PAYING THEIR BILLS?**

9 **A.** [REDACTED]  
10 [REDACTED]

11 [REDACTED] PULP’s IRs sought information relating to Niagara  
12 Mohawk’s collection activities, including those with respect to customers who  
13 buy unbundled natural gas or electricity supply service from ESCOs. In its  
14 Response to PULP IR-108, Niagara Mohawk indicated that its customers who  
15 bought from ESCOs were sent 377,736 Final Termination Notices arising from  
16 non payment of charges in 2011, averaging 31,478 per month.

17 **Q.** [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20 **A.** [REDACTED]  
21 [REDACTED] Switching to ESCOs is promoted

**REDACTED VERSION -- SUBJECT TO PROTECTIVE ORDER IN NY PSC CASES 12-E-0201 AND/OR 12-G-0202**

1 by the Commission, as previously mentioned. Under Niagara Mohawk’s New  
2 Choices® program, the public is advised that “[y]ou can receive a guaranteed 7%  
3 discount on your gas or electric supply costs for a two-month introductory  
4 period.”<sup>3</sup> After two months, the customer is switched to an ESCO price that is  
5 not known when the contract is made, and contracts may have automatic renewal  
6 windows after each year. Valid price and bill comparison information, however,  
7 is difficult to obtain before taking ESCO service, and while taking ESCO service,  
8 particularly at times when the customer has a contract option to switch back to  
9 full utility service. [REDACTED]

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED] According to  
14 Niagara Mohawk’s Response to PULP IR-101, a significant number of ESCO  
15 customers switch back to Niagara Mohawk full service, currently in the range of  
16 5,000 electric customers per month and 2,000 gas customers per month, or a rate  
17 of more than 84,000 per year. A professionally designed random survey of  
18 current and former ESCO customers, conducted neutrally, might reveal more  
19 about why customers switch to ESCO service in the first instance, and why so  
20 many change their minds later [REDACTED]

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<sup>3</sup> [http://www.nationalgridus.com/niagaramohawk/home/energychoice/4\\_details.asp](http://www.nationalgridus.com/niagaramohawk/home/energychoice/4_details.asp)

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 Q. [REDACTED]

5 [REDACTED]

6 A. [REDACTED]

7 [REDACTED] there should be

8 [REDACTED] more emphasis on

9 [REDACTED] reduced rates and energy efficiency measures

10 targeted to low-income customers, as those proposed by PULP witness Barbara

11 R. Alexander.

12 Q. DOES NIAGARA MOHAWK HAVE BILL CALCULATORS AT ITS WEBSITE  
13 TO FACILITATE PRICE COMPARISONS WITH ESCOS?

14 A. No.

15 Q. WHAT WOULD IT COST FOR NIAGARA MOHAWK TO HAVE BILL  
16 CALCULATORS AT ITS WEBSITE TO FACILITATE COMPARISON OF  
17 WHAT ITS BILLS WOULD BE WITHOUT ESCO SERVICE?

18 A. I do not know. In response to PULP IR-108, Niagara Mohawk provided a “high  
19 side” estimate that it could cost from \$400,000 to \$800,000 to begin calculating  
20 Niagara Mohawk comparison bills. I agree that is on the high side. However, the  
21 vast majority of Niagara Mohawk’s 264,000 residential electric ESCO customers

1 and 128,000 residential gas customers, [REDACTED]  
2 [REDACTED]. A one-time cost  
3 of developing online calculators to enable comparison of Niagara Mohawk's bills,  
4 and the cost of maintaining them may be small  
5 [REDACTED] Also, it may be possible to fund website bill  
6 calculation functions using net profits from Niagara Mohawk's purchase of  
7 receivables program, which generates several million dollars in added annual  
8 revenue to Niagara Mohawk.<sup>4</sup>

9 **Q. WHAT ARE YOUR RECOMMENDATIONS?**

10 **A.** The Commission and Niagara Mohawk have indicated in their messages to  
11 customers that shopping for ESCO service can lead to savings. The Commission  
12 also urges customers to compare prices. It is difficult to shop, however, when  
13 prices are not available at meaningful times and actual bills cannot be compared.  
14 More needs to be done to enable Niagara Mohawk customers to test whether  
15 ESCO service is providing or will provide value to them. In addition to  
16  
17 recommendations made by PULP witness Barbara R. Alexander to promote better  
18 awareness of ESCO pricing and comparisons, I recommend that Niagara Mohawk

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<sup>4</sup> See Niagara Mohawk's Annual Report to the PSC for 2011, p. 42, indicating over \$3 million net revenue for ESCO Purchase of Receivables program. The Report does not itemize Niagara Mohawk's revenues from purchasing gas receivables from ESCOs.

**REDACTED VERSION -- SUBJECT TO PROTECTIVE ORDER IN NY PSC CASES 12-E-0201 AND/OR 12-G-0202**

1           put a bill calculator on its website so that its full service bills could be more  
2           readily compared with those given to customers with ESCO service.

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6           **[EXHIBITS A AND B REDACTED]**

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