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RE: Response to Technical Conference Questions in Case 12-G-0297; Proceeding on Motion of the Commission to Examine Policies Regarding the Expansion of Natural Gas Service

Submitted by: Nicole A. Dillingham, Board President, Otsego 2000, Inc.
Cooperstown, New York

Dated: March 12, 2013

Otsego 2000 is a local, nonprofit organization founded more than 30 years ago to protect the historic, cultural, scenic, agricultural, and environmental assets of the Glimmerglass region and greater Otsego County. Our region is home to the Baseball Hall of Fame, Glimmerglass Opera, the Glimmerglass Historic District, Glimmerglass State Park, the New York State Historical Association, the Fenimore Art Museum, and numerous other historic districts and sites of state and national significance.

We are located on the shores of historic Otsego Lake, headwaters of the Susquehanna River, and the largest deep-water lake in the Susquehanna River Basin. Otsego Lake supplies drinking water to more than 500,000 thousand visitors and residents each year. The region still reflects a highly integrated historic farming landscape because its assets have been protected from heavy industrialization for generations. Significant private and public investment has been made in preserving this environment and in building an economic base consistent with its historical roots. These include agriculture, educational institutions, museums, health care services, and a strong second home market which depends on recreational uses, such as hunting, boating and fishing.

Otsego 2000 is also a founding member of a broad local coalition know as the Citizens Against Unsafe Drilling, now comprised of more than thirty grassroots community groups and representing thousands of citizens working throughout Otsego and neighboring counties to protect the region from shale gas industrialization. The Cooperstown Chamber of Commerce, representing more than 400 businesses including Bassett Healthcare Network, The Baseball Hall of Fame, the New York State Historical Association, and Brewery Ommegang, firmly opposes shale gas development.

Our organization and the coalition we helped found have worked very hard to

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share our concerns with the State DEC and the Governor's office regarding the adverse impacts that natural gas extraction and expanded delivery infrastructure will cause in our region and the State as a whole. We urge the Commission to consider these risks as well. The assumption that natural gas is a cleaner burning fossil fuel is in error when fugitive methane escape is considered throughout the extraction, gathering, compression and delivery processes. Moreover the delivered price of natural gas does not cover many of the social and environmental costs incurred with its use, especially if one considers the costs of region-wide cumulative adverse health impacts, environmental degradation, and impairment of the exciting economic base of upstate New York.

ISSUES TO BE CONSIDERED AT THE TECHNICAL CONFERENCE Barriers to Extension and Expansion of Natural Gas Facilities

1. Please explain your understanding (and for utilities, your implementation) of Commission regulations and the Natural Gas Expansion Policy including your views on whether they encourage or deter expansion of the natural gas delivery system in New York State. Do you feel that the Commission regulations and Policy should be modified and if so, how?

We do not believe that the Commission should work to expand use of natural gas or natural gas distribution systems until additional study is done. The notion that domestic natural gas prices will remain relatively low is flawed based on recent literature that suggests that gas leases are already largely owned by foreign or multi-national companies that plan to extract and export natural gas to foreign markets. Once this occurs, domestically produced natural gas will quickly rise to world market prices. Thus, New York consumers may be lured into switching to natural gas only to be squeezed later by the rapid rise in gas prices. See e.g., [Energy Forum *Shale and Wall Street: Was the Decline in Natural Gas Prices Orchestrated?*](#), D. Rogers, February 2013; Energy Forum, [Marcellus Shale Coalition: Unfettered Exports](#), D. Rogers, January 13, 2013; [The Future of Natural Gas: Coming Soon to a Terminal Near You](#), The Economist, August 6, 2011. Moreover, projections of natural gas reserves and extraction rates may not be accurate. See e.g., [Lawmakers Seek Inquiry of Natural Gas Industry](#), I. Urbina, New York Times, June 28, 2011.

Also, the PSC bases its proposal to expand natural gas usage in part on the assumption that natural gas is cleaner burning than other sources of energy. The reality is that natural gas production and delivery causes fairly dramatic methane leakage at every step in the process. Methane, which is a much more potent greenhouse gas than CO₂, evaporates from flowback fluids, escapes from flaring and the wells themselves and from gathering pipelines, compressor stations and delivery pipelines. Once the costs and risks of extraction and methane leakage are

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accounted for, it is clear that natural gas is not a cleaner source of energy. A switch to natural gas could advance rather than retard global climate change, leading to severe adverse consequences. See *e.g.*, [Methane and the Greenhouse-Gas Footprint of Natural Gas](#), R. Howarth, Ph.D. and A. Ingraffea, Ph.D.; [Federal Scientists Warn of Fracking Risks](#), D. Horwitt, Senior Counsel, February 29, 2012.

Finally, the risks associated with expansion of natural gas extraction from tight shale through high volume hydraulic fracturing, coupled with expansion of the natural gas delivery system through construction of gathering lines, pipelines, and compressor stations, must be examined on a cumulative basis. There is growing awareness that extraction through fracking poses serious environmental risks to land, air and water resources, and expansion of new gathering infrastructure could rapidly lead to industrialization of historic and currently pristine landscapes, fragmentation of agriculture and forestlands, and will adversely affect wetlands, threatened species, and the existing economy of rural New York. See Comments submitted to the DEC on the draft SGEIS and Regulations by Otsego 2000 dated: [January 13, 2013](#); [January 10, 2012](#); and [December 30, 2009](#). Also, the letter to [Commissioner J. Martens](#) dated June 16, 2011. [Comments submitted to the EPA by Otsego 2000](#) dated September 28, 2010, and [comments submitted to FERC by Otsego 2000](#), October 9, 2012, regarding the Constitution Pipeline Project, Docket No. PF12-9-000.

2. Regarding the Commission's regulations of the natural gas delivery system and the system itself, do you believe that the interests of utility shareholders, ratepayers, and the State as a whole are aligned? Please explain.

We do not believe the Commission's regulations or plans with regard to expansion of the natural gas delivery system are aligned with the interests of ratepayers and the State as a whole. As discussed above, rising future costs of natural gas and the attendant environmental risks have not been sufficiently analyzed and will likely lead to damages to ratepayers and the State.

Additionally, natural gas produced by fracking in the Marcellus and deeper formations is contaminated with radioactivity including radium-226 and radon-222 that will be delivered to homes and businesses along with the gas. Over time, cooking with gas high in radioactivity and the presence of increased radon in homes and offices may be a serious health risk to consumers, especially as State-supported energy conservation programs make buildings tighter, keeping indoor pollutants inside to higher concentrations. Radon is currently the second leading cause of lung cancer after smoking. See *e.g.*, [New Report Shows Radioactive Threat to New York if Fracking Approved](#), November 8, 2012; [Tests Show High Concentration of Radioactive Waste in Marcellus](#), T. Wilber, December 6, 2009; [Comments on rdSGEIS Gas E & P Using HVSWHHF](#), L. Dyrzka, M.D., pp. 4-6. November, 2011. These direct health risks to ratepayers and consumers must be tested and understood before any expansion of use of natural gas extracted from shale formations.

Further, the extraction of natural gas from tight shale as currently practiced creates huge

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increases in demands on state-employees (including industry regulators), driving up government expenditures for administration, inspection, road and bridge maintenance and repair, future health cost liabilities, and environmental cleanup. And while these costs are rising, there will be erosion of state revenues due to real estate tax base decline, and interference with existing economic activity including agriculture, wineries, breweries, tourism, and all recreational land uses. Thus, the interests of utility shareholders who would prefer to shift these costs and risks to the state are clearly not aligned with the interests of the state itself. No expansion of natural gas delivery should be contemplated until these unfunded liabilities are clearly understood and the sources of revenues for their payment are secured. See citations in answer to question 1, above.

3. Are there provisions of current policies or regulations that appropriately incentivize the expansion of the natural gas delivery system in New York State? Are these sufficient? If not, please suggest alternatives.

For the reasons stated above, we believe neither this Commission nor the State should incentivize the expansion of natural gas use or delivery systems. Natural gas is clearly not a cleaner fuel when extraction and delivery infrastructure are taken into account and cumulative health, environmental and economic impacts have not been sufficiently studied or addressed. Instead, alternative energy programs should be incentivized that will replace fossil fuels as a source of energy consistent with programs such as the Cleaner Greener Communities Initiative announced by Governor Cuomo.

4. Identify current barriers inhibiting conversion to natural gas usage from other heating fuels - other than the cost of replacing heating equipment. Please explain how the barrier inhibits conversion and provide suggestions for reducing or eliminating the barrier - including the cost of replacing heating equipment.

Any existing barriers inhibiting conversion to natural gas usage are appropriate and should not be eliminated. Conversion to natural gas is a waste of resources that could be invested in the development of alternative, non-fossil fuel based energy sources. Also, as domestic natural gas prices rise to world market prices and government costs associated with unfunded liabilities escalate, any benefits of transition to natural gas will be eroded and consumers will suffer.

5. Please identify the outreach and education efforts currently employed by the utility for the purposes of gauging interest in natural gas service and/or soliciting new customers in areas where interest in the possibility of obtaining service has been expressed. Are the efforts sufficient? How can they be improved? Would expanded or improved outreach and education

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programs increase conversion to natural gas by customers who reside within the 100 feet zone of existing utility infrastructure (and, accordingly would not pay for the extension)? How can the utility identify, communicate and engage with such customers? When an individual customer requests service, please describe the utility's efforts to communicate with or solicit other customers in the neighborhood/area.

We do not believe the Commission should involve itself in industry efforts to expand natural gas use and delivery systems. Public funds should be used instead to educate the public and encourage conversion to sustainable, renewable and safer sources of energy.

6. Please identify the typical flow of communication and information between the utility and a customer requesting service that would require extension of a gas main sufficient to require a surcharge. Please provide any examples of written communication.

See answer to question number 5, above.

7. What issues should be given consideration prior to expansion of the natural gas delivery system? Should such considerations include protections for a group or groups of customers? If so, what should be and what types of protections should be considered?

The safety of consumers utilizing natural gas extracted from shale formations that contain high levels of radium and/or radon should be studied prior to any expansion of reliance on natural gas extracted from shale. In addition, the following should be studied: projected increases in natural gas prices due to export of domestically produced gas; price increases caused by failure of wells to produce relative to current projections; increased costs of health care, environmental clean-up, emergency response, damages to roads, destruction of existing economic activity due to industrialization and fragmentation of forests and agricultural lands, and all of the other risks of such an expansion program. See answers to questions 1 and 2, above and 20, below.

8. Are there existing utility specific pilot programs focused on new approaches to line extensions or new franchise expansions of the natural gas delivery system? If so, please describe the pilot program. If not, could such a pilot program be beneficial and, how would it be designed?

See answer to question number 5, above.

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Rate and Ratepayer Considerations

9. *The Commission's regulations (§230.2[f]) provide that "each corporation may, in its tariff schedules, extend such obligation [to provide certain main and service line extensions without cost to the customer], to the extent the provision of additional facilities without charge is cost-justified." Identify whether the utility ever provides residential customers with more than 100 feet of gas main or service line without surcharge. Please explain why and under what circumstances or, if never, why not. Is the utility aware of any geographic areas in its service territory where potential cost justified extensions of greater than 100 feet are currently un-served? If not, has the utility ever attempted to ascertain or develop such information? What should be the appropriate length of main and/or service provided without surcharge? Please explain.*

See answer to question number 5, above.

10. *Does the utility provide programs that could assist low income customers or those on a fixed income to overcome the barriers to conversion to natural gas?*

Fixed income and/or low income customers will not benefit over time should they convert to natural gas. This is because the cost of gas will likely rise and unfunded state liabilities will require either tax increases or other government spending adjustments as the state struggles to meet the additional costs of health care, environmental cleanup, and a diminished tax base due to the collapse of the existing economic base of rural New York. Indeed it is often the poorest populations without sufficient economic or political power to resist such development that are most likely to suffer the adverse health and economic impacts of expansion of resource extraction industries. Environmental justice requires that these populations should be accorded the same protections accorded more favored customers. See [Otsego 2000 letter to NY DOH Commissioner](#), Dr. N. Shah, February 15, 2013.

11. *Are there potential funding mechanisms for expansion of the natural gas delivery system other than through utility rates or direct customer payments (surcharges, CIACs or other)?*

See answer to question number 5, above.

12. *Are existing natural gas efficiency programs adequate*

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and optimal to serve the expansion of customers within 100 feet of existing utility infrastructure? If not, what changes, including possibly the level of funding, could be made to improve the existing efficiency programs? Would efficiency programs targeted to conversion customers result in increased energy savings, and if so, how?

See answer to question number 5, above.

13. Do Revenue Decoupling Mechanisms (RDMs) impact expansion of the natural gas delivery system?

No comment

Economic Development

14. Does the utility have any information or estimates concerning the existence of commercial or industrial customers who may add and/or retain jobs if they could switch their process or heating fuel to natural gas? If so, how many jobs might be added or retained?

To the extent that jobs are created, both the Commission and the utilities must analyze jobs that will be lost due to the boom/bust cycle and due to negative impacts on existing economic activity resulting from industrialization and expansion of natural gas extraction and delivery infrastructure. See e.g., [*Resource Curse: Why the Economic Boom That Fracking Promises Will Be a Bust For Most People*](#) (*Hard Times, USA*), T. Lohran, March 6, 2013, [*Unanswered Questions About The Economic Impact of Gas Drilling In the Marcellus Shale: Don't Jump to Conclusions*](#), J. Barth, Ph.D., 3/2010. In addition, if natural gas prices rise after conversion due to export of natural gas or flawed projections of reserves, flow-rates, and extraction costs and rates, there may indeed be a net loss of jobs as a result of conversion to natural gas which rises significantly in price.

15. Are there specific industries in the State that would benefit from an expanded natural gas delivery system? Please describe.

To the extent certain industries may benefit from natural gas expansion, the Commission must consider negative impacts on existing business and industry. See answer to question number 14, above.

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Public/Private Partnerships

16. Are there potential partnerships between various entities involved in the energy and heating markets in New York State that could facilitate expansion of the natural gas delivery system? If so, please provide examples and whether your organization would be willing to take part in such a partnership. Who would be best suited for encouraging and developing such partnerships? What role should the public sector play?

Both the private and public sectors should demand that cumulative environmental impacts, health assessments, and economic impacts be studied before plans for expansion of natural gas usage and delivery are adopted. There is growing evidence that natural gas extraction through fracking and expansion of natural gas delivery systems will adversely impact the economy of NY State through State liability for health costs, road repairs, regulatory expansion, environmental cleanup, emergency services and the disruption of the existing economic base. See citations in answer to question 1, above.

In addition, the DEC and the New York State Attorney General have both independently called for cumulative impact analysis of the environmental impacts of fracking and fracking infrastructure. The DEC has filed comments with FERC urging that agency to analyze the cumulative impact of the Constitution Pipeline proposed to be built through New York State including specifically analysis of impacts on wetlands, land use, wildlife, and rare, threatened and endangered species. See [Comments of the DEC](#), filed November 7, 2012, Constitution Pipeline Project, Docket No. PF12-9-000. Similarly, the New York Attorney General has filed suit to compel the US Army Corps of Engineers and the Delaware River Basin Commission to conduct a full cumulative impact analysis regarding fracking proposed in the Delaware River Basin. *State of New York v. U.S. Army Corps of Engineers, et.al.*, U.S. District Court for the Eastern District of New York, No. 11-2599, [US calls New York anti-drilling lawsuit premature](#). Further, the [New York Attorney General filed a Notice of "Intent to Sue"](#) the EPA on December 11, 2012, for failing to address methane emissions from the oil and gas industry related to fracking. Thus, two independent agencies of New York State government have already called for cumulative impact analysis and coordination with the DRBC and EPA prior to initiation of increased reliance on natural gas ~~through~~ fracking and its infrastructure. This Commission should clearly be required to do the same.

17. Are there programs currently administered by utilities or federal, state or local agencies that assist customers with heating fuel conversions? Are there roles that other agencies, such as the New York State Energy Research and Development Authority (NYSERDA), should play in expansion of the natural gas delivery system? Should the Energy Efficiency Portfolio

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Standard (EEPS) programs be expanded or modified to encourage conversions to natural gas before end-of-life replacements?

Neither government funds nor ratepayer funds should be used to support conversion to fossil fuel dependent programs. To meet Federal and State goals for greenhouse gas emissions reductions, consumers should be encouraged to transition to clean, sustainable energy sources which will be cost effective over the long term, will reduce climate change risk and damages, and will avoid serious environmental and health risks and damages. Modifying EEPS programs to promote conversion to natural gas undermines the legitimate purpose of those initiatives.

18. Are there opportunities to coordinate natural gas delivery system expansion projects with other available resources, such as economic development, energy efficiency, or environmental protection? Please provide specific examples, if possible.

The Governor of New York has repeatedly called for the development of sustainable and non-fossil fuel based alternative sources of energy. This should be a priority instead of expanding the state's reliance on natural gas. Much of upstate New York's economy depends on clean land, air, and water. It is an economy based on agriculture, organic farming, wineries, breweries, yogurt suppliers, tourism, hunting, fishing and recreational land uses. To the extent that expansion of natural gas delivery systems occurs, this should be coordinated with regional and local governments and business groups in each of these sectors. In this regard we note that a growing number of towns have adopted zoning to prevent natural gas extraction and infrastructure within their borders. This demonstrates that many communities have found that natural gas delivery expansion systems are inconsistent with community plans and needs. Coordination with town boards is essential to ensure that any state efforts respect local government plans.

Environmental Impact

19. Are there changes that could be made to the environmental impact review process involved in granting or expanding gas franchise areas that could improve or streamline the process?

The gas industry is already the beneficiary of multiple exemptions from laws requiring environmental protection. See e.g., [*Untested Waters: The Rise of Hydraulic Fracturing and the Need to Revisit Regulations*](#), H. Wiseman, J.D., 20 Fordham Evtl. Law Rev. 115 (2009). The industry should not be granted any additional exemptions or "streamlining" of environmental review, and there should be no special treatment of utilities with respect to this either. Indeed, greater oversight, not less, is needed, especially if high-volume hydraulic fracturing is permitted in New York State.

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The Commission needs to recognize that if fracking is permitted in New York, its role will shift substantially from a government body primarily involved in the distribution of gas produced outside of the state, to one involved in the permitting of infrastructure related to extraction and processing. These new activities will likely dwarf any other pursuits, including those related to expanding a local customer base. Therefore whatever consideration is given to "streamlining" the permitting process ostensibly to promote customer access must also take into account and guard against any action that could weaken attention to essential environmental review affecting infrastructure associated with extraction. Unlike the delivery of natural gas to customers (an activity which concentrates infrastructure within urban areas and finite linear corridors between those urban centers), the infrastructure associated with natural gas extraction creates significant impacts that extend widely across large regional landscapes. The consequence of this is the proliferation of a grid pattern of multi-well pads spaced every mile or less—and an associated repeating pattern of gathering lines, feeders, compressor stations and trunks that threatens to blanket much of the state underlain by shale. The overwhelming potential direct and cumulative adverse impacts of this sprawling industrial network on natural systems including forests and grasslands, on waters and wetlands, on productive agricultural lands, and on rural communities will be profound. The State is not presently prepared to address these very serious issues. To avoid these significant impacts and mitigate them where possible, the Commission should strengthen its environmental review and permitting process, rather than weaken or "streamline" it.

As an example, the Commission presently requires very little information from an applicant in the siting of low-capacity short pipelines. Today such lines are mostly local facilities that serve end-users, typically in an urban setting. However in the future these may be predominantly gathering lines attached to well pads that in the aggregate sprawl over very large areas, passing through varied terrains and topography including agricultural land, forests, steep slopes, wetlands, and sensitive habitat. The Commission should require additional data and analysis from applicants pertaining to this and strengthen the review and oversight process, including the consideration of cumulative impacts. It is our understanding that at present, the industry also enjoys the automatic approval of low-volume lines if the Commission does not act within 30 or 60 days. This limitation should be re-examined as it could become an inordinate burden on staff that hinders or prevents the adequate review of applications for gathering line infrastructure. In addition, we recommend that the permit process be revised to require the submission of detailed environmental data and analysis for interrelated projects, which will of necessity involve multiple wells pads and their associated infrastructure.

20. Please identify, if any, areas of the State where provision of natural gas delivery service is unrealistic because of environmental constraints, construction permitting requirements or other factors and explain why service to such areas is believed to be unrealistic. Are there any areas of the State that require special consideration regarding expansion of the natural gas system?

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Simply put, the extension of natural gas delivery systems should not be pursued in the areas of the State where doing so would only be possible if environmental constraints and construction requirements are waived or reduced. There are numerous examples of harm to the environment, property, and human life caused by explosions or other accidents that have occurred when proper regulations, construction, and operational practices were not followed. This is not an industry in which lax oversight should be tolerated. If the question regarding "special consideration" is intended to suggest that some areas of the State may warrant less oversight to promote the expansion of natural gas, the answer is unequivocally "no". This not only invokes concerns relating to environmental justice, but also implies that the gas industry is entitled to "special consideration" for advancing its product irrespective of environmental impacts or consideration of public safety.

Expanded reliance on natural gas extracted from shale and an expanded natural gas delivery system is not appropriate in any part of the State until additional study and analysis of cumulative impacts is completed. Hydraulic fracturing, as currently proposed, would sanction construction of multi-well pads on every square mile of land above the Marcellus and Utica shales, as well as construction of gathering lines, pipelines, and compressor stations, with all of their attendant infrastructure, diesel emissions, methane leakage, truck traffic, potential water contamination and surface industrialization. Such activity is not appropriate above or near principal and primary aquifers, within environmentally sensitive areas, where karst topography and faults are present, in flood zones, in areas of historic significance and in areas in where businesses dependent on clean air, land, and water are established or could be established, including organic farming, wineries, breweries, yogurt manufacturers. See the answer to question number 19 above, as wells as answers to question numbers 1 and 2.

Planning

21. Please explain your utility's natural gas delivery system expansion planning process including any large-scale and or long-term plans that are in place or are being considered.

The Commission should require that all gas infrastructure applicants conduct a full, cumulative impact analysis with respect to planning for expansion of natural gas systems. This includes not only utilities that deliver gas to end-users, but also those entities involved in gas extraction and processing. This cumulative impact analysis should include a full build-out analysis of proposed gathering lines, compressor stations, and transmission pipelines, a full analysis of all health and environmental impacts of reliance on natural gas extracted by fracking in New York and neighboring states; an analysis of how wastes from natural gas delivery systems and extraction will be treated and disposed of; and an analysis of how dedication of scare resources to natural gas expansion will impact critical efforts to curtail and eliminate reliance on fossil fuels. Currently both the EPA and DEC are studying the environmental and health impacts of natural gas extraction, and utilities should wait for the conclusion of these studies before considering plans for natural gas delivery system expansion. To the extent that expansion of natural gas systems occurs, enhanced regional planning efforts should be pursued to avoid adverse impacts

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on the environment, economy, and communities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nicole A. Dillingham', with a long horizontal flourish extending to the right.

Nicole A. Dillingham, Board President
Otsego 2000, Inc.