Janet M. Audunson, P.E., Esq.
Assistant General Counsel

May 11, 2020

VIA ELECTRONIC DELIVERY

Honorable Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza, 19th Floor
Albany, New York 12223-1350

RE: Case 18-E-0138 – Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure

JOINT UTILITIES' REPLY COMMENTS ON THE DEPARTMENT OF PUBLIC SERVICE STAFF WHITEPAPER REGARDING ELECTRIC VEHICLE SUPPLY EQUIPMENT AND INFRASTRUCTURE DEPLOYMENT

Dear Secretary Phillips:

In response to the Public Service Commission's February 5, 2020 *Notice Soliciting Comments* regarding the Department of Public Service Staff Whitepaper Regarding Electric Vehicle Supply Equipment and Infrastructure Deployment,[1] enclosed please find the reply comments of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, the "Joint Utilities").

Respectfully submitted,

/s/ Janet M. Audunson

Janet M. Audunson

Enc.

[1] On March 30, 2020, the Commission extended the filing date for initial comments to April 27, 2020 with reply comments due on May 11, 2020.

300 Erie Blvd. West, A-4, Syracuse, New York 13202
T: 315/428-3411 ■ F: 315/401-7891 ■ Janet.Audunson@nationalgrid.com ■ www.nationalgrid.com

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure	)))	Case 18-E-0138

JOINT UTILITIES REPLY COMMENTS ON THE DEPARTMENT OF PUBLIC SERVICE STAFF WHITEPAPER REGARDING ELECTRIC VEHICLE SUPPLY EQUIPMENT AND INFRASTRUCTURE DEPLOYMENT

The Joint Utilities[1] submit this reply to parties'[2] comments[3] on the *Department of Public Service Staff Whitepaper Regarding Electric Vehicle Supply Equipment and Infrastructure Deployment* (EVSE&I Whitepaper or Whitepaper).[4] Comments from a broad array of stakeholders overwhelmingly support modification of the Make-Ready Program (MRP) framework proposed in the Whitepaper to a simpler and more flexible approach that will allow utilities to tailor programs to changing market needs and customer preferences in their individual service territories.[5] As part of their proposed changes, parties suggest elimination of different incentives for public and non-public charging sites, elimination or modification of the EVSE&I Whitepaper's proposed bundling proposal, and relaxation of proposed reporting requirements.

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1 The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

2 The Joint Utilities use "stakeholders," "parties," and "commenters" interchangeably in this filing.

3 Case 18-E-0138, *Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure* (EV Proceeding), Notice Clarifying Comment Period and Provision of Meeting Details (issued March 30, 2020). Reply comments are due on May 11, 2020.

4 EV Proceeding, Department of Public Service Staff Whitepaper Regarding Electric Vehicle Supply Equipment and Infrastructure Deployment (filed January 13, 2020) (EVSE&I Whitepaper or Whitepaper).

5 EV Proceeding, Joint Utilities Initial Comments on the Department of Public Service Staff Whitepaper Regarding Electric Vehicle Supply Equipment and Infrastructure Deployment (filed April 27, 2020) (Joint Utilities Initial Comments).

The Joint Utilities agree with the need to change these aspects of the Whitepaper's proposed MRP. Some stakeholders also raise concerns about the Whitepaper's estimated make-ready costs, incentive levels, and overall program budgets. The Joint Utilities share these concerns and recommend that the Public Service Commission (Commission) establish appropriate incentives and budgets to achieve the number of plugs needed to meet the State's electric vehicle (EV) objectives.

Many parties also share the Joint Utilities' perspectives concerning the urgency of addressing fleets and medium- and heavy-duty vehicle charging infrastructure, as well as the role that utility performance incentives can play in promoting cost containment. Several parties commented on the need for rate designs that reflect cost causation. While the Joint Utilities agree with this principle, they urge the Commission to rely on the precedent it has established in retaining demand-based delivery rate designs coupled with time-varying supply charges as the optimal approach to send accurate price signals to EV charging customers. Parties also commented on a variety of other issues that are addressed in more detail below.

In summary, the Joint Utilities request that the Commission note the broad consensus among parties on the design of an effective MRP by approving a simple and flexible framework along with appropriate incentives and budgets consistent with the State's EV goals. The Joint Utilities look forward to working with the Commission, Department of Public Service Staff (Staff), and stakeholders to implement an MRP framework that successfully achieves New York's policy objectives at reasonable costs to customers.

I. BROAD AGREEMENT ON MANY EVSE&I ISSUES

In many instances, parties' recommendations align with the Joint Utilities' positions on the MRP. The shared recommendations from the Joint Utilities and aligned stakeholders would lead to a more cost-effective deployment of customer funds.

A. FLEXIBILITY

Regarding flexibility, the Joint Utilities Initial Comments made specific suggestions, including that the Commission:

- Adopt a framework that allows utilities to design programs that serve changing market needs and customer preferences within their specific service territories;[6]
- Consider alternatives to using the Maximum Incentive Level (MIL) concept as a cost containment device because the MIL could produce suboptimal results by ultimately raising the cost of meeting the State's EV goals;[7]
- Eliminate the Whitepaper's differentiation of incentives for public and non-public applications while increasing incentives to spur timely deployment of plugs;[8]
- Eliminate the Whitepaper's complex bundling proposal;[9]
- Streamline reporting requirements and modify the Whitepaper's planning and site prioritization activities;[10] and
- Allow flexibility to vary incentive structures based on the unique needs of each company's service territory.[11]

The strong alignment among parties that filed comments on the EVSE&I Whitepaper on many issues signals that these changes will result in a more broadly-accepted program. Many stakeholders agree that the complex and prescriptive MRP concepts in the Whitepaper can be

6 EV Proceeding, Joint Utilities Initial Comments, p. 26.
7 *Id.*, pp. 15-16.
8 *Id.*, pp. 17, 21.
9 *Id.*, pp. 22-23.
10 *Id.*, pp. 30-33
11 *Id.*, p. 26.

eased to better enable achievement of the MRP objectives and the State's EV deployment goals. Specifically, parties provided similar recommendations, including:

- Modification of the proposed MIL to enhance the cost-effectiveness of the program;[12]
- Elimination of the differentiation between public and non-public charging stations and their respective level of incentives;[13]
- Elimination of, or significant modifications to, the Whitepaper's proposed bundling process;[14]
- Streamlining data reporting requirements;[15]
- Easing requirements related to utility planning, prioritization, and suitability criteria;[16] and
- Providing flexibility for utilities to vary incentive approaches to match service territory needs.[17]

Parties also supported the Joint Utilities' recommendation that performance incentives be used as an effective cost-containment mechanism.[18] The success of the MRP depends on the flexibility to commit customer funds to the most beneficial EVSE&I investments and the Joint Utilities urge the Commission to provide that flexibility.

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12 EV Proceeding., Comments of Advanced Energy Economy Institute and the Alliance for Clean Energy New York (filed April 27, 2020) (AEEI/ACE-NY Comments), p. 5; Comments of the City of New York on EVSE Whitepaper (filed April 27, 2020) (NYC Comments), p. 13.

13 EV Proceeding, Comments of EV Industry Stakeholder Coalition on Department of Public Service Staff Whitepaper (filed April 27, 2020) (EV Industry Coalition Comments), p. 3; Comments of EVBox North America, Inc. (filed April 26, 2020) (EVBox Comments), p. 4; and Comments by ChargePoint on PSC Staff Whitepaper (filed April 28, 2020) (ChargePoint Comments), pp. 8-9.

14 EV Proceeding, EV Industry Coalition Comments, pp. 8-9; Greenlots Comments on Whitepaper EVSE Proposal (filed April 27, 2020) (Greenlots Comments), pp. 29-30; and Enel X North America, Inc. Comments (Enel X Comments), pp. 3, 18-19.

15 EV Proceeding, EV Industry Coalition Comments, pp. 4-5.

16 EV Proceeding, AEEI/ACE-NY Comments, p. 14.

17 EV Proceeding, NYC Comments, pp. 11-12.

18 EV Proceeding, AEEI/ACE-NY Comments, p. 27; GreenLots Comments, p. 12; Tesla, Inc. Comments (filed April 27, 2020) (Tesla Comments), p. 9; and Vrinda Inc. Comments (filed April 24, 2020) (Vrinda Comments), pp. 5-6.

B. MAKE-READY COST ESTIMATES

A number of stakeholders agreed with the Joint Utilities Initial Comments[19] that the Whitepaper underestimated make-ready costs for both Level 2 (L2) and direct current fast charging (DCFC) plugs, and therefore underestimated the incentive levels that will be needed to spur market development.[20]

C. MEDIUM- AND HEAVY-DUTY VEHICLES AND FLEETS

A range of stakeholders recognized the importance of addressing electrification of the medium- and heavy-duty vehicle segments[21] and committing resources to fleet EV programs in general.[22] For example, the AEEI/ACE-NY Comments recommend that the Commission quickly address the needs of medium- and heavy-duty fleets[23] and point out that a particularly compelling opportunity exists for bus and related transit-services fleets to reduce greenhouse gas emissions in low- to moderate-income (LMI) communities. AEEI/ACE-NY notes that "the electrification of certain medium- and heavy-duty vehicle types such as bus fleets and trucking can provide additional access to EVs and improved air quality for many disadvantaged

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19 In the Joint Utilities Initial Comments, it was stated that Con Edison's analysis for the New York City Metro area was based on an assumption of plug distribution *(i.e.*, the distribution of plugs per site) and geographical spread (across New York City boroughs and Westchester County) consistent with the current plug distribution and spread in the Con Edison service territory. Con Edison now notes that there was an additional analysis conducted, which used the current plug distribution as a starting point and then made certain adjustments resulting in an increase in the number of charger locations with six, eight, and ten plugs. This analysis resulted in an overall moderating effect on per plug costs, as larger charging sites provide some economies of scale.

20 EV Proceeding, ChargePoint Comments, p. 4; and Greenlots Comments, pp. 14-15.

21 *See, e.g.*, EV Proceeding, AEEI/ACE-NY Comments, p. 4.

22 EV Proceeding, Initial Comments of the New York Power Authority on the Department of Public Service Staff Whitepaper Regarding Electric Vehicle Supply Equipment and Infrastructure (filed April 27, 2020) (NYPA Comments), pp. 37-39; Initial Comments of the Natural Resources Defense Council and Sierra Club (filed April 27, 2020) (NRDC/Sierra Club Comments), pp. 19-20; AEEI/ACE-NY Comments, pp. 24-25; Comments of Bloom Energy Corporation (filed April 27, 2020), p. [3]; NYC Comments, pp. 21-22; and Initial Comments of Environmental Defense Fund (filed April 27, 2020) (EDF Comments), p. 5.

23 EV Proceeding, AEEI/ACE-NY Comments, p. 4.

communities."[24] The Joint Utilities agree on the urgent need to address these important market segments and believe the Commission should allow the utilities to submit program proposals that respond to the needs of medium- and heavy-duty vehicle fleets in their respective service territories through individual rate cases or supplemental filings.

D. COST-REFLECTIVE RATE DESIGNS

Many stakeholders emphasized the importance of cost-reflective rate designs to promote EV charging.[25] The Joint Utilities share this objective and note that the EVSE&I Whitepaper itself supported demand-based rates as the best rate design approach for moving forward: "[E]lectric rates for sophisticated customers, such as DCFC owner/operators, should be designed to reflect cost causation and create efficient use of the system. Customer demands drive a significant amount of electric utility transmission and distribution-related costs. Conversely, the electric utilities incur very limited, if any, transmission and delivery related costs driven by the volume of energy they deliver."[26] The Whitepaper further noted that the Commission specifically declined to provide DCFC site owners an alternative to demand-based rates.[27] Staff also supported the Commission's finding that demand charges sent the appropriate price signals to consumers to influence behavior and reduce distribution grid impacts.[28]

Similarly, the Joint Utilities suggest that the Commission reject recommendations from stakeholders[29] that the utilities establish one or more new rate classes specifically for EV and

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[24] *Id*., p. 29.
[25] *See, e.g.*, EV Proceeding, NRDC/Sierra Club Comments, pp. 8-9; Tesla Comments, p. 13; AEEI/ACE-NY Comments, pp. 23-24; and EDF Comments, p. 10.
[26] EV Proceeding, EVSE&I Whitepaper, p. 59.
[27] *Id.*
[28] *Id. See also* EV Proceeding, Order Establishing Framework for Direct Current Fast Charging Infrastructure Program (issued February 7, 2019) (DCFC Order), p. 34.
[29] *See, e.g.*, EV Proceeding, NYC Comments, pp. 17, 25.

EVSE&I customers. Structuring a rate design specifically to promote a given technology is inconsistent with the fundamental rate design principles of technology neutrality, cost causation, and transparency, which the Commission has endorsed as guiding principles in other proceedings.[30]

In addition, in its Standby Order the Commission emphasized its prior conclusion that standby rates "are among the most theoretically pure rate designs available for aligning an individual customer's contribution to system costs with the rates such customers pay, thereby sending accurate price signals to those customers."[31] It is worth noting that the Commission has already made standby rates an option for all demand-billed customers. The Joint Utilities support the Commission's positions on these issues and see standby rates as a sound delivery rate design option for EV charging.[32] To complement this granular delivery rate, the Joint Utilities recommend that the Commission finish the process begun in the Standby Order and permit customers of *all* classes, including residential and small commercial customers, to opt into the standby rates. Finally, the Joint Utilities recommend that the Commission allow all customers not already on an hourly energy supply (*i.e.*, commodity) rate to opt in to such a rate structure.

E. UTILITY OWNERSHIP

A number of parties argued in support of utility ownership of EVSE&I installations.[33] As noted in the Joint Utilities Initial Comments,[34] the Commission should consider whether there is

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30 *See, e.g.*, Case 15-E-0751, *In the Matter of the Value of Distributed Energy Resources* (VDER Proceeding), Order on Standby and Buyback Service Rate Design and Establishing Optional Demand-Based Rates (issued May 16, 2019) (Standby Order), p. 13.

31 *Id*., p. 13, note 14.

32 It is for these reasons that the Joint Utilities oppose the proposal in the Enel X Comments to allocate greater amounts of cost recovery into energy rates.

33 *See, e.g.*, EV Proceeding, NRDC/Sierra Club Comments, p. 4; AEEI/ACE-NY Comments, p. 22.

34 EV Proceeding, Joint Utilities Initial Comments, pp. 26-27.

a reasonable basis, beyond market failure, for a determination that utility ownership of charging infrastructure can be beneficial to the general public, and for LMI customers specifically, particularly during the next few years.

F. UPSTATE REDC PROCUREMENT

The New York Power Authority (NYPA) noted that the Governor's 2020 State of the State has established a mandate for procuring a certain quantity of DCFC sites in each Regional Economic Development Council (REDC) area.[35] The New York State Energy Research and Development Authority (NYSERDA) is also preparing a procurement targeted at DCFC sites in certain REDCs for later in 2020. Based on recent discussions with both parties, the Joint Utilities stress the need for collaboration and cooperation, a spirit shared by NYPA and NYSERDA. The Joint Utilities see merit in running a competitive procurement for DCFC targeting the seven upstate REDCs. However, the Joint Utilities suggest that to avoid any conflict with the ongoing NYSERDA procurement, NYSERDA should be the lead agency charged with this competitive procurement. The EVSE& I Whitepaper recommended that the Joint Utilities collectively allocate $5 million toward the competitive procurement.[36] As an alternative, the Joint Utilities would support NYSERDA allocating $5 million of previously collected, unallocated funds from utility customers (*i.e.*, Clean Energy Fund collections) to support the NYSERDA-run procurement. Such a contribution from NYSERDA would not reduce the MRP budget and would allow the winning bidders to be eligible for and participate in the forthcoming MRP. To effectuate this process most efficiently, the Joint Utilities suggest that

[35] EV Proceeding, NYPA Comments, p. 13.
[36] EV Proceeding, EVSE&I Whitepaper, pp. 47-48.

NYSERDA set up an evaluation committee for bid submittals with representation from each relevant utility to assess bidders' proposals.

G. PROGRAM OVERSIGHT AND ANALYSIS

Some parties recommended the establishment of oversight organizations to govern utility EVSE&I activities while also requiring additional data, studies, and analyses to support that function.[37] These additional requirements are unnecessary as the Commission's oversight power will adequately monitor the progress of utility EVSE&I activities. Moreover, while the Joint Utilities are open to obtaining stakeholder feedback, the use of a broad-based oversight council to support EVSE&I activities would create an added layer of administrative requirements that could slow progress rather than accelerate it.

With respect to data reporting and analysis, the Joint Utilities provide distribution planning processes, studies, and analyses in other regulatory venues including rate cases.

H. MANAGED CHARGING

Several parties stated that managed charging strategies are vital for longer-dwell locations and fleets because managed charging can reduce the need for infrastructure upgrades[38] and suggested that developers and utilities work together on managed charging solutions.[39] The Joint Utilities agree that managed charging is an important consideration for fleets or concentrated workplace charging. The Joint Utilities submit that, in the near term, properly designed, cost-reflective rates such as the Standby Rates offer the appropriate incentives for

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[37] EV Proceeding, Vrinda Comments, p. 12; ChargePoint Comments, p. 5; EDF Comments pp. 5-6; and EV Industry Coalition Comments, p. 15.

[38] EV Proceeding, EV Industry Coalition Comments, p. 13.

[39] *See*, *e.g.*, EV Proceeding, AEEI/ACE-NY Comments, pp. 12-13; Greenlots Comments, pp, 6-7; and NRDC/Sierra Club Comments, p. 18.

managed charging by customers. The significant work required to properly address large-scale, managed charging opportunities run by utilities should be evaluated in the process of developing an EVSE&I program for fleets. Such work should not delay immediate progress toward the State's EV objectives, which can be accelerated through the light-duty EVSE&I program envisioned in the Whitepaper.

I. PERFORMANCE INCENTIVES

The Joint Utilities recommended the use of performance incentives to contain MRP costs and provided a menu of metrics that could be employed for that incentive.[40] While some parties recognized the ability of performance incentives to control costs, several incentive recommendations would not be effective measures of utility performance and should be rejected.

AEEI/ACE-NY recommended that incentive awards should be tied to the "overall MWh usage for all charging stations supported through the utility's make-ready program."[41] This metric does not align with the policy goals outlined in the Whitepaper, which focus on EVSE&I deployment, and should be rejected. While the Joint Utilities have some control over the number and location of EV plugs that are installed, site utilization will be dependent on a number of factors beyond the MRP and outside of utility influence, such as the rate at which customers adopt EVs, the proportion of EV drivers using at-home charging, and the charging fees set by third-party developers. In building a comprehensive EV charging network, it is also important to note that providing access to charging across the State means that lower-usage plugs may foster

[40] EV Proceeding, Joint Utilities Comments, pp. 26-27.
[41] EV Proceeding, AEEI/ACE-NY Comments, p. 27.

the transition to transportation electrification more than their throughput usage would otherwise indicate. Thus, the Commission should not adopt the AEEI/ACE-NY incentive metric proposal.

EDF suggested that performance incentives should focus on activities, such as non-wires solutions (NWS), that avoid utility investments to support the MRP in order to reduce the magnitude of infrastructure investments.[42] The Joint Utilities agree with EDF that NWS have merit and should be considered before making infrastructure investments. However, EDF's specific recommendation is unrelated to the fundamental purpose of the MRP, which is to facilitate the deployment of large numbers of L2 and DCFC plugs in a cost-effective manner. Moreover, many of the make-ready expenses noted in the Joint Utilities Initial Comments[43] cannot be deferred by NWS. The Joint Utilities, together with Staff and other stakeholders, have set NWS suitability criteria covering all the utilities' capital investments, including those envisioned in the MRP. Thus, EDF's proposal should not be considered at this time.

Finally, Enel X stated that no performance incentives are necessary and recommended that the Joint Utilities own make-ready infrastructure on the customer-side and that this ownership opportunity provides sufficient incentives on its own.[44] Enel X's recommendation should not be considered as a reasonable solution because the MRP is generally designed to promote third-party ownership of charging infrastructure.

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42 EV Proceeding, EDF Comments, p. 6.
43 EV Proceeding, Joint Utilities Initial Comments, p. 6.
44 EV Proceeding, Enel X Comments, p. 7.

J. NYPA ROLE

One matter raised in the comments concerns NYPA's role in the MRP.[45] The Joint Utilities view NYPA as an important developer of EVSE&I that should be eligible for incentives under the MRP. The Joint Utilities submit that any customers receiving incentives, including NYPA when it acts as a station owner/operator, must be appropriately allocated MRP costs through delivery rates.

K. TIMING OF PAYMENTS

AEEI/ACE-NY noted that the delay in reimbursement of customer-side make-ready costs due to the proposed EVSE&I Whitepaper process could add costs for charging station development and suggested that utilities should make an upfront incentive payment to the developer, or that the utility should pay for customer-side work upfront with the developer reimbursing the utility for expenses not covered by the MRP incentive.[46] Both options as proposed should be rejected as they provide no incentive for the developer to contain installation costs or complete site installations.

II. CONCLUSION

The Joint Utilities appreciate this opportunity to respond to the initial comments provided by other parties regarding the EVSE&I Whitepaper. The Joint Utilities remain committed to

[45] EV Proceeding, NYPA Comments, p. 14.

[46] EV Proceeding, AEEI/ACE-NY Comments, p. 17. The EV Industry Stakeholder Coalition made a similar request. *See* EV Proceeding, EV Industry Coalition Comments, p. 8.

working with the Commission, DPS Staff, and other stakeholders to ensure that an effective MRP is deployed to achieve the greatest benefit for all New York customers.

Dated: May 11, 2020

Respectfully submitted,

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. and ORANGE AND ROCKLAND UTILITIES, INC.

By: */s/ Mary Krayeske*

Mary Krayeske
Assistant General Counsel
Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Tel.: 212-460-1340
Email: krayeskem@coned.com

CENTRAL HUDSON GAS AND ELECTRIC CORPORATION

By: */s/ Paul A. Colbert*

Paul A. Colbert
Associate General Counsel –
Regulatory Affairs
Central Hudson Gas and Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
Tel: (845) 486-5831
Email: pcolbert@cenhud.com

NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID

By: */s/ Janet M. Audunson*

Janet M. Audunson
Assistant General Counsel
National Grid
300 Erie Boulevard West
Syracuse, New York 13202
Tel: (315) 428-3411
Email: janet.audunson@nationalgrid.com

NEW YORK STATE ELECTRIC & GAS CORPORATION and ROCHESTER GAS AND ELECTRIC CORPORATION

By: */s/ Amy A. Davis*

Amy A. Davis
Senior Regulatory Counsel
89 East Avenue
Rochester, NY 14649
Tel.: (585)771-4234
Email: amy.davis@avangrid.com