NEW YORK STATE PUBLIC SERVICE COMMISSION

CASE 17-E-0238

PROCEEDING ON MOTION OF THE COMMISSION AS TO THE RATES, CHARGES, RULES AND REGULATIONS OF NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID FOR ELECTRIC SERVICE

CASE 17-G-0239

PROCEEDING ON MOTION OF THE COMMISSION AS TO THE RATES, CHARGES, RULES AND REGULATIONS OF NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID FOR GAS SERVICE

CASE 14-M-0042

PETITION OF NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID FOR AUTHORIZATION TO DEFER AN ACTUARIAL EXPERIENCE PENSION SETTLEMENT LOSS FOR FISCAL YEAR 2014

CASE 12-G-0202

PETITION OF NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID TO MODIFY ITS EXISTING GAS SAFETY METRIC

STATEMENT IN OPPOSITION OF ACADIA CENTER, NATURAL RESOURCES DEFENSE COUNCIL, ALLIANCE FOR A GREEN ECONOMY AND PUSH BUFFALO

February 1, 2018

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I. Introduction

On April 28, 2017 Niagara Mohawk Power Corp. d/b/a National Grid NY ("NMPC" or "the Company") filed tariff leaves and supporting testimony and exhibits for new rates and charges for electric and gas service to be effective June 1, 2017. As filed, NMPC sought to raise its base electric and gas delivery revenue requirements by $326 million and $81 million respectively for the twelve months ending March 31, 2019. On July 10, 2017, NMPC filed corrections and updated testimony and exhibits decreasing the electric and gas revenue requirement to approximately $261 million and $70 million, respectively.

Settlement discussions commenced on September 19, 2017. On January 19, 2018, NMPC filed a Joint Proposal ("JP") memorializing the rate case settlement agreement among NMPC, Department of Public Service Staff ("DPS Staff"), Multiple Intervenors, Pace Energy and Climate Center, Environmental Defense Fund, International Brotherhood of Electrical Workers, Local Union 97, New York Geothermal Energy Organization, Inc., Tesla, Inc., City of Buffalo, City of Albany, City of Syracuse, ChargePoint, Inc., Great Eastern Energy, Mirabito Natural Gas, Blue Rock Energy, Inc., Direct Energy Services, LLC, the New York State Office of General Services ("OGS"), Wal-Mart Stores East, LP and Sam's East, Inc., and the New York Power Authority ("NYPA") with respect to the above-captioned matters. Per the Ruling on Schedule for Consideration of the Joint Proposal issued on January 24, 2018, parties were directed to file statements in support or opposition to the JP by February 1, 2018.

II. Summary of Opposition

The JP is contrary to the public interest for four primary reasons. First, its energy efficiency provisions are inconsistent with state and Commission policy and set the state on course to achieve significantly less energy efficiency than assumed by the Commission's Clean Energy Standard Order, and its targets and budget caps are far lower than other leading states. Second, its failure to address high fixed charges reduces incentives for customers to invest in energy efficiency and distributed energy resources, and is contrary to the goals of the state's Reforming the Energy Vision (REV) proceeding. Third, its transportation electrification investments are unlikely to meaningfully accelerate EV adoption and are not consistent with state policy. Fourth, its failure to address NMPC's proposed C&I demand charges is directly contrary to a Commission Order and is otherwise not consistent with state or Commission policy.

The JP's energy efficiency provisions are inconsistent with New York and Commission policy. The JP's targets and budget cap for energy efficiency spending are far too low, setting the state on course to achieve significantly less efficiency than assumed in the Commission's Clean Energy Standard Order. The JP's targets and budget cap for energy efficiency are far lower amounts of savings than are currently being achieved in leading states. The Commission should require revisions to the JP to provide for upward adjustments to the annual incremental energy efficiency target.

At a minimum, the Commission should make clear that the targets set forth in the JP shall be adjusted upward as soon as a statewide energy efficiency target is set on Earth Day, in accordance with that new target. Governor Cuomo's announcement in the 2018 State of the State Address identified this critical gap in energy efficiency achievement, noting that "while significant innovation and growth have been achieved in the renewable energy industry in New York, energy

efficiency has not been on the same trajectory towards greater energy savings and greenhouse gas reductions like solar and wind."[1] The Commission should supplement rate case targets with those established in a statewide energy efficiency planning process, and NMPC should be allocated the resources it needs to achieve more ambitious energy efficiency targets.

The JP's failure to address NMPC's high fixed charges for electric customers is also inconsistent with State and Commission policy. NMPC's high fixed charges reduce residential customers' incentives to invest in distributed energy resources and energy efficiency. They are also contrary to the goals of the state's Reforming the Energy Vision (REV). High fixed charges penalize low-usage customers, who tend to be low income. Lowering fixed charges would benefit a majority of residential customers, who use less than the average amount of electricity. Finally, the Commission should act to mitigate any potential impacts of lowering fixed charges on low-income electric heating customers.

The JP's transportation electrification investments are unlikely to meaningfully accelerate EV adoption and are not consistent with state policy. New York has ambitious, yet achievable, EV goals that are unlikely to be met without meaningful utility engagement. However, NMPC's proposed EV program is too small and undefined to meaningfully accelerate EV adoption relative to its own affiliates and other leading utilities. The Commission should establish a central, statewide transportation electrification proceeding that requires utilities to submit proposals to accelerate transportation electrification in a manner consistent with New York's environmental goals.

[1] New York State, *Governor Cuomo Unveils 20th Proposal of 2018 State of the State: New York's Clean Energy Jobs and Climate Agenda, available at* https://www.governor.ny.gov/news/governor-cuomo-unveils-20th-proposal-2018-state-state-new-yorks-clean-energy-jobs-and-climate.

Finally, The JP's failure to address NMPC's proposed C&I demand charges is directly contrary to a past Commission Order and is otherwise not consistent with state or Commission policy. The Commission's May 19, 2016 Order requires DPS Staff to examine existing C & I demand charges in rate cases to make them more time sensitive. However, this issue is not addressed or examined in the JP and DPS Staff has indicated that they will not address C&I demand charge reform in VDER working group proceedings in 2018.

III. Applicable Standard of Review

The Public Service Commission has the statutory obligation to review, approve (with or without modification), or reject all settlement agreements brought to it by the proponents of the settlement. The Commission's Settlement Guidelines, which provide the parameters within which such an approval or disapproval must be analyzed, states that the terms and conditions of a joint proposal must be just and reasonable and in the public interest.[2] In considering the public interest, the Commission balances the proposal's effect on ratepayers, investors, and the long-term viability of the utility company.[3] When seeking a rate increase, utility companies bear the burden of proving that the changes are just and reasonable.[4] No rate shall be presumed to be just and reasonable.[5] Any change must be supported by competent testimony.

While the Commission can be deferential to settlements agreed upon by normally adversarial parties, that deference is not unlimited. In addition to compliance with proper procedures, determining whether the terms of a joint proposal are in the public interest involves substantive consideration of the following:

[2] Cases 90-M-0225 and 92-M-0138, *Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines*, Opinion No. 92-2 (issued March 24, 1992), at 30.
[3] *Id.*, Appendix B, *Procedural Guidelines for Settlement (1992)*, F(1)(a), Standards of Review, pg. 8.
[4] 16 NYCRR Section 61.1.
[5] *Id.* at § 61.2.

1. Consistency with the law and regulatory, economic, social and environmental State and Commission policies;

2. Whether the terms of the joint proposal compare favorably with the likely result of a fully litigated case and produces a result within the range of reasonable outcomes;

3. Whether the joint proposal fairly balances the interests of ratepayers, investors and the long-term soundness of the utility; and

4. Whether the joint proposal provides a rational basis for the Commission's decision.[6]

IV. The JP's Energy Efficiency Provisions Are Inconsistent with State and Commission Policy

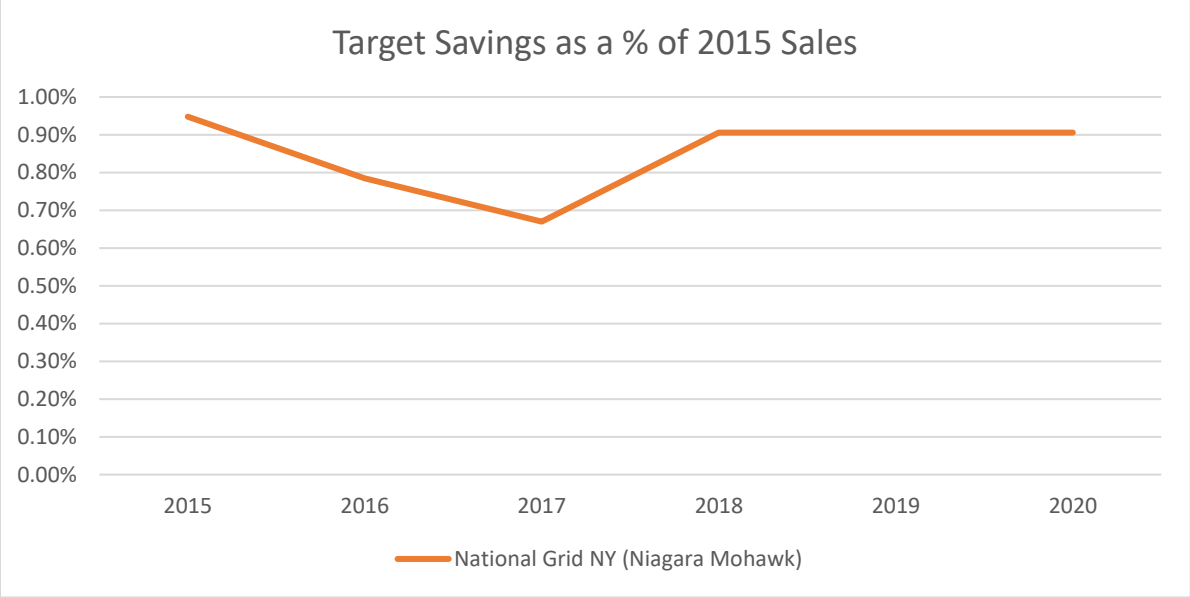
The energy efficiency provisions of the Joint Proposal (JP) are inconsistent with New York's clean energy, climate change, and energy efficiency goals. The JP's targets and budget cap for energy efficiency spending are far too low, setting the state on course to achieve significantly less efficiency than assumed in the Commission's Clean Energy Standard Order, which assumes 600 trillion BTUs in energy efficiency gains by 2030.[7] The JP's targets and budget cap for energy efficiency are far lower amounts of savings than are currently being achieved in leading states.[8] The lack of ambition showed by NMPC in the JP on energy efficiency demonstrates the importance of Governor Cuomo's commitment to establish an energy efficiency target by April 22.[9] The Commission should require revisions to the JP to provide for upward adjustments to the annual incremental energy efficiency target. At a minimum, consistent with the JP, the Commission should make clear that the targets set forth therein shall be adjusted upward

[6] Cases 90-M-0225 and 92-M-0138, *Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines*, Opinion No. 92-2 (issued March 24, 1992), Section E, Responsibilities of Party to Develop the Record, p. 6.
[7] New York State Energy Planning Board, *The Energy to Lead, 2015 New York State Energy Plan* at 112 (Dec. 2015), *available at* https://energyplan.ny.gov/Plans/2015.aspx.
[8] American Council for and Energy-Efficient Economy, *2017 State Energy Efficiency Scorecard*, September 2017, p. 29.
[9] Andrew M. Cuomo, *2018 State of the State*, at 301 (Jan. 2018), *available at* https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2018-stateofthestatebook.pdf.

as soon as a statewide energy efficiency target is set on Earth Day, in accordance with that new target.

As set forth in Appendix 7, the JP sets annual incremental energy efficiency target midpoints of only 312,042 MWh, which remain stagnant during every year covered by the proposed rate case settlement period. While the JP touts these targets as an improvement on NMPC's ETIP proposal for years 2018-2020, which called for only 263,877 MWh of annual savings,[10] that merely reflects the lack of ambition in the ETIP, rather than energy efficiency leadership on the part of NMPC. The JP's proposed savings levels are less than the 326,443 MWh of savings achieved in 2015,[11] meaning that unless they are revised upward or supplemented with additional savings targets announced post-Earth Day, annual savings achieved by NMPC will have decreased from 2015 levels when the state's Reforming the Energy Vision (REV) initiative began.

Figure 1: Target Savings as a Percentage of 2015 Sales (2015-2020)



[10] Niagara Mohawk Power Corporation (2017), Case 15-M-0252, *Updated 2017-2020 Electric and Gas Energy Efficiency Transition Implementation Plan ("ETIP")*, December 22, 2017, at p. 7.
[11] NY DPS, "Energy Efficiency Portfolio Standard" Database, *available at* http://documents.dps.ny.gov/public/EEPS/EEPSReport.aspx.

That lack of ambition does not reflect the goals of the State Energy Plan and REV, which clearly communicate a desire to position New York as a national leader in clean energy and greenhouse gas reduction in the electricity sector. Other states are achieving far higher levels of savings, and experience from other utilities across the country, including other National Grid affiliates, demonstrates that savings rates can be increased annually by 0.4 percent of total sales, ramping up to 3.0% in five years as demonstrated by Figure 2.[12]

Figure 2: Statewide Annual Efficiency Savings Targets for 2016-2020 Assuming Ramp up to 3% in 2030 Compared with Assumed Savings in the CES White Paper[13]

	CES White Paper Assumed Savings		Proposed Targets	
Year	Cumulative Energy (MWh)	Annual Savings (% of sales)	Cumulative Energy (MWh)	Annual Targets (% of sales)
2016	4,453	1.4%	4,453	1.4%
2017	6,680	1.4%	7,324	1.8%
2018	8,907	1.4%	10,805	2.2%
2019	11,133	1.4%	14,865	2.6%
2020	13,360	1.4%	19,492	3.0%

The Commission should require modifications to Section 13.2 and Appendix 7 of the JP to provide for more robust energy efficiency progress. Specifically, the Commission should increase the targets in Appendix 7 such that savings each year increase by .4 percent of NMPC's total load, ramping up to 3% in 2020, and should require conforming changes to other sections of the JP to reflect these changes to Section 13.2 and Appendix 7.

[12] Neme, C., J. Grevatt. 2016. *The Next Quantum Leap in Efficiency: 30 Percent Electric Savings in Ten Years.* Regulatory Assistance Project.

[13] Synapse Energy Economics, *Aiming Higher: Realizing the Full Potential of Cost-Effective Energy Efficiency in New York*, prepared for Natural Resources Defense Council, E4TheFuture, CLEAResult, Lime Energy, Association for Energy Affordability, and Alliance for Clean Energy New York, April 2016, *available at* http://www.synapse-energy.com/sites/default/files/Aimin g-Higher-NY-CES-White-paper-15-056.pdf Higher-NY-CES-White-paper-15-056.pdf.

Failing that, the Commission should make clear that these targets shall be supplemented on Earth Day, such that significantly greater energy efficiency savings are achieved during the period covered by the JP. Section 15.6 of the JP clarifies that the Commission retains authority to require additional investments to be recovered through base rates during the period covered by the JP:

> Nothing in this Joint Proposal limits the Commission's ability to require the Company to implement changes or take certain action pursuant to these or other policy proceedings that may necessitate cost recovery of incremental costs or changes in rate design during the term of the Rate Plan.

While the Commission would have this authority regardless of any language in the JP, it is significant that the JP *affirmatively and explicitly* contemplates these changes. In light of the Governor's directive to develop an energy efficiency target by Earth Day, the Commission must make clear that the expectations of the parties are that the energy efficiency targets set forth herein *will* be supplemented with more ambitious efforts required pursuant to the Earth Day plan. New York cannot afford to wait until after the duration of a rate case settlement period to begin seriously ramping up energy efficiency achievement in the NMPC service territory.

A. The Joint Proposal's Energy Efficiency Targets and Budgets are Inadequate to Achieve the State's Clean Energy Expansion, Greenhouse Gas Reduction, and Energy Efficiency Goals

New York State's goals for 2030 include achieving the Clean Energy Standard's requirement of 50 percent renewable energy supply,[14] reducing greenhouse gas (GHG) emissions from the energy sector (power generation, industry, buildings, and transportation) by 40 percent relative to the 1990 levels, and achieving 600 trillion BTU in energy efficiency gains.[15] Weak energy efficiency plans like those proposed in the JP put the achievement of those goals in

[14] New York State Energy Planning Board. *The Energy to Lead, 2015 New York State Energy Plan* at 112 (Dec. 2015), *available at* https://energyplan.ny.gov/Plans/2015.aspx.
[15] *Id.*

jeopardy, and will at minimum and make achieving them less cost effective. Governor Cuomo's leadership in ordering the development of an energy efficiency target was prescient, as the JP demonstrates the necessity that greater clarity be given to the state's utilities regarding the scale of energy efficiency that should be expected from them.

The JP, if combined with other similar utility proposals and not supplemented by additional savings plans, would jeopardize achievement of the Clean Energy Standard's 50 percent renewable supply by 2030 mandate. The Commission's Clean Energy Standard order sets an initial trajectory for renewables procurement based on an assumption that total NYISO load in 2030 will be 140,992,000 MWhs, meaning that 70,496,000 MWh will need to be generated from renewable sources in that year, with 29,200,000 MWh coming from new renewable generation (assuming the baseline of existing renewable generation resources continues to deliver to New York).[16] These calculations assume energy efficiency will reduce 2030 load by 35,627,000 MWh.[17] That equates to incremental savings of roughly 1.37 percent of 2015 load each year the program operates, not counting additional efficiency needed to replace measures that reach their end of life prior to 2030.[18] However, the American Council for an Energy-Efficient Economy estimates that in 2016, New York energy efficiency programs (including NYPA, LIPA, NYSERDA and utility efforts) saved only 1.09 percent of total load.[19]

A simple back-of-the-envelope calculation suggests that were New York to continue with its 2016 savings rate each year, 2030 load would be roughly 7,000 GWh higher than the amount

[16] *See* Case 15-E-0302, Order Adopting a Clean Energy Standard, p. 84-85 (Aug. 1, 2016)
[17] *Id.* at 81.
[18] *See* Case 15-E-0302, Staff White Paper on Clean Energy Standard, Appendix B, p. 2 (Jan. 25, 2016) (setting the target eventually used in the Clean Energy Standard order by assuming annual incremental savings through energy efficiency of 2,227 GWh, with total load in 2015 of 162,858 GWh). 2,227 GWh/ 162,858 = roughly 1.37 percent.
[19] American Council for an Energy-Efficient Economy, *The 2016 State Energy Efficiency Scorecard* at 29.

predicted in the Clean Energy Standard Order,[20] meaning that at least 3,500 GWh of new renewable energy would be necessary beyond the amount assumed in the order, nearly as much as the total amount of GWh supplied by wind in 2014.[21] That amount is not factored into the current renewables procurement trajectory, meaning that an increase in new renewables would be necessary in subsequent years. Further, the emissions outcome under this scenario would be significantly worse, as it entails 3,500 GWh of fossil fuel generation that would otherwise not be necessary. Conversely, greater energy efficiency would decrease the amount of total emissions and allow for easier achievement of the Clean Energy Standard goals.

While the energy efficiency targets outlined in the JP call for minor incremental improvements as compared to NMPC's ETIPs for 2016-18, the target midpoints are a reduction in energy efficiency as compared to the Company's 2015 energy efficiency achievements, the year in which the Clean Energy Standard targets were calculated. Furthermore, the Commission made clear in its order approving that 2016-18 ETIP that it expected the state's utilities to achieve greater amounts of energy efficiency than those budgeted for in the ETIPs through efforts beyond the ETIP:

> While the Commission appreciates commenters' support for increased deployment of energy efficiency, it notes that the budgets and targets established here are but one component of the energy efficiency efforts the Commission expects the utilities to pursue moving forward. The Commission was deliberate in the inclusion of energy efficiency in its definition of Distributed Energy Resources (DERs) in the REV Proceeding, and to that end expects utility REV Demo Projects and DSIPs to include energy efficiency efforts beyond those funded by the budgets authorized here. As the utilities prepare their DSIPs and advance their plans to function as the Distributed System Platform Provider (DSP), for which the Commission anticipates developing an Earnings Incentive Mechanism in Track 2 of the REV Proceeding, the Commission expects significant utility investment in energy efficiency in a

[20] 1.09 percent of 162,858 GWh is 1,775 GWh, which is 452 GWh lower than the annual savings of 2,227 GWh assumed in the Clean Energy Standard. Extending that shortfall for the duration of the program targets (including 2015, which had a similarly sized shortfall) yields 7,232 GWh in 2030.

[21] *See* Case 15-E-0302, Staff White Paper on Clean Energy Standard, Appendix B, page 3 (Jan. 25, 2016) (showing that wind supplied 3,775 GWh in 2014).

> manner that best supports the local needs of their systems and advances energy efficiency as an operational resource rather than a regulatory mandate.[22]

Yet neither NMPC nor any of the state's other utilities proposed any additional energy efficiency efforts in their DSIPs beyond the extremely narrow context of non-wires solutions, and the Commission's DSIP Order did not require any additional DSIP energy efficiency investments.[23] The Commission's Track 2 Order required the state's investor-owned utilities, including NMPC, to develop earnings adjustment mechanisms for energy efficiency,[24] and subsequent decisions implementing that Order made clear that the Commission expects those performance incentives, along with initiatives to achieve the targets set forth in those incentives, to be achieved in the rate case context. Thus, under the regulatory framework set forth by the Commission, rate case settlements are the primary avenue for energy efficiency investments to be proposed. Prior Commission orders call for NMPC to act as a Distributed Platform Provider and propose significant energy efficiency investments beyond the ETIP to be achieved through that framework. But in proposing only minor improvements on the ETIP goals, the JP falls short of that mandate.

The higher emissions outcome of Clean Energy Standard achievement through a strategy that relies less on energy efficiency also illustrates how the JP is inconsistent with the State's objective to reduce GHG emissions from energy and transportation by 40 percent relative to the 1990 levels by 2030 in the most cost-effective manner possible. As the Commission stated in its Clean Energy Standard Order, "energy efficiency is the cheapest and most effective manner to

[22] Case 15-M-0252, *Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016 – 2018* at 27-28 (Jan. 22, 2016).
[23] *See* Case 14-M-0411, *Order on Distributed System Implementation Plan Filings* (March 9, 2017).
[24] Case 14-M-0101, *Order Adopting a Ratemaking and Utility Revenue Model Policy Framework* at 154 (May 19, 2016).

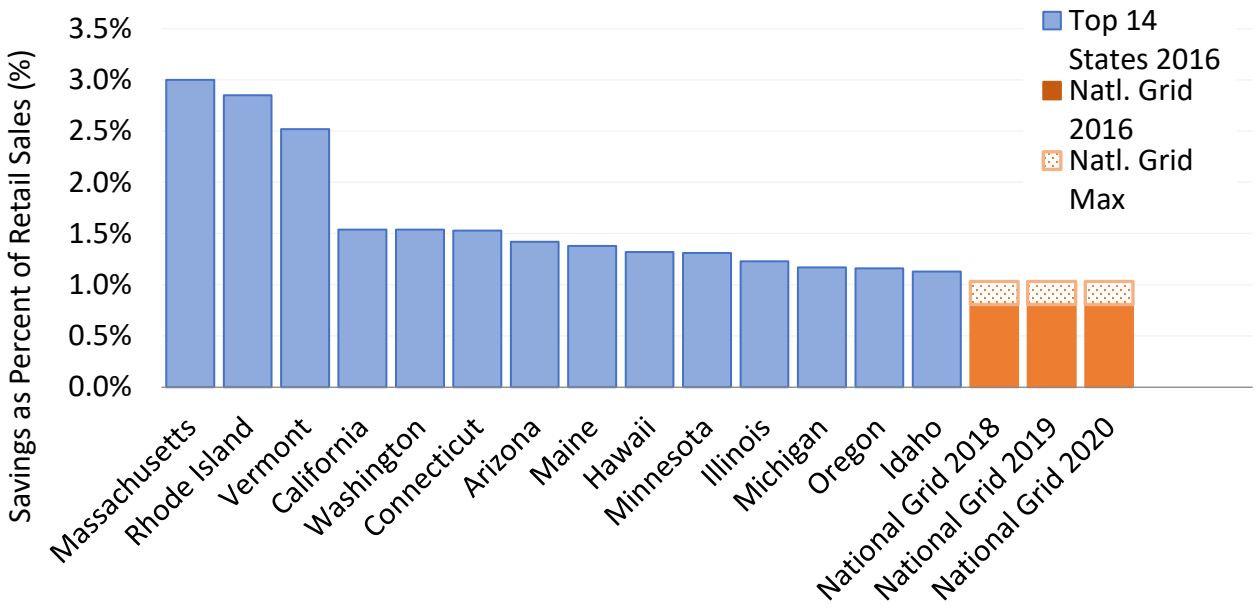
reduce carbon emissions in the energy sector."[25] The JP fails to fully take advantage of this immense resource, and instead adopts a strategy that relies upon stagnant levels of savings through energy efficiency initiatives. Synapse Energy Economics Inc. modeled a scenario wherein the state's utilities increased annual incremental savings at a rate demonstrated to be possible by leading utilities across the country (.4% annually, up to a 3.0% annual saving rates), predicting that New York customers would save "roughly $3 billion in electricity costs between now and 2030"[26] under that scenario.[27]

B. The JP's Proposed Energy Efficiency Targets Lag Behind Those Achieved by Leading Utilities

The proposed annual incremental energy efficiency minimum, mid, and maximum targets of 278,321 MWh, 312,042 MWh, and 355,324 MWh are not in step with the achievements of leading utilities nationally, including National Grid's affiliates in other states. They amount to between 0.81% and 1.03% of incremental energy efficiency as a percentage of sales, which is far lower than that of other leading utilities.

[25] Case 15-E-0302, *Order Adopting a Clean Energy Standard* at 81-82 (Aug. 2016).
[26] Synapse Energy Economics, Inc., *Aiming Higher: Realizing the Full Potential of Cost-Effective Energy Efficiency in New York* at ii (April 2016).
[27] *Id*. at 13-15.

Figure 3: The JP's Savings Targets Relative to Historical Savings from Utilities in Other States



Nor does the JP keep pace with improvements proposed by Con Edison that have been approved by the Commission. Con Edison's EAM for energy efficiency sets an annual incremental savings target for 2019 (270,000 MWh)[28] which is roughly 50 percent greater than its 2015 achievement (179,860 MWh),[29] whereas the JP calls for a reduction of roughly 5 percent as compared to the Company's 2015 target. Even more importantly, Con Edison's approved proposal requires an annual ramp up in energy efficiency savings, whereas the JP calls for stagnant savings levels across all 3 years of the rate case settlement as demonstrated by Figures 4 and 5.

[28] *See* Case 16-E-0060, Joint Proposal at 79 (Sept. 19, 2016).
[29] NY DPS. "Energy Efficiency Portfolio Standard" Database, *available at* http://documents.dps.ny.gov/public/EEPS/EEPSReport.aspx.

Figure 4: Con Edison Target Savings as a Percentage of Sales

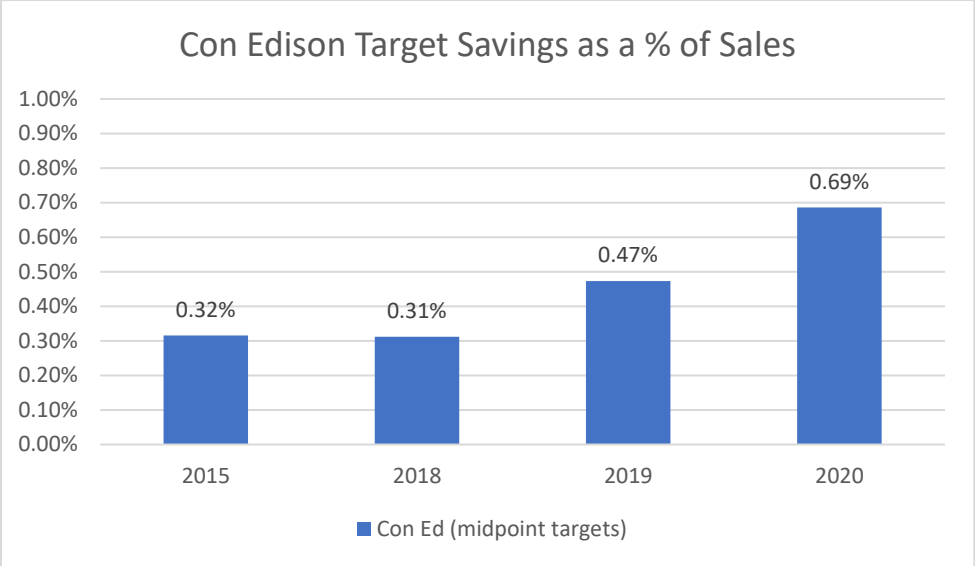
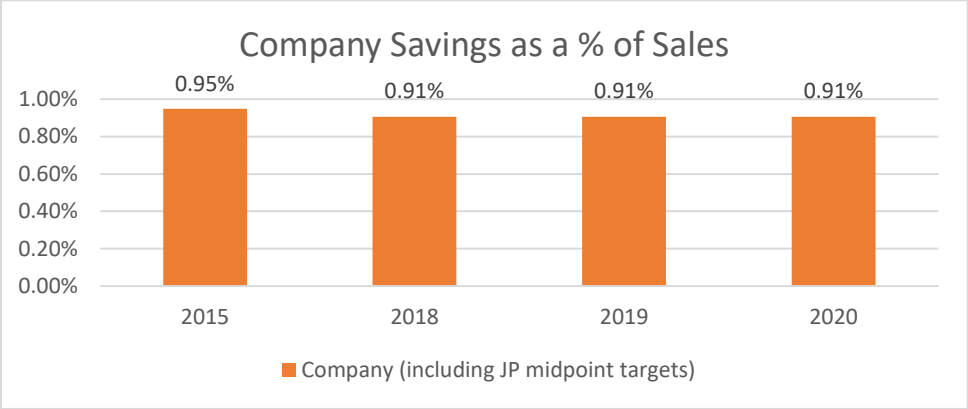


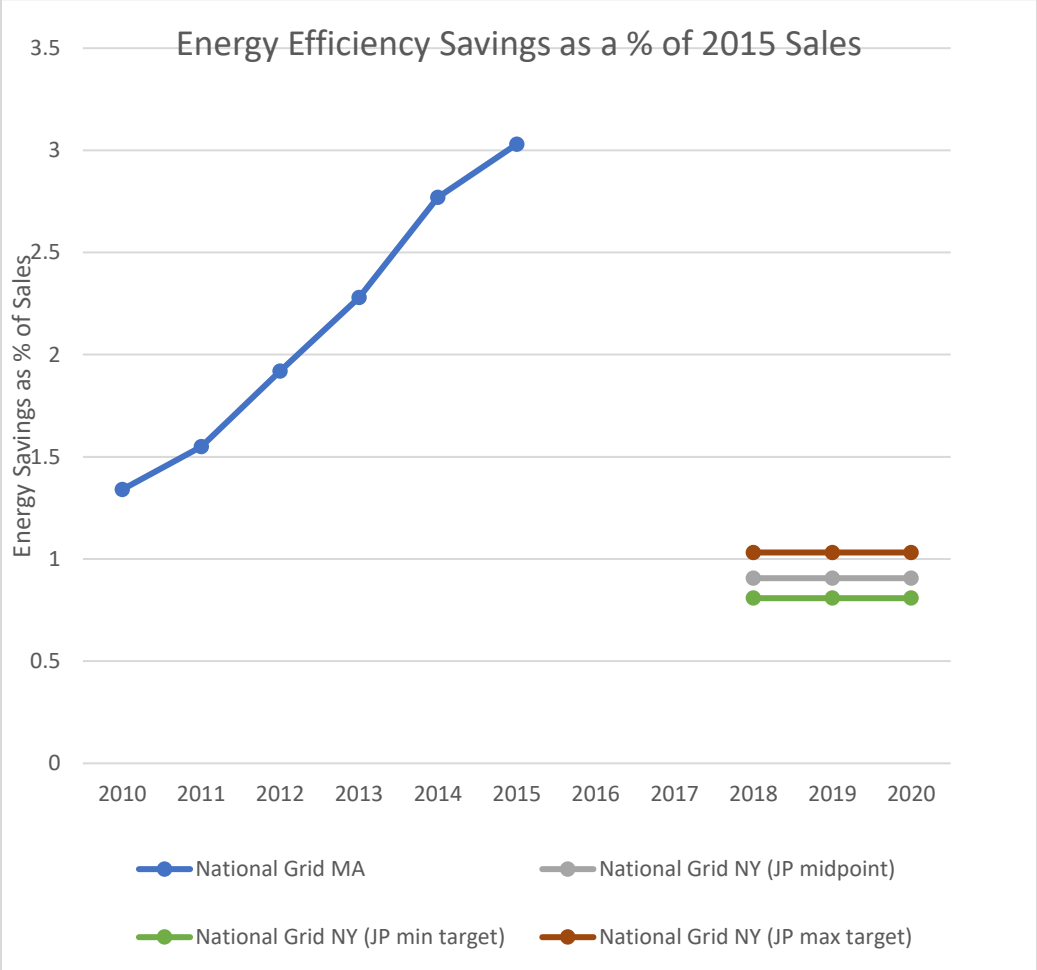
Figure 5: Company's Target Savings as a Percentage of Sales



The Commission should require NMPC to maximize the emissions benefits of energy efficiency and bill savings for customers by requiring it to ramp up annual savings levels by an amount demonstrated to be feasible by the Company's own Massachusetts affiliate. A recommended increase in efficiency savings of 0.4 percent per year is consistent with energy efficiency savings targets of other leading states. NMPC's Massachusetts affiliate increased annual incremental savings levels from 1.34% of total load to 3.03% of total load across a period

of 5 years.[30] For example, the Commission could require annual incremental savings of 1 percent of total load in 2018, 1.4 percent in 2019, and 1.8 percent in 2020.

Figure 6: The JP's Savings Targets Relative to NMPC's Massachusetts Affiliate



C. The Commission Should Supplement Rate Case Targets with Those Established in a Statewide Energy Efficiency Planning Process

Governor Cuomo's commitment to establish a comprehensive energy efficiency program is important not only because utility targets including those in the JP need to be more ambitious, but also because it facilitates the creation of a centralized planning process for energy efficiency that will allow for greater market visibility, greater regulatory certainty for utilities, and more analytical rigor. The Commission should clarify that the JP presents only a minimum level of savings, to be supplemented through a centralized utility energy efficiency procurement planning process.

The current energy efficiency planning framework is fragmented and operates through several different processes including the Clean Energy Fund (CEF), ETIPs, EAMs, DSIPs, and the Clean Energy Standard.[31] As set forth in the testimony of Tim Woolf from Synapse Energy Economics in the Central Hudson rate case, adopting a formal, central statewide planning process would streamline the process of setting effective energy efficiency savings targets that are consistently aligned with the state's goals by facilitating "robust commission and stakeholder input."[32]

The findings of the Clean Energy Advisory Council (CEAC) also support the creation of such a centralized process. The CEAC's Energy Efficiency Procurement and Markets Report states that the Commission could "send clear market signals" through a "centralized and unified process" that would give market actors (including NMPC and third-party energy efficiency service companies) more certainty about "procurement funding rules, targets, and performance incentives

[30] Clean Energy Advisory Council, *Energy Efficiency Metrics and Targets Options Report* at 50 (Nov. 2016).
[31] Synapse Energy Economics, Inc., *Aiming Higher: Realizing the Full Potential of Cost-Effective Energy Efficiency in New York* at ii (April 2016).
[32] *See* Case 17-E-0459, Direct Testimony of Tim Woolf, p. 27, lines 2-3 (November 21, 2017).

out to 2030."[33] This in turn would allow energy efficiency service companies to plan for long-term capacity building.

Centralized, statewide planning processes have been successfully implemented states with leading energy efficiency programs. In 2016, Massachusetts, Rhode Island, and Vermont ranked first, second, and third respectively in energy efficiency savings.[34] The programs in Massachusetts and Rhode Island are overseen by a central council that represents the feedback of a wide range of stakeholders, while Vermont's programs are administered by an "Energy Efficiency Utility" that is independent from the electric companies in the state. New York can draw from the design of these successful programs as it commits to clearly defined and comprehensive energy efficiency targets. For example, Massachusetts is overseen by an Energy Efficiency Advisory Council,[35] Rhode Island is overseen by the Energy Efficiency Resource Management Council, and Vermont uses a Demand Resources Plan to set energy efficiency standards. Program administrators in Rhode Island and Massachusetts, including National Grid in Rhode Island, are reaching between 2.5-3% savings annually.[36]

The Rhode Island Energy Efficiency Program generated $2.3 billion in economic benefits since 2008 and 1.3 million MWh in electricity savings.[37] According to the State of Rhode Island's Energy Efficiency and Resource Management Council, "[i]n total, the effects of energy efficiency over the last decade account for approximately 20% of Rhode Island's electricity needs. Without these cost-effective investments, which averaged less than 4 cents per kilowatt-hour saved, Rhode

[33] *See* Case No. 14-M-0094, Clean Energy Advisory Council (CEAC), *Energy Efficiency Procurement and Markets Report* at 9 (May 19, 2017).
[34] American Council for and Energy-Efficient Economy, *2017 State Energy Efficiency Scorecard* at 9 (Sept. 2017).
[35] For more information see http://ma-eeac.org/.
[36] Synapse Energy Economics, Inc., *Aiming Higher: Realizing the Full Potential of Cost-Effective Energy Efficiency in New York* at i (April 2016).
[37] State of Rhode Island Energy Efficiency & Resource Management Council (May 2017), *available at* https://rieermc.ri.gov/2017-eermc-annual-report.

Islanders would be paying more than twice that amount to procure approximately 20% more electricity."[38]

According to the Vermont Public Service Board, "investments made by EVT in 2015 are projected to save Vermont a net present value of $89,700,000 over the 12-year average lifetime of the investments ($172,800,000 in net present value benefits minus $83,100,000 in 2015 investments)."[39]

D. NMPC Should be Allocated the Resources It Needs to Achieve More Ambitious Energy Efficiency Targets

To meet Governor Cuomo's commitment to adopt a 2025 energy efficiency savings target, it is essential that all state utilities ramp up annual savings from energy efficiency. Thus, as set forth above, far more ambitious targets than those contained in the JP are necessary. Merely increasing the targets in the EAMs is not enough, however, without also increasing permissible annual energy efficiency costs to achieve those targets. Section 13.2 of the JP states that the annual electric ETIP costs included in base rates are $51.458 million. Further, pursuant to the JP, "[t]he electric and gas ETIP costs are subject to a downward-only reconciliation over the term of the Rate Plan."[40] This cap on spending would prevent the achievement of more ambitious energy efficiency targets. A comprehensive strategy to achieve significantly more incremental energy efficiency will require more spending on energy efficiency investments, even if NMPC pursues those investments in its role as a Distributed Platform Provider (since in that role it would still have to provide a price signal to third party energy efficiency developers). Accordingly, in ordering modifications to the JP targets, the Commission should also order proportional modifications to

[38] *Id.*
[39] Vermont Public Service Board, *Report on 2015 Energy Efficiency Utility Program Revenues and Expenditures Pursuant to 30 V.S.A. § 209(d)(3)(A)* at 3 (Jan. 23, 2017), *available at* http://puc.vermont.gov/sites/psbnew/files/doc_library/EEUReportToLegislature2015%28Jan2017%29.pdf.
[40] JP at § 13.2.

NMPC's energy efficiency budget. While energy efficiency, like any other resource, costs money to procure, overall these investments will accrue to the benefit of customers, lowering bills and reducing emissions.

In sum, the Commission should order modifications to the JP that significantly expand its energy efficiency targets, while providing NMPC with the financial resources necessary to achieve those targets through cost-effective investments. It should also make clear that the JP shall be supplemented with additional efforts achieved pursuant to comprehensive energy efficiency program to be announced on Earth Day.

V. The JP's Failure to Address NMPC's High Fixed Charges for Electric Customers is Inconsistent with State and Commission Environmental, Social and Economic Policies

A. NMPC's High Fixed Charges Reduce Residential Customers' Incentives to Invest in DER and Energy Efficiency

Like most utilities, NMPC's electricity rates for residential customers are comprised of two basic parts – the fixed monthly charge, which NMPC is proposing to keep at $17, and a volumetric per-kilowatt hour charge. Because utilities have a fixed revenue requirement, higher fixed charges necessarily lead to lower volumetric charges. By reducing the value of a kWh saved or self-generated, a high fixed charge directly reduces the incentives for customers to invest in energy efficiency or distributed energy resources ("DER"), which hurts the economics of an investment in energy efficiency or renewable energy.

NMPC's monthly residential fixed charge of $17 is significantly higher than its fixed charges in other states where it operates. For example, National Grid, NMPC's parent company, has fixed charges of only $5 in Rhode Island and $5.50 in Massachusetts.[41] In contrast, decreasing

[41] LeBel Testimony at 28, Exh. 492.

the fixed charge and increasing the volumetric charge would result in the same revenue for NMPC but would send improved price signals to residential customers and would result in lower monthly bills for a majority of them. As more fully explained in Section IV above, because a majority of NMPC customers use less than the average amount of electricity, these customers would see a reduction in their monthly electricity bills and all customers would benefit from an increased ability to save money by reducing their energy use.

Finally, NMPC's high fixed charges make it more difficult for New York to meet its climate and clean energy goals. As more fully explained in Section IV, New York's current efforts to increase statewide energy efficiency are insufficient to meet the state's Clean Energy Standard, which requires state utilities to procure 50 percent of the state's electricity from eligible clean energy sources by 2030.[42] In light of Governor Andrew Cuomo's recent announcement to develop a comprehensive statewide energy efficiency plan by April 22, 2018, including a 2025 energy efficiency savings target,[43] NMPC's proposal to maintain a high fixed charge of $17 for its residential customers for the next three years as is contemplated in the JP makes reaching any such target much more difficult.

B. NMPC's High Fixed Charges Are Contrary to the Goals of the State's Reforming the Energy Vision

The Commission's *Order Adopting Regulatory Policy Framework and Implementation Plan*, issued February 26, 2015,[44] listed six REV objectives:

- Enhanced customer knowledge and tools that will support effective management of the total energy bill;

[42] New York State Energy Planning Board. *The Energy to Lead, 2015 New York State Energy Plan* at 112 (Dec. 2015), *available at* https://energyplan.ny.gov/Plans/2015.aspx.
[43] New York State, *Governor Cuomo Unveils 20th Proposal of 2018 State of the State: New York's Clean Energy Jobs and Climate Agenda, available at* https://www.governor.ny.gov/news/governor-cuomo-unveils-20th-proposal-2018-state-state-new-yorks-clean-energy-jobs-and-climate.
[44] Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision.

- Market animation and leverage of customer contributions;
- System wide efficiency;
- Fuel and resource diversity;
- System reliability and resiliency; and
- Reduction of carbon emissions.

NMPC's rate design that imposes a $17 fixed charge is directly contrary to at least four of these objectives. First, NMPC's $17 fixed charge deprives customers of the "knowledge and tools that will support effective management of the total energy bill" because it greatly reduces customers' ability to effectively manage their energy bill by taking steps to conserve energy and install DER. Second, NMPC's high customer charge discourages "customer contributions" to achieving REV goals by conserving energy and by investing in DER because, as more fully explained above, it reduces the value of a kWh saved or self-generated. Third, NMPC's high customer charge discourages "fuel and resource diversity" by reducing the incentive for customers to invest in DER. Finally, NMPC's high customer charge inhibits "reductions in carbon emissions" by decreasing the incentive to invest in energy efficiency and DER. It is clear that NMPC's failure to reduce its high fixed charge and its proposal to maintain it for the next three rate years is ultimately incompatible with the energy future envisioned by REV, a process which has as its goal high rates of distributed energy resources and increased energy efficiency.

C. NMPC's High Fixed Charges Penalize Low-Usage Customers Who Tend to be Low Income

i. Lowering NMPC's $17 Fixed Charge Would Benefit a Majority of Residential Customers

The majority of NMPC's residential customers would benefit from lower customer charges, even if volumetric kWh rates are correspondingly increased. As a matter of mathematics,

lower fixed charges and higher volumetric rates leads to a lower bill for any customer with lower than average (mean) usage. Given the distribution of kWh consumption in NMPC's service territory where some residential customers use large amounts of electricity, approximately 60% of residential customers use less than the average amount of electricity.[45] For example, in 2016, the average amount of electricity used by a residential customer per month was 639 kWh.[46] However, amount of electricity used in the median bill was only 507 kWh.[47] Thus, the majority of residential customers use lower than average amounts of electricity, and these customers would see lower monthly bills if NMPC's fixed charge was reduced.[48]

ii. Low-Income Customers Generally Use Less Energy than Average and Would Benefit from Lower Fixed Charges

With smaller homes and fewer appliances, low-income customers tend to use less electricity than higher-income counterparts and would thus benefit more from lower fixed charges. This is confirmed by data from the National Consumer Law Center (NCLC), which has shown that low-income households consume less electricity on average.[49] Thus, as explained above, high customer charges result in higher monthly electricity bills for these low-income households. In NMPC's service territory, existing low-income customers have modestly lower average annual consumption, at 612 kWh per month,[50] than the overall residential population of 639 kWh per month.[51] Thus, lowering NMPC's fixed charge would benefit most low-income customers and is consistent with State and Commission policies to reduce the energy burden on low-income customers.

[45] Attachment 1 to AC-1 IR-7.
[46] AC-3 IR-1.
[47] AC-3 IR-2.
[48] Attachment 1 to AC-1 IR-7.
[49] Exh. 496.
[50] In Pace-1 AD-4, over the course of 2016, there are 1,237,950 low-income customer bills and usage of 757,203,955 kWh on those bills, for a calculated average of 612 kWh.
[51] AC-3 IR-1.

D. The Commission Can Act to Mitigate Potential Impacts on Low-Income Electric Heating Customers

While low-income customers have lower average consumption from May through November than other residential customers, they have modestly higher average consumption from December through April.[52] While these averages may be biased through self-selection of customers with larger bills into energy assistance programs, they are also consistent with significant numbers of low-income customers having inefficient electric resistance heating. Programs to help low-income customers replace electric resistance heating with efficient and clean alternatives, notably efficient electric heat pumps, would help address this issue. This issue could also be productively addressed by implementing seasonal kWh rates, with higher charges in the peak summer months and lower charges in other months. Seasonal kWh rates both provide improved economic incentives, but also mitigate any impacts on low-income customers with high bills due to electric resistance heating.

VI. The JP's Transportation Electrification Investments Are Unlikely to Meaningfully Accelerate EV Adoption and are Not Consistent with State Goals

A. New York Has Ambitious, Yet Achievable, Electric Vehicle Goals that are Unlikely to be Met Without Electric Utility Engagement

New York has several complementary goals and policies intended to accelerate electric vehicle (EV) adoption and reduce transportation sector emissions. In 2014 under Governor Cuomo's leadership, New York joined the multi-state Zero Emissions Vehicle (ZEV) agreement that requires the deployment of 3.3 million EVs by 2025.[53] New York's portion of the ZEV

[52] Pace-1 AD-4.
[53] New York State, *Governor Cuomo Announces Multi-State Plan to Increase the Number of Zero-Emission Vehicles in the U.S.*, May 29, 2014, *available at* https://www.governor.ny.gov/news/governor-cuomo-announces-multi-state-plan-increase-number-zero-emission-vehicles-us.

commitment amounts to approximately 800,000 EVs by 2025.[54] However, estimated EV sales to-date hover near 28,500 vehicles – approximately three and a half percent of New York's fast-approaching ZEV goal.[55] New York also established the Charge NY initiative that promises the installation of 3,000 public charging stations by 2018 and 10,000 stations by 2021.[56] Analysis by the National Renewable Energy Laboratory (NREL) finds that in order to support approximately 600,000 EVs in New York, 29,100 Level 2 ports and 740 Direct Current Fast Charging (DCFC) ports may be needed.[57] Currently, there are approximately 850 public EV charging stations and 1,800 charging ports in New York.[58] Achievement of the state's goals requires action from all areas of the state – particularly upstate counties where EV penetration rates are relatively low.[59]

Fortunately, New York has a suite of policies in place to accelerate EV adoption, including New York State Energy Research & Development Authority's (NYSERDA) Drive Clean EV rebate program that provides New Yorkers with the opportunity to save up to $2,000 on the purchase of a new EV.[60] The state also has incentives for the electrification of medium and heavy-

[54] Precious, Tom, *Race Against Time: NY Struggles to Compromise on Zero-Emission Vehicles Before Session Ends*, March 15, 2016, *available at* http://www.govtech.com/fs/Race-Against-Time-New-York-Struggles-to-Compromise-on-Zero-Emission-Vehicles-Before-Session-Ends.html. Compliance with the ZEV program is based on the number of credits that automakers generate by selling EVs. Selling one vehicle is not necessarily equivalent to generating one credit, and the credits vary by vehicle sold. For these reasons, the number of EVs needed for New York's compliance with ZEV is an estimate.

[55] Alliance of Automobile Manufacturers, *Advanced Technology Vehicle Sales Dashboard*, available at https://autoalliance.org/energy-environment/advanced-technology-vehicle-sales-dashboard. In comparison, California has more than 330,000 EVs and is approximately 23 percent of the way toward achieving its 1.5 million EV goal by 2025.

[56] New York State, *2018 State of the State*, *available at* https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2018-stateofthestatebook.pdf.

[57] Wood et al., *National Plug-In Electric Vehicle Infrastructure Analysis*, National Renewable Energy Laboratory, September 2017, *available at* https://www.nrel.gov/docs/fy17osti/69031.pdf. Note that 600,000 EVs is approximately three-fourths of the state's ZEV goal. More infrastructure is likely needed to support EV penetration consistent with state policy.

[58] Alternative Fuels Data Center, *Electric Vehicle Charging Station Locations*, accessed December 20, 2017, *available at* https://www.afdc.energy.gov/fuels/electricity_locations.html.

[59] Joint Utilities, *Supplemental Distribution System Implementation Plan*, p. 113, November 1, 2016, *available at* http://jointutilitiesofny.org/wp-content/uploads/2016/10/3A80BFC9-CBD4-4DFD-AE62-831271013816.pdf.

[60] NYSERDA, *Drive Clean Rebate for Plug-In Electric Cars*, *available at* https://www.nyserda.ny.gov/All-Programs/Programs/Drive-Clean-Rebate. This figure does not include savings of up to $7,500 from the federal EV tax credit.

duty transportation, which remains critical for reducing transportation greenhouse gas (GHG) emissions and mitigating diesel tailpipe emissions that negatively impact local air quality. These policies are necessary, but may not be sufficient to accelerate transportation electrification in a manner consistent with the state's transportation and climate goals.

A growing number of legislatures, public utilities commissions, original equipment manufacturers (OEMs), EV charging service providers, environmental organizations, consumer advocates, labor groups, and other organizations across the country recognize that electric utilities have a role to play in facilitating the growth of the EV market.[61] Utility transportation electrification programs can address critical barriers to EV adoption, including but not limited to: challenges to smart rate design that can maximize the fuel cost savings upon which many EV purchases are premised, limited provision of strategically deployed charging infrastructure, and lack of customer awareness of EVs.[62] If well designed, utility engagement in transportation electrification can simultaneously foster a competitive market for EV charging services, provide benefits to all utility customers regardless of whether they drive electric vehicles, drive substantial GHG and air pollutant emissions reductions, and ultimately increase access to electricity as a transportation fuel for all customers, including those in underserved communities. Recent analysis by M.J. Bradley & Associates demonstrates New York has the potential to reap $17.8 billion in cumulative benefits by 2050 from lower utility customer electric bills, reduced vehicle fueling and maintenance costs, and decreased GHG emissions.[63]

[61] Transportation Electrification Accord, *available a*t https://www.theevaccord.com.
[62] Baumhefner, Max, Hwang, Roland, Bull, Pierre, *Driving Out Pollution: How Utilities Can Accelerate the Market for Electric Vehicles*, June 2016, *available at* https://www.nrdc.org/sites/default/files/driving-out-pollution-report.pdf.
[63] Lowell, Dana, Jones, Brian, Seamonds, David, *Plug-In Electric Vehicle Cost-Benefit Analysis: New York*, February 14, 2017, *available at* https://www.nrdc.org/sites/default/files/driving-out-pollution-report.pdf.

Transportation electrification emerged as a topic of interest in REV, yet there has been only modest action to-date on EVs. While REV has afforded the opportunity for utility-led demonstration projects, these initiatives alone will not drive the EV market forward. The Joint Utilities (JU) has also been tasked with the development of an EV Readiness Framework as a part of the Distribution System Implementation Plan (DSIP) by early 2018.[64] The EV Readiness Framework promises to explore several key facets of planning for increased EV adoption, yet it does not specify that the utilities will develop any plans to accelerate the EV market beyond a limited set of demonstration projects.[65] Without deliberate action taken by the utilities to achieve the objectives of the EV Readiness Framework, the state will be challenged to meet its climate and clean transportation goals.

B. NMPC's Proposed EV Program is Too Small and Undefined to Meaningfully Accelerate EV Adoption Relative to Its Own Affiliates and Other Leading Utilities

We appreciate NMPC's interest in the development of an Electric Transportation Initiative that would accelerate EV adoption in its service area. However, the $2 million program in the JP does not appear to be robust enough to meaningfully drive EV adoption forward. This program investment is diminutive relative to what NMPC's comparably-sized affiliates have proposed in other Northeast states: the Company has proposed a $23.8 million program to support the deployment of nearly 1,300 charging ports in Massachusetts, respectively, to support their ZEV targets.[66] Eversource in Massachusetts recently received Department of Public Utilities' approval

[64] *See* fn 59.
[65] *Id*. Consolidated Edison has since developed a Request for Information (RFI) on $25 million of pilot demonstration projects and committed to other initiatives to accelerate the EV market.
[66] Massachusetts Department of Public Utilities Docket 17-13, *Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for Approval of its Electric Vehicle Market Development Program, and of its Electric Vehicle Market Development Program Provision, pursuant to G.L. c. 164, §§ 76, 94, and Acts of 2016, c. 448, available at* http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber; Rhode Island Public Utilities Commission Docket 4770, *The Narragansett Electric Co. d/b/a National Grid - Application for Approval of a Change in Electric and Gas Base Distribution Rates, available at* http://www.ripuc.org/eventsactions/docket/4770page.html. Portions of the total program budgets are also dedicated

for a $45 million EV program to support the deployment of over 4,000 charging ports.[67] Following a comprehensive stakeholder process, three Maryland utilities have recently submitted a proposal to collectively deploy a $104 million EV program to deploy 28,000 chargers and other market acceleration programs to the Maryland Public Service Commission.[68] San Diego Gas & Electric, Southern California Edison, and Pacific Gas & Electric have collectively received regulatory approval for nearly $200 million to deploy 12,500 charging stations.[69] Since that approval, each of the three California utilities has now submitted multiple regulatory filings that take a comprehensive, portfolio-style approach to transportation electrification, including charging infrastructure deployment in multi-unit dwellings, workplaces, highway corridors, ports, airports, bus depots, and other light, medium, and heavy-duty applications.[70] Other utilities around the region and the country are proposing similar programs and investments necessary to jumpstart the growing EV and EV charging services markets and achieve state environmental and transportation goals.

Moreover, the structure of the Customer Products offering leaves the potential to increase by up to another $2 million, but does not guarantee how or when utility customer funding will be

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to customer education and outreach, data collection and reporting, and smaller innovative pilot programs. Both proposals in Massachusetts and Rhode Island are currently under regulatory review.

[67] Massachusetts Department of Public Utilities Docket 17-05, *Petition of NSTAR Electric Company and Western Massachusetts Electric Company, each doing business as Eversource Energy, Pursuant to G.L. c. 164, § 94 and 220 C.M.R. § 5.00 et seq., for Approval of General Increases in Base Distribution Rates for Electric Service and Approval of a Performance Based Ratemaking Mechanism, available at* http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber.

[68] Merchant, Emma, *Maryland Could Soon Have the Second-Largest EV Charging Network in the US*, GreenTech Media, January 26, 2018, *available at* https://www.greentechmedia.com/articles/read/maryland-second-largest-ev-charging-network#gs.5b_7hF4.

[69] California Public Utilities Commission, *IOU Infrastructure Programs, available at* http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Infrastructure/RDD_and_Emerging_Programs/Alternative_Fuel_Vehicles/IOUInfrastructurePrograms.pdf.

[70] California Public Utilities Commission, *Transportation Electrification Programs Pursuant to Senate Bill 350, available at* http://www.cpuc.ca.gov/sb350te/.

spent between EVs and electric heat pumps; this potentially creates greater uncertainty for site hosts and EV service providers willing to participate in the program.[71]

Finally, transportation electrification is a critical area of development in the utility regulatory landscape. Many foundational issue areas arise in designing transportation electrification programs that will drive the EV market forward, including but not limited to: prioritization of market segments and charging station types, EV charging service provider engagement, load management, customer education and outreach, and data collection and reporting. Further detail on these important topics is all but absent from the JP. To ensure that utility transportation electrification programs reasonably allocate limited resources towards initiatives that will allow the EV market to grow, it is important for utilities to explain the rationale behind their proposals, as National Grid's affiliates have done in Massachusetts, and report on key program metrics to evaluate program success. Reasonable estimates of incremental program costs and benefits and stakeholder input are also key elements of a successful electric vehicle program, just as with energy efficiency.

C. The Commission Should Establish a Central, Statewide Transportation Electrification Proceeding that Requires Utilities to Submit Proposals to Accelerate Transportation Electrification in a Manner Consistent With New York's ZEV and Climate Goals

There is a clear disconnect between the state's ambitious policy goals and individual utility rate cases. To bridge the gap, we ask the Commission to establish a central, statewide process to provide all regulated utilities with the opportunity to file comprehensive proposals to accelerate transportation electrification in their service areas. As with energy efficiency, a central process will facilitate more analytical rigor, and allow for more consistent and longer-term planning between utilities. At a minimum, the utilities should develop proposals that bring the state

[71] JP at 106.

significantly closer to its ZEV goal of approximately 800,000 EVs by 2025 and Charge NY goal of 3,000 charging stations by the end of 2018 and 10,000 by 2021. These near-term targets demand that a centralized proceeding be nimble and focused with clear expectations for review and approval of utility proposals to increase EV adoption; the state can ill-afford to engage in protracted processes or debate whether further action on transportation electrification is needed. While utility transportation electrification demonstration projects are and will continue to be important for testing new technologies and business models, they are not sufficient to achieve the market transformation necessary to realize New York's goals. More robust utility programs will not only enhance and complement the state's existing clean transportation program efforts, but they will also be critical to ensure that transportation electrification benefits all New Yorkers.

VII. The JP's Failure to Address NMPC's Proposed C&I Demand Charges is Directly Contrary to the Commission's May 19, 2017 Order and Not Consistent with Environmental, Social, and Economic Policy

In the JP, NMPC proposes to maintain its existing C&I demand charges, which are based on a customer's peak 15-minute usage at any point during a billing period, even if the customer's peak is at a time that is unlikely to be a local or system peak hour.[72] However, an individual customer's peak usage is much less relevant to system costs than a combined load shape across customer classes, and thus demand charges should be generally aligned with delivery system peaks. The JP's failure to address this issue is directly contrary to the Commission's May 19, 2016 Order that this issue be addressed in rate cases, particularly since DPS Staff has stated that they will not address C&I demand charges in ongoing VDER Working Groups.

[72] *See* JP § 3.3.

A. The Commission's May 19, 2016 Order Requires Staff to Examine Existing C & I Demand Charges in Rate Cases to Make Them More Time Sensitive

In its *Order Adopting a Ratemaking and Utility Revenue Model Policy Framework*, issued May 19, 2016 (the "Track 2 Order"),[73] the Commission addressed several rate design reforms to enable the growth of an increasingly clean and modernized power system envisioned by REV. In particular, the Track 2 Order addressed certain rate design changes that would provide more accurate value signals while meeting public policy objectives. With respect to demand charges for large customers, the Commission clearly expressed its intent that these charges be addressed in utility rate cases by stating unambiguously that "rate cases *will examine the existing demand charges applicable to commercial and industrial customers* to see if they can be made more time-sensitive."[74] As described in Acadia Center's testimony, NMPC's current demand charges are based individual customer's non-coincident peaks, which leaves considerable room for improvement.[75] As a result, it is clear that the failure to address this issue in the JP contravenes the Commission's specific instructions to do so.

B. Staff Has Indicated that They Will Not Address C&I Demand Charge Reform in VDER Working Group Proceedings in 2018

On July 28, 2017, a notice was issued in the VDER dockets indicating the scope of the ongoing Phase 2 Working Groups.[76] In Appendix B for the Rate Design Working Group, "Commercial & Industrial Rate Reform" was listed as priority four, including reforms to demand

[73] Case 14-M-0101 – Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (May 19, 2016) ("Track 2 Order").
[74] Track 2 Order at 27 (emphasis added).
[75] LeBel Testimony at 34-35, Exh. 492.
[76] *See* http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/8a5f3592472a270c8525808800517bdd/$FILE/47671754.pdf/Notice%20of%20Initial%20Scopes%20for%20Phase%20Two%20Working%20Groups%20(7-28-17).pdf.

charges.[77] However, no work has taken place on C&I demand charges to date in the VDER proceeding and a recently released DPS Staff schedule for this proceeding does not include any reference to C&I demand charge reform.[78] Furthermore, in a VDER Rate Design Working Group meeting on December 20, 2017, when directly asked by Acadia Center staff whether C&I demand charge reform would be addressed by the group in 2018, DPS Staff replied that it would not. Thus, the parties' failure to address this in the Joint Proposal combined with the lack of substantive inclusion in the VDER Working Group proceedings means that there is no venue where this important issue can be discussed and reforms can be made on a reasonable timeframe.

C. Failure to Make Incremental Changes to C&I Demand Charges is Contrary to State and Commission Environmental, Social and Economic Policies

As described in the Track 2 Order, "prices must encourage efficient investment decisions by customers."[79] This is the underlying basis for all of the rate design reforms taking place in REV, and reflects a number of the high-level principles in REV. In the context of C&I rate reform, the Track 2 Order specifically noted that "[a] customer should be encouraged to move its own peak demand to a time that is off-peak for the system (or for the local distribution circuit) when the system savings exceed the cost of shifting."[80] The current demand charges for NMPC C&I customers do not have any links to system or local peaks, and thus clearly fail this principle. Furthermore, failure to make incremental changes now hinders progress in the future. The principle of gradualism, which is both a traditional regulatory principle and a REV principle, means that only modest changes should be made at any one time. Incremental change in this rate case means that more substantial reforms can be considered in the next NMPC rate case. Failure

[77] Case 17-1277 – Proceeding on Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design.
[78] Case 17-1277 – Proceeding on Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design, *VDER Value Stack and Rate Design Working Group Process and 2018 Schedule* (Dec. 19, 2017).
[79] Track 2 Order at 118.
[80] *Id*. at 120.

to make any reforms in this rate case means that only a modest reform can be considered in the next rate case.

Respectfully submitted,

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