

Empire State Development

April 25, 2012

Honorable Jaclyn A. Brillling, Secretary
New York State Department of Public Service
Three Empire Plaza 19th Floor
Albany, New York 12223-1350

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Re: Case 11-M-0542 - In the Matter of the Commission's Implementation of Certain Provisions of the Excelsior Jobs Program

Excelsior Jobs Tariff Provisions – Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., KeySpan Gas East Corporation d/b/a National Grid, National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas & Electric Corporation, St. Lawrence Gas Company, Inc., and the Brooklyn Union Gas Company d/b/a National Grid NY

Dear Secretary Brillling:

In response to the New York Public Service Commission's ("PSC or "the Commission") State Administrative Procedure Act notice published in the New York State Register on March 21, 2012, please accept these comments on behalf of the New York State Department of Economic Development (ESD).

In this proceeding the PSC is considering whether to approve, modify or reject, in whole or in part, Excelsior Jobs Program ("EJP") electric and gas tariff schedules filed by the above referenced utility companies in compliance with the Commission's Notice to File Proposed Tariff provisions issued December 9, 2011 ("Notice"). The EJP tariffs are authorized in Section 66 (12-d) of the New York State Public Service Law (PSL) and provide for a discounted utility delivery rate at the utility's incremental cost of service for EJP program participants.

ESD is the state's chief economic development agency and administers the EJP to help stimulate new private sector investment and job creation in New York State. The EJP provides tax credits to eligible firms that invest and create jobs in targeted sectors such as high-tech, clean-technology, biotechnology and manufacturing. ESD supports the tariff filings by the utility companies in this proceeding.

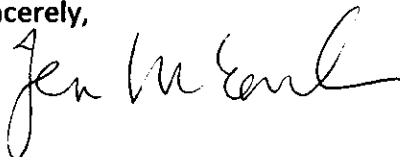
Regarding the determination of EJP delivery rates, the provisions of PSL Section 66-d relating to the amount of the Excelsior Jobs Program gas and electric rates mirror those of the existing Empire Zones ("EZ") rates authorized under New York PSL Section 66 (12-c). In this proceeding, the PSC directed those utilities that have EZ rates to file proposed EJP tariff rates equal to their existing EZ delivery rates. For utility companies that do not have EZ rates, but submitted marginal cost of service studies in their last major rate case, the PSC directed those utilities to file proposed EJP delivery rates reflecting the applicable marginal costs contained in those studies, and adjusted for any modifications adopted by the Commission. For utilities that do not have EZ rates and did not submit a marginal cost of service study in their last major rate case, the PSC stipulated that those utilities file proposed interim EJP delivery rates which estimate the applicable marginal delivery costs. Further, the PSC directed that those utility companies with estimated EJP rates should submit a marginal cost of service study in their next major rate filing before the Commission for determination of applicable EJP rates.

The EJP tariffs will supplement the program's tax incentives by providing discounted electric and natural gas delivery rates for eligible customers for up to a ten-year term. The provision of discounted electric and gas delivery rates via these tariffs enhances the EJP and the State's competitiveness in the attraction of new business investment and job creation. ESD will work closely with the utility companies in the administration of the EJP tariffs, including maintenance of strict accountability standards to ensure that businesses in the program are in compliance with job and investment commitments. ESD will provide the appropriate utility company with the following documentation for each customer in the EJP: (1) Certificate of Eligibility and (2) Certificate of Tax Credit.

Several utility companies, including Consolidated Edison (electric service), New York State Electric and Gas Corporation (gas service), Rochester Gas and Electric Corporation (gas service) and Orange and Rockland Utilities (electric and gas service) informed the PSC that they will not offer EJP delivery discounts at this time because their marginal costs exceed average delivery rates as determined in their last rate case. ESD recommends that the Commission review the relationship between electric and gas delivery rates and marginal costs for these utilities in their next major rate case, and approve applicable EJP delivery rates.

Thank you for the opportunity to comment.

Sincerely,



Jennifer McCormick
Vice President, Business Advocacy, Policy & Research