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August 10, 2018

By Electronic Mail
Hon. Maureen F. Leary
Hon. Dakin D. Lecakes
Department of Public Service
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

**Re: Cases 18-E-0067 and 18-G-0068
Orange and Rockland Electric and Gas Rate Cases
Response to Motions to File Supplemental Testimony**

Dear Judges Leary and Lecakes:

In accordance with 16 NYCRR Sec. 3.6 (d), attached please find Orange and Rockland Utilities, Inc.'s response to the motions filed by Pace Energy and Climate Center and Ms. Deborah Kopald.

Please contact me if you have any questions regarding this matter.

Very truly yours,

/s/ Enver Acevedo

c: Hon. Kathleen H. Burgess, Secretary (via electronic mail)
All Active Parties in Cases 18-E-0067 and 18-G-0068 (via electronic mail)

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 18-E-0067 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service.

CASE 18-G-0068 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Gas Service.

**ORANGE AND ROCKLAND UTILITIES, INC.’S RESPONSE TO
PACE ENERGY AND CLIMATE CENTER’S MOTION TO FILE
SUPPLEMENTAL DIRECT TESTIMONY**

INTRODUCTION

Pursuant to a Ruling Modifying Procedural Schedule (“Ruling”) issued by Administrative Law Judges Maureen F. Leary and Dakin D. Lecakes (the “ALJs”) on May 9, 2018, in the above-referenced proceedings, direct testimony from Department of Public Service Staff and intervenors was due to be filed with the Secretary of the Public Service Commission (“Commission”) on May 25, 2018. The Ruling established a deadline of June 15 for rebuttal testimony, but made no provision for the filing of supplemental testimony. Nevertheless, on July 31, 2018 Pace Energy and Climate Center (“Pace”), an intervenor in the above-referenced proceedings, unilaterally submitted the Supplemental Testimony of Karl R. Rábago. In response, on August 1, 2018 the ALJs issued a ruling directing Pace to provide an appropriate motion pursuant to 16 NYCRR 3.6 explaining why the ALJs should accept Pace’s supplemental testimony “at this late stage in the proceedings.” Accordingly, on August 6, 2018, Pace filed a motion seeking leave to submit supplemental testimony. Orange and Rockland Utilities, Inc. (“Orange and Rockland” or the “Company”) submits this response to Pace’s motion in accordance with 16 NYCRR Sec. 3.6 (d). For the reasons set forth below, Pace’s motion should be denied.

ARGUMENT

Pace has failed to demonstrate any extraordinary circumstances to justify its request to file supplemental testimony. Pace contends that its supplemental testimony is necessary in order to address Company interrogatory responses provided after Pace filed its direct testimony. However, there are other readily available procedural mechanisms by which these interrogatory responses could be introduced and included in the formal record. Instead of addressing these interrogatory responses through supplemental testimony, Pace could simply introduce the interrogatory responses as exhibits on cross-examination. Similarly, the recent decision by the Public Utilities Commission of Colorado (“Colorado PUC”) referenced in the supplemental testimony can be easily cited in a legal brief in support of any arguments Pace wishes to make, without the need for filing supplemental testimony. Because other, less administratively disruptive, means are available to include the interrogatory responses and Colorado PUC decision in the formal record in these proceedings, Pace cannot demonstrate any extraordinary circumstances to justify its request to file supplemental testimony

Pace’s request to file supplemental testimony should also be denied because it is duplicative. On May 25, 2018, Pace witness Rábago submitted direct testimony in accordance with the schedule established by the ALJs. Pace’s direct testimony included an extensive discussion (*i.e.*, 12 pages) relating to trade association dues. Pace’s supplemental testimony related to trade association dues needlessly re-states and repeats the arguments and contentions made in its earlier direct testimony. In fact, Pace witness Rábago concedes (Supplemental Testimony, p. 5) that his findings, conclusions and recommendations are unchanged as a result of the subject interrogatory responses. Therefore, Pace’s supplemental testimony adds no substantive new information.

Finally, allowing supplemental testimony to be filed for the reasons proffered by Pace serves to prejudice O&R. It also undermines the orderly and efficient adjudication of these proceedings.¹ Pace's argument in support of its request to file supplemental testimony essentially comes down to a matter of timing. According to Pace, supplemental testimony should be permitted for any interrogatory response or decision by an out-of-state regulatory body received after the date for filing direct testimony. As discussed above, the threshold for allowing a party to file supplemental testimony is higher than Pace suggests. To conclude otherwise would improperly undermine the procedural schedule developed by the ALJs and unfairly expose the Company to ongoing requests to file supplemental testimony. As a result, the Company will have to respond to repeated motions and/or prepare additional rebuttal testimony to address such supplemental testimony. Moreover, other parties to these proceedings may feel compelled to take similar action.

¹ The Company would note that on August 7, 2018, another party to these proceedings, Ms. Deborah Kopald, took it upon herself to file a 23 page Motion to Admit the Testimony of Dr. Timothy Schoechle and Dr. David O. Carpenter and Other Exhibits. This testimony and exhibits exceeded **700 pages** in length. The objections raised in this Response apply equally to Ms. Kopald's Motion. Her Motion continues her misguided persistent attempts to introduce patently irrelevant material into the record of these proceedings, as well as to re-litigate matters previously decided by the Commission. Accordingly, the reasons set forth in the Company's Motion to Strike Ms. Kopald's direct testimony, filed on June 15, 2018, would apply equally to her Supplemental Testimony. Her Motion also should be denied.

CONCLUSION

For the reasons stated above, Orange and Rockland respectfully requests that Pace's motion to file supplemental testimony be denied.

Respectfully submitted,

/s/ John L. Carley

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