

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on December 14, 2017

COMMISSIONERS PRESENT:

John B. Rhodes, Chair  
Gregg C. Sayre  
Diane X. Burman, dissenting  
James S. Alesi

CASE 17-M-0315 - In the Matter of the Utility Energy Registry.

CASE 16-M-0411 - In the Matter of Distributed System  
Implementation Plans.

CASE 14-M-0224 - Proceeding on Motion of the Commission to  
Enable Community Choice Aggregation Programs.

ORDER ESTABLISHING COMMUNITY  
CHOICE DATA ACCESS FEES

(Issued and Effective December 14, 2017)

BY THE COMMISSION:

INTRODUCTION

As the energy industry evolves through New York's Reforming the Energy Vision (REV) initiative toward a business model for a power system that is more distributed, nimble, and consumer-focused, a foundational element of progress is the creation of a more information-centered power system. The modernized distribution platform model for the electric system must promote the exchange of information to enable a multi-sided market for distributed energy resources (DERs). Access to system and customer data are key components for efficient markets. As the New York State Public Service Commission

(Commission) stated in its REV Track 2 Order,<sup>1</sup> ready access to information regarding customer energy usage is vital to the success of the DER market. Further, individual initiatives that have been developed as part of REV have specific data needs. In particular, for Community Choice Aggregation (CCA) programs to function, municipalities and the CCA Administrators they retain must be able to access both aggregated and individual customer data. The Commission's CCA Order described these needs and, recognizing that providing this data would impose costs on the utilities, directed the large investor-owned electric and gas distribution utilities<sup>2</sup> to file proposed tariffs.<sup>3</sup>

The REV Track 2 Order also encouraged the continued development of the Utility Energy Registry (UER), which is an online platform being developed by the New York State Energy Research and Development Authority (NYSERDA), with the support of the utilities, to provide streamlined public access to

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<sup>1</sup> Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenues Model Policy Framework (issued May 19, 2016) (REV Track 2 Order); see also Case 16-M-0411, In the Matter of Distributed System Implementation Plans, Order on Distributed System Implementation Plan Filings (issued March 9, 2017) (DSIP Order).

<sup>2</sup> As used in this Order, "the utilities" refers to Consolidated Edison Company of New York, Inc. (Con Edison), Orange and Rockland Utilities, Inc. (Orange & Rockland or O&R), Central Hudson Gas & Electric Corporation (Central Hudson or CHGE), National Fuel Gas Distribution Corporation (NFG), The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), KeySpan Gas East Corporation d/b/a National Grid (KEDLI), and Niagara Mohawk Corporation d/b/a National Grid (National Grid), New York State Electric & Gas Corporation (NYSEG), and Rochester Gas and Electric Corporation (RG&E).

<sup>3</sup> Case 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016) (CCA Order).

community-scale utility energy demographics. The UER is intended to promote and facilitate community-based energy planning and energy use awareness.

This Order establishes fees for access to aggregated community load data, as well as the customer information needed for opt-out mailings, for CCA programs. This Order also resolves a Petition for Reconsideration and/or Clarification filed by the utilities (CCA Utility Petition) in Cases 16-M-0015 and 14-M-0224 on November 20, 2017, by clarifying the means by which specific data transfers may be conducted.<sup>4</sup>

While the Commission supports the development of the new UER database platform, application of the Commission's general privacy standard<sup>5</sup> to the UER indicates that much of the aggregated data intended to be used to populate the UER fails to meet that standard. Populating the UER without any of that data would limit the availability of the UER data for most communities and diminish its usefulness. Before finalizing the UER, the Commission will seek further comment on the privacy standard to ensure an appropriate balance between the benefits of improving public access to community data and the need for robust privacy protections.

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<sup>4</sup> The CCA Utility Petition requested reconsideration or clarification of the Order Approving Community Choice Aggregation Program and Utility Data Security Agreement with Modifications (MEGA Order), issued October 19, 2017 in Cases 16-M-0015 and 14-M-0224.

<sup>5</sup> Case 16-M-0411, supra, Order on Distributed System Implementation Plan Filings (DSIP Order). The DSIP Order set a 15-by-15 standard, which permits a set of aggregated data to be considered sufficiently anonymous for public distribution only if that data includes at least 15 customers, each of which must represent less than 15% of the total consumption of the customer group. However, the Commission recognized in the DSIP Order that the 15-by-15 standard may be overly conservative.

BACKGROUND

CCA Tariff Fee

The CCA Order directed utilities intending to charge fees for the provision of aggregated and customer-specific data for CCA programs to file proposed tariffs for the Commission's consideration. The CCA Order recognized that until fully automated systems are developed to produce and transfer aggregated data, costs will continue to be incurred by the utility to manually gather and process the data. Utilities were directed to accompany those tariffs with an explanation of why the proposed fees are reasonably related to the value of the data and cost to the utility of producing the data. Further, to avoid creating barriers for municipalities considering CCA programs and to permit the funds to pay those fees to be provided by a selected supplier and recovered through the supply service, the CCA Order also declared that the fee should be entirely or mostly back-loaded and dependent upon signing an agreement with an energy services company (ESCO) and the enrollment of customers.

CCA programs require the utility to transfer, at different stages of the program, three types of data: (a) aggregated customer data to support procurement; (b) customer contact information to send opt-out letters; and (c) detailed customer information to enroll and serve each customer. For procurement purposes, aggregated data would include the number of eligible customers by service class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months, by service class to the extent possible, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months of eligible customers by service

class.<sup>6</sup> The customer contact information needed to mail opt-out notices would include the customer of record's name, mailing address, and primary language, if available, and any customer-specific alternate billing name and address.<sup>7</sup> After the end of the opt-out period and enrollment of customers, transfers of customer data will occur pursuant to the general standards for transfers of data to ESCOs through the electronic data interchange (EDI).<sup>8</sup>

REV Track 2 Order and Distribution System Platform

In the REV Track 2 Order, the Commission determined that utilities may not charge for basic levels of customer usage data shared with the customer or with vendors authorized by the customer.<sup>9</sup> The Commission stated that information should be free of charge to the customer where the cost of installation and use of utility meters, which generate that information, is borne by utility customers as part of regulated rates. The Commission found that precluding utilities from charging for this basic

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<sup>6</sup> Case 14-M-0224, supra, CCA Order at Appendix D: 33(i).

<sup>7</sup> Id. at 35(a)(i). In the Order Approving Community Choice Aggregation Program and Utility Data Security Agreement with Modifications, issued October 19, 2017 in Case 16-M-0015, the Commission determined that account numbers are not essential to identify customers to conduct the opt-out phase.

<sup>8</sup> EDI is a system for the computer-to-computer exchange of routine information in a standard format using established data processing protocols. EDI transactions are used in retail access programs to switch customers from one supplier to another and to transfer customers' history, usage information, and billing data between a distribution utility or Meter Data Service Provider (MDSP) and an ESCO. Transaction set standards, processing protocols and test plans are authorized in orders issued by the Commission. See, e.g., Case 98-M-0667, In the Matter of Electronic Data Interchange, Order Approving Modifications to the Electronic Data Interchange Standards (issued December 7, 2015).

<sup>9</sup> Case 14-M-0101, supra, REV Track 2 Order, p. 139 et seq.

data will reduce market entry barriers and is consistent with the objective of facilitating market development. The basic level of customer data that is to be provided free of charge was defined as the usage for each applicable rate element, including usage bands specified in the applicable tariff. This is the level of data necessary to render, reconstruct, and understand the customer's bill, which will ensure that customers have ready access to information necessary to fully understand how their energy usage affects their energy bill, as well as to understand how energy service offers from vendors may affect their utility bill. The REV Track 2 Order stated that utilities may charge for data that is more granular and/or more frequent than the basic data.

The REV Track 2 Order also discussed the UER portal developed by NYSERDA. As background, in 2012, NYSERDA organized a voluntary utility working group through the Climate Smart Communities (CSC) Coordinator Pilot Program to create a standard "Community Energy Report." Building on the Community Energy Report, NYSERDA developed the UER portal in 2015 to host the data from the Community Energy Report. The UER is an online platform intended to offer streamlined public access to community-scale utility energy demographics. It was initially designed to collect aggregated data for electricity and natural gas, segmented by customer type and by zip code, to inform clean energy planning, implementation, and assessment of locally-defined, community-scale clean energy initiatives and to facilitate tracking of clean energy programs. In compliance with the REV Track 2 Order, NYSERDA and a group of utilities have been discussing issues surrounding the UER.<sup>10</sup>

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<sup>10</sup> The REV Track 2 Order also required the utilities to file a progress report regarding automation efforts by September 1, 2016. Central Hudson anticipated that the programming

The REV Track 2 Order also invited utilities to propose and develop a new category of revenues called "platform service revenues." Recognizing that the nature and character of these services will evolve as markets evolve, the basic idea was to facilitate transaction-based fees for the utilities' new role of developing and operating the Distributed System Platform (DSP). The Commission found that regulated utilities should be allowed to earn revenues from activities whose principal effect is to facilitate the growth and operations of markets. These opportunities should include, in most cases, utilities assuming a portion of financial risk for the cost of offering the service, with proportionate opportunity for greater return. The criteria to be considered in approving potentially competitive services are (a) whether the service facilitates the growth and operations of markets; (b) whether there is already a third-party market for the service that adequately assists all sectors of the market; (c) whether utility economies of scale and/or existing utility expertise is likely to result in cost-effective stimulation of the market; (d) whether utility provision of the service is likely to prevent other providers from entering the

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framework to provide aggregated non-demand energy usage data by political district would be completed by mid-September 2016. NYSEG and RG&E explained that because it developed data queries for its system during the Sustainable Westchester pilot CCA, the queries needed would not require a large amount of manual intervention. National Grid stated that they will begin the automation process in mid-October 2016 and expected the development to extend 8-9 months. Con Edison and O&R planned to use their new Enterprise Data Analytics Platform (EDAP), which is part of their AMI and customer experience initiative, to integrate solutions for automation and that these solutions will be developed over the next 18 months starting in September 2016.

market; and, (e) the extent to which utility shareholder funds are at risk.<sup>11</sup>

To guide the transition of the utility model from the historical model to a dynamic model of a grid that encompasses both sides of the utility meter and relies increasingly on distributed resources and dynamic load management, the Commission established the DSP as the functional center of the REV framework. The DSP acts as a market maker, system coordinator (planning and operations) and the distribution utility to integrate DER into the system.

#### Supplemental DSIP

In their Supplemental Distribution System Implementation Plans filed November 1, 2016, the Joint Electric Utilities (JEUs)<sup>12</sup> distinguish between basic data, which would be available at no incremental cost, and value-added data that would be associated with a fee. The JEUs used the following examples of value-added data: system data, such as forecasted load data, circuit voltage profiles, power quality data; and customer data, such as aggregated data.

The JEUs proposed that value-added data be available for a fee determined through utility-specific fee structures. They state that value-added data goes beyond basic data by having one or more of the following characteristics:

- Is not routinely developed or shared;
- Has been transformed or analyzed in a customized way (i.e., aggregated customer data);
- Is delivered more frequently than basic data;

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<sup>11</sup> Case 14-M-0101, supra, REV Track 2 Order, p. 49.

<sup>12</sup> The Joint Electric Utilities consisted of Central Hudson Gas & Electric Corp., National Grid, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc.



- Is requested and provided on a more ad hoc basis; and/or
- Is more granular than basic data.

In the Supplemental DSIP, the JEUs also proposed the use of a 15-by-15 privacy standard to ensure that aggregated data sets made available without specific customer authorization were sufficiently anonymized. To comply with the 15-by-15 standard adopted in the DSIP Order, an aggregated data set may be shared only if it contains at least 15 customers, with no single customer representing more than 15% of the total load for the group. Recognizing that the standard may be conservative, the Commission indicated that it should be monitored to examine how it works in practice.

Utility Petition for Reconsideration and/or Clarification

After the end of a CCA program's opt-out period, the ESCO selected by the CCA must actually enroll the customers that did not opt out using EDI. In order to do so, the ESCO will need the utility account numbers of those customers. The MEGA Order states that those account numbers should be transferred to the ESCO by EDI. The CCA Utility Petition explains that there is no EDI transaction that would allow such a transfer, nor would such a transfer of a list of numbers be an appropriate use of EDI. For those reasons, the utilities request permission to instead transfer that data (i.e., a list of customer account numbers for customers eligible to be enrolled) via electronic mail in secured, encrypted spreadsheets or through access to a secure website.<sup>13</sup>

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<sup>13</sup> In the CCA Utility Petition, the utilities also emphasize that ESCOs that participate in CCAs will still be required to comply with the utilities' existing protocols, testing and onboarding processes to become certified to engage in EDI transactions with utilities. They also note that in the event the Commission requires a utility to provide highly sensitive

NOTICE OF PROPOSED RULEMAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking were published in the State Register on August 24, 2016 [SAPA Nos. 14-M-0224SP5, 14-M-0224SP6, 14-M-0224SP7, 14-M-0224SP8, 14-M-0224SP9, 14-M-0224SP10, 14-M-0224SP11, 14-M-0224SP12, and 14-M-0224SP13]. The time for submission of comments pursuant to the Notice expired on October 10, 2016. The comments received are addressed below.

UTILITY FILINGS AND COMMENTS

CCA Data Tariff Fees

Utility Proposals

Pursuant to the CCA Order, the utilities proposed data fees in filings submitted August 5, 2016. The proposed fees varied significantly between utilities, ranging from roughly \$1 to \$15 per customer account. The proposed fees were described as based on several different elements that can be grouped into three categories: (1) one-time programming costs (e.g., automation costs), (2) on-going costs (e.g., labor costs), and (3) the value of the data. The proposed fees are summarized below.

Con Edison and O&R proposed to establish a Platform Service Revenue (PSR) and charge \$3.00 per account for electric or gas CCA data services. The proposed PSR was designed so that the CCA Administrator or municipality would pay 10% of the fee upfront (\$.30) and the winning ESCO or the CCA Administrator would pay the remaining 90% of the fee (\$2.70) after an ESCO was selected. For additional data requests, the companies would charge \$1.50 per account for electric or gas. The companies suggest that 80% of the PSR be allocated to customers and 20% to

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data to the CCA or ESCO, the utilities may require the CCA administrator to procure cyber insurance.

shareholders. The companies developed the fee proposal by estimating the customer acquisition costs that an ESCO avoids by partnering with a CCA Administrator to supply participating CCA customers. The companies estimated the value of the data based on publicly available information and assert that average ESCO acquisition costs can range from \$75.00 to \$150.00 per customer. Con Edison and O&R therefore believe their proposed fee of \$3.00 per account represents a small fraction of the ESCO's avoided customer acquisition costs.

Central Hudson proposed on-going fees associated with the provision of three types of data: (1) aggregated customers and consumption (usage) data at \$.70 per customer, (2) customer contact data for the initial processing of opt-out letters at \$1.10 per customer, and (3) monthly list of new customers in a municipality at \$1.02 per customer. Central Hudson stated that it will assign 25% of the fee to be paid by the municipality and backload 75% of the fee to be paid by the ESCO. Central Hudson based its fees in part on the value of data<sup>14</sup> and submitted a worksheet explaining its cost estimates.

National Grid, on behalf of KEDNY, KEDLI and itself, proposed to charge (1) \$.12 per customer account for aggregated usage data (\$.10 for KEDNY), (2) \$1.08 per customer account for individual customer contact data for the initial processing of opt-out letters (\$.87 for KEDNY), and (3) \$1.08 per customer account for list of new customers moving into the CCA territory (\$.87 for KEDNY). National Grid based its fees in part on the value of data and submitted a worksheet explaining its cost estimates.

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<sup>14</sup> Central Hudson cited a recent study indicating that electric retail per customer acquisition costs range from \$265 to \$355.

NYSEG and RG&E proposed a fixed fee of \$1.04 per customer for providing the necessary data services. They based their cost on experiences from the Sustainable Westchester pilot.<sup>15</sup> The \$1.04 per customer includes costs for information technology (IT), administrative oversight of the CCA program, EDI testing and setup, customer service support, legal costs, and a market value for providing the services.

NFG proposed a fee of \$15 per customer account and asserts that this fee reflects both the value of the data and the costs of providing data associated with CCA programs not currently available to ESCOs. NFG notes that the provision of additional customer data pursuant to the CCA is comparable to providing historic usage data or payment history data, in addition to that required by the Uniform Business Practices (UBP). NFG's proposed tariff provides a \$15 fee for customer data requested by ESCOs for periods in excess of 24 months. It believes that a \$15 data fee is a fraction of the typical customer acquisition cost for traditional non-CCA ESCOs. NFG did not state what portion of the charge would be back-loaded or which entity is responsible to pay.

#### Comments

The Commission received comments on the utilities' proposed tariffs from five different parties: Citizens for Local Power (CLP), the City of New York (City), Good Energy, the Municipal Electric and Gas Alliance (MEGA), and the Pace Energy and Climate Center (Pace). The common themes in parties' comments were that fees could impose an unnecessary barrier to CCA implementation, especially at the rates proposed, and that some of the utilities failed to provide a sufficient methodology

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<sup>15</sup> The negotiated fee arrangement filed in Case 14-M-0564 on April 23, 2015 among Con Edison, NYSEG, and Sustainable Westchester was \$.72 per account.

to explain or justify those fees. While arguing against fees, if a fee should exist at all, most commenters favor a per request fee rather than a per customer fee. The City and Pace both commented that Con Edison's PSR proposal does not meet the requirements under the REV Track 2 Order because it is not sufficiently cost-justified or based on accurate market analysis.

Good Energy noted that Illinois, Massachusetts, California, and New Jersey all permit CCA Administrators and ESCOs to obtain customer data for either no cost at all or a minimal fixed cost, without a cost per customer.

MEGA states that utilities should not charge municipalities or third parties acting on their behalf for aggregated data. MEGA notes that prior to filing these tariffs proposing fees for aggregated data, the utilities submitted comments in response to Commission-sponsored technical conferences<sup>16</sup> stating that a basic level of data should be provided to customers or their designee without charge. MEGA also noted that for years, beginning long before the CCA Order, the utilities voluntarily provided and continue to provide aggregate data annually and free of charge to the UER. CLP also observes that the utilities are providing NYSERDA with historic kWh data by customer type, on a by-municipality basis (for the UER), and that although the UER does not include aggregate peak demand (kW) data, the utilities presumably have this data, or could create the dataset with an automated system.

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<sup>16</sup> Case 14-M-0101, et al., supra, Notice of Technical Conference Regarding Customer and Aggregated Energy Data Provision and Related Issues (issued November 3, 2015); Case 14-M-0101, et al., supra, Notice of Second Technical Conference Regarding Customer and Aggregated Energy Data Provision and Related Issues (issued December 23, 2015).

MEGA also notes that the UBP states that "no distribution utility or MDSP shall impose charges upon ESCOs for the provision of the information described in this section," which it claims includes aggregated data as defined by the CCA Order.<sup>17</sup>

CLP recognizes that there is some cost to responding to municipal inquires for data requests, but believes that for aggregated data, these costs could be minimized if the aggregated data that municipalities would need for CCA programs was included in the UER. CLP recommends that the utilities work with NYSERDA to ensure that the UER data conforms to the CCA Order and is regularly updated. CLP comments that this would significantly streamline the data acquisition process and would avoid the need for the utilities to respond to one-off requests.

#### Utility Reply Comments

Con Edison and O&R filed a reply to comments received on their request to treat proposed CCA data service fees as PSRs. The companies state that the proposed PSR is based upon the estimate of the market value of the service to be provided and the reasonable cost to provide such service. The companies note that the CCA Order does not require a strictly cost-based methodology and states that CCA fees should be "reasonably related to the value of the data and the cost to the utility of producing the data." They also point out that the requirements for PSRs in the REV Track 2 Order declined to mandate a strictly cost-based methodology and assert that their proposed PSR proposal for CCA data services meets the requirements of both the CCA and the REV Track 2 Orders.

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<sup>17</sup> Case 98-M-1343, Uniform Business Practices, Uniform Business Practices at Section 4E (issued February 2016).

UTILITY ENERGY REGISTRY (UER)

As described above, the UER is an online platform designed to offer streamlined public access to aggregated customer data for electric and natural gas, segmented by customer type and by municipality and zip code. Because this platform could include information that is the subject of the CCA Order and the utilities' proposed fees, by Notice issued June 12, 2017 comments were sought on the issues of (1) whether large, investor-owned energy utilities should be directed to populate and regularly update the UER and, (2) what data should be included in the UER. In particular, the Notice sought comment on whether the list of data sets available in the UER should be expanded or modified to permit the UER to serve particular purposes, including, but not limited to, planning and implementation of CCA programs. The comments on that Notice are briefly summarized below.

All commenting parties, including Central New York Regional Planning & Development Board, Natural Resources Defense Council (NRDC), Sullivan Alliance for Sustainable Development (SASD), Citizens for Local Power (CLP), NYS Department of Environmental Conservation, Hudson Valley Regional Council (HVRC), Institute of Market Transformation (IMT), Climate Action Associates (CAA), Association for Energy Affordability, Inc. (AEA), and the City supported implementation of the UER. The utilities agree that community-level energy information is a useful tool for municipalities or communities engaged in energy planning. However, the utilities also note that important details must be addressed prior to the utilities providing aggregated data updates to NYSERDA. The utilities stress that the process must incorporate the Commission's 15-by-15 data privacy standard, noting that the standard must be applied to

the lowest level of aggregated data presented, which will not be known until the aggregation categories are finalized.

In terms of the data sets that should be included in the UER, the utilities urge a systematic process that considers how the data will be used, with priority to providing information that can be leveraged to provide statewide benefits. The utilities emphasize that populating the UER with CCA data for every municipality in the State will be complex and resource-intensive.

The UER prototype was developed to provide energy usage data grouped into five revenue classes: residential, commercial, industrial, public street lighting, and public authorities. The utilities support use of revenue classes to aggregate customer data but note that utility classifications may be inconsistent. Constellation, NRDC, CLP, NYSERDA, CAA, MEGA, and SASD urge the Commission to aggregate data sets based on rate classifications. Further, Constellation, CLP, CAA, and SASD claim that, because a CCA becomes the default provider for small businesses, it is critical that the distinction between small business and other non-commercial customers be reflected in the UER. Constellation, NYSERDA, the City, NRDC, CLP, and MEGA commented on the need for capacity tag information and suggest that data be segmented into full-service utility customers and ESCO customers. Most commenting parties, including Central New York Regional Planning & Development Board (CNY RPDB), Constellation, the City, SASD, NYSERDA, CAA, IMT, AEA, and HVRC, urged a more frequent update schedule and more granular geospatial datasets and recommend the UER report on customer participation in demand-side management and distributed resources programs.

Constellation, SASD, CLP, IMT, NYSERDA, MEGA, CAA, HVRC, and the City felt the recently adopted 15-by-15 privacy



standard was too restrictive and would lead to limited data availability. These parties urged the adoption of a practical data aggregation privacy policy that balances the societal benefits that could be derived from sharing data with privacy interests of utility customers.

Constellation supports the UER but notes that it will take time to develop into a fully functional service and will not eliminate the need for data access arranged directly with the utilities. It urges the Commission to make other avenues of data access available to CCAs.

UER Working Meeting

In an effort to find common ground regarding what data sets should be used to populate the UER, Department of Public Service Staff (Staff) convened a working meeting on September 14, 2017.<sup>18</sup> In an effort to find a viable starting point, and with the goal of improving the usefulness of the data to UER users while maintaining administrative efficiency, Staff proposed to have the UER populated by municipal tax district (in New York City, Con Edison would use zip codes) with utility rate service classes grouped into three categories (Residential, Small Commercial, and Other). The service classes comprising the Small Commercial category were derived from the list of CCA eligible classes from the CCA Order. Staff proposed that each rate group be populated semi-annually with monthly Kwh, Installed Capacity (ICAP) tag, and total number of customer accounts along with the number of accounts served by ESCOs or with blocks (non-eligible CCA customers). Recognizing the difficulty of developing data sets that satisfy all potential users without introducing administrative burdens, Staff's

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<sup>18</sup> See Case 14-M-0224, supra, Utility Energy Registry Working Group Minutes from September 14, 2017 Meeting (filed October 13, 2017).

proposal was generally accepted by the working group as a viable starting point for further analysis and development. Staff's proposed data sets were then used by the utilities to apply the Commission's 15-by-15 general anonymity screen for two separate months.

The utilities conducted this screening, labeling cases where a data set (i.e., the Residential, Small Commercial, or Other data for a particular municipality) passed the screen as successes and cases where a data set did not pass the screen, either because it contained less than 15 customers or because one customer accounted for more than 15% of the load, as failures. A further conference call was conducted with the working group on October 11, 2017, in order to review the results of the screening. In general, the results indicated a very high failure rate (80-100%) for the Other category, and a relatively high (35-80%) failure rate for the Small Commercial category, and a low failure rate in the Residential category. Under the 15-by-15 privacy rule, it would not be possible to include data sets that failed the screen in the UER, meaning that for a large percentage of municipalities only residential data would be available in the UER. The Working Group agreed to conduct additional analysis using hypothetical screens of 6-by-40 and 4-by-50 to further assess the UER data and to explore avenues to balance the benefits of data transparency with the need for privacy protections.

#### LEGAL AUTHORITY

Pursuant to Public Service Law (PSL) §§ 5, 65(1) and (8), and 66 (1) and (12), the Commission has the legal authority to review proposed tariff leaves, as well as modify, reject or approve such filed tariffs, and to ensure any charges under such tariffs are just and reasonable. As such, the Commission has

the legal authority to review the Companies' filings and approve and make effective tariff amendments, as prescribed in this Order.

#### DISCUSSION

Efficient access to community-based information regarding energy usage is vital to improved energy awareness and engagement, CCA programs, and community planning efforts. In the REV Track 2 Order, the Commission determined that to promote the objective of facilitating market development and reduce market entry barriers, utilities should not charge fees for basic data. The REV Track 2 Order acknowledged that utilities may charge for data that is more granular and/or more frequent than basic data (value-added data). Defining what elements of utility data fall into each category will need to be done on a case-by-case basis on specific situations and use cases. In general, where data is retained and stored by way of the utilities' enterprise systems and is not readily or reasonably available by other means, but the provision of that data is essential for fundamental customer/provider relationship (e.g., billing) or provides broad system-wide benefits, the data will be considered basic data. In general, value-added data will fulfill more nuanced needs such as customized requests and requests by market participants to pursue market opportunities. For value-added data, fees may be permitted to promote fair contribution to system costs by beneficiaries and to avoid undue burden on non-participants.

Before addressing the CCA fees, the Commission first turns to the UER, as it bears on the determination of fees. Staff proposed that the UER would initially enable users, subject to a privacy standard, to obtain information by three rate class groupings (Residential, Small Commercial and Other),

and by municipal tax district: 1) aggregated electricity (kwh) and natural gas (dekatherms) usage information; 2) capacity tag (demand) information; and 3) the number of customer accounts by month, for each rate class group and certain segments within groups, both total and CCA-eligible (i.e., not served by ESCOs and not blocked) for Residential and Small Commercial groups. Access to this aggregated data was proposed to be made available without a fee.

To facilitate broader awareness of energy consumption patterns, consumer engagement in energy consumption practices, and development of energy policy at the local community level, the Commission supports establishing the UER. The UER would facilitate broad access to energy data for both public energy planning and CCA purposes and is widely supported by commenting parties. However, application of the Commission's general privacy standard to the proposed UER data sets substantially limits the availability of UER data to communities throughout the state. In adopting the general 15-by-15 standard, the Commission recognized that it may be conservative and indicated that it should be monitored to examine how it works in practice. Many commenters urged the Commission to assess the impact of the privacy standard on data access and to adopt a less restrictive standard to better optimize societal benefits associated with data sharing.

Based on the real-world results associated with the UER, the Commission will not direct the population of the UER at this time but will instead seek further input on the appropriate balance between the benefit of making more aggregated data available and the need to maintain consumer privacy.

The Commission now turns to data access fees. While additional effort is needed to re-assess and re-balance the privacy standard, the Commission supports the on-going efforts

to develop the UER and expects that the UER will be implemented. The availability of the UER should enable CCAs to more efficiently formulate arrangements with ESCOs and lower overall utility data provisioning costs. While more customized aggregated data requests<sup>19</sup> can be made to utilities, the Commission recognizes that the UER may enable CCAs to conduct requests for information regarding the formation of CCAs and possibly even to conduct supply procurements without the need for customized aggregated data. Because eventual access to the UER will benefit ratepayers generally through community-based energy planning efforts to achieve state-wide clean energy goals and increase consumer awareness of consumption practices and REV related opportunities to consume energy more efficiently, a portion of the cost of generating aggregated data and populating the UER will be allocated to all ratepayers and a portion will be recovered through the CCA fees as described below.

The cost to produce customer lists for the opt-out process (name, address for CCA eligible customers) and to prepare computer queries to generate aggregated data were estimated by each utility in response to Staff information requests.<sup>20</sup> It is reasonable to conclude that the estimated cost to prepare computer queries for customized aggregated data would be similar to and overlap with the costs to prepare queries to populate the UER. Because the UER will benefit ratepayers generally through community-based energy planning efforts to achieve state-wide clean energy goals and increase consumer awareness of consumption practices and REV related opportunities to consume energy more efficiently, one-half of the estimated cost to prepare queries to populate the UER will be recovered

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<sup>19</sup> For example, load for customers eligible for CCA as identified in the CCA Order.

<sup>20</sup> The costs are shown in Appendix 1.

from all ratepayers. The remaining costs will be recovered from the fees for customer lists and customized aggregated data.

Based on the utility filings, the Commission finds that it is reasonable to base the costs to be recovered via CCA fees on an estimated CCA request rate of 25% of eligible customers over five years. The estimated costs to produce aggregated data and customer lists are set forth in Appendix 1. The Commission declines to adopt the utilities' higher estimates of value as that would be a barrier to CCAs. In addition, because the utility costs are relatively similar and to promote the uniformity and simplicity that will support a robust CCA market, a uniform fee will be set for all utilities. Based on the average estimated costs and recognizing that obtaining the mailing list and the ability to engage in an opt-out program provides a value to CCAs and ESCOs in the form of avoiding customer acquisition costs, the Commission establishes a uniform fee, for all utilities, of \$.80 per account. The fee will be apportioned 20% to requests to utilities for aggregated data and 80% to request to utilities for customer lists. This apportionment achieves back-loading of the charges consistent with the CCA Order in that the request for customer lists will occur after the ESCO procurement has been successfully completed and approved by the municipality, which represents a point at which the CCA is being implemented. The Commission considers the customized aggregated data and customer list as value-added services because they are not yet services that are benefitting all or most ratepayers.

Regarding the request by Con Edison and O&R to treat these revenues as PSRs, the Commission denies the companies' request. While CCA is designed to promote competitive choice, the service of facilitating CCA opt-out is not sufficiently related to the development of the DSP. Further, Con Edison and

O&R have not demonstrated that its shareholders are at risk in connection with the development of the service.

The CCA program descriptions in the utility tariffs are not uniform. Based on Staff's review of the CCA tariffs, uniform model tariff language was developed as set forth in Appendix 2. The Commission adopts this model language, which shall be used by each utility. Because these tariffs have been the subject of extensive public process, including participation of interested parties, newspaper publication is unnecessary and it is therefore waived.

As modified and approved, the tariffs permit the utilities to transfer the list of customer account numbers for customers eligible to be enrolled in the CCA once the opt-out period has ended, via electronic mail, in secured, encrypted spreadsheets or through access to a secure website, as proposed in the CCA Utility Petition. The Petition does not request Commission action regarding the other issues discussed therein, including what privacy protections would be appropriate if a utility were directed to provide highly sensitive data to a CCA Administrator or ESCO. The CCA Utility Petition is therefore granted.

The Commission orders:

1. Central Hudson Gas and 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 Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and The Brooklyn Union Gas Company d/b/a National Grid NY shall file cancellation supplements, effective on not less than one day's

notice, on or before January 4, 2018, cancelling the tariff amendments and statements listed in Appendix 3.

2. Central Hudson Gas and 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 Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and The Brooklyn Union Gas Company d/b/a National Grid NY shall file tariff amendments implementing Community Choice Aggregation data fees consistent with the requirements discussed in the body of this Order and Appendix 2, on not less than three days' notice to become effective on January 6, 2018.

3. Tariff filings made and approved in other, unrelated cases have affected tariff leaves that were originally filed for approval in this case. Therefore, to avoid any duplication or conflict, Central Hudson Gas and Electric Corporation, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation are directed to file tariff amendments incorporating provisions that were previously approved by the Commission since the tariff amendments listed on Appendix 2 were filed, on not less than three days' notice to become effective on January 6, 2018.

4. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 concerning newspaper publication of the proposed tariff amendments listed in Appendix 3 and described in Ordering Clause Nos. 1, 2, and 3 shall be waived.

5. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for



CASES 17-M-0315, 16-M-0411 and 14-M-0224

the extension, and must be filed at least one day prior to the affected deadline.

6. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary



## Draft Tariff Language for Community Choice Aggregation (“CCA”) Program

- A. A CCA Program allows municipalities (villages, towns and cities) to aggregate the usage of eligible CCA customers (residential and small non-residential customers) within a defined jurisdiction in order to secure an alternative energy supply contract on a community-wide basis.
1. In accordance with Order issued in Case 14-M-0224, before requesting customer data from the utility for participation in a CCA Program, the municipality or their designee (CCA Administrator or ESCO) must:
    - (a) sign a data security agreement acceptable to the Company, and
    - (b) have an approved implementation and data protection plan and certification of local authorization approved by the NYS PSC.
  2. Upon fulfilling the requirements in Rule 1, the Company will provide the following information to the municipality or their designee in accordance with the terms and fee(s) stated herein.
    - (a) Aggregated customer data, including the number of customers by service class, the aggregated peak demand (kW) by month for the past 12 months by service class if applicable, and the aggregated energy (kWh) by month for the past 12 months by service class. This information will be provided to the municipality or CCA Administrator within twenty days of a request. The Company will notify the requesting party if data for any service class that the Company contains so few customers, or in which one customer makes up a large portion of the load, such that the aggregated information does not pass the relevant aggregation privacy standard. The Company will work with the requestor to revise the request in order to address the identified reason(s) such as expanding the geographic area included in the request or combining customer classes or other means.

The charge for the above aggregated data in (a) is included in the CCA Statement.
    - (b) After each municipality has entered into a CCA contract with an ESCO, the Company shall transfer customer-specific data to the municipality or CCA Administrator within five days of receipt of a request to support the mailing of opt-out notices. The data shall include all customers in the municipality eligible for opt-out treatment based on the CCA and the requirements of the April 21, 2016 Order issued in Case 14-M-0224. The data should include:
      - 1) Customer of record’s name
      - 2) Mailing Address
      - 3) Primary Language (if available from the Company’s billing system)
      - 4) Any customer-specific alternate billing name and address
    - (c) After the opt-out process has been completed, the Company shall transfer account numbers for eligible customers that did not opt-out to the ESCO providing service within five days of receipt of a list of customers that opted out. These account numbers may be transmitted via electronic mail in secured, encrypted spreadsheets, through access to a secure website, or through other secure methods of transfer.

The charge for the above data described in (b) and (c) is included in the CCA Statement.
    - (d) Upon request by the municipality or CCA Administrator the Company will transfer the customer data in (b) to the requestor within five days of the request for CCA eligible customers that became customers of the Company since the last eligible customer list was provided and were not on a previous eligible for out-out list. After the opt-out process has been completed for those customers, the Company will provide account numbers for customers that did not opt-out as described in (c). These eligible customer update lists will be provided without charge.

PSC NO.

Statement Type: CCA

Utility Name

Statement Number: 1

Initial Effective Date: March 1, 2018

Issued in compliance with Order in Cases 17-M-0315, 16-M-0411, 14-M-0224, issued December 14, 2017.

**Community Choice Aggregation**

Type of Data	Fee
Aggregated Customer	\$
Customer Specific	\$



SUBJECT: Filing by KEYSpan GAS EAST CORPORATION D/B/A BROOKLYN  
UNION OF L.I.

Amendments to Schedule P.S.C. No. 1 - Gas

Original Leaf No. 119.53.1  
First Revised Leaf No. 119.54

Issued: August 5, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

SAPA: 14-M-0224SP7 - STATE REGISTER - August 24, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filing by NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Amendment to Schedule P.S.C. No. 8 - Gas

Fifth Revised Leaf No. 270.1

Issued: August 5, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

SAPA: 14-M-0224SP8 - STATE REGISTER - August 24, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filings by NEW YORK STATE ELECTRIC & GAS CORPORATION

Amendments to Schedule P.S.C. No. 120 - Electricity

Original Leaves Nos. 117.46.25, 117.46.26,  
117.46.27, 117.46.28, 117.46.29

Issued: August 5, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

First Revised Leaves Nos. 117.46.27, 117.46.28  
Community Choice Aggregation (CCA) Statement No. 1

Issued: October 12, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

Amendments to Schedule P.S.C. No. 88 - Gas

First Revised Leaves Nos. 50.34, 50.35, 50.36,  
50.37, 50.38

Issued: August 5, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

Second Revised Leaves Nos. 50.36, 50.37  
Community Choice Aggregation (CCA) Statement No. 1

Issued: October 12, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

SAPA: 14-M-0224SP9 - STATE REGISTER - August 24, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filings by NIAGARA MOHAWK POWER CORPORATION D/B/A  
NATIONAL GRID

Amendment to Schedule P.S.C. No. 220 - Electricity

Original Leaf No. 217.1

Amendments to Schedule P.S.C. No. 219 - Gas

Original Leaves Nos. 122.12, 122.13

Issued: August 5, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

SAPA: 14-M-0224SP10 - STATE REGISTER - August 24, 2016

NEWSPAPER PUBLICATION: Waived.





First Revised Leaves Nos. 127.46.7, 127.46.8  
Community Choice Aggregation (CCA) Statement No. 1

Issued: October 12, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

SAPA: 14-M-0224SP12 - STATE REGISTER - August 24, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filing by THE BROOKLYN UNION GAS COMPANY D/B/A NATIONAL  
GRID NY

Amendments to Schedule P.S.C. No. 12 - Gas

Original Leaves Nos. 138.57, 138.58

Issued: August 5, 2016      Effective: December 1, 2016  
Postponed to March 1, 2018.

SAPA: 14-M-0224SP13 - STATE REGISTER - August 24, 2016

NEWSPAPER PUBLICATION: Waived.