

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Cases 12-E-0201 and 12-G-0202 –
Proceeding on Motion of the Commission as
to the Rates, Charges, Rules and
Regulations of Niagara Mohawk Power
Corporation for Electric and Gas Service.

**STATEMENT IN SUPPORT OF THE
UTILITY INTERVENTION UNIT OF THE
DEPARTMENT OF STATE**

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NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF CONSUMER PROTECTION
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INTRODUCTION

The Utility Intervention Unit (“UIU”) of the New York State Department of State’s Division of Consumer Protection supports the Joint Proposal (“JP”) filed on December 7, 2012 in the above-captioned matter. The JP reasonably resolves key issues of importance to residential and small business consumers by balancing the interests of ratepayers, shareholders and management while providing for further discussions on two important policy matters, namely, expansion of the natural gas distribution infrastructure and provision of more accessible and useful marketers’ price information to consumers. It also calls for the development of a focused plan to upgrade Buffalo’s street lighting infrastructure.¹

¹ The UIU supports the JP even though, in our opinion, it is deficient in discontinuing the current sharing between customers and shareholders of manufactured gas plant remediation costs above budget. We also would have preferred larger increases to the gas low-income credit and the education and outreach budget, but we recognize that during negotiations concessions are necessary to achieve a settlement.

The JP's customer bill impacts are modest yet still allow the Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk" or "Company") adequate revenues to maintain its skilled workforce, modernize its data systems, fund Dunkirk and other reliability support services costs and upgrade its aging infrastructure. Bill impacts have been ameliorated through judicious use of deferral balances without setting up a need for a large rate increase after expiration of the JP's rate plan.² In addition, the JP would increase the gas low-income credit and includes many other elements that are positive for consumers such as enhanced gas and electric maintenance and repair metrics (with the potential for increased negative revenue adjustments), implementation of an online tool for retail access customers to determine whether they paid higher prices for supply, the introduction of a penalty for missed service appointments, and continuation of the arrears forgiveness, reconnection fee waiver, and economic development programs as well as a larger outreach and education budget. Several of these features (e.g., higher bill credit, larger outreach and education budget, discussion of gas expansion, heightened attention to safety metrics) were advocated for by the UIU in a meeting with the Company prior to the filing.

SELECTED HIGHLIGHTS OF JOINT PROPOSAL

The JP would establish a three-year rate plan in contrast to the one-year rate plan proposed by the Company in its filing. Based on an allowed return on equity ("ROE") of 9.3%, which is considerably lower than the proposed 10.55% ROE requested by the Company, the JP provides for a Rate Year (RY) 1 electric delivery base revenue requirement increase of \$43.4 million, a RY2 increase of \$51.4 million and a RY3 increase of \$28.3 million. It also provides for a decrease in the gas delivery base revenue requirement of \$3.3 million in RY1 and increases of \$5.8 million and \$6.3 million in RY2 and RY3, respectively. As shown below, use of electric and gas deferred balances of \$35.7 million for electric and \$32.8 for gas reduces the impact of revenue requirement increases.

Bill Impacts

For electric, use of the deferred balance, along with the expiration of the current \$190 million deferred balance surcharge results in the following electric delivery bill impacts for the typical residential customer (using 600 kWh monthly): RY1, -10.4%; RY2, +5.3%; and RY3, +3.3%.

² This statement is based on use of the JP's preferred approach for use of deferred balances.

SC1 Electric Residential				
Typical Monthly Bill Impacts – Delivery*				
Rate Year	Current	Proposed	Delta	% Change
RY1	\$52.61	\$47.12	(\$5.49)	-10.4%
RY2	\$47.12	\$49.61	\$2.49	+5.3%
RY3	\$49.61	\$51.22	\$1.61	+3.3%

*Assuming typical monthly usage of 600 kWh

For gas heating, use of the deferred balance results in the following gas delivery bill impacts: RY1, -9.4%; RY2, +7.9%; and RY3, +5.8%. A typical heating customer uses 80 therms a month.

SC1 Gas Heating Residential				
Typical Monthly Bill Impacts - Delivery *				
Rate Year	Current	Proposed	Delta	% Change
RY1	\$43.09	\$39.05	(\$4.04)	-9.4%
RY2	\$39.05	\$42.15	\$3.10	+7.9%
RY3	\$42.15	\$44.59	\$2.44	+5.8%

*Assuming typical monthly usage of 80 therms

For gas non-heating, use of the deferred balance results in the following gas non-heating delivery bill impacts: RY1, -0.4%, RY2, +4.0%; and RY3, +3.2%. A typical gas non-heating customer uses 25 therms a month. The impact of the JP on these two groups of customers is different because it proposes an increase in the customer charge from the current \$17.85 to \$20.35 so as to bring the residential service class rate of return closer to the system average rate of return per the latest cost of service study.

SC1 Gas Non Heating Residential				
Typical Monthly Bill Impacts – Delivery *				
Rate Year	Current	Proposed	Delta	% Change
RY1	\$28.50	\$28.40	(\$0.10)	-0.4%
RY2	\$28.40	\$29.54	\$1.14	+4.0%
RY3	\$29.54	\$30.47	\$0.93	+3.2%

*Assuming typical monthly usage of 25 therms

Low Income Monthly Bill Discount

The JP provides for an increase to \$10.00 in RY1, to \$10.50 in RY2 and to \$11.00 in RY3 for low-income gas customers eligible to receive a monthly bill discount. This increase will cost customers approximately \$0.20 each month.

The current gas low-income program discount, which has been in place since 2009, is \$7.50. In testimony, Niagara Mohawk proposed a \$10.00 level, DPS Staff proposed to increase the discount only to \$8.50, and the UIU proposed \$12.50. In support of the proposed \$5 increase, which would have increased customers' bills by approximately \$0.38, the UIU stated in testimony that in the midst of a struggling economy, low-income consumers continue to pay an inordinately high percentage of their financial resources for gas service. Due to reductions in HEAP funding, federal government financial support of residential heating continues to decline. Moreover, the Company's proposal to increase the customer charge by \$2.50, if adopted by the Commission, would merely offset the Company's proposed increase in the discount. Third, current benefits, even with the increase proposed by the Company, fail to address the difficulties facing low-income persons and their families. For low-income customers, energy bill costs represent a disproportionately large share of their financial resources. According to the National Regulatory Research Institute ("NRRI"):

Low-income households spend a much higher share of their incomes on home energy use than other households. Within the low-income category, a high negative correlation exists between income and the percentage of income spent on energy....Another source indicates that beneficiaries of the Low-Income Home Energy Assistance Program (LIHEAP) as a whole spend about 20 percent of their annual income on

home energy bills, which is more than six times the percentage that other households spend.³

In addition, the New York State Department of Environmental Conservation's Office of Environmental Justice commented during the Energy Efficiency Portfolio Standards proceeding:

Low-income households are often forced to make desperate tradeoffs between heat or electricity and other basic necessities. Research has found that 47 percent of households that received federal home energy assistance over a five-year period went without medical care, 25 percent failed to fully pay their rent or mortgage and 20 percent went without food for at least one day as a result of home energy costs. These numbers starkly illustrate the vulnerability of these households to acute and gradual rises in the direct and indirect costs of energy, especially within the context of the relative energy inefficiency of their homes.⁴

At the same time that HEAP funding has been cut, the number of people needing support has increased. In its testimony, the UIU detailed the number of persons and households who have received Food Stamps, now called Supplemental Nutrition Assistance Program (SNAP), in the month of May for 2009 – 2012. The UIU pointed to the data for Albany County and Onondaga County, two of the biggest counties in Niagara Mohawk's upstate service territory, and the increase each year by the thousands for those receiving benefits.

In the Company's most recent electric rate proceeding, the Commission accepted the recommendation of the parties to increase the monthly credit for eligible electric heating customers to \$15. This credit represents about 12% of a typical January bill, one of the coldest months, for heating customers. For a gas heating customer participating in the same utility's gas low-income program, the same (hypothetical) \$15 credit, which is \$5 more than the \$10 the Company proposed, represents about 11% of a typical January bill (\$131.14). The Company's proposal would increase the discount to only 7.6% whereas the UIU's \$12.50 proposal would increase the discount to 9.5%. This is still less than the Commission-authorized discount of 11% for customers participating in Niagara Mohawk's electric low-income program. From this perspective, the JP's gas discount level is not overly generous.

³ "How to Determine the Effectiveness of Energy Assistance, and Why It's Important" (December 2009).

⁴ August 19, 2011.

Online Tool – Bill Calculator

In reaction to the data showing that most ESCO customers paid more for commodity over a two-year period than they would have had they remained full service customers of the Company, the UIU and other parties advocated for the development of an online price transparency tool. The UIU recommended in its testimony that to assist consumers in better understanding the prices offered, the Company should launch an online bill calculator on its website to assist current ESCO customers to determine whether it was beneficial to have switched to an ESCO. The Commission's "Power to Choose" web service is at present the only pricing tool available for customers and, as the ESCOs' trade association asserts, is limited in scope and usefulness. This will allow current ESCO customers to compare what they paid for commodity to what they would have paid had they remained full service customers of Niagara Mohawk. The Company agreed to do develop such a tool in consultation with the parties; the JP provides funding for this effort. These "calculators" provide only a historical bill comparison for current ESCO customers to compare their ESCO bill to what they would have paid had they remained with full (bundled) utility service and would not provide a current full service customer the opportunity to determine whether it would be beneficial going forward to switch to an ESCO for commodity service.

Retail Access Collaborative

The JP indicates that the Company will convene a collaborative as soon as practicable but no later than 60 days following the Commission's Order adopting the JP. The parties expect that a status report would be filed with the Commission 75 days following commencement of the collaborative.

Understanding that an historical bill calculator is only one step towards price transparency, the parties agreed to discuss other measures such as including a line item on ESCO customers' bills that would help customers assess the value of retail choice for them. The UIU anticipates that the issues assigned to the collaborative can be quickly resolved given the initiation of the generic proceeding on retail access issues. It is our expectation that the bill calculator, at least, can be up and running early in 2013.

Customer Service

The Company agreed to a new "missed appointment" customer service measure that would provide a customer \$30 if the Company was at fault for missing the appointment. DPS Staff showed that the number of missed appointments has dramatically increased in each of the last three years, rising threefold from 2009 to 2011. This is an unacceptable trend. Such a payment obligation would not be exclusive to Niagara Mohawk. The Commission has approved such payments for Central Hudson, NYSEG, RG&E, and National Grid's KeySpan companies. The

estimated \$22,000 to implement the CI Panel's proposal at the current performance level would have little impact on the Company's bottom line, but the establishment of the obligation may change the Company's conduct in an effort to avoid further regulatory reprimand and increased public attention.

Reconnection Fee Waiver

The parties agreed to the UIU's request to continue the practice of providing to low-income customers a one-time waiver of the \$46 reconnection fee.

Outreach and Education

The Company's outreach and education budget will increase by a large amount--\$900,000 annually. The increase in the annual budget to \$3.0 million will improve the effectiveness of the Company's customer communications in key areas such as safety, storm preparedness, customer education (e.g., as it pertains to retail access) and the benefits of natural gas. To further assist these customers taking service from an ESCO, the UIU recommended the Company modify its outreach and education program to enhance customer education related to retail access especially low-income customers. Additionally, the Company noted that returning veterans are especially in need of services.

Gas Expansion Collaborative

Niagara Mohawk will convene a collaborative to explore approaches to increase the availability of gas service as well as opportunities to expand the Company's current gas franchise area. Whereas the Commission's recently instituted generic proceeding regarding gas expansion (Case 12-G-0297) will examine broad policy issues for New York utilities, the collaborative in this proceeding will focus more narrowly on the issues specific to potential customers in Niagara Mohawk's service territory (e.g., upstream capacity issues currently hindering the expansion of gas service to large commercial and industrial customers in the Capital Region and Northeast). The UIU is especially interested in exploring how smart growth principles can guide these discussions. In its testimony, the UIU expressed its agreement with Niagara Mohawk that, with gas prices at historic low levels, this is an opportune time to explore expanding gas service so that additional consumers can lower their monthly energy bills. Expansion of the gas system in a way that is consistent with smart growth principles is supported in state policy and in the deliberations of the Regional Economic Development Councils. From this perspective, the UIU is pleased that the collaborative will address the possibility of the Company offering compressed and liquefied natural gas vehicle programs that balance costs and benefits between customers and the Company.

Consistent with the scope of the collaborative, Niagara Mohawk will implement an oil-to-gas conversion program at a cost of not more than \$1 million annually, shared

equally between the Company and customers. This program could benefit 800-1,000 residential customers assuming full participation. The Company is also considering a commercial conversion program that will benefit a smaller group of commercial customers.

Additionally, the UIU supports a more extensive outreach and education program in any expansion initiative that takes place as a result of the collaborative. Consumers in general, and particularly low-income consumers, would benefit from a more robust outreach and education campaign about the potential benefits of switching to gas service. The Company's response to PULP IRs Nos. 84 and 85 point to a very low percentage of Niagara Mohawk's low-income customers participating in its electric and gas EEPS programs. This may indicate a general lack of knowledge about the programs and the potential to lower their monthly energy bills. Expanding the gas system, coupled with more outreach and education focused on reaching this consumer population, may increase participation by low-income consumers in EEPS programs. The UIU continues to recommend that the parties focus on finding better ways of reaching out to this consumer base when considering the expansion of gas service in the service territory.

Overearnings Sharing

The JP contains a novel provision whereby sharing of overearnings would begin without a dead band. For the first 100 basis points above the earnings sharing threshold (i.e., > 9.3 percent, but ≤ 10.3 percent), 50 percent of the revenue equivalent of earnings will be deferred for the benefit of customers and 50 percent will be retained by the Niagara Mohawk. For the next 100 basis points (i.e., > 10.3 percent but ≤ 11.3 percent), 75 percent of the revenue equivalent of earnings will be deferred for the benefit of customers and 25 percent will be retained by the Company, and 90 percent of the revenue equivalent of earnings in excess of 11.3 percent will be deferred for the benefit of customers and 10 percent will be retained by the Company.

Gas Safety

Niagara Mohawk agreed to the continuation and tightening of several gas safety performance measures that would penalize the Company if it fell short of various performance goals. The metrics relate to increasing the pace of replacement of leak-prone pipe, reducing the backlog of leaks requiring repair and maintaining emergency response times. The Company agreed to a new metric as well: Niagara Mohawk will incur a negative revenue adjustment for instances of noncompliance (violations) of certain pipeline safety regulations set forth in 16 NYCRR Parts 255 and 261, as identified during DPS Staff's annual field and records audits.

Electric Safety

In addition to maintaining the existing safety and reliability requirements, the Company agreed to changes in the metric relating to the cost of capital expenditure projects. For each distribution or sub-transmission project initiated after January 1, 2013, with an individual total project cost over \$100,000, the Company would be subject to a \$1 million negative revenue adjustment if actual costs for over 20 percent of such projects vary from their respective final engineering estimates by more than plus or minus 10 percent; and the Company would be subject to an additional \$1 million negative revenue adjustment if actual costs for over 30 percent of such projects vary from their respective final engineering estimates by more than plus or minus 10 percent, for a possible total negative revenue adjustment of \$2 million.

Niagara Mohawk also agreed to a new metric involving its Inspection and Maintenance Program Repair performance. This new mechanism is designed to address the concern the UIU shares with DPS Staff about the Company's large backlog of stray voltage repairs. The Company would be subject to a negative revenue adjustment of \$1 million if it fails to repair at least 85 percent of Level II deficiencies that have a repair due date within the respective calendar year within the time period allowed for such repairs under the Safety Orders in Case 04-M-0159 (i.e., one year). The Company would be subject to an additional negative revenue adjustment of \$1 million if it fails to repair at least 75 percent of Level III deficiencies that have a repair due date within the respective calendar year within the time period allowed for such repairs under the Safety Orders in Case 04-M-0159 (i.e., three years).

The JP further provides that by April 15, 2013, the company will submit to Staff and the UIU a comprehensive long-term street light refurbishment plan for the City of Buffalo. The UIU noted in its testimony that the Company's underground street lighting cables are more than 50 years old and elevated voltage testing in the Buffalo metropolitan area identified stray (contact) voltage incident rates from two to twenty times the rates measured in other areas of the Company's service territory. We explained that Buffalo has a greater incidence rate per street mile than does New York City. The UIU supports development of a comprehensive plan because of our concern that the Company's originally-proposed program to replace just 1.4% per year of the 50-year old cables was not sufficiently aggressive to resolve the Company's contact voltage problem.

Time of Use Commodity Rates

Time of use commodity rates will be expanded to include residential customers on a voluntary basis. Such rates have the potential to help residential customers manage their energy use with more knowledge about costs. The customer charge will

be the same for these customers with the addition of a \$3.36 incremental metering charge to cover the incremental costs of procuring and installing a time of use meter.

CONCLUSION

The JP contains many features that benefit consumers from various perspectives including rates, safety, reliability, convenience, education, economic development and environmental that will continue beyond the three years of the JP's rate plan. The UIU recommends its approval.

Respectfully submitted,

Saul A. Rigberg

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Dated: December 21, 2012
Albany, New York