

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of
NIAGARA MOHAWK POWER CORPORATION
Cases 12-E-0201 and 12-G-0202
September 2012

Prepared Rebuttal Testimony of:

CONSUMER ISSUES PANEL

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1 Q. Panel, please state your names, employer, and
2 business address.

3 A. Leonard Silverstein and Sonny Moze, 3 Empire
4 State Plaza, Albany, New York 12223. We are
5 employed by the New York State Department of
6 Public Service.

7 Q. Are you the same Consumer Issues Panel that
8 submitted testimony in this Case in August,
9 2012?

10 A. Yes.

11 Q. Have you prepared any exhibits in connection
12 with your testimony?

13 A. Yes, Exhibit __ (CIP-5), which contains an
14 excerpt of a 2011 Pennsylvania Public Utility
15 Commission Annual Customer Service Report.

16 Q. What is the purpose of your rebuttal testimony?

17 A. We will address certain proposals contained in
18 PULP witness Barbara Alexander's testimony,
19 including certain statements concerning low
20 income issues and Niagara Mohawk's compliance
21 with certain notification requirements of the
22 Home Energy Fair Practices Act, or HEFPA.

23 Q. Please summarize the proposals made by Ms.
24 Alexander that you will address.

1 A. With regard to low income programs, we will
2 address the following recommendations: (1) that
3 Niagara Mohawk's low income programs should be
4 reflected in tariffs; (2) that a gas volumetric
5 rate discount be implemented; (3) that
6 combination electric and gas customers should
7 receive both discounts; (4) that program
8 eligibility should be widened; and (5) that the
9 Commission should undertake a review of low
10 income energy efficiency and weatherization
11 programs. With regard to credit and collection
12 policies and procedures, we will address the
13 following: (1) that certain of Niagara Mohawk's
14 customer rights disclosures do not comply with
15 HEFPA and should be modified; (2) that customers
16 should be able to specify whether partial
17 payments are allocated to electric or gas
18 service; and (3) that Niagara Mohawk should
19 modify its credit and collection procedures to
20 identify low income customers. With regard to
21 the service quality assurance program (SQAP), we
22 will address her proposals to (1) add measures
23 for call busy-out rate and call abandoned rate;
24 and (2) add a measure for rates of termination.

1 Low Income Program

2 Q. Why does Ms. Alexander recommend putting the low
3 income discounts in tariffs?

4 A. Ms. Alexander believes that reflecting low
5 income program discounts and benefits in the
6 tariff would provide participants with an
7 explicit rate reduction, allow simpler
8 allocation of program costs among rate classes,
9 and allow more effective regulatory oversight.
10 She acknowledges that the Company's website
11 provides information on the program but notes
12 that the website does not identify the dollar
13 amounts of benefits available.

14 Q. Do you agree with this recommendation?

15 A. We do not object to the low income program
16 benefits being included in tariffs, but we
17 believe doing so will not produce the benefits
18 claimed by Ms. Alexander. First, all qualifying
19 low income customers automatically receive the
20 rate discount under the current program, and
21 arrears forgiveness is provided at the Company's
22 discretion, as it must manage this component to
23 a limited budget. No further explicit guarantee
24 of the discount is required or appropriate; and

1 placing the arrears forgiveness component in the
2 tariff arguably could limit the Company's
3 flexibility to manage the program. Second, as
4 she notes in her testimony, the program costs
5 are already recovered from all ratepayers. We
6 agree that this cost recovery should continue,
7 but placing the discounts in the tariff does
8 nothing to ensure this. Third, effective
9 program oversight is accomplished through
10 regular program reporting, which we agree should
11 continue, but this goal is likewise not
12 furthered by placing the program in the tariff.
13 Finally, the remedy to a lack of specific
14 discount level information on the website would
15 be to update the website, which we would
16 support; not to place the discounts in the
17 tariff, where we suspect most customers,
18 including low income customers, seldom look.

19 Q. Do you agree with her recommendation that a gas
20 volumetric rate discount should be implemented?

21 A. No. Adding a volumetric component would add
22 needless complexity to Niagara Mohawk's program,
23 with little or no benefit.

24 Q. Please explain.

1 A. Ms. Alexander compares Niagara Mohawk to
2 National Grid's downstate gas companies; however
3 those utilities, particularly Brooklyn Union,
4 serve a large number of high rise multi-family
5 buildings, where heat is often included in the
6 rent, but tenants pay for their own hot water.
7 Furthermore, since the utilities consequently do
8 not receive HEAP payments on behalf of such
9 tenants, the eligibility criteria for those
10 programs are much broader than for Niagara
11 Mohawk's gas program. In those service
12 territories, it's important to provide a
13 volumetric-based discount to account for the
14 widely varying usage levels of program
15 participants. In Niagara Mohawk's case,
16 however, only HEAP recipients are admitted to
17 the program, which means that most gas program
18 participants are gas heating customers.

19 Q. What is Ms. Alexander's recommendation regarding
20 the gas and electric bill credit for combination
21 customers?

22 A. On page 25 of Ms. Alexander's pre-filed
23 testimony, she recommends that Niagara Mohawk
24 provide both a gas bill credit and an electric

1 bill credit to combination customers.

2 Q. Do you agree with the recommendation?

3 A. The recommendation is unnecessary. In
4 accordance with the last electric and gas cases,
5 combination customers who receive a benefit
6 under the Home Energy Assistance Program
7 currently receive both a \$7.50 bill credit for
8 natural gas service and a \$5.00 bill credit for
9 electric service. In other words, the program
10 already functions as Ms. Alexander recommends.

11 Q. Do you agree with her recommendation that
12 program eligibility should be widened?

13 A. No. As previously mentioned, the downstate gas
14 utilities owned by National Grid often do not
15 receive HEAP benefits on behalf of their low
16 income customers, since heat is often included
17 in the rent. In order to identify the low
18 income population, it's therefore necessary to
19 cast a wider net, by including recipients of a
20 wider variety of programs. Doing so for Niagara
21 Mohawk, which has very different demographic
22 characteristics from those in National Grid's
23 downstate service areas, would add needless cost
24 and complexity to the program, with little

1 incremental benefit, since the utility does
2 receive a large number of HEAP benefits, and can
3 readily identify and automatically enroll
4 eligible customers. The additional difficulty
5 and complexity involved in identifying
6 participants of other programs furthermore is
7 substantial. The Massachusetts program she
8 references is required by state law, and the
9 Massachusetts Department of Transitional
10 Assistance must comply with a matching of
11 records with utilities in the state. In the
12 case of the Con Edison program she mentions, the
13 matching has been complicated by the Office of
14 Temporary and Disability Assistance's reluctance
15 to support the matching process due to its
16 confidentiality requirements, and frustrated by
17 the local social service district office's
18 demands for compensation to do the match.
19 Conversely, the National Grid downstate
20 companies do not do a file match, nor do they
21 automatically enroll participants - customers
22 must request the rate discount and furnish proof
23 of eligibility. These models should not be
24 repeated for Niagara Mohawk, particularly

1 considering the lack of substantial incremental
2 benefit.

3 Q. Do you agree with her recommendation that the
4 Commission should undertake a review of low
5 income energy efficiency and weatherization
6 programs?

7 A. Not in this rate case. The Commission recently
8 undertook a comprehensive review of all energy
9 efficiency programs under its jurisdiction and
10 issued an Order on October 25, 2011, in Case 07-
11 M-0548, its generic Energy Efficiency Portfolio
12 Standard proceeding. In addition, NYSERDA has
13 several pending petitions before the Commission
14 in that proceeding to modify budgets and energy
15 savings goals for the programs it implements,
16 including the statewide EmPower program for low
17 income customers. Beyond any Commission
18 determination on those pending petitions, no
19 further review is necessary. Furthermore, if
20 any such further review were needed, it should
21 take place under that proceeding. A Niagara
22 Mohawk rate case is not the appropriate venue to
23 undertake such considerations.

24

1 Credit and Collections

2 Q. What are some of Ms. Alexander's specific
3 concerns with regard to credit and collection
4 policies and procedures?

5 A. On page 30, Ms. Alexander states that Niagara
6 Mohawk's customers' rights disclosures do not in
7 several cases comply with HEFPA. For an example
8 she states that the Deferred Payment Agreement
9 or DPA does not include information about HEAP
10 and other low income programs; however, she also
11 notes that the DPA is a written confirmation
12 once such agreement has been reached.

13 Q. Do you agree that the Company is not in
14 compliance with HEFPA?

15 A. No. HEFPA does not require utilities to list
16 all of the available low income assistance
17 programs on its DPAs. Furthermore, the lack of
18 information regarding available assistance on
19 the DPA form furnishes no evidence that
20 customers are not provided with such information
21 while negotiating the DPA. We understand that
22 the Company does provide such information when
23 review of the customer's financial circumstances
24 indicates they may be eligible for low income

1 benefits.

2 Q. What other concerns does Ms. Alexander discuss
3 regarding credit and collections notices?

4 A. Ms. Alexander states that the notice of service
5 denial is deficient because it fails to properly
6 inform customers of their rights. On such
7 notice, it states that the customer has the
8 right to request assistance from the Commission.
9 According to Ms. Alexander, HEFPA requires the
10 utility to advise the applicant of the right to
11 an investigation and review of the denial if the
12 applicant considers the denial to be without
13 justification.

14 Q. Do you agree with her assessment?

15 A. We do not. After reviewing the Notice of
16 Service Denial in Exhibit __ (Niagara Mohawk
17 Response to PULP IR No. 58, Attachment 4), the
18 Company appears to be in compliance with the
19 notification requirements contained in HEFPA for
20 the Notice of Service Denial. The notice
21 explains the customer's rights to obtain
22 assistance from the Commission and provides
23 contact information.

24 Q. What are Ms. Alexander's concerns with the Final

1 Disconnection Notice?

2 A. On page 32, Ms. Alexander states that the
3 disclosure of the customers' summary of rights
4 and responsibilities is on the back of the
5 Notice and should be more conspicuous. In
6 addition, she states that the Notice fails to
7 advise customers of their right to a DPA.

8 Q. Do you agree with these concerns?

9 A. No. First, with one specific exception that is
10 not involved here, HEFPA does not specify the
11 location of customer notifications. As long as
12 the Company provides such information, it is in
13 compliance with the notification requirements of
14 HEFPA. Second, HEFPA does not require the
15 Notice to include any mention of a DPA at all.
16 In fact, HEFPA 16 NYCRR §11.10(a)(4)(i) requires
17 that a utility must make a written offer of a
18 DPA not less than seven days before the date of
19 termination. Since Termination Notices must be
20 sent at least 15 days before termination, the
21 regulations clearly contemplate that the Notice
22 and offer of a DPA may be sent separately.

23 Q. Do you agree with Ms. Alexander's recommendation
24 that customers should be able to specify whether

1 partial payments are allocated to electric or
2 gas service?

3 A. No. First, the Commission has for decades
4 allowed all combination utilities to render a
5 combined electric and gas bill, and has never
6 required utilities to permit customers to direct
7 payments to a specific service. Such a
8 fundamental change in the way utility billing is
9 conducted, if considered at all, should be
10 considered in a generic proceeding where the
11 interests and concerns of all utilities and
12 interested parties can be heard, the costs and
13 benefits can be fully considered, and the
14 implications for all relevant policy matters,
15 including retail access, on-bill financing, and
16 consumer protections, can be examined. Second,
17 disconnecting and reconnecting gas service,
18 instead of electric service as Niagara Mohawk
19 and most utilities do, is both more costly and
20 more troublesome for utility and customers
21 alike. In fact, Niagara Mohawk's typical fee
22 for gas reconnection is 56% higher than the
23 electric reconnection fee -- \$53 versus \$34 for
24 reconnections during business hours. The

1 diversion of a greater amount of money from bill
2 payment to reconnection fees is particularly
3 problematic for low income customers. In
4 addition, gas reconnections generally require
5 that the customer be at home so that, for
6 example, pilots can be lit, while electric
7 reconnections generally do not require the
8 customer to be present, as long as the main fuse
9 or breaker is pulled. Again, for low income
10 customers, the need to stay home from work to
11 wait for reconnection may be particularly
12 burdensome. Third, we disagree that customers
13 would derive any substantial benefit from being
14 offered the choice of which service to
15 disconnect. In particular, there would be no
16 benefit to gas heating customers. Although, as
17 Ms. Alexander points out on page 33 of her
18 testimony, electric service "is the essential
19 service required to operate any natural gas or
20 other central heating system," having operable
21 electric service is truly a cold comfort if the
22 gas is shut off; and we should add that, if the
23 customer has oil or electric heat, they are
24 likely not a gas customer and would have no

1 options from which to choose.

2 Q. Please explain Ms. Alexander's concerns
3 regarding Niagara Mohawk's downpayment
4 requirements for certain applicants for service?

5 A. On page 34 of her testimony, Ms. Alexander
6 concludes that Niagara Mohawk is violating HEFPA
7 because it is not allowed to require that a
8 customer with an unpaid balance must pay the
9 lesser of half of their arrears or three times
10 the average bill at a new location as a
11 downpayment.

12 Q. Do you agree with this concern?

13 A. Yes, Ms. Alexander is correct that according to
14 Exhibit__ (Niagara Mohawk's response to PULP IR
15 56), the Company requires applicants to pay half
16 of their arrears or three times the average
17 bill, whichever is less. Public Service Law
18 §31(1)(b) requires a utility to provide service
19 to residential customers who owe amounts due for
20 prior service upon the signing of a deferred
21 payment plan together with a down payment based
22 on criteria to be established by the Commission,
23 provided that no such down payment shall exceed
24 one-half of the amount which was the basis of

1 termination, or the amount of three months
2 billing, whichever is less. Section
3 11.3(a)(2)(ii) of the HEFPA regulations, which
4 are set forth in 16 NYCRR Part 11, provides that
5 a distribution utility shall not be obligated to
6 provide service to an applicant who owes the
7 utility money for a prior account, unless the
8 applicant agrees to make payments under a DPA
9 pursuant to §11.10. Section 11.10 (a) (iii)
10 states that a DPA must provide for installments
11 as low as \$10 per month and no down payment
12 based on a demonstration of financial need by
13 the customer. Accordingly, the Company is not
14 in compliance with the terms of HEFPA.

15 Q. Do you agree with Ms. Alexander's recommendation
16 that Niagara Mohawk should modify its credit and
17 collection procedures to identify low income
18 customers?

19 A. No. Fundamentally, HEFPA and the Commission's
20 rules outline consumer policies that establish
21 certain minimum protections enjoyed by all
22 customers. We are aware that, in order to
23 efficiently go about their business, utilities
24 will segment their delinquent customers, and

1 apply collections treatment to those customers
2 who are most likely to respond with a payment.
3 In order to maximize efficiency, utilities will
4 spend the least amount on collection activities
5 that will produce the largest amount of
6 payments. For example, most utilities will
7 spend little time trying to negotiate payment
8 with a customer who owes \$50, compared with a
9 customer who owes \$500. It is our expectation
10 that each utility pursues bill collection
11 intelligently, efficiently, and with compassion
12 for its customers, particularly low income
13 customers. Utilities, however, should be
14 allowed to exercise their best business judgment
15 in such matters, within the confines of HEFPA
16 and the Commission's rules, but without
17 substituting the Commission's judgment for their
18 own, regarding how to segment their customers,
19 or where to most effectively apply collections
20 treatment. Finally, it must be remembered that
21 termination is a tool to compel payment, but it
22 is also a safeguard to prevent further loss.
23 Terminating a customer who cannot pay helps
24 limit bad debt expense that is borne by all

1 customers; and even the customer who is
2 terminated has the safeguard that he or she will
3 not be accruing yet more debt that he or she may
4 never be able to pay. Because such a proposal
5 would go well beyond the Commission's existing
6 policy directives, and because it would attempt
7 to supplant or restrict the exercise of the
8 utility's business judgment by requiring certain
9 customer segmentation for collection treatment,
10 we do not agree with this proposal.

11 Service Quality Assurance Program (SQAP)

12 Q. Please explain Ms. Alexander's proposals to
13 modify the SQAP to add measures for call busy-
14 out rate and call abandoned rate?

15 A. Ms. Alexander states on page 38 of her testimony
16 that the call center performance metric is
17 deficient because it does not include a call
18 abandonment rate or a busy-out rate. She states
19 that only measuring the call answer rate does
20 not provide a full picture of call center
21 performance, and cites the annual report on
22 customer service performance from the
23 Pennsylvania PUC both to substantiate this and
24 to provide an example of such a comprehensive

1 measurement.

2 Q. Do you agree with this assessment?

3 A. No. First, as the Pennsylvania report, Exhibit
4 __ (CIP-5) notes on page 4, "A high call
5 abandonment rate is most likely an indication
6 that the length of the wait to speak to a
7 company representative is too long. Statistics
8 on call abandonment are often inversely related
9 to statistics measuring calls answered within 30
10 seconds." The abandoned call rate therefore
11 seems to offer little additional information
12 that is not provided by the call answer rate -
13 they are merely alternate ways of measuring the
14 force to load in the call center; that is, the
15 number of representatives available to handle
16 the amount of incoming calls. Furthermore,
17 Niagara Mohawk's abandoned call rates, as
18 provided to Ms. Alexander and recited on page 38
19 of her testimony, would place it among the top-
20 performing utilities reviewed in the
21 Pennsylvania report cited by Ms. Alexander on
22 page 39 of her testimony. There is therefore
23 little reason to believe that this area is a
24 weak spot for Niagara Mohawk. Second, the call

1 answer rate could lend an incomplete picture if,
2 as Ms. Alexander notes, calls received in the
3 call center are answered rapidly, but the number
4 of lines into the call center is so restricted
5 that most callers receive a busy signal and
6 can't get through at all. In our experience;
7 however, when customers cannot reach the utility
8 at all, their next call is to the Commission's
9 Helpline. It has further been our experience
10 that such occurrences are limited; as for
11 example, when customers of Orange & Rockland
12 were unable to reach the company during the
13 October 2011 snow storm. In contrast, this has
14 not occurred with Niagara Mohawk, and we have no
15 reason to believe that its number of access
16 lines is insufficient or that callers otherwise
17 cannot get through to the Company. We therefore
18 conclude that adding these measures would add
19 complexity to the SQAP with little or no benefit
20 to customer service.

21 Q. Do you support her recommendation to add a
22 measure for rates of termination?

23 A. For many of the same reasons we cited previously
24 concerning the identification of low income

1 customers, we do not. Terminations are both a
2 tool to compel payment and a safeguard against
3 further loss. Beyond the confines of HEFPA and
4 the Commission's rules regarding termination, it
5 is inappropriate to tie the Company's hands with
6 respect to using that tool. Doing so may have
7 adverse consequences for bad debt expense, and
8 can even harm individual customers, who may run
9 up large bills that they can never pay back. In
10 addition, setting a benchmark based on past
11 experience does not take into account what
12 changes may occur in future economic conditions.
13 In particular, a target that is set based on the
14 past several years, when the State has either
15 been in or just emerging from an economic
16 recession, may be much too high, if economic
17 conditions continue to improve. On the other
18 hand, such a target may be too low, if an
19 economic downturn again takes hold. In either
20 case, establishing some maximum level of
21 terminations is poor public policy and
22 ultimately, bad for customers.

23 Q. Does this conclude the Panel's testimony?

24 A. Yes, at this time.