BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

New York State Electric and Gas Corporation
Rochester Gas and Electric Corporation

Cases 09-E-0082, 09-G-0083, 09-E-0084, 09-G-0085

February 2009

Prepared Testimony of:

Staff Service Quality and
Reliability Panel

Diane J. Barney
Utility Supervisor

Michael J. Rieder
Utility Engineer 3

Karl F. Roenick
Utility Engineer 2

Daniel J. Wheeler
Utility Engineer 3

Office of Electric, Gas and
Water

Donna De Vito
Utility Consumer Specialist 4

Office of Consumer Services

State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Q. Please state your names, employer, and business address.

A. Diane J. Barney, Michael J. Rieder, Karl F. Roenick, Daniel J. Wheeler, and Donna De Vito. We are employed by the State of New York Department of Public Service (Department). Our business address is Three Empire State Plaza, Albany, New York 12223.

Q. Ms. Barney, please briefly state your educational background and professional experience.

A. I received a Bachelor of Science degree in Electrical Engineering from Virginia Polytechnic Institute and State University in 1983. I joined the Department of Public Service in June 1990. My responsibilities have included analysis of various planning and regulatory issues, including electric transmission planning and siting at both the state and national level, maintaining bulk electric system reliability under changing regulatory designs, national, regional and state reliability standards development, generation interconnection process development, and related legislative efforts. I am the founding Chair of the National Association of Regulatory Utility Commissioners (NARUC) Electric Reliability Staff Subcommittee, an elected regulatory representative on the North American Electric Reliability Corporation (NERC) Standards Committee and regulatory member of the Northeast Power Coordinating Council (NPCC) Regional Standards Committee.

Q. Have you previously testified before the Commission?

A. Yes, I testified in Case 07-M-0906, the NYSEG, RG&E, and Iberdrola merger case.

Q. Mr. Rieder, please briefly state your educational background and professional experience.

A. I graduated from Clarkson University with a Bachelor of Science degree in Electrical Engineering in 1990. I began my employment with the Department in November 1991 in the Power System Operations Section of the Power Division. My responsibilities included oversight of the operations of the New York Power Pool and of each of the New York State utilities' bulk power systems. In September 1993, the Department reorganized and I moved to what is now the Electric Rates Section. While with the Department, I have prepared, analyzed, and reviewed reports and studies involving operating revenues, sales forecasts, operation and maintenance (O&M) expenses, capital budgets, system planning and operation, marginal and embedded costs, mortality and net salvage, revenue allocation and rate design. My current duties include the review and evaluation of electric utility capital and O&M budgets and the engineering analyses of electric utility rate, pricing, and tariff proposals.

Q. Have you previously provided testimony before the New York State Public Service Commission (Commission)?

A. Yes. I have testified before the Commission in numerous proceedings on issues related to electric utility sales, revenues, expenses, capital budgets, cost studies, depreciation, revenue allocation, and rate design.

Q. Mr. Roenick, please briefly state your educational background and professional experience.

A. I graduated from the Polytechnic Institute of Brooklyn in 1973 with a Bachelor of Science degree in Mechanical Engineering. After a two-year tour in the US Army, I worked as a project planner for several power plant projects. In 1984, I joined the Department to monitor construction of the Nine Mile Point 2 Nuclear Plant. I have worked in several areas while at the Department and have spent most of my time in the electrical distribution area.

Q. Have you previously testified before the Commission?

A. Yes. I have testified in a number of proceedings before the Public Service Commission.

Q. Mr. Wheeler, please briefly state your educational background and professional experience.

A. I hold a Bachelor of Science Degree in Civil and Environmental Engineering from Clarkson

University (1981). Prior to my employment with the Commission in 1982, I held a position as a Field Service Engineer with Babcock & Wilcox, Fossil Power Generation Group. My responsibilities involved the improvement of availability and inspection of large-scale, industrial and utility boilers. Since joining the Department, I have held various engineering positions, including those in Gas Rates, Gas Safety, Gas Policy and Cost Performance Sections. Currently, my duties with the Department relate to gas utility matters, including preparation of materials for proceedings before the Commission.

Q. Have you testified before the Commission previously?

A. Yes, I have testified many times during the last 27 years.

Q. Ms. De Vito, please briefly state your educational background and professional experience.

A. I have a Bachelor's Degree in Accounting from Siena College. In 1977, I began employment at the Department in the Accounting Division. In 1993, I transferred to the Office of Utility Efficiency and Productivity, and performed comprehensive utility management and operational audits of utility companies. As part of a departmental reorganization in 1998, I worked in the Office of Consumer Education and Advocacy in the Business Advocacy Group; my responsibilities included: interpretation of electric and gas regulations; execution of procedures and policies related to all state and federal laws and regulations for customer service quality and competitive provider practices; analysis and resolution of consumer protection issues in billing disputes; and impact analysis of tariff incentives and qualification criteria for utility and state economic development programs. In April 2004, I accepted a promotion to Utility Analyst 3 with the New York State Consumer Protection Board. I represented CPB on all customer utility service quality and low income issues in New York State (NYS), and presented testimony in cases before the Commission on those issues. I returned to the Department in May 2007 in the Office of Consumer Services (OCS) as a manager of the Outreach and Education Group, with responsibility for implementation of the Department Outreach and Education program. In June 2008, I was assigned to the OCS Advocacy Group. My current responsibilities include oversight of consumer service performance, compliance with consumer protection rules and low income programs of electric and gas utilities. I also manage the OCS oversight of utility storm and emergency response with regard to customer communication and outreach activities.

Q. Have you previously testified before the Commission?

A. Yes. I submitted testimony in proceedings concerning Central Hudson Gas and Electric Corporation, Orange and Rockland Utilities, Inc., KeySpan Energy Delivery New York, KeySpan Energy Delivery Long Island, Consolidated Edison of New York, Inc. and Niagara Mohawk Power Corporation. In these rate proceedings, I testified on issues related to emergency preparedness, customer outreach and education, service reconnection fees, customer outreach and education, customer service performance measurement and performance threshold design, and assessment and development of specialized low-income programs to address low-income customer needs.

Q. What is the purpose of the Panel's testimony in this proceeding?

A. The purpose of our testimony is to demonstrate that rate relief requested by New York State Electric and Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) (together, the Companies) is not required to fund electric and gas capital projects, which the Companies claim are required by regulation, necessary to serve customers, and necessary to provide safe and adequate service earlier than permitted by the Commission in its Order Authorizing Acquisition Subject to Conditions (the Merger Order) in Case 07-M-0906 for both NYSEG and RG&E. Specifically, we address the testimony of the NYSEG Capital Expenditures, Reliability and Operations Panel (the NYSEGCRO Panel), the RG&E Capital Expenditures, Reliability and Operations Panel (the RGECRO Panel), and the Companies' Policy Panel. Our testimony further addresses the electric and gas system, safety and reliability concerns, and the adequacy of the combined electric and gas capital expenditures suggested in the Companies' filing. We also address the Companies' service quality performance. We conclude that rate relief is not required and that the current electric and gas capital investment level required for both NYSEG and RG&E by the Merger Order, which was unconditionally accepted by the Companies, is sufficient to continue to provide safe and adequate service. We further conclude that amounts previously allowed in rates for operations and maintenance (O&M) programs should be sufficient for the provision of safe and adequate service. Finally, performance measures show that neither NYSEG nor RG&E suffer from service-related problems such that a rate increase should be considered at this time.

Q. Is the Panel sponsoring any exhibits?

A. Yes, we are sponsoring two exhibits, Exhibit___(SQRP-1) and Exhibit___(SQRP-2).

Q. With respect to capital expenditures, what were NYSEG's historic electric capital expenditure levels?

A. NYSEG's historic electric capital expenditure levels were $125.1 million, $92.3 million, and $130.4 million for the years 2006, 2007, and 2008, respectively.

Q. What level of electric capital investment is required under the Merger Order?

A. The Merger Order requires annual electric capital expenditure levels of $140 million for each of the years 2009 and 2010.

Q. What capital expenditure levels is NYSEG now requesting?

A. NYSEG is now proposing electric capital expenditure levels of $182.0 million in 2009, which is $42 million over the required expenditure level set by the Merger Order, and $199.6 million in 2010, which is $59.6 million over the required expenditure level set by the Merger Order.

Q. Is NYSEG requesting significant incremental funding for specific projects?

A. Yes. NYSEG is requesting incremental funding for a collection of projects it claims are necessary to comply with the regulations of the Electric Reliability Organization (ERO) reliability standards mandated by the Federal Energy Regulatory Commission (FERC) and for its Transmission and Distribution Infrastructure Reliability Program (TDIRP).

Q. What level of incremental capital expenditures is NYSEG forecasting for the ERO projects and its TDIRP?

A. NYSEG is proposing incremental capital levels for the ERO projects of \$33.2 million and \$43.6 million for 2009 and 2010, respectively. NYSEG is proposing incremental capital levels for its TDIRP of \$18.0 million for both 2009 and 2010. The cumulative increase for the ERO projects and the TDIRP is \$51.2 million and \$61.6 million for 2009 and 2010, respectively.

Q. Please describe the ERO projects?

A. ERO projects are a collection of capital projects that NYSEG states are necessary to meet FERC's current and future ERO reliability standards, including those that may arise if the current definition of bulk electric system (BES) facilities is expanded to include electrical transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. The NYSEGCRO Panel provides a general description on pages 30-31 of its pre-filed testimony of some of the proposed capital expenditures related to the ERO projects.

Q. What is NYSEG's current definition of BES facilities?

A. As described in the NYSEGCRO Panel's pre-filed testimony at page 26, "NYSEG has defined its BES with the same definition adopted by the New York State Reliability Council (NYSRC) for the New York Bulk Power System. NYSRC defines the bulk power system as "[t]he portion of the bulk power system within the New York control area, generally comprising generating units 300 MW and larger and generally comprising transmission facilities 230 kV and above."" These facilities are included in the list of bulk power system elements kept by the Northeast Power Coordinating Council (NPCC). According to the NYSEGCRO Panel, FERC has expressed a concern over how NPCC defines its BES facilities.

Q. What has FERC done to address its concern?

A. Again, according to the NYSEGCRO Panel, "FERC issued an Order to NPCC and NERC to collect data on the elements included in NPCC's BES, and elements over 100 kV not included in NPCC's BES." The NPCC, in turn, "requested that all transmission owners ("TOs") and operators ("TOPs") assess the "impact of this new definition and determine the impact that 100 kV and above will have on meeting the NERC standards.""

Q. Has FERC required the BES definition used by the NPCC and, specifically, by NYSEG to be at the 100 kV level?

A. No. In FERC's December 18, 2008 Order in Docket

No. RC09-3-000, where the request was made of NPCC to provide a list of all facilities 100 kV and above, paragraph 14 states "[a]fter receipt and analysis of the above information, the Commission will determine what, if any, further appropriate action is warranted."

Q. Has the possibility of moving to a 100 kV and above "bright-line" criteria within NPCC raised any concerns?

A. Yes. Concern has been expressed by key market participants over the fact that there has been no analysis to determine the implications of moving to a 100 kV "bright-line" designation of bulk facilities that would, in turn, result in the requirement to bring all those facilities into compliance with NERC standards. Hundreds of facilities will need to be studied to determine required upgrades within New York alone. A number of parties including Department Staff, the New York State Reliability Council (NYSRC), various TOs, and generator owners have stated that such a change could have major impacts on resources, investment requirements, and costs to consumers. In addition to the aforementioned concerns, the NYSRC has expressed a concern that the reliability of the bulk power system could actually be reduced by the application of this "bright-line" criteria.

Q. Please describe the current status of the issue related to the "bright-line" designation as it applies to NYSEG and the NPCC.

A. FERC has extended the filing date for the facility lists until February 20, 2009. It is not known when, or even if, FERC will ever take further action.

Q. Does NYSEG include the costs of the ERO projects in its electric capital forecast?

A. Yes. By doing so, NYSEG is requesting approval of the ERO project costs, and thus ratepayer recovery of those costs, before any determination is made by FERC that the definition of BES facilities for NPCC, and specifically NYSEG, be changed.

Q. Do you agree with NYSEG that the "potential expansion of the NERC Standards" is grounds to seek rate relief at this time?

A. No. FERC has not made a determination that they will take any actions related to the requested filing. Further, if the experience in other regions is indicative, a transition to the application of NERC standards to 100 kV and above facilities would likely include a request from the facility owners to identify facilities that cannot today meet the standards, and an opportunity would be provided to submit implementation plans during which time the standard would not apply to the facilities. Up to this point, no demonstration has been made that this move would increase bulk system reliability levels and support has been voiced by the parties for the continued use of the functionally based definition of the BES as the preferred approach for application of NERC standards. Only when and if FERC makes a determination that facilities above 100 kV are, in fact, required to meet NERC ERO standards should NYSEG seek recovery of the associated capital costs. As is the case with all New York utilities, NYSEG should include the associated projected costs in a rate case to allow staff and other interested parties ample opportunity for review and a subsequent Commission decision as to the reasonableness of the proposed costs.

Q. Please describe the NYSEG TDIRP.

A. The NYSEG TDIRP is a multi-year capital program that was approved in NYSEG's last electric rate case. The program's objective, as explained by the NYSEGCRO Panel, is to "replace aging infrastructure and ensure NYSEG's continued delivery of safe and reliable electric service to its customers."

Q. Please describe the incremental costs of the TDIRP being proposed by NYSEG.

A. At page 13 of its pre-filed testimony, the NYSEGCRO Panel proposes to increase the capital investment in this program by $84 million over the next five years. Specifically, NYSEG proposes incremental capital investments for this program of $18 million annually for each of 2009 and 2010. NYSEG claims that the increased investment is necessary to maintain safe and reliable service.

Q. Has NYSEG met its reliability targets in the past?

A. With the exception of 2007, NYSEG has met both its System Average Interruption Frequency Index (SAIFI) and Customer Average Interruption Duration Index (CAIDI) targets in prior years and now preliminarily in 2008. NYSEG's 2007 frequency performance of 1.20 was higher (i.e., worse) than both the previous year's performance and its five year average performance level. The 2007 duration performance of 2.22 was also higher than both the previous year's performance and the five year average.

Q. Please continue.

A. Even though NYSEG failed its CAIDI target for 2007, the Company was not subject to any negative revenue adjustment due to the fact that the Reliability Performance Mechanism (RPM) for the Company had expired after the rate term ended in accordance with Case 05-E-1222, NYSEG's last rate case. Therefore, NYSEG did not have any form of RPM in place for both 2007 and 2008. In the Iberdrola merger case, however, the previous RPM targets were reinstated (SAIFI: 1.2/1.26 and CAIDI: 2.08/2.18) with the negative revenue adjustments doubling (SAIFI: $1.75M/$3.5M and CAIDI: $1.75M/$3.5M) if the Company were to fail either of its SAIFI/CAIDI targets starting in 2009 and going forward.

Q. Do you agree, then, that the incremental costs associated with the TDIRP are required to enable NYSEG to assure continued system performance?

A. No. Incremental capital investment in NYSEG's electric system could certainly enhance service, however, the Commission determined, and NYSEG agreed by unconditionally accepting the terms of the Merger Order, that the current annual electric capital allowance of $140 million for 2009 and 2010 is sufficient to maintain safe and adequate service. In fact, on page 1 of its December 8, 2008 Condition Assessment Report NYSEG states that its overall electrical system is in "sound condition." If NYSEG determines that additional capital investment is required for a certain project, such as the TDIRP, it retains the ability to manage its capital budget by directing resources to critical projects.

Q. Has NYSEG demonstrated that it has optimally prioritized its capital projects?

A. No. NYSEG has requested rate relief without considering the most appropriate ways to manage its capital budget.

Q. Please explain.

A. At page 13 of its pre-filed testimony, the NYSEGCRO Panel states that if the Commission does not approve the funding levels sought by NYSEG, "the Company would be compelled to explore all reasonable and available options to reduce the costs of particular projects, without jeopardizing safe and reliable service and while continuing to comply with applicable regulations. Such options could include, determining an order of priority for completion of planned and pending projects, areas where costs can be reduced, or whether to delay components of certain projects." Taking these steps should be the first course of action for NYSEG. Only after these cost-saving actions are taken should NYSEG seek rate relief.

Q. Turning now to common plant. Does NYSEG propose capital expenditures for common plant?

A. NYSEG's filing regarding common plant is deficient. NYSEG offers no testimony with regard to common plant. However, Exhibit___(NYSEGCRO-2) indicates that NYSEG is planning to expend $28.2 million and $20.4 million in 2009 and 2010, respectively, yet makes no mention of their capital spending plans for common plant in their pre-filed testimony.

Q. Are there other areas where NYSEG's filing is deficient?

A. Yes. NYSEG provides little or no information for the vast majority of its proposed projects and programs. It provides no historic spending levels for project categories or specific projects. There is no correlation between the major projects identified in Exhibit___(NYSEGCRO-1) and the project categories listed in Exhibit___(NYSEGCRO-2). NYSEG provides only limited project justification for a small sample of projects and no justification, description, project scope, schedule, or cost breakdown for the majority of its electric capital project and O&M programs. In addition, the Commission, in its August 30, 2007 Order on Capacity Release Programs in Case 07-G-0299 (August 30 Order), required NYSEG to "file in its next major rate application a plan for use of local gas production connected directly to their distribution facilities as upstream capacity and its continuing availability as a replacement for capacity provided by local distribution companies." The pre-filed testimony of the NYSEG Electric and Natural Gas Supply Panel states that "the plan being proposed by NYSEG is to evaluate local gas production reliability on an annual basis. At such time as it is sufficiently reliable to replace upstream capacity NYSEG will initiate a process to do so." The failure of NYSEG to provide a plan in this proceeding, as required by the Commission is a major deficiency.

Q. What were RG&E's historic electric capital expenditure levels?

A. RG&E's historic electric capital expenditure levels were $125.4 million, $121.0 million, and $121.4 million for the years 2006, 2007, and 2008, respectively. A significant portion of RG&E's historic capital expenditures during that time period are related to its Rochester Transmission Project (RTP), which appears to have cost over $121 million based on the pre-filed testimony provided by the RGECRO Panel at page 40.

Q. What level of electric capital investment did RG&E forecast prior to its rate filing in this proceeding?

A. In its financing petition filed with the Commission on October 4, 2007, RG&E forecasted total capital expenditures of $196.7 million and $197.3 million for 2009 and 2010, respectively. To show only RG&E's electric and common plant capital forecast contained in the financing petition, we removed the amounts related to RG&E's gas capital forecast. We also removed the capital forecast associated with RG&E's proposed advanced metering infrastructure (AMI) project and the Russell Station Closure &

Repowering project to conform to the intent of the Merger Order. With these capital projects removed, Exhibit___(SQRP-1) shows that the RG&E financing petition forecasted electric capital expenditures of $106.7 million and $83.1 million for 2009 and 2010.

Q. What level of electric capital investment is required by the Merger Order?

A. The Merger Order requires electric capital expenditure levels of $90 million for both the years 2009 and 2010.

Q. What electric capital expenditure levels is RG&E now requesting, excluding AMI and the Russell Station Closure?

A. RG&E is proposing electric capital expenditure levels of $131.4 million in 2009, which is $41.4 million over the required expenditures set by the Merger Order, and $173.7 million in 2010, which is $83.7 million over the required expenditures set by the Merger Order.

Q. Is RG&E requesting significant incremental funding for specific projects?

A. Yes. Compared to the 2009 capital forecast provided in its financing petition and restated in Exhibit___(SQRP-1), RG&E is proposing in this proceeding incremental capital spending of $3.4 million for projects identified in its financing petition and $41.6 million for new projects, which were not identified. For 2010, RG&E is proposing incremental capital spending of $54.9 million for those projects identified in its financing petition and $51.2 million for new projects, which were not identified in the petition.

Q. Please describe the major new projects on which RG&E is proposing to spend $41.6 million and $51.2 million in 2009 and 2010, respectively.

A. As we discussed previously for NYSEG, RG&E is also requesting incremental funding for a collection of projects it claims are necessary to comply with the regulations of the ERO reliability standards mandated by FERC. RG&E also proposes incremental funding for its Transmission and Distribution Infrastructure Reliability Program (TDIRP), Station 137 (Station 3 11 kV Relocation), Station 168

Improvements, and Station 56 Second 12 kV Transformer.

Q. What level of incremental capital expenditures is RG&E forecasting for these major new projects?

A. RG&E is proposing incremental capital levels for its ERO projects of $18.4 million and $29.4 million for 2009 and 2010, respectively. It is proposing incremental capital levels for its TDIRP of $5 million and $7 million for 2009 and 2010, respectively. RG&E is proposing incremental capital spending levels for Station 137 of $10.0 million and $3.0 million for 2009 and 2010, respectively. It is proposing incremental spending levels for Station 168 Improvements of $5.5 million and $4.6 million for 2009 and 2010, respectively. Finally, RG&E is proposing incremental spending levels for Station 56 Second 12 kV Transformer of $0.1 million and $5.0 million for 2009 and 2010, respectively. Again, the cumulative increase in capital spending proposed by RG&E for its new projects is $41.6 million and $51.2 million for

2009 and 2010, respectively.

Q. Please describe the RG&E ERO projects.

A. Similar to NYSEG, the RG&E ERO projects are a collection of capital projects that RG&E states are necessary to meet FERC's current and future ERO reliability standards, including those that may arise if its current definition of bulk electric system facilities is expanded to included electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. The RGECRO Panel provides a general description on pages 26-27 of its pre-filed testimony of some of the proposed capital expenditures related to the ERO projects. The total incremental capital costs associated with the ERO projects is $18.4 million and $29.4 million for 2009 and 2010, respectively.

Q. Does RG&E define its BES facilities in the same manner as NYSEG?

A. Yes, and consequently, FERC has the same issue with RG&E as we discussed earlier for NYSEG.

Thus, RG&E was also required by the NPCC to file an assessment of the impact the new BES definition. Because FERC has not required the new BES definition and has only begun a proceeding to review its implications, we believe that it is premature to allow RG&E to begin recovery of the proposed incremental costs of the ERO projects. Only when and if FERC makes a determination that facilities above 100 kV are, in fact, required to meet NERC ERO standards should RG&E seek recovery of the associated capital costs. As is the case with all New York utilities, RG&E should include the associated projected costs in a rate case to allow staff and other interested parties ample opportunity for review and a subsequent Commission decision as to the reasonableness of the proposed costs.

Q. Please describe the RG&E TDIRP.

A. As explained by the RGECRO Panel, the RG&E TDIRP is a multi-year capital program intended to "replace aging infrastructure and ensure RG&E's continued delivery of safe and reliable electric service to its customers."

Q. Please describe the incremental capital costs of the TDIRP being proposed by RG&E.

A. At page 13 of its pre-filed testimony, the RGECRO Panel proposes to increase the capital investment in this program by $41 million over the next five years. Specifically, RG&E proposes incremental capital investments for this program of $5 million for 2009 and $7 million for 2010. RG&E claims that the increased investment is necessary to maintain safe and reliable service.

Q. Has RG&E met its reliability targets in the past?

A. Yes. With regard to service reliability, RG&E is among the better performing utilities within the state. RG&E's 2007 performance for frequency and duration was fairly consistent with its five year average. RG&E's 2007 frequency performance of 0.83 was slightly higher than both the previous year's performance of 0.79 along with the five year average of 0.80. RG&E's 2007 duration performance of 1.73

was better than both the previous year's performance of 1.78 and the five year average of 1.77. The two major contributors to interruptions were equipment failures (30%) and tree contacts (20%). The figures are slightly up from the five year averages of 28% for equipment failures and 18% for tree contacts. Both frequency and duration measures for 2007 were better than the Company's RPM targets of 0.90 for SAIFI and 1.90 for CAIDI. Although RG&E is segregated into four areas, its Rochester division accounts for approximately 80% of its customer base. In 2007, RG&E's Rochester division experienced a slight increase in equipment failures compared to historic data. In RG&E's more rural divisions, interruptions caused by accidents are on the rise.

Q. Please continue.

A. The preliminary numbers for 2008 show SAIFI dropping and CAIDI increasing on a system-wide basis. Until Staff receives the utilities' service standards report on March 31, 2009, no further analysis into the 2008 performance numbers can be completed. The Company continues to meet the reliability performance targets set by the Commission and has not been subject to any negative revenue adjustments in recent history. Similar to NYSEG, the Merger Order reinstated RG&E's previous RPM targets (SAIFI: 0.9 & CAIDI: 1.9) and doubled the negative revenue adjustments from the previous amounts (SAIFI: $1.25M & CAIDI: $1.25M to SAIFI: $2.5M & CAIDI: $2.5M) if the Company were to fail either of its SAIFI/CAIDI targets starting in 2009 and going forward. At this time there are no indications that RG&E's electric service and reliability are deteriorating, or will begin to deteriorate as discussed in the NYSEG territory. RG&E should continue performing at, or better than, these levels in years to come.

Q. Do you agree that the approval of the incremental costs associated with the RG&E TDIRP is required to enable RG&E to ensure continued system performance?

A. No. Incremental capital investment in RG&E's electric system would certainly enhance service;

however, the Commission determined, and RG&E agreed by accepting the terms of the Merger Order, that the required electric capital expenditure level of $90 million is sufficient to maintain safe and adequate service. In addition, on page 1 of its December 8, 2008 Condition Assessment Report RG&E states that its overall electrical system is in "sound condition."

Q. Please describe RG&E's proposed New Station 137 (Station 3 11 kV Relocation) project and its associated incremental capital costs.

A. As explained by the RGECRO Panel on page 10 of its pre-filed testimony, RG&E's New Station 137 project "includes the replacement of equipment currently at RG&E's Beebee Station" and "will improve reliability by replacing aging equipment and up-rating it to meet current system needs." RG&E is proposing incremental capital costs for this project of $10 million and $2.6 million for 2009 and 2010, respectively.

Q. Does RG&E provide any other information or details regarding the project's scope, schedule, or justification?

A. No. No additional information is provided.

Q. Please describe RG&E's Station 168 Improvements projects and its associated capital costs.

A. As explained by the RGECRO Panel on pages 10-11 of its pre-filed testimony, the Station 168 project "will sectionalize National Grid Trunk lines #4 and #7, exchange the current feed into RG&E's Station 168 with National Grid's Trunk #2, install capacitors on existing 34.5 kV lines and construct a 34.5 kV line form NYSEG's Eelpot substation to the load at Bristol Mountain now served from RG&E's Station 168." The project "will improve reliability by mitigating the exposure to voltage and thermal problems associated with the loss of National Grid transmission lines currently feeding Station 168." RG&E is proposing incremental capital costs for this project of $5.5 million and $4.6 million for 2009 and 2010, respectively.

Q. Did RG&E provide a project schedule, estimated completion date, or additional justification for this project?

A. No, it did not.

Q. Please describe RG&E's Station 56 Second 12 kV Transformer project and its associated incremental capital costs.

A. RG&E provides no description, scope of work, schedule, or justification for its Station 56 12 kV transformer project. No mention of this project is made in the testimony of the RGECRO Panel. Exhibit___(RGECRO-1) shows that RG&E is proposing incremental capital costs for this project of $0.1 million and $5.0 million for 2009 and 2010, respectively.

Q. You previously stated that for projects that were identified in its financing petition, RG&E is now proposing incremental spending of $3.4 million and $54.9 million in 2009 and 2010, respectively.

A. That is correct. In comparison to the budgeted levels presented in its financing petition, RG&E is now proposing in this rate filing significant increases to certain projects. Specifically, for 2010 RG&E is proposing incremental capital funding levels of $9.8 million for its Station

42 Phase Shifter Transformers project, $14.9 million for its Station 2 - New 6 MW Unit project, and $21.8 million for its Station 5 Tunnel Relining project.

Q. What evidence or information did RG&E supply to support these three projects and their significant incremental capital costs?

A. RG&E provides no description, scope of work, schedule, or justification for these three projects. No mention of these projects is made in the pre-filed testimony of the RGECRO Panel, with the exception that the Station 42 Phase Shifter Transformers project is named on page 8. Exhibit___(RGECRO-1) is the sole source of information and only shows RG&E's planned incremental spending for these projects.

Q. Should RG&E have been aware of many of its newly proposed electric capital projects and the many significant increases to known projects when it accepted the terms of the Merger Order?

A. Yes. In developing its capital budget, a utility typically evaluates its system's needs for the next year and the next five to ten years.

Q. Does RG&E analyze its system needs for the next year and the next ten years?

A. RG&E provided no pre-filed testimony with regard to its system planning process. In explaining how its capital forecast is prepared, the RGECRO Panel states that "[p]reparation of the annual forecast is initiated with the collection of capital project proposals from each of the Company's business areas, and those proposals are evaluated for their estimated contribution toward meeting the Company's operational requirements." Based on this statement and the nature on the projects being proposed by RG&E, it would be reasonable to conclude that RG&E does identify future system needs and includes projects in its electric capital budget to meet those needs. Therefore, it is highly unlikely that RG&E was not aware of the need for the New Station 137 project, the Station 168 Improvements project, or the Station 56 Second 12 kV Transformer project at the time it accepted the terms of the Merger Order. It is equally unlikely that the significant cost increases to known projects were, in fact, unknown to RG&E at the time it accepted the terms of the Merger Order.

Q. If RG&E determines that additional capital investment is required for a certain project, such as those you have just described, will an electric capital budget of $90 million prohibit RG&E from making the incremental investment?

A. No. By accepting the terms of the Merger Order, RG&E has agreed the $90 million of electric capital is sufficient to allow it to provide safe and adequate service. RG&E retains the ability to manage its capital budget by directing resources to critical projects.

Q. Has RG&E demonstrated that it has adequately prioritized its capital projects?

A. No. It is clear that RG&E has requested rate relief without considering the most appropriate ways to manage its capital budget.

Q. Please explain.

A. At pages 13-14 of its pre-filed testimony, the RGECRO Panel states that if the Commission does not approve the funding levels sought by RG&E, "the Company would be compelled to explore all reasonable and available options to reduce the costs of particular projects, without jeopardizing safe and reliable service and while continuing to comply with applicable regulations. Such options could include, determining an order of priority for completion of planned and pending projects, areas where costs can be reduced, or whether to delay components of certain projects." Taking these steps should have been the first course of action; only after these cost-saving options were taken should RG&E have sought rate relief.

Q. Turning now to common plant. Does RG&E propose capital expenditures for common plant?

A. RG&E's filing, as it pertains to common plant, is deficient. RG&E offers no testimony with regard to common plant. However, Exhibit___(RGECRO-2) indicates that RG&E is planning to expend $6.2 million and $7.6 million in 2009 and 2010, respectively, yet makes no mention of their capital spending plans in their testimony.

Q. Are there other areas where RG&E's filing is deficient?

A. Yes. RG&E provides little or no information for the vast majority of its proposed projects and programs. It provides no historic spending levels for project categories or specific projects. There is no correlation between the major projects identified in Exhibit___(RGECRO-1) and the project categories listed in Exhibit___(RGECRO-2). RG&E provides only limited project justification for a small sample of projects and no justification, description, project scope, schedule, or cost breakdown for the majority of its electric capital project and O&M programs. In addition, the Commission, in its August 30 Order, required RG&E to "file in its next major rate application a plan for use of local gas production connected directly to their distribution facilities as upstream capacity and its continuing availability as a replacement for capacity provided by local distribution companies." In the pre-filed testimony of the RG&E Electric and Natural Gas Supply Panel, it states that "the plan being proposed by RG&E is to evaluate local gas production reliability on an annual basis. At such time as it is sufficiently reliable to replace upstream capacity RG&E will initiate a process to do so." The failure of RG&E to provide a plan in this proceeding is, again, a significant deficiency.

Q. If the Companies spend the required minimum set by the Commission in the Merger Order on electric capital investments, should they be able to maintain safe and adequate service to customers?

A. Yes. The Merger Order provided for electric capital spending levels that were generally based upon the Companies' then existing forecasts for 2009 and 2010 and, as such, are by definition sufficient for the provision of safe and adequate service. We see no reason why the Companies should not be able to achieve this requirement, provided, of course, that the Companies also spend appropriate levels on its

T&D O&M projects and programs.

Q. Do you have an example of a T&D program that affects reliability?

A. Yes, the Companies' tree trimming programs affect reliability and, specifically, we are concerned with the level of tree trimming being performed by NYSEG. Staff noted its concern about NYSEG's tree-related outages and the length of outage restoration time as it related to line crew levels, and has most recently voiced its concern at the August 28, 2008 Session, as we previously mentioned. In fact, NYSEG's annual spending has decreased from $16 million in 2002 to $9.9 million in 2007, pre-dating the acquisition. This does not bode well for a company's long term reliability.

Q. What is NYSEG's current rate allowance provided for tree trimming?

A. Approximately $17.7 million, as provided in Case 05-E-1222. With this program in mind, Staff recommended several measures, which eventually became part of the Merger Order, in an attempt to place an emphasis on reliability and to encourage the Companies to spend money to this effect. Specifically, Staff recommended re-establishing reliability targets, increasing the penalties for failing to achieve these targets in a Reliability Performance Mechanism (RPM), requiring a prescribed level of capital spending, and requiring a self-assessment.

Q. Do the Companies recommend increased spending on reliability related projects and programs in their filings?

A. Yes. The Companies propose to spend a significant amount in capital projects in 2009 and 2010 and hire 167 people for $15 million annually. They attempt to justify this additional funding by claiming that reliability would be threatened without it. It should also be noted that both companies are vague in increasing crew levels in their testimonies.

Q. Are these increased levels in addition to those contained in the Merger Order?

A. Yes, they are.

Q. Do you have any concerns with the proposed increases and their timing?

A. Yes. Our concern is that the Companies claim they face a financial crisis, yet this filing requests expedited treatment for rate increases based on increased spending on projects and programs, which are not required at this time and may not be required in the future.

Q. Did the Companies propose a revised RPM?

A. No, they did not. Staff considers an RPM to be a necessary component of all electric utility rate plans to help focus a company's attention to reliability.

Q. Are the Companies meeting the gas safety targets set for them?

A. Based on the 2007 and 2008 gas safety metrics data maintained by the Department, which are reported each calendar year, the companies currently have two of the overall best performance levels of any large utility in New York State. Based on their prior performance and Staff's desire to see all of the companies continually improve their safety performance, RG&E and NYSEG have some of the most difficult requirements. They have both met or exceeded the targets for calendar year 2008 and have improved on their 2007 results.

Q. What kind of safety targets are you addressing?

A. Staff's Safety personnel maintain records for various types of system damages as compared to the number of "One-Call" tickets they receive, number of leaks requiring repair backlog, replacement of leak prone pipe and emergency response times. The number of One-Call tickets is an indicator of the level of construction activity in the utility's franchise area.

Q. How does the Companies' performance compare with the other gas utilities?

A. As we already stated, they are among the better performers in the state. Their performance actually raises the standard that all the New York State gas utilities are measured against.

Q. Are the Companies' gas capital construction budgets satisfactory to maintain safe and adequate service?

A. Yes. Their proposed expenditure levels exceed the minimum requirement set by the Commission for the maintenance of safety and adequate service. Specifically, a $20 million per year minimum gas capital expenditure requirement was set for both NYSEG and RG&E in the Merger Order to maintain satisfactory safety and service levels. The Companies' Capital Expenditures, Reliability and Operations Panels testify that RG&E's proposed gas expenditure levels range from approximately $26 million to $30 million per year over the next five years and NYSEG's proposed gas expenditure levels range from approximately $23.5 million to $30 million over the next five years.

Q. Have the companies supported the various proposed gas expenditure budgets presented?

A. Not adequately. No workpapers or back-up support was provided with the filing.

Q. Are the gas construction budgets submitted in the Companies' filing consistent with what you would expect to see if, in fact, they were in financial distress?

A. No, nowhere in the present filing do they reflect what would be considered "austerity" budgets. In the Companies' Policy Panel testimony, they rely on PSC Chairman Brown's discussion piece on "Credit and Capital Issues Affecting The Electric Power Industry" dated January 13, 2009 and even propose to make it an exhibit (Exhibit___(PP_3)). The quote provided reads that he states "…it is important to recognize the economic realities of a recession and expect utilities to take a hard look at their capital programs with an eye toward prioritizing. This not only reduces utility exposure to the volatile financial markets but also helps to relieve upward pressure on rates to end-use customers caused by an increase in the utility asset investment base (rate base). For example, those projects that are essential to safety and reliability must go forward while those that are discretionary and can be deferred should be evaluated on a case by case basis as to whether customers are best served by going forward with the projects at this time." To be clear, nowhere in the presentation did the Companies identify the priorities or determine what could or should be cut from the proposed gas budgets.

Q. Please explain the service quality assessments.

A. To address this issue, we reviewed whether service quality performance of these Companies has declined recently, particularly since the September 2008 merger. The review and evaluation is based on the customer service performance information provided by the Companies to the Department on a monthly and/or quarterly basis.

Q. Please describe the customer service quality information evaluated to prepare Exhibit___(SQRP-2).

A. The performance data provided in Exhibit___(SQRP-2) is derived from the 2008 monthly utility performance indicator reports. These reports contain information for the following measures: PSC Complaint Rate (#/100,000 customers), Average Service Response Time, Percentage of Appointments Kept, Calls Answered within 30 Seconds, Percent of Bills Adjusted, Average Service Response Time, and Percent of Total Estimated Meter Readings. This information was used to evaluate performance for both companies for 2008 and for the four months since the September 2008 Merger to assess any changes in performance. In addition, 2006 and 2007 data was assessed from the Companies' respective Customer Service Performance Incentive (CSPI) reports. Taken together, these data can be used to review performance trends.

Q. Does the Companies' filing address the status of their service quality?

A. No. No information or data has been submitted in this proceeding regarding the Companies' historic service quality performance changes or trends.

Q. Please describe NYSEG's current CSPI.

A. NYSEG's electric and natural gas CSPIs were approved in Case 05-E-1222 by Order issued August 23, 2006 and Case 01-G-1668 by Order issued November 20, 2002, respectively. The CSPI consists of three measures: Overall Customer Service Satisfaction Index, Contact Satisfaction Index, and PSC Complaint Rate. The maximum potential revenue adjustment is $4.0 million in

2008 and will be $8.0 million in 2009, with an 80/20 split between electric and gas revenue adjustment for each measure.

Q. How has NYSEG performed under its current CSPI mechanism in 2008 and since the September 2008 merger?

A. Based on the monthly utility performance indicator reports and NYSEG's quarterly CSPI performance reports, NYSEG's overall performance for 2008 and the last four months has not deteriorated. In fact, on some measures, performance has improved since the September merger. As shown in Exhibit___(SQRP-2, Schedule 1) for 2008, NYSEG has satisfied the performance standards for the Consumer Complaints to PSC and the Contact Satisfaction Survey Index and improved its performance for both measures in 2008 and in the last four months, as well as the previous two years. The Overall Customer Satisfaction measure is below the performance threshold, and based on these reports, NYSEG will incur a revenue adjustment for 2008. NYSEG also incurred revenue adjustments in 2006 and

2007 for this measure. However, while the performance for Overall Customer Satisfaction measure is below the threshold, actual performance remains nearly unchanged for 2008 as a whole and for the last four months. Based on this analysis, NYSEG's service quality performance has generally satisfied applicable standards and even where it has not, the Company's performance has not declined.

Q. Please describe RG&E's current CSPI.

A. RG&E's CSPI was adopted in Cases 03-E-0765, 03-G-0766 and 02-E-0198 by Order issued May 20, 2004, and was subsequently modified by the Commission on May 17, 2005. As shown in Exhibit___(SQRP-2, Schedule 2), the CSPI consists of six measures: PSC Complaint Rate, Customer Interaction Service Index, Appointments Kept, Calls Answered within 30 Seconds, Billing Accuracy, and Estimated Meter Readings. The maximum revenue at risk in 2008 is $3.2 million and will be $6.4 million in 2009 per the September merger agreement, with an 80/20 split between electric and gas revenue adjustment for each measure. The Company is required to file an annual performance report 90 days after year end, therefore, has not been received for 2008.

Q. How has RG&E performed under its current CSPI mechanism in 2008 and since the September merger?

A. Based on review and analysis of monthly performance data submitted, RG&E has exceeded all performance thresholds both for 2008 as a whole and as separately evaluated for the four months since the September 2008 merger. Notably, RG&E improved substantially on the Calls Answered metric, which it had failed and incurred revenue adjustments for in 2006 and 2007. Overall, there has been no apparent decline in service quality for either Company.

Q. Please summarize the Panel's recommendations.

A. We recommend that the Companies' filings be dismissed and that the Companies abide by the terms they accepted in the Merger Order. Additionally, we recommend that their financial issues be dealt with in a manner that removes from the equation additional massive funding requests for proposed reliability-related programs and projects a few short months after the Merger Order.

Q. Does this conclude the Panel's testimony at this time?

A. Yes, it does.