

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation for Electric and Gas Service.

Case 12-E-0201 and
Case 12-G-0202

**REBUTTAL TESTIMONY
AND EXHIBITS OF
GREGG C. COLLAR**

Dated: September 25, 2012
Albany, New York

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1 Q. Mr. Collar, did you file direct testimony in this case?

2 A. Yes.

3

4 Q. What is the purpose of this rebuttal testimony?

5 A. I respond to the direct testimony of DPS Staff's Consumer Issues Panel
6 ("CI Panel") regarding its proposals to: (1) implement an additional
7 customer service measure under the Company's Service Quality
8 Assurance Program ("SQAP"); (2) increase the monthly bill credit for those
9 gas customers eligible to participate in the gas low-income program; (3)
10 decrease the funding amount proposed by the Company for outreach and
11 education; and, (4) impose an annual cap on expenditures related to
12 Niagara Mohawk's electric and gas Economic Development Grant
13 Programs. I also clarify that the current monthly bill credit for qualified
14 electric heating customers is \$15.

15 Additionally, I address a recommendation regarding the appropriate
16 bill credits for combination electric and gas low-income customers made
17 by Public Utility Law Project ("PULP") witness, Barbara R. Alexander.
18 Finally, I comment on several recommendations offered by various DPS
19 Staff Panels regarding the Company's smart growth initiatives,
20 manufactured gas plant site investigation and remediation ("SIR") costs,
21 retail access information and infrastructure activities related to safety.

1 Q. Are you sponsoring any exhibits associated with your testimony?

2 A. Yes, I am sponsoring Exhibit ___ (GCC-3), which consists of responses to
3 Interrogatory Requests (“IRs”) that I relied upon in preparing my rebuttal
4 testimony.

5

6 Customer Service

7 Q. Please describe the Customer Service Performance measures included in
8 the Company’s SQAP as well as its current proposal.

9 A. For electric, performance targets exist for (1) the annual PSC Complaint
10 Rate, (2) residential customer transaction satisfaction, (3) small to medium
11 commercial and industrial customer transaction satisfaction, and (4)
12 percent of calls answered within 30 seconds. For gas, the same four
13 measures exist as for electric in addition to percent of meters read and
14 AffordAbility Program enrollment. The Company proposed to eliminate
15 the percent of meters read and AffordAbility Program enrollment
16 measures just as they were eliminated in the Company’s most recent
17 electric rate case proceeding.

18

19 Q. What is the CI Panel’s proposal regarding the SQAP?

20 A. The CI Panel supports Niagara Mohawk’s proposal to remain consistent
21 with electric by eliminating the two gas metrics associated with percent of

1 meters read and AffordAbility enrollment. However, the CI Panel
2 recommends the addition of a new obligation, namely, a \$30 bill credit for
3 each customer affected by Niagara Mohawk missing a scheduled
4 appointment.

5

6 Q. Do you support the CI Panel's proposal?

7 A. Yes. DPS Staff showed that the number of missed appointments has
8 dramatically increased in each of the last three years, rising threefold from
9 2009 to 2011. This is an unacceptable trend that must be reversed. Such
10 a payment obligation would not be exclusive to Niagara Mohawk as the
11 Commission has approved such payments for Central Hudson, NYSEG,
12 RG&E, and National Grid's KeySpan companies. The estimated \$22,000
13 to implement the CI Panel's proposal at the current performance level
14 would have little impact on the Company's bottom line, but the
15 establishment of the obligation may change the Company's conduct in an
16 effort to avoid further regulatory reprimand and increased public attention.

17

18 Gas Monthly Bill Credit Proposal

19 Q. Please state the CI Panel's proposal regarding eligible customers
20 participating in the Company's gas low-income program.

1 A. The CI Panel proposes to increase the gas low-income monthly bill credit
2 from \$7.50 to \$8.50 per month.

3

4 Q. How does the CI Panel's proposal differ from the Company's and other
5 parties that filed testimony on this issue?

6 A. The CI Panel's proposed monthly bill credit for eligible low-income gas
7 customers is less than the Company's, PULP's and the UIU's respective
8 proposals. Niagara Mohawk proposed to increase the monthly bill credit
9 from \$7.50 to \$10.00, PULP proposed an increase to at least \$15.00 and
10 the UIU proposed an increase to at least \$12.50.

11

12 Q. What factors did the CI Panel consider in recommending its \$8.50 monthly
13 bill credit and rejecting the Company's proposal to increase it to \$10.00?

14 A. According to page 15 of the CI Panel's testimony, "we took many factors
15 into consideration prior to recommending the scope and size of the low
16 income programs. We considered the size of the low income population,
17 the economic conditions of the service territory, and the impacts on non-
18 participants.....Additionally, \$8.50 per month represents about a 10
19 percent discount from the typical annual residential heating bill." The CI
20 Panel's response to UIU IR No. 3 further describes the census and labor
21 data for the Company's service territory compared to statewide averages

1 that the CI Panel relied upon in developing its proposal. It is important to
2 note that the CI Panel stated in that response that its evaluation of the
3 factors that it said it reviewed did not include consideration of any discount
4 level other than the one it proposed.

5 The CI Panel also indicated that it rejected Niagara Mohawk's
6 proposal because if it were adopted, then the Company's gas low-income
7 program would become the largest in the state as a percentage of total
8 revenues.

9
10 Q. What is the UIU's reaction to using these "factors" in determining the size
11 of the low-income program?

12 A. First, the UIU disagrees with the CI Panel's assertion that \$8.50 is the
13 appropriate discount because it represents about a 10% discount from a
14 typical annual heating bill for a low-income customer. Eligibility for
15 participation in the Company's low-income programs is based on HEAP, a
16 benefit that assists low-income New Yorkers in heating their homes and
17 maintaining service during the cold weather heating season. Looking at
18 discount proposals in comparison to winter bills makes better real world
19 sense than using an annualized bill as a basis for the monthly bill credit.
20 Having gas heat in winter months is critical and the fact that the Company
21 issues a \$15 monthly bill credit for low-income electric-heating customers

1 whereas it provides only a \$5 monthly bill credit for non-heating eligible
 2 customers demonstrates how customers’ heating bills are an essential
 3 component in determining appropriate discounts for low-income
 4 customers. Furthermore, many of the low-income programs administered
 5 by other New York utilities provide a higher discount to heating customers
 6 than to non-heating customers. The Commission emphasized the focus
 7 on winter heating bills as good public policy on page 28 of its order
 8 regarding Consolidated Edison dated September 22, 2010 in Cases 09-E-
 9 0794, 09-G-0795 and 09-S-0029. Therefore, the UIU believes its
 10 proposed \$12.50 monthly bill credit, which is approximately 9.5% of a
 11 typical gas low-income customer’s January bill, is far more appropriate
 12 than the respective proposals of DPS Staff and the Company. As I
 13 explained in my direct testimony, the cost of the UIU proposal would add
 14 only approximately \$.38 to each customer’s monthly bill.

15 Additional support for a higher discount level can be found in DPS
 16 Staff’s testimony. The CI Panel asserted on pages 11-12 of its testimony
 17 that “successful” low-income programs result in “reduced costs to the
 18 utility, and ratepayers.” These costs relate to uncollectible expense,
 19 collection costs on unpaid balances, and costs associated with service
 20 terminations and reconnections. The CI Panel admitted in its response to
 21 UIU IR No. 1 to DPS Staff that it conducted no analyses showing how

1 various discount levels might affect these costs. Yet, in my opinion, it
2 seems logical that a \$12.50 discount would have a larger downward
3 impact on these types of costs than DPS Staff's \$8.50 discount.

4

5 Q. Please continue.

6 A. Second, the UIU finds troubling the reason the CI Panel offered on page
7 15 of its testimony for rejecting Niagara Mohawk's \$10 proposal: "Our
8 proposal, if adopted, already makes the program the largest in the state,
9 as a percentage of total revenues." Of course, the Company's program is
10 the largest in New York. The spreadsheet provided by DPS Staff in
11 response to UIU IR No. 3 shows that, with the exception of Consolidated
12 Edison, Niagara Mohawk serves the largest number of low-income gas
13 customers, approximately 66,000. As of June 30, 2012, according to
14 Consolidated Edison's gas low-income report, which was filed on July 27,
15 2012 in Case 09-G-0795, only a small minority of Consolidated Edison's
16 low-income gas customers are heating customers (about 24,000 out of
17 162,000 customers enrolled in the gas low-income program); National
18 Grid, therefore, serves more than twice the number of low-income gas
19 heating customers as does Consolidated Edison.

20 On page 28 of its Consolidated Edison order mentioned earlier, the
21 Commission agreed with DPS Staff in rejecting the simplistic use of a

1 percentage of revenue comparison. The Commission stated that such a
2 comparison “would not tell us enough unless it broke out utility-specific
3 facts and circumstances, such as the percentage-of-revenues derived
4 from utility customers, the percentage of residential customers using gas
5 for heat, the percentage of residential customers that participate in the
6 utility’s low-income assistance program, and the size of a typical low-
7 income customer’s bill.”

8

9 Q. The CI Panel stated in response to UIU IR No. 3 that “a specific formula
10 for determining the size and scope of a low-income program does not
11 exist.” Considering how arbitrary—and contentious—the process is, does
12 the UIU have a proposal for a new approach?

13 A. Federal HEAP guidelines are used in determining eligibility for
14 participation in all utility low-income programs regardless which service
15 territory a customer lives. (In New York City, participation in other
16 programs also allows eligibility in the downstate utilities’ low-income
17 programs.) New York’s utility low-income programs are a hodgepodge of
18 various components. For example, as pointed out by PULP witness
19 Alexander, low-income gas heating customers downstate receive a
20 commodity discount in addition to the customer charge discount whereas
21 low-income gas heating customers upstate do not. In my opinion, it

1 makes no sense to determine the amount or kind of a low-income bill
2 credit based on attributes not related to a customer's income. Instead of
3 arguing about the significance of such service territory-wide factors as the
4 size of the low-income population, the economic condition including
5 unemployment and poverty rates, the number of customers in arrears over
6 60 days, etc. in determining the amount of the bill discount, it is better
7 public policy to provide low-income customers heating and non-heating
8 customers the same respective percentage discount regardless where
9 they live.

10 The UIU proposes that the Commission institute a proceeding to
11 explore the feasibility of a standard low-income program or discount that
12 would be applied to all utilities, as is the case in California. The Missouri
13 Public Service Commission recently instituted a proceeding to examine
14 the possibility of creating a standard statewide low-income customer rate.

15

16 Outreach and Education

17 Q. Please describe the UIU's reaction to DPS Staff's recommendation
18 regarding the size of Niagara Mohawk's proposed outreach and education
19 budget.

20 A. The Company's Shared Services and Customer Panel ("SSC Panel")
21 proposes to increase the outreach and education budget by \$1.4 million,

1 or approximately 67%, beyond the \$2.1 million spent in the 2011 historic
2 test year. While the CI Panel supports the Company's goal of making its
3 outreach and education more effective, it recommends increasing the
4 budget level for outreach and education to \$3.0 million versus the
5 Company's proposed \$3.5 million budget. DPS Staff reasons that the
6 Company's proposed budget "far exceeds" the Company's spending in
7 recent years and it is "not convinced that the Company can expend such a
8 large amount effectively and efficiently."

9

10 Q. Do you consider the CI Panel's proposed budget amount for outreach and
11 education sufficient?

12 A. No. I would recommend at a minimum that the Company's proposal to
13 increase their outreach and education budget to \$3.5 million annually be
14 adopted.

15

16 Q. Why do you believe the CI Panel's proposed budget is inadequate?

17 A. Prior to the greater awareness about the costs associated with retail
18 access, Niagara Mohawk's SSC Panel testified that, to properly serve its
19 customers, the Commission should increase the outreach and education
20 budget by \$1.4 million. In my direct testimony, I described my concern
21 regarding residential customers including low-income customers that take

1 their electric or gas commodity service from an Energy Service Company
2 (“ESCO”) and consistently pay more than if they had remained full service
3 customers with Niagara Mohawk. To assist customers in better
4 understanding the prices offered from ESCOs, I recommended that the
5 Company develop and launch an online bill calculator on its website to
6 assist customers in determining whether it was beneficial or not that it
7 switched to an ESCO. To further assist these customers taking service
8 from an ESCO, I recommended the Company modify its outreach and
9 education program to enhance customer education related to retail access
10 especially low-income customers. I also drew attention to the New York
11 State Energy Marketers Coalition’s letter in response to data sought in a
12 PULP IR where it stated: “Probably the most important response which is
13 needed at this time is additional consumer education.”

14

15 Q. Please continue.

16 A. The testimony filed by DPS Staff’s own Retail Access Panel (“RA Panel”)
17 and PULP witness William D. Yates provides strong support for my
18 recommendation that intensive efforts are required to ensure the
19 robustness of Niagara Mohawk’s outreach and education efforts,
20 particularly in regard to the education of customers as it pertains to retail
21 access.

1 The RA Panel almost appears to contradict the CI Panel testimony
2 in recommending an enhancement to the information available to
3 residential ESCO customers. After noting various market deficiencies, on
4 page 23 of its testimony, the RA Panel states: “We recommend that
5 Niagara Mohawk provide residential ESCO customers with clear, accurate
6 information concerning the amount that they would have been billed had
7 energy been purchased from the utility, and the difference between that
8 amount and what the ESCO customer was actually billed.”

9 The RA Panel suggests three ways this factual information should
10 be delivered to customers: printed on its monthly consolidated bills;
11 through a web-based historical utility bill calculator; and printed on any
12 notice of termination or notice of deferred payment agreement. These are
13 useful suggestions; the UIU believes that this factual information should
14 also be incorporated into the presentations made by the Company’s
15 Consumer Advocates

16 PULP witness Yates presents an analysis of data showing what
17 customers paid while taking ESCO service for a 24-month period (August
18 2010 to July 2012) versus what they would have paid had they remained
19 full service customers with Niagara Mohawk. The numbers are startling.
20 On page 7 of his testimony, Mr. Yates shows that over this 24-month
21 timeframe, “an estimated 207,842 customers paid \$103,711,214 more for

1 ESCO electricity service while an estimated 107,225 customers paid
2 \$27,931,488 more for ESCO gas service.” For low-income customers, the
3 numbers are \$13,331,134 and \$5,819,450, respectively. Considering the
4 numbers, I see no reason for a shortage of resources dedicated to an
5 extensive outreach and education campaign with a focus on retail access.
6

7 Economic Development

8 Q. Please summarize the CI Panel’s reaction to the Company’s proposals as
9 it relates to their Economic Development Grant Programs.

10 A. The Company currently has an electric Economic Development Grant
11 Program funded at \$9.1 million per year, with a proposed increase to \$11
12 million. Niagara Mohawk proposed to implement a natural gas Economic
13 Development Grant Program at a funding level of \$1 million per year. The
14 CI Panel does not disagree with the Company’s proposed funding levels
15 for its electric and gas programs but recommends that the level of funding
16 be capped and that the Company not be allowed to defer expenses for
17 under spending or have the ability to recover costs for overspending in
18 subsequent years.

19

20 Q. Does the UIU agree with the CI Panel’s proposal?

1 A. I agree with the concept of a cap but I recommend that the cap operate
2 within the context of the rate plan. For one, two and three year rate plans,
3 the respective overall, rather than annual, caps would be \$11, \$22 and
4 \$33 million for the electric program and \$1, \$2 and \$3 million for the gas
5 program. This approach provides flexibility in the grant application and
6 expenditure processes.

7

8 Electric Monthly Bill Credit

9 Q. What aspect of the CI Panel's testimony on the electric monthly bill credit
10 concerns the UIU?

11 A. When discussing the Company's low-income programs, the CI Panel twice
12 referenced, once on page 13, line 24 and then again on page 14, line 21,
13 a \$10 monthly bill credit for electric-heating HEAP recipients.

14

15 Q. Please comment.

16 A. In an IR to Staff, UIU IR No. 2, the UIU asked the CI Panel to cite to any
17 documents that indicate the monthly bill credit for electric-heating HEAP
18 recipients is \$10. In response, the CI Panel pointed to the "Stipulation and
19 Agreement Regarding Low Income and Economic Development" (Case
20 10-E-0050, Exhibit 391). Page 2, Section D of the Stipulation states: "The
21 bill credit for electric-heating customers receiving HEAP will be increased

1 from the current \$5 to a total of \$15 per month.” Also, the Company’s
2 response to UIU IR No. 10E as well as Niagara Mohawk’s monthly \$5 and
3 \$15 Low-Income Credit Tracking Reports further demonstrate that eligible
4 electric-heating customers receive a \$15 monthly bill credit. The
5 confusion may have been caused by the misleading wording of the
6 Section D heading.

7

8 Combination Electric And Gas Customers’ Monthly Bill Credits

9 Q. Is there another issue pertaining to bill discounts that you wish to explore?

10 A. Yes, I would like to address a recommendation made by PULP witness
11 Alexander that low-income customers who receive both gas and electric
12 service from Niagara Mohawk receive the gas and the electric bill credits.
13 In her testimony on page 13, Ms. Alexander stated: “I recommend that
14 Niagara Mohawk provide both a gas and electric rate reduction to qualified
15 customers so that a combined gas/electric customer would receive the
16 appropriate rate reduction for each service since the combined impact of
17 both services has a significant impact on the affordability of Niagara
18 Mohawk’s service.” The UIU supports PULP’s recommendation but it is
19 our understanding that this is already the practice of Niagara Mohawk and
20 for that matter, all New York utilities. If this is not the case, then the
21 Company should implement PULP’s recommendation immediately and

1 DPS Staff should confirm that other utilities in the State are also applying
2 the credits appropriately for its eligible customers.

3

4 Smart Growth

5 Q. What is the UIU's response to the testimony of DPS Staff's Alternative
6 Fuel Vehicle Panel rejecting the Company's proposed natural gas vehicle
7 and plug-in electric vehicle incentive programs?

8 A. Smart growth is a New York State public policy that the UIU strongly
9 supports. Nevertheless, we understand the objections and concerns
10 articulated by DPS Staff regarding these incentive programs. In my direct
11 testimony, I welcomed the opportunity to participate in a collaborative to
12 discuss natural gas expansion in a way that is consistent with smart
13 growth principles supported in current State policy. I suggest that the
14 parties agree either to include in the natural gas expansion collaborative
15 or to hold a separate discussion on possible ways to advance smart
16 growth in the Company's service territory by modifying the proposals as
17 appropriate.

18

19 Site Investigation and Remediation

20 Q. Do you have any comments on the recommendations of DPS Staff's SIR
21 Panel?

1 A. Yes, two issues are of concern to the UIU.

2 First, the UIU does not support the recommendation of the SIR
3 Panel to eliminate the Company's current SIR cost sharing mechanism.
4 The SIR Panel asserts on pages 16-17 that the Company has adequate
5 cost control measures in place, that the majority of SIR cost overruns
6 results from unexpected and unforeseen field conditions and that the
7 sharing mechanism has the potential to provide Niagara Mohawk an
8 incentive to delay remediation work to ensure the annual SIR spending is
9 within budget. As I discuss below, DPS Staff has not provided adequate
10 support for taking a position in this proceeding that is completely opposite
11 to the position it so strongly advocated for in the Company's previous rate
12 case and which the Commission adopted.

13 Second, the SIR Panel seems to equate the purpose and
14 usefulness of the Company's current SIR cost sharing mechanism with the
15 filing of annual SIR reports. It does this by suggesting that annual reports
16 would not be necessary if the cost sharing mechanism is continued. The
17 UIU disagrees with this recommendation as well; the Commission should
18 require enhanced reporting requirements regardless whether the cost
19 sharing mechanism remains in place. Annual reports would help DPS
20 Staff and interested parties evaluate the reasonableness of the
21 Company's SIR activities whereas the purpose of the cost sharing

1 measure is to encourage enhanced vigilance (that is, beyond reasonable
2 conduct) on the part of Niagara Mohawk personnel regarding cost
3 containment.

4

5 Q. Please provide some background on this issue.

6 A. As the SIR Panel noted on pages 14-15 of its testimony, in response to
7 DPS Staff's insistence in Niagara Mohawk's previous rate proceeding,
8 Case 10-E-0050, the Commission ordered allocating any SIR costs in
9 excess of the annual SIR base rate allowance 80% to customers and 20%
10 to shareholders. Niagara Mohawk has not had to apply the 80/20 sharing
11 mechanism because, for fiscal year 2012, the Company spent \$13 million
12 on SIR activities, approximately \$22.4 million (or 63%) less than the \$35.4
13 million the Commission allowed Niagara Mohawk to collect in electric and
14 gas rates. The SIR Panel stated on pages 8-9 of its testimony that the
15 lower amount was the result of delays to scheduled remediation due to
16 regulatory reviews, unfavorable weather conditions, contractor
17 procurement and property owner requests.

18 The SIR Panel explained on pages 6-7 of its testimony that Niagara
19 Mohawk is involved in the remediation of approximately 66 manufactured
20 gas plant sites. The SIR Panel stated on pages 11-12 that the Company
21 provides the Department of Environmental Conservation ("DEC") and/or

1 the Environmental Protection Administration (“EPA”) with a proposed
2 remediation plan, which the agencies typically accept. However,
3 according to the SIR Panel, “over the last five years, there were ten
4 instances where the DEC modified the feasibility studies’
5 recommendations and chose an alternative option that would have caused
6 significant SIR cost increases.” The SIR Panel stated that on “several”
7 occasions, “the Company was successful in negotiating with DEC or EPA
8 alternative remediation remedies and mitigated some of the added SIR
9 costs.”

10

11 Q. What is the Commission’s current policy regarding cost sharing for
12 Niagara Mohawk?

13 A. In explaining its reasons for establishing the cost sharing mechanism,
14 the Commission stated on pages 104-106 of its Order in Case 10-E-
15 0050:

16 Staff proposed an incentive mechanism for Niagara
17 Mohawk to improve the management of the site
18 investigation and remediation costs incurred when
19 environmental remediation is required at locations
20 polluted due to early activity in the gas and electric
21 industry during the 1800’s and 1900’s. Staff proposed
22 an 80/20 sharing mechanism for the costs incurred in
23 excess of the projections made in a rate proceeding.
24 The Judges have not recommended the Staff proposal,
25 citing the potential disincentives for optimal site
26 remediation, the potential disturbance of a cooperative

1 working relationship between the Company and the
2 state and federal environmental agencies that oversee
3 Niagara Mohawk's performance, and the limits on the
4 Company's ability to control the scope and timing of the
5 environmental remediation efforts.
6

7 On exceptions, Staff continues to support the use of an
8 incentive mechanism and asserts that it is the
9 Company's business to manage and limit the cost of
10 necessary remediation work. Staff does not believe that
11 it would be counterproductive to the Company's
12 working relationship with the state and federal
13 environmental agencies for it to use its abilities it
14 pursue the least cost solutions available for site
15 remediation work. Finally, Staff states there is a
16 precedent for its proposal and it points out that
17 previously an 80/20 cost sharing arrangement was
18 applied to the Company for it to maintain costs in this
19 category.

20

21
22 We are well aware of the importance of thorough, timely
23 cleanups, both for public health and for the economic
24 vitality of affected communities. We intend that utility
25 efforts should further these twin goals. We are
26 concerned, however, that, in practice, the design and
27 implementation of SIR projects may not cost effectively
28 focus the utility's remediation efforts. The current
29 process may lack an effective deterrent to excessive
30 costs in the design and/or implementation of projects.
31 Where neither the agency overseeing the project, nor
32 the company implementing it, has a tangible incentive
33 to minimize costs, the goal of designing and
34 implementing projects in the most reasonable and cost-
35 effective manner, on behalf of ratepayers, might not be
36 properly represented.
37

1 Q. Please elaborate on the reasons for your disagreement with DPS Staff's
2 recommendation to eliminate the cost sharing mechanism it previously
3 supported.

4 A. In my opinion, the SIR Panel has not adequately explained the 180 degree
5 turnaround between DPS Staff's argument in the previous Niagara
6 Mohawk case and its argument in this case. For instance, the SIR Panel
7 failed to address the Commission's observation that, because neither the
8 agency overseeing SIR activities nor the utility implementing those
9 activities have a tangible incentive to minimize costs, the interests of
10 ratepayers are not properly represented. It is interesting in this regard
11 that, apparently, in no instance did DEC or EPA reject a Company
12 remediation proposal on the ground that too much remediation had been
13 proposed or that the proposed remediation was too costly.

14

15 Q. Please continue.

16 A. The first reason offered by the SIR Panel (on page 16) for changing its
17 mind about the need for the cost sharing mechanism is that, since the
18 previous rate case, "Staff has renewed its focus on and has enhanced its
19 understanding of the Company's SIR activities and cost control
20 strategies." The SIR Panel continued: "During this proceeding and during
21 our involvement in Case 11-M-0034, the generic SIR proceeding, our

1 review and analysis has focused more closely on the uncertainties of SIR
2 remediation and the Company's actions and processes used to mitigate
3 associated costs."

4 While DPS Staff insists on page 19 that its "oversight and
5 monitoring furthers the Company's incentive to control its SIR costs," in
6 fact, DPS Staff is not a party to the negotiations between DEC and
7 Niagara Mohawk. It has no real-time involvement in identifying less
8 expensive measures that would accomplish the same degree of
9 remediation as the measures proposed by the Company. In any event,
10 this explanation misses the point because the primary purpose of cost
11 sharing is not to encourage reasonable and prudent conduct. (DPS Staff
12 admitted in response to Multiple Intervenors ("MI") IR No. 9 that it has
13 never advocated in any proceeding for disallowance of any utility's SIR
14 costs; it appears that DPS Staff has never questioned the reasonableness
15 of any utility's remediation plans.) Rather, the purpose of a cost sharing
16 mechanism is to encourage Company personnel to go the extra mile in
17 containing SIR costs.

18 Further, DPS Staff's assertion that it conducted an enhanced
19 review of the Company's SIR activities in this case compared to previous
20 proceedings is undermined by its response to MI IR No. 7, which asked
21 DPS Staff whether its review of SIR costs in this proceeding differed from

1 its review of SIR costs in other recent rate proceedings. DPS Staff listed
2 two older proceedings, 06-G-1185 and 06-G-1186, and two recent
3 proceedings, 10-E-0362 and 11-E-0408. It stated that its “review of site
4 investigation and remediation expenses in Niagara Mohawk’s current
5 utility proceeding did not differ from that employed in those listed
6 proceedings.”

7 The two 2006 cases involved National Grid’s downstate affiliates,
8 KEDLI and KEDNY. SIR costs are not mentioned in the Joint Proposal
9 or in DPS Staff’s or any of the other parties’ statements in support of the
10 Joint Proposal. DPS Staff’s initial brief in Orange and Rockland’s
11 (“O&R”) 10-E-0362 case discusses the appropriate length of the
12 amortization period for recovery of deferred SIR costs but makes no
13 mention of the reasonableness of the costs themselves or the type of
14 investigation DPS Staff conducted. DPS Staff’s testimony in O&R’s
15 subsequent case, 11-E-0408, summarily reviews information provided by
16 O&R and concludes that O&R’s SIR activities appear to be in order.

17 The second reason offered by the SIR Panel (on pages 16-17) in
18 support of its recommendation is its “belief” that the sharing mechanism
19 has the “potential” to provide the Company with an incentive to delay SIR
20 remediation work to ensure that annual spending is within the budget
21 approved by the Commission. This speculative argument is indeed a

1 stretch given the Company's recent history of spending so much less on
2 SIR costs than authorized. Furthermore, the SIR Panel provides no
3 evidence of this type of behavior having occurred in situations in New York
4 or any other jurisdiction in the country where cost sharing was in place.
5 (The briefs filed by the UIU and MI in the generic proceeding referred to by
6 the SIR Panel provide instances where sharing mechanisms were in
7 place.) Note also that in the generic proceeding, DEC did not state that
8 Niagara Mohawk's current cost sharing mechanism caused any negative
9 impacts.

10 In the UIU's view, the theoretical potential for delay caused by a
11 cost sharing mechanism has little traction compared to the strong
12 incentive such a mechanism provides to Company personnel to reach
13 above and beyond their normal conduct to ensure that SIR costs are held
14 to the minimum necessary to complete the tasks.

15

16 Q. Please elaborate on the reasons the UIU disagrees with the
17 recommendation to require annual reports if the cost sharing mechanism
18 is not continued.

19 A. The following question is asked on the top of page 19 of the SIR Panel's
20 testimony:

1 If the Commission decides to discontinue the Company
2 SIR cost sharing mechanism what are the Panel's
3 recommendation to ensure that the Company continue
4 to implement value engineering techniques and strive to
5 control SIR costs?
6

7 The SIR Panel responds to this question by recommending that the
8 Commission direct Niagara Mohawk to file annual SIR reports detailing
9 each project's status, major milestones, forecasted and actual costs,
10 causes of cost variances of plus or minus ten percent and the reasons for
11 any schedule changes. It also recommends that the Company log all of its
12 value engineering proposals, provide an explanation of why the idea was
13 or was not implemented, include a listing of potential cost savings and
14 provide the final results.

15 The UIU agrees that the Commission should direct Niagara
16 Mohawk to file such annual reports. Information compiled and organized
17 in the manner outlined by the SIR Panel will help the Company manage
18 SIR projects more efficiently and will provide DPS Staff with a useful
19 evaluation tool. However, the UIU disagrees with the SIR Panel if it was
20 the intention or the wording of the question and the response that annual
21 reports would not be necessary if the cost sharing mechanism were to
22 continue. In the UIU's view, the cost sharing mechanism and the annual
23 reports are complementary and are not mutually exclusive. We also urge

1 that, with appropriate confidentiality protections in place, interested parties
2 (and not just DPS Staff) have access to all such reports.

3

4 Inspection and Maintenance

5 Q. Does the UIU agree with the recommendation of DPS Staff's Electric
6 Infrastructure Panel ("EI Panel") (page 66) that the Commission should
7 establish a negative revenue adjustment that would trigger if Niagara
8 Mohawk continues its poor record of making repairs as outlined in the
9 Commission's Safety Standards.

10 A. Yes. According to DPS Staff, the Company has a backlog of 100,000
11 repairs and its performance in repairing the more serious problems
12 deteriorated in 2011 compared to 2010. Not making these repairs in a
13 timely manner jeopardizes public safety. Providing Niagara Mohawk a
14 financial incentive to achieve at least acceptable performance is
15 appropriate.

16

17 Buffalo Street Light Cable Replacement Program

18 Q. DPS Staff's EI Panel stated on page 68 of its testimony that "the Company
19 should revise and expand the scope of the Buffalo Street Light Cable
20 Replacement Program to include a more clearly defined, long term,

1 system wide approach, rather than its limited approach to resolving the
2 street light problem.” Does the UIU agree with this recommendation?

3 A. Yes. According to Niagara Mohawk’s Electric Infrastructure and
4 Operations Panel (see Exhibit ___ (EIOP -10, page 43 of 154), the
5 Company’s underground street lighting cables are more than 50 years old
6 and elevated voltage testing in the Buffalo metropolitan area identified
7 stray (contact) voltage incident rates from two to twenty times the rates
8 measured in other areas of the Company’s service territory. I note that
9 Buffalo has a greater incidence rate per street mile than New York City’s.
10 The UIU is concerned that the proposed program to replace just 1.4% per
11 year of the 50-year old cables is not sufficiently aggressive to resolve the
12 Company’s stray voltage problem. (See the response to UIU IR No. 1 to
13 Niagara Mohawk.) The UIU is interested in participating in discussions
14 pertaining to the revised plan sought by DPS Staff.

15

16 Q. Does this conclude your rebuttal testimony?

17 A. Yes.