STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 17-E-0238 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service.

CASE 17-G-0239 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Gas Service.

CASE 14-M-0042 – Petition of Niagara Mohawk Power Corporation, d/b/a National Grid for a Waiver of 60 Day Filing Requirement Regarding Pension Settlement Loss.

CASE 12-G-0202 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Gas Service.

ORDER ADOPTING TERMS OF JOINT PROPOSAL AND
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Issued and Effective: March 15, 2018

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At a session of the Public Service Commission held in the City of Albany on March 15, 2018

COMMISSIONERS PRESENT:

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

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(Issued and Effective March 15, 2018)

BY THE COMMISSION:

INTRODUCTION

This order establishes a three-year electric rate plan and three-year gas rate plan for Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk or Company), for the period April 1, 2018 through March 31, 2021. The order adopts the terms of a Joint Proposal (or JP) signed by 19 parties representing diverse interests: the Company, trial staff of the Department of Public Service (Staff), Multiple Intervenors (MI), Pace Energy and Climate Center (Pace), Environmental Defense Fund (EDF), International Brotherhood of Electrical Workers Local Union 97 (Local Union 97), New York Geothermal Energy Organization, Inc. (NY Geo), Tesla, Inc. (Tesla), City of Buffalo, City of Albany, City of Syracuse, ChargePoint, Inc. (ChargePoint), Great Eastern Energy (GEE), Mirabito Natural Gas (Mirabito), Blue Rock Energy, Inc. (BRE), Direct Energy Services, LLC (DES), New York State Office of General Services (OGS), Wal-Mart Stores, East, LP and Sam's East, Inc. (Walmart), and New York Power Authority (NYPA).

BACKGROUND OF THE PROCEEDING

Niagara Mohawk provides electric service to approximately 1.6 million customers and gas service to approximately 600,000 customers in upstate New York. The Company's most recent electric and gas rate plans were adopted in a rate order issued in March 2013.[1] In that order, the

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[1] Cases 12-E-0201, et al., Niagara Mohawk Power Corporation -- Electric and Gas Rates, Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal (issued March 15, 2013) (2013 Rate Order). The 2013 Rate Order adopted, with certain modifications, a joint proposal dated December 7, 2012 (2013 Rate Plan).

Commission approved three-year electric and gas rate plans commencing April 1, 2013 and ending March 31, 2016. For the rate year ending March 31, 2016, the order provided for an electric revenue requirement of approximately $2.55 billion and a gas revenue requirement of approximately $614 million. Under the 2013 Rate Plan, the electric revenue requirement was increased by approximately $43.4 million, $51.4 million and $28.3 million, in Rate Years One, Two and Three, respectively. The gas revenue requirement was decreased by $3.290 million in Rate Year One and then increased by $5.854 million and $6.268 million in Rate Years Two and Three, respectively.

Since April 1, 2016, the Company has been in a stay-out period during which, pursuant to section 13.5 of the 2013 Rate Plan, most elements of the 2013 Rate Plan continue until modified or superseded by Commission action. In May 2016, the Commission modified certain continuing provisions of the 2013 Rate Plan by, among other things, authorizing Niagara Mohawk, subject to various conditions, (1) to use accumulated deferred credits associated with its electric and gas operations to offset a portion of the revenue requirement associated with its proposed capital expenditures over fiscal years (FYs) 2017 and 2018, and (2) to issue up to $2.07 billion of securities through the period ending March 31, 2020.[2]

Electric and Gas Rate Filings

On April 28, 2017, Niagara Mohawk filed tariff leaves and testimony by which it proposed and sought to justify

[2] Case 15-M-0744, et al., Niagara Mohawk Power Corporation Petitions for Authority to Use Certain Deferred Credits as Offsets and to Issue Long-Term Indebtedness in the Principal Amount of $2.07 Billion, Order Granting Incremental Cost Relief, In Part, and Authorizing the Issuance of Securities (issued May 19, 2016).

increases to its electric and gas delivery rates for a rate year beginning April 1, 2018 (Rate Year).[3] In the filing, the Company sought an increase of $326 million (or 22.8%) in annual electric delivery revenues,[4] and an increase of $81 million (or 24.0%) in annual gas delivery revenues.[5] The Company also provided cost forecasts related to the two years following the Rate Year.[6]

The assigned administrative law judges held a technical and procedural conference on June 1, 2017, to identify interested parties and major issues and to establish a procedural schedule. By ruling dated June 7, 2017, they established a case schedule requiring the Company to file updates and corrections to its initial filings by July 10, 2017, Staff and intervenor to file their direct testimony by

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[3] The tariff leaves that accompanied the Company's April 2017 filing listed an effective date of June 1, 2017. On May 3, 2017, the Secretary issued a Notice of Suspension of Effective Date of Major Rate Changes and Initiation of Proceedings, which postponed the effective date of the tariff leaves until September 28, 2017. On September 8, 2017, the Secretary issued a Notice of Further Suspension of Effective Date of Major Rate Changes, which further postponed the effective date of the tariff leaves to implement the rate increases sought by Niagara Mohawk in its initial filing from September 28, 2017 to March 28, 2018.

[4] The requested increase in electric delivery revenues would have resulted, for the average 600 kWh/month residential customer, in an increase on the monthly electric delivery bill of $11.23, or an annual increase of $134.76.

[5] The requested increase in gas delivery revenues would have resulted, for the typical residential heating customer using approximately 77 therms per month, in a monthly gas delivery bill increase of approximately $10.38, or an annual increase of approximately $124.56.

[6] Niagara Mohawk submitted such information to facilitate consideration of a potential three-year rate agreement.

August 25, 2017, rebuttal testimony to be filed by September 15, 2017, and an evidentiary hearing to begin on October 2, 2017.

On July 10, 2017, Niagara Mohawk filed its corrected and updated testimony, which reduced the Company's requested electric revenue requirement increase by approximately $65 million, from $326 million to approximately $261 million. In its update, Niagara Mohawk also reduced its requested gas revenue requirement increase by approximately $11 million, from $81 million to approximately $70 million.

On or about August 25, 2017, the parties filed direct testimony and exhibits in response to the Company's filings.[7] In its pre-filed testimony and exhibits, Staff recommended an electric base rate revenue increase of $169.3 million, approximately $91.7 million less than Niagara Mohawk's updated proposal. Staff also recommended a gas base rate revenue increase of $44.8 million, approximately $24.9 million less than the Company's updated proposal. Approximately $53 million of Staff's recommended increase to electric base rate revenues and approximately $11 million of its recommended increase to gas base rate revenues resulted from Staff's recommendation to make a revenue neutral shift of the recovery of all energy efficiency costs through base rates rather than a surcharge.

[7] The following parties filed direct testimony in this case: Staff; Utility Intervention Unit, Division of Consumer Protection, Department of State (UIU); OGS; Pace; MI; PULP; EDF; Acadia Center (Acadia); Walmart; Tesla; Alliance for a Green Economy (AGREE); and Advanced Energy Economy Institute (AEE). The City of Albany, NY Geo, Mirabito, Richard W. Ford and Roger Caiazza filed comments in lieu of testimony.

The parties filed rebuttal testimony on or about September 15, 2017.[8] After incorporating several of Staff's adjustments and making further updates, Niagara Mohawk requested revenue requirement increases of approximately $304 million for its electric business and approximately $79 million for its gas business. In doing so, the Company agreed to Staff's recommendation that it not only recover certain energy efficiency program costs through base rates, but that it also "move electric and gas Energy Efficiency Transition Implementation Plan (ETIP) cost recovery from the Energy Efficiency Tracker surcharge into base rates, together with the costs of the Company's proposed LED street light energy efficiency program."[9]

On September 11, 2017, Niagara Mohawk filed a Notice of Impending Negotiations, which the Administrative Law Judges advised us complied with our settlement rule, 16 NYCRR 3.9(2). Based on the parties' continued efforts to reach a settlement, the ALJs postponed the evidentiary hearing, initially scheduled to commence on October 2, 2017, several times.[10] To accommodate

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[8] Rebuttal testimony was filed by Niagara Mohawk, Staff, UIU, MI, PULP, Pace, Tesla, AGREE, AEE, and Great Eastern Energy (GEE). The Company was permitted to file rebuttal testimony on depreciation on September 28, 2017.

[9] Ex. 320, Niagara Mohawk Revenue Requirement Panel Rebuttal Testimony, pp. 47-48.

[10] Ruling Postponing Hearing and Revising Procedural Schedule (issued September 21, 2017); Notice Postponing Evidentiary Hearing (issued September 26, 2017); Second Ruling Postponing Hearing and Revising Procedural Schedule (issued October 27, 2017); Third Ruling Postponing Hearing and Revising Procedural Schedule (issued November 28, 2017); Fourth Ruling Postponing Hearing and Revising Procedural Schedule (issued December 26, 2017); Fifth Ruling Postponing Hearing and Revising Procedural Schedule (issued January 10, 2018).

those changes in the schedule, Niagara Mohawk consented to extensions of the suspension period in these proceedings through June 23, 2018, subject to a "make whole" provision.[11]

On January 19, 2018, following extensive settlement negotiations, the Company filed a Joint Proposal with the Commission.[12] The Joint Proposal, consisting of 120 pages of provisions and over 700 pages of appendices, was executed by Niagara Mohawk, Staff, MI, Pace, EDF, Local Union 97, NY Geo, Tesla, City of Buffalo, City of Albany, City of Syracuse, ChargePoint, GEE, Mirabito, BRE, DES, OGS, Walmart, and NYPA.[13]

Pursuant to the schedule adopted thereafter,[14] the Company, Staff, MI, OGS, EDF, NY Geo, Walmart, Tesla, ChargePoint, City of Albany, City of Buffalo, City of Syracuse and NYPA filed statements in support of the Joint Proposal. AGREE, PUSH and Syracuse United Neighbors (SUN)(collectively, AGREE/PUSH/SUN) Richard Ford; AARP; and, in a separate joint filing, Acadia, AGREE, Natural Resources Defense Council and

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[11] See Company Letters dated September 20, 2017, October 24, 2017 and November 22, 2017.

[12] On February 13, 2018, Niagara Mohawk informed the Judges that minor corrections were made to the Joint Proposal pertaining to the electric and gas deferral credits in sections 3.4.1 and 4.4, and to a footnote appearing twice in Appendix 3, on both Schedules 2 and 3. The Judges admitted the corrected Joint Proposal as exhibit 613 at the evidentiary hearing held on February 14, 2018. A copy of the final corrected Joint Proposal, together with its appendices, is appended to this Order as Attachment A.

[13] OGS and Wal-Mart signed the Joint Proposal in support of Case 17-E-0238 and take no position with respect to Case 17-G-0239. NYPA signed the Joint Proposal in support of the street light issues in Case 17-E-0238 and takes no position with respect to any other issues.

[14] Cases 16-E-0238 et al., Ruling on Schedule for Consideration of Joint Proposal (issued January 24, 2018).

PUSH (the Joint Acadia Statement) filed statements opposing the JP. PULP, North Country Energy Task Force, AEE, and Roger Caiazza filed statements indicating they neither support nor oppose the JP. Thereafter, the Company, Staff, MI, Mr. Ford, and Acadia, NRDC, AGREE and PUSH, jointly, filed reply statements.

The ALJs presided over an evidentiary hearing on the Joint Proposal in Albany on February 14, 2018.[15] A total of 615 exhibits were admitted into the record. The first 609 exhibits comprise the pre-filed testimony and exhibits of the parties. The Companies and Staff sponsored panels at the hearing in support of the JP. The panels responded to questions from the ALJs regarding Joint Proposal provisions. The parties had the opportunity to cross-examine the witnesses. Mr. Ford was the only party to do so, asking questions mainly concerning the residential customer charge.

Other Pending Cases

The JP includes proposed resolutions of two other cases pending before the Commission. In Case 14-M-0042, Niagara Mohawk filed a petition for authorization to defer approximately $14 million related to the early accounting recognition required by the Financial Accounting Standard No. 88 of actuarial experience losses associated with lump sum pension payments to employees upon their early retirement in FY 2014. On October 24, 2017, the Company filed a notice pursuant to 16 NYCRR § 3.9(a), advising the Commission of impending settlement discussions in the pension settlement loss case and that the settlement negotiations would be conducted in conjunction with the settlement discussions in Niagara Mohawk's rate cases.

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15 Cases 17-E-0238 et al., Notice of Evidentiary Hearing (issued February 2, 2018).

In Case 12-G-0202, the Company filed a petition seeking (1) to modify its Gas Safety Metric for calendar year 2015 and thereafter to provide for a cap on the number of violations of individual high risk and other risk regulations that will result in a negative revenue adjustment (NRA), (2) to use any NRA resulting from the operation of the Gas Safety Metric to fund safety improvement programs developed jointly with Staff; and (3) to reduce the NRAs resulting from the operation of its Gas Safety Metric for calendar years 2013 and 2014 if the Company achieved certain performance targets in Staff's audits for calendar year 2016. On September 15, 2017, Niagara Mohawk filed a notice pursuant to 16 NYCRR § 3.9(a), advising the Commission of impending settlement discussions in the gas safety metric case and indicating that the settlement negotiations would be conducted in conjunction with the settlement discussions in Niagara Mohawk's rate cases.

PUBLIC COMMENTS AND NOTICE OF PROPOSED RULEMAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking were published in the State Register on May 14, 2014 (14-M-0042SP1), September 10, 2014 (14-M-0042SP2), July 20, 2016 (12-G-0202SP6), and July 5, 2017 (17-E-0238SP1 and 17-G-0239SP1). In addition, on June 30, 2017, the Secretary issued a Notice of Public Statement Hearings, which described the Company's rate filing and scheduled information sessions followed by public statement hearings in the afternoon in Schenectady on July 25, 2017, in the evening in Troy on July 25, 2017, and in the afternoon and evening in Lake Placid on July 27, 2017, in Syracuse on July 31, 2017, and in Buffalo on August 1, 2017. The notice stated that Niagara Mohawk representatives would provide a brief overview of the Company's rate proposal during the information session and provide a brief opportunity for questions and answers. The notice further stated that comments also could be made by internet, mail or the Commission's toll-free Opinion Line.

After the Joint Proposal was filed, a Commission Notice was issued establishing a further period for public comments on the Joint Proposal, to be filed by February 16, 2018.[16]

Public Statement Hearing Comments

Comments were made by nine people at the Schenectady hearing, seven people at the Troy hearing, three people at the Lake Placid hearings, 41 people at the Syracuse hearings, and 33 people at the Buffalo hearings. Thirty-three individuals spoke on their own behalf. Others commented on behalf of AARP, PULP, various chambers of commerce, educational institutions, medical providers, environmental groups, and other nonprofit organizations. An elected official from the Town of Caroline also commented at the hearings.

The majority of the commenters opposed the Company's requested rate increases. AARP stated that the requested increases were excessive, especially with respect to residential customers living on fixed or limited incomes and facing rising costs for necessities such as groceries, prescription medications and health insurance. AARP also commented that the proposed "smart meter rollout" was too expensive, would likely do little to impact residential electricity usage, and should be conducted first on a smaller scale through a pilot project to ensure smart meters actually will benefit residential customers.

Various commenters stated that National Grid's delivery rates already were too costly, especially for customers

[16] Notice Seeking Comments on Joint Proposal (issued January 23, 2018).

with low or fixed incomes, and that the requested increases were too much and would simply ensure more profits for the Company. Pointing to the number of shutoffs in the Company’s service areas, some commenters stated that shutoffs of low-income customers should be subjected to a moratorium and that the Company should cancel the account arrears of low-income customers, either in total or after a certain number of payments were made. Certain commenters stated that the Company’s low-income programs were insufficient and needed to be changed to make them truly affordable for low-income customers.

Some commenters asserted that the Company should expand its energy efficiency and conservation programs, focus on increasing the use of renewable resources, stop expanding natural gas infrastructure, use rate structures to promote conservation, and use its profits to pay for needed infrastructure upgrades, renewable energy, job creation and low-income programs. Other commenters complained about Niagara Mohawk’s power outages, customer service, executive salary levels, employee bonuses, and flat-rate monthly customer charges. A few individuals also stated that the proposed rate increases had a disproportionate impact on residential customers. Others commented that some of the jobs the Company creates should go to the customers in the Company’s service areas. One organization made comments urging the consideration of programs promoting beneficial electrification, including heat pumps.

Without taking a stance for or against Niagara Mohawk’s rate proposal, PULP noted the number of people living within the Company’s service areas who are under the poverty level, including seniors and children, or are otherwise having difficulty paying their bills, and stated that it would be looking at the number of the Company’s shutoffs and accounts in arrears in determining what effect the Company's requested increases would have on customers' ability to afford their utility bills. PULP also stated that smart meters were unlikely to affect the electricity usage of low and fixed income customers and that, in any event, demand reduction could be achieved without smart meter technology.

Several organizations generally commented in favor of Niagara Mohawk's proposed rate plan and interaction with the business community. Commenters stated that the proposed rate plan incorporates significant infrastructure and economic development benefits critical for building reliable and resilient electric and gas distribution systems and a strong economic environment. They also stated that the Company's economic development grant programs help attract new businesses to the area, retain current businesses, and create new jobs. In addition, commenters stated that the requested increases were needed to modernize the grid to support renewable energy resources, and that proposed increases to the Company's low-income discount program would help with the affordability of new rates after years of stable delivery costs. Commenters also noted with favor the Company's proposals to create new jobs in upstate and central New York, its advanced metering infrastructure and electric transportation initiatives, its LED conversion program, and other energy efficiency and emission reduction efforts.

Written Comments and Opinion Line Comments

In addition to the public statement hearing comments, there were over 5,000 telephone comments received on the Commission's opinion line and over 5,000 written comments filed with the Commission's Secretary, approximately 1,400 of which were made after the Joint Proposal was filed. The vast majority of the written and opinion line comments received were from individual customers expressing opposition to the proposed rate increases.

Citing low or nonexistent cost of living adjustments and rising costs for necessities like housing, food, prescriptions and health insurance, many commenters stated that the proposed rate increases were too high, especially for people on low or fixed incomes, and that the Company should reduce executive compensation, economic development grants, or shareholder dividends in order to fund infrastructure maintenance and upgrades. Some commenters stated that the Company should not receive any increases given the Company's current profits or unless the Company significantly improves its customer service and number of power outages. A few commenters stated that the proposed rate increases would hurt small businesses and municipalities.

Numerous commenters, including various Town, City and County officials, stated that fixed customer charges are too high and need to be reduced, asserting that high fixed charges not only minimize incentives to conserve energy and to invest in renewable energy systems, but also undermine REV policy initiatives seeking to give consumers more control over energy use and costs, and have a disproportionate impact on moderate and low-income customers who purportedly use less energy than average. Some commenters stated that surcharges also were too high and should be reduced or eliminated. Several commenters asserted that the rate at which the Company shuts off service for nonpayment already is high and that an increase in rates will only exacerbate the problem.

Several commenters stated that their energy delivery charges already were too high, some noting that their delivery charges are significantly higher than their commodity costs. Many commenters opposed the installation of smart meters, stating that their current meters work just fine and that smart meters would cost them more in rates while giving them only questionable benefits. Various commenters opposed the expansion of gas service and urged further investment in renewable energy sources. A few commenters asserted that the Company should reduce its requested increase in light of the recently enacted federal tax law. One commenter raised concerns about the Commission's Reforming the Energy Vision (REV) initiative and projects proposed by the Company to support that initiative. Numerous commenters stated that the rate increases proposed in the Joint Proposal are too high.

Senators James N. Tedesco and David J. Valesky; Members of the Assembly Angelo Santabarbara, Anthony Brindisi, Pamela Hunter and Phil Steck; Member of the Assembly N. Nick Perry, as Chair of the New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus; and Syracuse Mayor Stephanie A. Miner, as well as other elected officials, submitted comments in opposition to Niagara Mohawk's requested rate increases. They raised concerns over the high cost of electric and gas delivery charges, the size of the Company's requested increases, and the negative impacts those increases would have on commercial and residential customers, including those with low or fixed incomes who already struggle to pay the current rates.

Albany City Mayor Kathy M. Sheehan asserted that the proposed billable wattage ranges for municipally-owned LED street lights were too wide. She stated these ranges would have negative impacts on customers whose luminaires have wattages at the low end of the range and would act as a disincentive for municipalities wishing to convert to energy efficient light-emitting diode (LED) lights. Mayor Sheehan also proposed that more funds be made available in the form of energy efficiency rebates for customer-owned conversions of inefficient street lighting to LED. Commissioner Steven J. Stepniak of the City of Buffalo's Department of Public Works, Parks & Streets echoed Mayor Sheehan's comments about the proposed billable wattage ranges for municipally owned LED street lights and energy efficiency rebates for customer-owned LED conversions. He also opposed the Company's proposals to eliminate legacy pricing exceptions for street lighting equipment, cost increases for high-intensity discharge (HID) luminaires and other street lighting assets, and charges for extra services, and urged the creation of a web-based outage reporting and tracking system for street lighting.

Several statements in support of the proposed rate increase were made by individuals, small businesses, universities and organizations. They stated that the Company has provided reliable service at stable prices, supported local economic development growth, invested in modernization of the electric grid, and should be given the funds necessary to ensure continued stability of service and economic growth. Some organizations also noted their support of Niagara Mohawk's proposals to increase outreach efforts and financial assistance to low-income customers.

SUMMARY OF JOINT PROPOSAL

Term

The JP proposes a three-year rate plan for the Company's electric and gas businesses that would begin on April 1, 2018, and continue through March 31, 2021. Rate Year (RY) 1 consists of the 12-month period ending on March 31, 2019. RYs 2 and 3 consist of the twelve-month periods ending March 31, 2020 and 2021, respectively. Unless specifically noted otherwise, the terms of the rate plan proposed by the JP would continue after expiration of RY 3, until changed by order of the Commission.

Revenue Requirements

The JP would increase electric and gas base rates in each of the three rate years, with the annual revenue requirement increases partially offset through the application of deferred credits. This approach would result in net electric revenue increases from customers of $43.058 million or 1.7% in RY 1, $88.635 million or 3.4% in RY 2 and $89.636 million or 3.4% in RY 3, and net gas revenue increases from customers of $13.209 million or 2.4% in RY 1, $20.735 million or 3.5% in RY 2 and $21.531 million or 3.5% in RY 3.

Equity Ratios, Return on Equity and Earnings Sharing Mechanism

The revenue requirements for all three years of the proposed rate plan are based on a capital structure with a 48% equity ratio and a 9.0% return on equity (ROE) reflecting a premium associated with the multi-year plan and incremental productivity savings. The JP includes an earnings sharing mechanism (ESM) that is triggered if Niagara Mohawk's actual ROE in any rate year, after certain adjustments, exceeds 9.5%. Earnings above 9.5% to 10.0% would be shared equally between ratepayers and the Company; ratepayers would receive 75% of any earnings over 10.0% to 10.5% and 90% of any earnings over 10.5%.

Electric Revenue Allocation and Rate Design

Under the JP, the fixed customer charges for many of the service classes, including the residential service classes, would remain at current levels. Increases are proposed for the fixed customer charges for SC-3 - Large General Service customers (Secondary, Sub-transmission and Transmission) and SC3A - Large General Service customers (Secondary, Primary, Sub-transmission and Transmission). Revenue requirements are proposed to be recovered through energy (kWh) charges for energy billed service classes and demand (KW) charges for demand billed classes. Changes also are proposed to SC-7 - standby rates, streetlighting rates, and Merchant Function Charges.

Gas Revenue Allocation and Rate Design

As with the electric business, the JP proposes that the Company will recover gas ETIP costs in base rates instead of through the Energy Efficiency Tracker Surcharge portion of the System Benefit Charge. The JP recommends no increases to the minimum charges for most service classes, including residential heating customers. Increases to the minimum charges are proposed for two service classes serving large customers, SC-5 and SC-8. The JP recommends allocating the remaining revenue requirement in generally equal percentage increases to blocks within each class, and changing the Merchant Function Charge.

Rate Plan Settlement Deferral Credits

The Signatory Parties recommend that the Company be required to create a new electric deferral credit of $44.88 million and a new gas deferral credit of $28.42 million (Rate Plan Settlement Credits). In addition, the Company will reduce by $7.0 million the level of the pension internal reserve. These measures would settle several contested issues in the rate proceedings involving the treatment of retired pre-Automated Meter Reading (AMR) meters, bonus depreciation related to capital investments from 2013 to 2016, and Lost and Unaccounted For gas benefits associated with gas usage on inactive accounts, as well as the petitions filed in Cases 12-G-0202 and 14-M-0042, discussed earlier.

Capital Investment Levels

Electric

The JP recommends capital budgets to allow the Company to reinforce and modernize its electric transmission and distribution system. The forecasted levels of the Company's electric and common capital and cost of removal investment proposed in the JP are $613.047 million in FY 2019,[17] $644.561 million in FY 2020, and $674.512 million for FY 2021. The JP also recommends a process for the Company to follow in seeking out non-wires alternatives that will allow it to provide safe and reliable service at a lower cost than it would incur had it made traditional infrastructure investments. In addition, the JP would require the Company to submit periodic reports to the Commission and Staff regarding its electric infrastructure planning and investment.

Gas

The JP recommends capital budgets to allow the Company to reinforce and modernize its gas distribution system, including funding for the Albany Loop project, which would modernize Niagara Mohawk's eastern service territory, and the removal of 150 miles of leak prone pipe (LPP) over the three Rate Years. The forecasted levels of the Company's gas capital and cost of removal investment proposed in the JP are $149.359 million in FY 2019, $186.468 million in FY 2020, and $205.173 million in FY 2021. The JP proposes an incentive to encourage Niagara Mohawk to lower the unit cost of removing LPP and includes a Gas Safety and Reliability Surcharge that would allow cost recovery of LPP removal and leak repairs beyond those

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[17] Niagara Mohawk's fiscal year covers the 12-month period ending March 31.

reflected in rates. The JP also provides that Niagara Mohawk will continue to work collaboratively with EDF in assessing, developing and implementing best practices for identifying and abating high volume methane leaks, and that the Company will file an implementation plan with the Secretary regarding deployment and costs of its residential methane detector program, which would be targeted toward low-income customers.

Information Services

Niagara Mohawk's electric and gas rates provide for Information Services (IS) capital investments that are owned by the National Grid USA Service Company, Inc. (Service Company) and allocated to Niagara Mohawk in the form of rent expense. The Company's rent expense includes the return on, and the depreciation of, current IS capital as well as incremental forecast investments. The JP recommends funding to allow Niagara Mohawk to invest in modernizing its information technology, including Call Center Upgrades, which would allow the Company to more effectively manage customer calls to its multiple in-state call centers, and the Gas Business Enablement (GBE) Program, which would enhance the Company's gas operations, such as enhanced customer information and appointment scheduling, workforce management, gas safety compliance and system planning. The JP further recommends an incentive to encourage Niagara Mohawk to implement IS projects at a lower than forecast cost.

Street Lighting

The JP contains various provisions relating to the upgrading of street lights throughout Niagara Mohawk's service territory to energy efficient LEDs. The JP would commit Niagara Mohawk to sell its street lighting assets at a price equal to their net book value to any municipal customer that agrees to purchase all street light assets within the municipality's taxing jurisdiction. The Company also would establish an "opt-in" LED-only replacement program under which the Company would replace Company-owned failed roadway luminaires with LED luminaires for municipalities that opt into the program.

In addition, the JP recommends that, as part of its energy efficiency efforts, Niagara Mohawk offer rebates on new LED luminaires to municipalities seeking to convert Company-owned or municipality-owned streetlights to LEDs. The annual rate allowance for the rebate program would be $1.6 million. If, on an annual basis, the Company converts more than 10 percent of street light assets to LEDs and actual program costs exceed $1.6 million, the JP would allow deferral for future recovery of costs exceeding the rate allowance, up to an additional $1.6 million. Underspending in any rate year would be reconciled at the end of RY 3.

Reconciliations, Deferrals and True-Ups

Niagara Mohawk would continue operating under existing reconciliation mechanisms, in either their current or modified form. Those reconciliation mechanisms would apply to, among other areas, pension and other post-employment benefits (OPEBs), the low income program, economic development fund and grant programs, variable rate pollution control bond debt interest, site investigation and remediation, property tax, negative and positive revenue adjustments, externally imposed costs, authorized accounting changes, variable pay, revenue decoupling, major storm expense (electric only), electric and gas net utility plant and depreciation expense related costs.

The JP also proposes various new reconciliations, deferrals and true-ups. New deferrals are proposed for, among other things, ETIP costs, the cost of long term debt in RYs 2 and 3, service company rents associated with information system and GBE net utility plant and depreciation expense, IS capital investment cost incentives, walk-in payment transaction fees, LED energy efficiency program costs (electric only), LED capital investments (electric only), vegetation management costs (electric only), platform service revenues (electric only), ETIP revenues from specified classes (gas only), and gas safety program costs.

Low Income Energy Affordability Program

The JP proposes implementation of a low-income discount program to conform with the orders issued by the Commission in the generic low income proceeding in Case 14-M-0565.[18] The annual rate allowance for such programs would be increased from $10.874 million to $56.594 million for the electric program and from $9.254 million to $14.905 million for the gas program.

Service Quality Assurance Program

The JP would continue and update the Company's existing customer service metrics. The total NRAs to which Niagara Mohawk would be exposed for the customer service measures would remain at $19.8 million each year. The metrics would continue to measure the Public Service Commission (PSC) Complaint Rate, the Residential Customer Transactions Satisfaction Survey, the Small to Medium Commercial and Industrial Customer Transaction Satisfaction Survey, and Percentage of Telephone Calls Answered within 30 Seconds.

[18] Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016)(Low Income Order), and Order Granting in Part and Denying in Part Requests for Reconsideration and Petitions for Rehearing (issued February 17, 2017)(Low Income Rehearing Order).

The Service Quality Assurance Program also contains metrics for Electric Reliability. The metrics would continue to measure the System Average Interruption Frequency Index, Customer Average Interruption Duration Index, Estimating, and Inspection Maintenance Program. The Electric Reliability metric for Standardized Interconnection Requirements would be discontinued and the total NRAs to which Niagara Mohawk would be exposed for the remaining Electric Reliability measures would decrease from $18 million to $14 million each year.

Terminations and Uncollectibles Incentive

The JP recommends that Niagara Mohawk implement an annual Termination and Uncollectible Expense metric to provide an incentive for the Company to reduce the number of residential service terminations for non-payment while decreasing or maintaining the level of bad debt write offs from residential accounts. The Company could earn a positive revenue adjustment (PRA) of approximately $3.592 million if its annual customer terminations are at or below 43,000 and its annual uncollectible expense is at or below $39.4 million. The Company would be subject to a NRA of approximately $3.592 million if its annual customer terminations are at or above 72,000 and its annual uncollectible expense is at or above $66.1 million.

Collections Agreements

The JP recommends that the Company's collection practices be modified to provide for electronic deferred payment agreements (DPAs), enhanced customer service messaging to ensure that customers know their options if they are behind on their utility bills, updated training materials, and offers to customers of written confirmation of non-DPA collection agreements, among other things.

Walk-in Payment Transaction Fees

The JP proposes that the per transaction fee charged to customers who pay their bills at an authorized walk-in payment location be included in rates to cover the cost of the per transaction fee for such customers. The annual rate allowance proposed for these fees is $1.534 million, with $1.12 million allocated to the electric business and $0.414 million allocated to the gas business. The forecasted amounts included in rates would be subject to full reconciliation each Rate Year.

Energy Efficiency

Under the Joint Proposal, Niagara Mohawk's electric and gas Energy Efficiency Transition Implementation Plan (ETIP) costs would be recovered in base rates instead of the Energy Efficiency Tracker Surcharge portion of the System Benefit Charge (SBC). The annual ETIP costs included in base rates would be $51.458 million for electric and $10.549 million for gas, which would be subject to a downward-only reconciliation over the term of the Rate Plan.[19]

Costs associated with the Company's E-commerce platform and energy efficiency internal labor, evaluation, measurement and verification activities also would be moved from electric and gas ETIPs to base rates in the amounts of $10.840 million annually for electric and $3.465 million annually for gas. Those costs would not be subject to reconciliation.

The Company also would develop and implement a moderate-income electric and gas energy efficiency offering

[19] As discussed later in the document, the Joint Proposal specifically contemplates the reopening of the rate plan to accommodate the outcome of generic proceedings such as that considering statewide energy efficiency targets for 2025. See, Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative.

funded from the current electric and gas ETIP budgets. After collaborating with the New York State Energy Research and Development Authority and meeting with interested parties to receive input on the proposed offering, the Company would include the details of the offering in its June 1, 2018 ETIP filing.

Gas Safety

The JP would continue and update the Company's existing Gas Safety Performance metrics. The Company would continue to be at risk for a total of 150 pre-tax basis points annually.[20][21] The metrics would encompass LPP removal, leak backlog management, damage prevention, emergency response, and gas safety regulations performance. Positive incentives in each of those areas, up to a total of 37 basis points, would be created to encourage further improvements in the Company's performance. The JP also recommends the use of shareholder funds to enhance gas safety through six programs, including initiatives aimed at pipeline damage prevention and enhanced first responder training programs.

Earnings Adjustment Mechanisms

The Joint Proposal recommends adoption of various Earnings Adjustment Mechanisms (EAMs). Electric EAMs are

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[20] One pre-tax basis point is equivalent to approximately $0.342 million and $0.080 million in electric and gas revenues, respectively, in Rate Year 1; $0.364 million and $0.086 million in electric and gas revenues, respectively, in Rate Year 2; and $0.387 million and $0.093 million in electric and gas revenues, respectively, in Rate Year 3. Those figures would be updated based on actual data available as of December of each Rate Year (JP, p. 8 n. 8).

[21] In addition the Company will be at risk for up to $1.12 million, approximately 14 basis points, under the Gas Cost Estimating Metric.

proposed (1) to improve system efficiency through peak reduction and distributed energy resource utilization; (2) to improve energy efficiency by incentivizing the Company to achieve further energy efficiency savings, increased LED street lighting conversions, and reduced residential and commercial energy usage; (3) to increase the effectiveness of the Company’s Distributed Generation interconnection process; and (4) to increase environmentally beneficial electrification through the adoption of electric vehicles and heat pumps that displace fossil fuel technologies. A gas EAM is proposed to foster the Company to achieve further energy efficiency savings. The JP includes quarterly and annual EAM reporting requirements and proposes that the Company would recover through surcharges PRAs earned in meeting EAM targets.

At the maximum level, Niagara Mohawk has the potential to earn positive revenue adjustments of $19.49 million in Calendar Year (CY) 2018, $22.22 million in CY 2019, and $23.59 million in CY 2020 for its electric business. With respect to the gas business, Niagara Mohawk has the potential to earn positive revenue adjustments of $0.80 million in CY 2018, $0.86 million in CY 2019, and $0.93 million in CY 2020 at the maximum performance level.

Advanced Metering Infrastructure (AMI)

The JP recommends that Niagara Mohawk engage in a collaborative process with Staff and other interested parties to refine and update its AMI business plan. By October 1, 2018, the Company would file a report with the Secretary regarding its proposed implementation of AMI, which would include an updated AMI business plan, Benefit Cost Analysis and Customer Engagement Plan.

Recognition of Policy Proceedings

The Commission conducts proceedings associated with statewide policy objectives that may impact the Company during the term of the Rate Plan.[22] Nothing in this Joint Proposal limits the Commission's ability to require the Company to implement changes or take certain action pursuant to those or other policy proceedings during the term of the Rate Plan.

DISCUSSION

Our review of the Joint Proposal and the evidence and arguments supplied by the parties in support of and opposition to it leads us to conclude that the Joint Proposal meets the criteria set forth in the Commission's Settlement Guidelines,[23] such that its terms should be adopted and incorporated into a rate plan for Niagara Mohawk for the next three years. First, we find that all procedural protections were afforded to all participants in the case, such that all parties had full notice and opportunity to make their views known in both the litigated and settlement tracks of the proceeding. The JP that has resulted from the settlement negotiations reflects the compromises made by a wide variety of ordinarily adversarial parties with strong incentives to find a resolution that meets their various interests. Their proposal is one that could reasonably be expected to result from litigation, although we find that a rate plan crafted by so many parties with

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[22] See, e.g., Case 15-E-0751, In the Matter of Value Distributed Energy Resources; Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision; Case 15-M-0252, In the Matter of Utility Energy Efficiency Programs; Case 17-M-0815, Proceeding on Motion of the Commission on Changes in Law that May Affect Rates.

[23] Cases 90-M-0255, et al., Procedures for Settlements and Stipulation Agreements, Opinion 92-2 (issued March 24, 1992) (Settlement Guidelines).

specialized knowledge is often superior to the outcome to be expected from adversarial litigation. We find that the rate plan proposed reflects an appropriate balancing of ratepayer and shareholder interests, such that the rate increases are close to the minimum necessary to provide the Company with a fair return on its investment while enabling it to provide safe and adequate service and to advance important State policy objectives. As such the resulting rates are fair and reasonable.

We find much to commend in the Joint Proposal. We highlight a few of its more salient provisions below.

Annual Revenue Increases

Electric

Section 2.1 of the Joint Proposal recommends that the Company be provided electric delivery rate increases of $159.974 million in Rate Year 1, $31.014 million in Rate Year 2, and $49.801 million in Rate Year 3. To mitigate the customer bill impacts for the rate increases over the three rate years, the Joint Proposal recommends that Niagara Mohawk provide as a surcredit to electric customers in each Rate Year, a total application of $200.4 million out of an approximately $267.3

million forecast electric deferred credit balance.[24] After application of the deferral credits, net electric revenues would increase by $43.058 million or 1.7 percent in Rate Year 1, $88.635 million or 3.4 percent in Rate Year 2, and $89.636 million or 3.4 percent in Rate Year 3.[25]

The proposed $159.974 million increase in Rate Year 1 is significantly less than the approximately $261 million increase requested by the Company in corrected and updated testimony and approximately $9.3 million less than the revenue requirement increase recommended by Staff in pre-filed testimony. The proposed increase reflects corrections from the Company's rebuttal testimony and other adjustments including compromises between Staff and the Company on various items, such as operation and maintenance (O&M) expenses, depreciation expense, and proposed levels of capital expenditures. The proposed increase in Rate Year 1 also reflects reductions of over $27 million resulting from the change to return on equity (ROE) originally proposed by the Company of 9.79 percent for a

[24] JP section IV.2.2 and Appendix 2, Schedule 3.5. The JP proposes that electric deferral credits be applied in the following amounts: $116.916 million in Rate Year 1, $59.295 million in Rate Year 2, $19.460 million in Rate Year 3, and $4.729 million in the twelve-month period ending March 31, 2022. The method and specific amounts by which the credits would be allocated to the electric service classes are discussed in JP section IV.3.4 and Appendix 2, Schedule 3.5. Staff states that the Signatory Parties designed the timing and magnitude of the deferral credits proposed to be applied as offsets to both the electric and gas rate plans to address concerns that Niagara Mohawk's credit metrics remain consistent with its current credit ratings. Staff Statement in Support, p. 15.

[25] These figures reflect total electric revenue increases, as a percentage of total revenues including both delivery and commodity revenues.

one-year rate case and the 9.0 percent recommended in the JP, over $61 million of savings forecasted to result from the recent enactment of the Tax Cuts and Jobs Act of 2017 (Tax Act), and approximately $17.5 million in imputed productivity savings.[26]

The electric revenue increases are driven mainly by significant capital investments in the Company's electric transmission and distribution infrastructure and information technology, by a revenue-neutral shift of the recovery of energy efficiency costs through base rates, by increased labor and contractor costs, by increases in operational and maintenance expenses related to grid modernization and the vegetation management program, by increased property taxes, by funding for additional energy efficiency expenses, and by funding for the incremental costs of the Company's new Low Income Energy Affordability Program. The Company explains that the capital investments include funding for critical maintenance programs, to modernize the electric system and establish a framework for enabling an animated energy marketplace, and to upgrade core electric transmission, subtransmission and distribution infrastructure.[27]

Gas

The Joint Proposal recommends that the Company be provided gas delivery rate increases of $45.524 million in Rate Year 1, $5.344 million in Rate Year 2, and $9.951 million in Rate Year 3. Similar to the electric rate plan, the JP proposes

[26] The proposed increases in the revenue requirements for Rate Years 2 and 3 reflect increases and decreases in various expenses due to inflation factors, increases in net utility plant resulting from capital spending, a decrease in the sales forecast, and a decrease in debt rates.

[27] Niagara Mohawk's Reply Statement in Support, p. 5.

to mitigate the customer bill impacts from the increases over the three-year rate plan by providing a surcredit to gas customers in each Rate Year through a total application of $56.1 million of a forecasted total gas deferred credit balance of $74.83 million.[28] After application of the deferral credits, net gas revenues would increase by $13.209 million or 2.4 percent in Rate Year 1, $20.735 million or 3.5 percent in Rate Year 2, and $21.531 million or 3.5 percent in Rate Year 3.[29]

The proposed increase of $45.524 million in Rate Year 1 is approximately $25 million less than the increase Niagara Mohawk requested in corrected and updated testimony and only slightly higher than the $44.8 million revenue requirement increase recommended by Staff in pre-filed testimony. As with the electric revenue requirement, the proposed increase in the gas revenue requirement for Rate Year 1 reflects corrections from the Company's rebuttal testimony and other adjustments including compromises between Staff and the Company on various items, such as operation and maintenance (O&M) expenses, depreciation expense, and proposed levels of capital expenditures. The proposed increase in Rate Year 1 also reflects reductions of approximately $6 million resulting from the change to return on equity (ROE) originally proposed by the

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[28] JP Section IV.2.2 and JP Appendix 3, Schedules 2 and 3. The JP proposes that gas deferral credits be applied in the following amounts: $32.315 million in Rate Year 1, $16.924 million in Rate Year 2, $5.344 million in Rate Year 3, and $1.540 million in the twelve-month period ending March 31, 2022. The method and amounts by which the credits would be allocated to the gas service classes are discussed in JP section IV.4.4 and Appendix 3, Schedules 2 and 3.

[29] These figures reflect gas revenue increases, as a percentage of total gas revenues including both delivery and commodity revenues.

Company of 9.79 percent and the 9.0 percent recommended in the JP, over $14 million of savings forecasted to result from the recent enactment of the Tax Act, and approximately $3.6 million in imputed productivity savings.[30]

In addition, approximately $10.5 million[31] of the proposed increase to the gas base rate revenue requirement in Rate Year 1 results from the Joint Proposal's adoption of Staff's revenue-neutral recommendation to have all energy efficiency costs recovered through base rates rather than a surcharge.[32] Other major drivers of the gas revenue increases include investments in information technology, especially for the Company's Gas Business Enablement Program, funding for the incremental costs of the Company's new Low Income Energy Affordability Program, and increases to labor and contractor costs.[33]

The vast majority of public comments received in these proceedings voiced objections to any rate increases for Niagara Mohawk. AARP also opposes the proposed rate increases, stating they will have significant impacts on residential energy bills.[34] Staff asserts that, after making every effort to ensure that the rates were no higher than necessary to enable the utility to

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30 As with the electric rate plan, the proposed gas plan revenue increases for Rate Years 2 and 3 reflect increases and decreases in various expenses due to inflation factors, increases in net utility plant resulting from capital spending, an increase in the sales forecast, and a decrease in debt rates.

31 JP, Appendix 1, Schedule 2, p. 6.

32 Ex. 468, Staff Policy Panel Testimony, pp. 14-15, 17; Ex. 464, Staff Markets and Energy Efficiency Panel, pp. 15, 18-20.

33 Ex. 468, Staff Policy Panel Testimony, p. 17.

34 AARP Statement, p. 1.

recover its costs and a fair return on its investment, Staff confirmed that material increases in revenue requirements are needed.[35] According to Staff, "the rates recommended in the Joint Proposal reflect the great efforts of the Signatory Parties to limit the amount of the rate increases in these proceedings to only what Niagara Mohawk requires to offset the cost of providing service to customers."[36]

We find that the Joint Proposal provides appropriate revenue increases for Niagara Mohawk to maintain and improve the provision of safe and reliable electric and gas service, at just and reasonable rates. Among other things, increases are needed to allow the Company to maintain and upgrade its electric and gas infrastructure and information systems, fund additional energy efficiency expenses, and significantly expand its low-income customer discount programs.

At the same time, the use of customer credits to offset the increases will moderate the delivery rate impacts and provide a gradual transition to full cost-of-service rates.[37] For example, under the proposed electric revenue increases as offset with deferral credits, a typical residential customer using 600 kWh of electricity per month would see a total monthly bill increase of $2.22 or 2.91 percent in Rate Year 1, $3.03 or 3.85 percent in Rate Year 2, and $3.25 or 3.98 percent in Rate Year 3.[38] Under the proposed gas revenue increases as offset

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[35] Staff Statement in Support, pp. 9-10.

[36] Staff Reply Statement in Support, p. 11.

[37] The Joint Proposal would use approximately 75% of the deferral amounts projected to be available at the start of Rate Year 1, preserving approximately 25% for future rate moderation purposes.

[38] JP Appendix 2, Schedules 4.1, 4.2 and 4.3, p. 1. These numbers include both delivery and projected commodity rates.

with deferral credits, a typical residential customer using 77 therms of gas per month would see a total monthly bill increase of $1.20 or 1.72 percent in Rate Year 1, $3.10 or 4.45 percent in Rate Year 2, and $3.18 or 4.39 percent in Rate Year 3.[39]

Moreover, the JP contains numerous reconciliation provisions, including an earnings sharing mechanism, to protect ratepayers from the Company underspending certain rate allowances or simply beating costs that were overestimated thus allowing a share in any additional realized productivity savings, and a low-income discount program that will further protect low-income ratepayers from the effects of the proposed revenue increases. No party other than Staff presented a case in support of alternative overall revenue requirements. The proposed increases are in amounts agreed to among many parties after extensive negotiations resolving numerous issues. We find that the results of those negotiations are in the public interest and fall within the reasonable range of outcomes likely to result from litigation.

Federal Tax Law Changes

The Tax Cuts and Jobs Act (Tax Act), signed into law on December 22, 2017, makes significant changes to the federal tax law. In recognition of those changes, JP section 10.1.10 states that the rates proposed in the JP incorporate the Company's current estimates of the financial impacts resulting from the reduction to the utility's corporate federal income tax rate from 35 percent to 21 percent, termination of bonus tax depreciation as of September 27, 2017, and allowances for deferred taxes at a rate of 21 percent associated with future plant additions. Taking those impacts into account, the revenue

[39] JP, Appendix 3, Schedules 5.1, 5.2 and 5.3, p. 1. These numbers include both delivery and projected commodity rates.

requirements proposed in the JP reflect a net Rate Year 1 reduction of $61.149 million for electric ratepayers and $14.562 million for gas ratepayers.

Although amortization of the excess accumulated deferred federal income tax associated with the reduction in the corporate federal income tax rate has not been included in the proposed rates, the signatory parties propose that all net benefits resulting from the Tax Act shall accrue to customers, including those related to the excess accumulated deferred federal income taxes. Accordingly, the JP provides that, no later than Rate Year 1, after meeting with Staff and other interested parties, the Company will make a compliance filing, with supporting workpapers and calculations, to reflect all impacts on rates from the Tax Act, and that the Company will defer for further refund or recovery any difference between its recalculated federal tax expense and the amounts provided for in rates. Finally, the signatory parties recognize that the Commission may address the changes in the federal tax law in a generic proceeding, these proceedings, or otherwise, and that such action may result in changes to the way the federal tax law changes are proposed to be treated in the Company's rate plan.[40]

The JP's proposed treatment of the financial impacts resulting from the passage of the Tax Act seeks to protect ratepayers' interests and ensure that net benefits accruing from the Tax Act are preserved for ratepayers and not serve as a windfall to the Company's shareholders. The proposal is unopposed and would provide significant and immediate financial

[40] The Commission has commenced a generic proceeding to begin the process of addressing the impact of the recent federal tax law changes on utilities and ratepayers. Case 17-M-0815, Proceeding on Motion of the Commission on Changes in Law that May Affect Rates, Order Instituting Proceeding (issued December 29, 2017).

benefits to ratepayers in the form of lower electric and gas revenue requirements. Accordingly, at this time, we find the JP's proposed ratemaking treatment of the Tax Act's changes to be reasonable and in the public interest.

Infrastructure Investment

The JP would provide approximately $1.9 billion for Niagara Mohawk's electric business and over $540 million for the Company's gas business in infrastructure investment capital over the three-year rate plan. The foregoing totals can be broken down to rate year levels for the Company's electric capital programs, including the cost of removal, of $613.047 million, $644.561 million, and $674.512 million, respectively, and for its gas capital programs, including the cost of removal, of $149.359 million, $186.328 million, and $205.054 million, respectively.

Niagara Mohawk plans to use the capital for investments that will enhance the safety, reliability and resiliency of its electric and gas distribution systems. These costs create the largest drivers of the JP's rate increases, however, the JP also would provide for capital tracking and downward-only reconciliation mechanisms that insure that either the money is spent appropriately, or it will be returned to customers in the form of deferred credits. To provide for transparency, allowing the Commission and the parties to review where, when and how the investment capital is spent, the JP would require the Company to file regular capital spending reports.

Specifically, the JP provides investment capital to replace aging infrastructure, address anticipated increased system loads in certain areas, improve reliability and resiliency, and integrate renewable and distributed energy resources. For example, the Buffalo Station 59/3012 Project will provide load serving capability and improve reliability in the Larkin district. The Van Dyke Substation Project will provide load relief in the capital district, and will provide relief to neighboring substations. Additionally, capital funding will support Niagara Mohawk's electric system modernization projects that include remote terminal units which will provide for increased monitoring and control of the Company's T&D substations; distribution automation whereby distribution sensors are used to implement Volt/Var Optimization; automated circuit restoration; and, enhancements to the Company's Geographic Information System. For gas, the JP includes funding for the replacement of at least 50 miles of leak prone pipe on Niagara Mohawk's distribution system each year in a proposed continuation of its existing replacement program.

Cost of Capital

The JP establishes rates based on a return on equity of 9.0 percent and a 48.0 percent common equity ratio for both Niagara Mohawk's electric and gas businesses. The foregoing provides the Company with a RY 1 overall after-tax cost of capital of 6.53 percent and a cost of debt of 4.29 percent, a RY2 overall after-tax cost of capital of 6.48 percent and a cost of debt of 4.19 percent, and a RY3 overall after-tax cost of capital of 6.45 percent and a cost of debt of 4.13 percent.

Prior to entering the JP, Niagara Mohawk initially sought a 9.79 percent ROE, described in Exhibit 14 as the mean result for the proxy group employed by the Company's finance witness when she equally weighted her Discount Cash Flow (DCF) and Capital Asset Pricing Model (CAPM) analyses. In contrast, Staff's pre-filed position in Exhibit 413 supported an 8.25 percent ROE. Staff's position was rooted in the Commission's traditional weighting of two-thirds DCF to one-third CAPM results recently reaffirmed in our 2017 rate order for National Fuel Gas Distribution Company (NFG).[41]

In supporting the JP's use of 9.0 percent, Staff notes that, in addition to a stay-out premium applied to Staff's testimonial position, the recommended 9.0 percent ROE accounts for a level of annual productivity savings that significantly exceeds the amount that otherwise would be expected in a similar rate plan.[42]

Regarding the level of stay-out premium, Staff explained in response to an interrogatory asked by the judges, ALJ-9, that "In recent joint proposals with three-year rate plans, Staff has advocated for ROEs that incorporate stay-out premiums to account for the increased financial risk and business (risk) to the utility in the range of 30 to 50 basis points. Thus, for Niagara Mohawk, if one considers the updated output of Staff's ROE model of 8.34%, an 8.80% ROE would be within, but at the high end of that range." Furthermore, to illustrate its point, Staff states that the additional imputed productivity savings total $8.46 million in RY 1, $9.13 million in RY 2, and $9.83 million in RY 3 and are equivalent to 20 basis points in each rate year of the rate plan.[43]

Staff represents that without the additional productivity imputations detailed above, current economic conditions indicate that the Commission's methodology would have produced a three-year ROE of 8.8 percent assuming the addition of a stay-out premium, 20 basis points lower than the JP's recommended 9.0 percent. Thus, the JP's additional imputed

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41 See Case 16-G-0257, National Fuel Gas Distribution Corporation – Rates, Order Establishing Rates for Gas Service (issued April 20, 2017), p. 53 (2017 NFG Rate Order).

42 Staff Statement in Support, p. 42.

43 Id.

productivity savings serve as a dollar-for-dollar trade-off between the parties' expectations on unidentified savings that may be realized through the Companies' efforts to achieve productivity gains with the cost of capital rates on which the JP's rates were calculated.

In the 2017 NFG Rate Order, the Commission reaffirmed the principles underlying our long-standing methodology for calculating a reasonable return on equity for a rate plan, regardless of whether it is ordered on a settlement or litigated track.[44] Those elements consist of the application of DCF and CAPM analyses to a representative proxy group of utility companies; the use of a two-stage DCF computation with inputs derived from Value Line; the basing of CAPM results on an average of the outcome from standard and zero-beta models with a risk-free rate based on Treasury bonds, market risk premium provided by Merrill Lynch's Quantitative Profiles, and betas taken from Value Line; and the use of a 2/3 – 1/3 weighting of the DCF and CAPM results, respectively.[45]

In the 2017 NFG Rate Order, we also noted that where good reason is provided, particularly in the recognition of an increased risk on the utility in the rate order, we would consider increasing the Commission's calculated ROE. Here, the JP imputes to Niagara Mohawk an additional amount of productivity savings for the Company to achieve during the three years of the rate plan. Staff indicates that the additional imputed savings equate to 20 basis points.

[44] The Commission has similarly endorsed this methodology in adopting rate plans on negotiated joint proposals. See, e.g., Case 16-W-0259, New York American Water – Rates, Order establishing Rates for Water Service (issued May 18, 2017), pp. 32-34.

[45] 2017 NFG Rate Order, pp. 52-53.

We acknowledge that the additional imputed productivity creates additional risk to Niagara Mohawk, risk that would likely not have attached to the Company's rates had the case proceeded to us on a litigated track. We agree that the increased risk accepted by Niagara Mohawk justifies the inclusion of a commensurate increase to the rate plan's ROE. We find that the JP's 9.0 percent ROE is reasonable as it is based on the application of our cost of equity methodology plus a premium for the risk assumed by the Company for staying out for three years plus an additional assumed risk through the imputation to base rates of productivity savings above one percent.

Rate Plan Settlement Deferral Credits

The JP recommends that the Company be required to create a new electric deferral credit of $44.88 million and a new gas deferral credit of $28.42 million (Rate Plan Settlement Credits). In addition, the Company would have to reduce by $7.0 million the level of the pension internal reserve.[46] These measures would settle disputes regarding (1) the treatment of $87.7 million of undepreciated investment in retired AMR meters; (2) the treatment of bonus tax depreciation related to capital investments made by the Company during 2013 and through March 31, 2016; (3) the Company's petitions to defer a FY 2014 actuarial experience pension settlement loss, in Case 14-M-0042, Petition of Niagara Mohawk Power Corporation d/b/a National Grid for Authorization to Defer an Actuarial Experience Pension Settlement Loss for Fiscal Year 2014; (4) all issues associated

[46] Case 91-M-0890, Matter of the Development of a Statement of Policy, Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pension and Post-Retirement Benefits Other than Pensions (issued September 7, 1993).

with NRAs arising from the operation of the Company's Gas Safety Regulation Performance metric for calendar years 2013 through 2015 and the Company's Gas Safety Metric Petition, Case 12-G-0202, Petition of Niagara Mohawk Power Corporation d/b/a National Grid to Modify its Existing Gas Safety Metric; and (5) the treatment of Lost and Unaccounted For gas benefits associated with gas usage on inactive accounts.

The JP would require the Company to use $6.2 million of the electric Rate Plan Settlement Credits in each Rate Year ($18.6 million in total) to amortize an equivalent amount of its undepreciated investment in pre-AMR meters.[47] In addition, the Company would use $8.971 million of the gas Rate Plan Settlement Credits to fund Gas Safety programs and $5 million of those credits to fund future gas safety and compliance improvement programs.

These terms of the JP are in the public interest. The JP effects a full settlement of longstanding issues raised in the Company's petitions to defer a FY 2014 actuarial experience pension settlement loss,[48] and issues associated with negative revenue adjustments arising from the operation of the Company's Gas Safety Regulation Performance metric for calendar years 2013 through 2015 and issues raised in the Company's Gas Safety

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47 The unamortized balance of pre-AMR meter investment would remain in the Company's rate base. The Signatory Parties agreed not to propose requiring the Company to write down any of its investment in pre-AMR meters in any future proceeding. The JP would not preclude further amortization of the remaining balance of pre-AMR meter investment with rate base treatment on any unamortized balance.

48 Case 14-M-0042, Petition of Niagara Mohawk Power Corporation d/b/a National Grid for Authorization to Defer an Actuarial Experience Pension Settlement Loss for Fiscal Year 2014.

Metric Petition.[49] These terms of the JP provide an administratively efficient outcome that obviates the need for continued litigation over the many issues raised in these cases. The JP fairly balances the competing interests of the Company and its customers as well. Customers will benefit because the Company will be compelled to fund certain gas safety programs and other expenses, and to create a pool of additional credits to be used for customer benefit. The Company will benefit by the resolution of still-outstanding petitions and reduced uncertainty over the Company's exposure to NRAs under the Gas Safety Metrics. Staff has assessed that the deferral amounts recommended under the JP reflect the risks associated with fully litigating the issues raised in this and the related cases. The settlement of these matters is also consistent with prior Commission orders. More specifically, the JP resolves the pension settlement loss issues in Case 14-M-0042 in a manner similar to the outcome of Niagara Mohawk's 2003 Pension settlement loss petition,[50] and will resolves issues in Case 12-G-0202 concerning gas safety NRAs during CY 2013, 2014, and 2015 in a manner consistent with relief the Commission granted in response to a petition from Niagara Mohawk's affiliated gas

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[49] Case 12-G-0202, Petition of Niagara Mohawk Power Corporation d/b/a Nation Grid to Modify its Existing Gas Safety Metric.

[50] See, Case 03-M-0651, Niagara Mohawk - Petition to Defer Losses from Pension Settlement, Order Adopting Memorandum of Agreement (issued August 11, 2004); see also Case 04-M-0938, Niagara Mohawk – Petition to Defer Actuarial Experience Pension Settlements that Occurred During Fiscal Year Ended March 31, 2004, Order Adopting Terms and Conditions of Parties' Stipulation (Issued July 19, 2007); Case 07-M-0173, Niagara Mohawk – Petition to Defer Actuarial Experience Pension Settlement Loss for Fiscal Year 2007, Order Adopting Terms and Conditions of Parties' Stipulation (Issued July 19, 2007).

company, The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY).[51] Finally, both customers and the Company will benefit because this settlement will allow the Company to focus on its core mission of providing safe and reliable service to its customers.

We will require, however, that, within 30 days after the effective date of the rate plan, the Company file a report with the Secretary to the Commission showing, and providing copies of, the accounting entries it has made to effectuate both the creation of the new electric and gas rate plan settlement deferral credits, and the resolution of each of the issues associated with the settlement deferral credits. The report should also include the presentation of proposed entries that will be made in each rate year that will provide for the allowed funding of the identified gas safety programs and the amortization of the undepreciated investment in pre-AMR meters. The report shall include a full explanation of each actual recorded or proposed accounting entry.

Low Income Energy Affordability Program

In pre-filed testimony, Niagara Mohawk explained that electric and gas customers who received a Home Energy Assistance Program (HEAP) benefit within the last 14 months were eligible to participate in a Low Income Discount Program and a Reconnect Fee Waiver Program.[52] Under the Low Income Discount Program,

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[51] See, Case 12-G-0544, KEDNY – Earnings Computation and Elements of Rate Plan, Petition to Modify Existing Gas Safety Metric (filed July 15, 2016); Case 16-G-0058 et al., KeySpan Gas East Corporation d/b/a National Grid and KEDNY – Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plans (issued December 16, 2016), pp. 119-120.

[52] Ex. 96, Shared Services Panel Testimony, pp. 40-42.

eligible non-heating customers received a $5.00 monthly discount on their electric bill and an $11.00 monthly discount on their gas bill for 14 months. Eligible heating customers received an additional $10.00 monthly discount on their electric bill or an $11.00 monthly discount on their gas bill, as applicable, for 14 months. The Company's annual rate allowances for those low income programs were $10.874 million for electric and $9.254 million for gas.

Changes to the Company's current low income programs are required to satisfy the low income program modifications established in the Commission's generic low income proceeding in Case 14-M-0565.[53] The Low Income Order established a policy seeking to limit energy costs for low-income households to no more than 6 percent of household income and adopted a default methodology for setting tiered discount levels that vary based on the level of need. The Low Income Order also established a funding limit such that the utility's total budget may not exceed two percent of total electric or gas revenues for sales to end-use customers. Pursuant to the Low Income Order, on December 16, 2016, Niagara Mohawk filed a Low Income Program Implementation Plan with the Commission, which approved the plan with modifications on February 17, 2017.[54]

Section 13.1 of the Joint Proposal acknowledges that, beginning on January 1, 2018, Niagara Mohawk would implement its new Energy Affordability Program in accordance with the Implementation Plan as modified by the Implementation Order. As permitted by the Low Income and Implementation Orders, the

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[53] Case 14-M-0565, supra, Low Income Order and Low Income Rehearing Order.

[54] Case 14-M-0565, supra, Order Approving Implementation Plans with Modifications (issued February 17, 2017)(Implementation Order).

Company discontinued new enrollments in its arrears forgiveness program in March 2017, and the program will be phased-out gradually, as existing customers complete, default or voluntarily remove themselves from the program. The Company would debit the current regulatory liability for the arrears forgiveness program for any credits provided to grandfathered customers.

The JP proposes an annual rate allowance for the Energy Affordability Program of $56.594 million for the electric program and $14.905 million for the gas program, as set forth in Appendix B to the Implementation Order. Pursuant to Appendix A to the Implementation Order, the JP proposes various monthly benefit levels for each tier in the Energy Affordability Program, with the amount of the customer's HEAP benefit determining which Tier Level discount the customer would receive. The JP provides that, pursuant to the Low Income Order, the Company will review the benefit levels annually with regard to the overall energy burden target and the two percent budget cap and adjust benefit levels as needed.

Next, as allowed in the Implementation Order, the JP proposes that Niagara Mohawk transition to the updated reporting requirements set forth in the Low Income Order. Under the JP, the Company would continue filing its current, monthly low income reports through November 2018. Beginning in December 2018, the Company would submit quarterly reports on the electric and gas Energy Affordability Program to the Secretary, which would contain the information required by the Low Income Order.

Finally, as allowed for in the Implementation Order, the JP proposes to continue the Company's current reconciliation mechanism for gas and electric low-income discount programs. Pursuant to JP section IV.10.1.2, in each Rate Year the Company would fully reconcile Energy Affordability Program Costs to the rate allowance of $56.594 million for electric and $14.905 million for gas. Amounts in excess of the rate allowance would be deferred for future recovery from customers and any under-expenditures would be deferred for future use in a low income program.

The Company expects enrollment to go up under the proposed low-income programs. For the 2014-2016 calendar years, the Company had an average of 103,000 participants each year in its electric low-income discount program and an average of 60,000 participants each year in its gas low-income discount program.[55] The Company anticipates that the low-income discount program proposed in the JP will significantly increase participation in its electric low-income assistance program by as many as 55,000 participants.[56] In pre-filed testimony, the Company explained that implementation of a new file matching process with the New York State Office of Temporary and Disability Assistance is expected to add approximately 55,000 program participants in the electric program and that most of the participants in that program "will be in the new Tiers 2 and 3, which have significantly higher monthly discounts" of $29 for Tier 2 and $47 for Tier 3.[57]

Although Pace recommended in pre-filed testimony that the Company broaden the eligibility criteria for the low-income assistance program and the methods for identification and automatic enrollment of all low-income customers,[58] the JP, to which Pace is a signatory, does not adopt those proposals. Staff states that such further modifications to the income

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[55] Ex. 96, Shared Services Panel Testimony, p. 41.

[56] Ex. 1, Daly Testimony, p. 49.

[57] Ex. 96, Shared Services Panel Testimony, p. 44.

[58] Ex. 547, Musgrove Testimony, pp. 14-16.

eligibility criteria would conflict with the generic Low-Income Proceeding orders, and that broader eligibility requirements "would necessitate increased rate allowances which, in turn, likely would push expenditures significantly above the established 2% budget cap and increase the financial burden on non-low-income ratepayers."[59]

The Company states that the JP provides for considerable benefits to low-income customers by providing for full implementation of its Energy Affordability Program with increases of more than $45.7 million for the electric program and $5.6 million for the gas program.[60] According to the Company, the "new Energy Affordability Program has the potential to provide more than $70 million in annual low income benefits, an unprecedented level of low income support and a more than threefold increase in the current budget for these programs."[61]

Similarly noting the increased rate allowances for the low-income programs, the City of Syracuse asserts that those programs will help to protect the most economically vulnerable people throughout Niagara Mohawk's service territory.[62] The City of Buffalo also supports the proposed low-income programs, as does PULP, which recognizes that the proposed low-income benefits should provide necessary rate relief to many upstate households.[63] AARP similarly views the proposed adoption of the Energy Affordability Program as a positive.[64]

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[59] Staff Statement in Support, p. 78.

[60] Company's Statement in Support, p. 18.

[61] Company's Reply Statement in Support, p. 5.

[62] City of Syracuse Statement in Support, p. 8.

[63] PULP Statement on the Joint Proposal, p. 4.

[64] AARP Statement on the Joint Proposal, p. 2.

AGREE/PUSH/SUN contend that, when viewed in conjunction with the proposed revenue requirement increases, the tiered discount levels proposed for low income customers will offer significant help only to those qualifying for the highest discount tiers, leaving customers in the lower discount tiers to "tread water" and offering no help to low- and moderate-income customers who do not qualify for any of the discounts.[65] Noting that the proposed tiered discounts are those approved by the Commission in the Implementation Order, AGREE/PUSH/SUN further assert that discounts should have been recalculated based on the new rates proposed in the JP in order to achieve the Commission's policy goal to limit energy costs for low-income households to no more than 6 percent of household income. They also state that the JP does not include information as to how many customers the signatories project will end up in each discount tier.

Staff responds that, while the JP provides the discount levels as established in the Implementation Order, the Company is required to update its discount levels on an annual basis to maintain its expenditures within the 2 percent budget cap and achieve the 6 percent energy burden for low-income customers.[66] Staff states that the Company would need to use the most recent 12 months' data to calculate updated discount amounts and that such data is not yet available for the 2018/2019 HEAP season. Staff asserts that, once that data is available, the Company would be required to make an annual filing setting forth any necessary adjustments to the discount amounts.

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65 AGREE/PUSH/SUN Statement in Opposition, pp. 4-5.

66 Staff Reply Statement in Support, p. 12.

Moreover, according to Staff, given that the Low Income Energy Affordability program is "at the early stage of implementation, it will likely take more than one heating season to gather sufficient data to evaluate the program's effectiveness in relieving a measure of the financial burden on low-income customers and assisting them in achieving a 6% energy burden."[67] Staff also states that, at this early stage, "it would be difficult to project accurately how many customers will participate at each of the separate discount tiers."[68] Staff maintains that the Low Income Energy Affordability Program is reasonable because it "implements the tiered discount plan as ordered while encouraging efforts to enroll eligible customers, allowing for recalculation of discounts as data becomes available, and acknowledging the need to consider the budget impacts on all customers."[69]

We agree with Staff that the JP's proposal to implement the low-income discount program as approved by the Implementation Order is reasonable. The proposed Low Income Energy Affordability Program follows the structure for low income programs established in the Low Income Order and Rehearing Order, which resulted from an extensive process designed to carefully balance the interests of low-income customers, other customers and the utilities. The program would provide significantly increased levels of discounts to the Company's low-income customers. The JP appropriately envisions that adjustments to those benefit levels will be made annually, as necessary, based upon updated data.

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67 Id.

68 Id., p. 13.

69 Id.

Environmentally Beneficial Provisions

The Joint Proposal contains significant provisions designed to further State policies to curb greenhouse gas emissions and to improve the efficiency of the State's provision of power, heat, and light to its citizens. These include revisions to Niagara Mohawk's energy efficiency programs; the resolution of the pricing formula for street lighting purchases by municipalities that will encourage conversion to high efficiency LED street lights; investment to minimize leaks from gas mains; provisions for encouraging and responding to use of electric vehicles; incentives to encourage alternative ways to satisfy electric load other than by investment in traditional infrastructure; a commitment to continue to explore and develop advanced metering infrastructure, and the provision of opportunities for Niagara Mohawk to obtain enhanced earnings based on performance and outcomes in meeting these environmental goals.

Energy Efficiency

The energy efficiency provisions of the JP reflect an evolution of Niagara Mohawk's energy efficiency initiatives away from its prior ETIP, which was, as its name suggests, transitional. The budget for energy efficiency initiatives starts with the ETIP budget that the Company had filed in Case 15-M-0252, but then separately adds in amounts for internal labor; evaluation, measurement and verification ("EM&V") activities; and the E-Commerce platform, resulting in totals for the energy efficiency budget that are approximately 21 percent larger for electric and 33 percent larger for gas.[70] All of these budgeted amounts will now be collected through base rates

[70] Ex. 389, Exhibit SEAMP-7, p. 17.

rather than through the energy efficiency tracker surcharge portion of the SBC. This shift is consistent with Commission policy in that it promotes a more holistic approach to energy efficiency, which can be integrated with peak reduction and system efficiency activities, all as components of the Company's core business. However, these costs will continue to be carefully allocated in accordance with the JP provisions, which continue to exempt some customers from responsibility for these costs in the same way that they enjoyed exemption from costs under the EE tracker. Multiple Intervenors, on behalf of some of such customers, acknowledges this important provision as key to its support for the Joint Proposal.

The annual savings targets, measured in MWh for electricity and Dth for gas, originally filed by the Company as part of its ETIP, are now replaced and superseded by the targets embodied in the JP's proposed earnings adjustment mechanisms (EAMs) for electric energy efficiency and gas.[71] According to Staff's statement in support, these targets are 40% higher than those originally proposed by Niagara Mohawk in its ETIP filing. Notwithstanding the 21 percent and 33 percent increase in Niagara Mohawk's proposed electric and gas budgets, respectively, and the 45 percent and 110 percent increase in electric and gas targets beyond the current 2016-2018 ETIP targets, the Acadia Center, NRDC, AGREE, and PUSH, jointly, oppose this aspect of the JP, asserting that the targets and

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[71] The annual savings targets as proposed by the Company and discussed in the context of the Joint Proposal are assumed to represent "net" targets, defined as assuming a 0.90 net-to-gross ration to account for the effects of free-ridership and spillover. For further discussion of net targets, see Case 15-M-0252, In the Matter of Utility Energy Efficiency Programs, Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2019 – 2020.

budgets are far too low. They argue that the targets and budgets are far lower than those established in other leading states and that they are insufficient to meet the State's clean energy goals. They note that Governor Cuomo announced in his State of the State address an effort to establish new energy efficiency targets, which they characterize as occurring by April 22, 2018, this year's Earth day.

In response, Staff argues that the comparisons to efforts in other states in the Joint Acadia Statement are misleading, where those states are employing different statutory and regulatory regimes from those in New York. The Company adds the comment that, to the extent the experience of other states is relevant, it should be considered holistically in generic proceedings involving all of New York State's electric utilities. Both Staff and the Company point out that the energy efficiency targets and budgets are one piece of a comprehensive proposal that balanced these issues against rate levels to be borne by Niagara Mohawk's customers. They note that some of these same opponents also criticize the JP for increasing rates, yet those opponents offer no strategy for cuts in other costs that would offset their desired additional increases in energy efficiency programming. For its part, PACE states that it supports the targets, because they are more aggressive than those initially proposed in the Company's ETIP and therefore do more to promote REV goals.[72]

We agree that the Joint Proposal recommends a reasonable program of energy efficiency budgets and targets. They improve dramatically on the targets initially contemplated by Niagara Mohawk, thereby providing strong incentives to achieve more aggressive energy savings. In that respect alone,

[72] Pace Statement in Support, pp. 24-28.

they comport with our stated policies specifically and the public interest generally. We further note that the budgets and targets are, if anything, an improvement over what might reasonably be anticipated from litigation of this issue. There does not appear to be any testimony pre-filed on this record opposing the Company's proposed budgets or Staff's proposed targets, suggesting that litigation of this rate case would be unlikely to arrive at the significant increases advocated by Acadia and the other parties. Relatedly, we note that the Joint Acadia Statement includes pages of alleged facts and figures, graphs and charts that rely on outside sources never subject to discovery or cross examination. The inclusion of such extra-record evidence apparently prompted Niagara Mohawk to similarly present extra-record calculations in its reply statement in its effort to respond to the Joint Acadia Statement with the same amount of detail. We have not relied on this extra-record evidence in reaching our determination in this case. Rather, it suffices for us to note the basic points made by the signatories: namely, that the Joint Proposal represents a significant increase in the targets coupled with only a modest increase in the budgets, and that these budgets can reasonably be accommodated within an overall rate plan that balances the need for energy efficiency against very legitimate affordability concerns.

While we find that the budgets and targets are reasonable based on current information and policies, we do note that this issue could be re-examined and reopened by the joint DPS-NYSERDA comprehensive energy initiative proposal contemplated to be made on Earth Day in April 2018 in response to the Governor's State of the State Address. On February 8, 2018, a new case was started to consider the issues related to energy efficiency targets and policy.[73] As Staff points out, that date is only the commencement of a process, in that it represents the deadline for a joint NYSERDA-DPS proposal that will then be subject to further comment and process. The Joint Proposal specifically contemplates the reopening of the rate plan we established here today to accommodate the outcome of generic proceedings such as that considering statewide energy efficiency targets for 2025.

Street Lighting

The JP contains several provisions that address street lighting. Section 3.3.2 addresses the rates to be charged for the Company's tariff street lighting classes, including customer-owned LED equipped fixtures, while Section 9 contains most of the other provisions applicable to street lighting, including establishing a price at which the Company will sell its street light assets to interested municipalities.

In November 2015, Governor Andrew Cuomo signed into law Chapter 495 of the 2015 Laws of New York, which added Public Service Law §70-a establishing procedures for the transfer of ownership of complete street lighting systems to municipalities or other government entities. In an October 2016 order, the Commission approved with modifications certain tariff amendments proposed by various utilities to implement the new street lighting ownership transfer requirements.[74]

In the 2016 Street Light Transfer Order, the Commission recognized that the increase in energy efficiency

[73] Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative.

[74] Case 15-E-0745, et. al., Central Hudson Gas and Electric Corporation – Tariff Amendments for the Transfer of Street Light Systems (issued October 14, 2016) (2016 Street Light Transfer Order).

that conversions to LED street lighting can provide is the primary driver for many municipalities to consider such conversions. However, the order declined to adopt a single uniform methodology for the pricing of street light system assets. The Commission noted that it is not authorized to require utilities to sell such assets and that, therefore, should a utility refuse to sell its street light systems, the municipality had only the recourse of condemnation.[75] The order left the development of individual pricing methodologies for each of the utilities for consideration in other proceedings, such as rate cases. The Commission did state, however, that it encourages utilities to consider the detrimental effect that maximizing sale prices may have on the effort to facilitate LED conversions through the transfer of street light system ownership.[76]

In section 9.3 of the JP, the parties have agreed to an approach whereby Niagara Mohawk would negotiate a sale to interested municipalities using the net book value of the assets, so long as the municipality seeks to purchase all assets located within its taxing jurisdiction. For sales of less than all assets, the JP retains the current tariff's provision of a mutually agreeable price.

Both the City of Albany and the City of Syracuse have filed statements on support of the JP specifically citing to the

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75 Id., p. 11.

76 Id.

street lighting provisions of section 9.[77] The City of Albany indicates that it expects the JP to facilitate municipalities to take ownership of the jurisdictional street lights at a reasonable cost, thereby allowing for accelerated conversion to LED fixtures. Albany also notes that these sales will avoid the passing on of stranded costs to Niagara Mohawk customers while providing municipalities with the maximum flexibility to consider what equipment and technology to employ when undergoing LED conversions.

Similarly, the City of Syracuse notes that currently nearly all the city's street lighting is owned by Niagara Mohawk and leased to Syracuse through monthly facility fees of approximately $2.5 million in 2017, with an additional cost of $1.8 million assessed through delivery and supply charges.[78] Syracuse explains that the JP's established net book value pricing will promote municipal ownership, which facilitates LED conversions at the municipality's choice of equipment and technology, as well as the ability for the municipality to add other equipment such as smart nodes. These nodes can provide value-added services to municipal residents, such as municipal wi-fi, data collection, and energy-conserving dimming capabilities.[79]

The JP also provides incentives for municipalities purchasing street lighting systems to perform conversions timely

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77 NYPA, a signatory only to the Street Light Asset Sales Provisions (Section 9) of the JP also submitted comments in support noting that the Street Light provisions will allow the municipalities to take control of their own street lights at a reasonable cost and allow an opportunity for expedited conversion to LED fixtures that use significantly less energy than traditional street lighting.

78 Syracuse Statement in Support, p. 2.

79 Id., p. 3.

to maximize the efficiency benefits attendant to such conversions. One such provision, endorsed by Syracuse, explicitly exempts for the first 24 months after a street light system asset sale, the replacement of a High Intensity Discharge (HID) luminaire with an energy efficient LED luminaire from the Niagara Mohawk tariff definition of a "material change." The City of Syracuse explains that it was concerned that should a LED-for-HID luminaire replacement constitute a material change under the Company's tariff, it would require that non-conforming street light locations be brought into full code compliance at the municipality's expense, work that Syracuse notes would be cost-prohibitive, presenting a barrier to improved energy efficiency through municipally-owned LED street lights.[80]

In addition, the JP provides for an annual rate allowance of $1.6 million to support an energy efficiency LED conversion program of both Company-owned and municipally-owned street light assets. These funds will be available on a first come, first served basis to support conversions through a credit to offset some of the incurred conversion costs on a per fixture basis.

The Commission has recognized that the conversion of street lighting from HID luminaires to LED luminaires can assist New York in achieving its long-term clean energy objectives through corresponding greenhouse gas emission reductions.[81] The record demonstrates that the parties strived to achieve a fair balance to facilitate the ability of municipalities to cover the costs of the assets should they desire to purchase them, or for Niagara Mohawk to undertake the conversions where the assets remain under Niagara Mohawk ownership. This balance includes

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80 Id., p. 4.

81 2016 Street Light Transfer Order, p. 11.

not just compensation to Niagara Mohawk for its property, so that its other customers will not bear the burden of stranded costs, but also to the residents of the municipalities, so that conversions will not require untenable tax increases. The JP's provisions on street lighting, from the rates charged for transmission and delivery service to the inclusion of energy efficiency funding for facilitating conversions, are well considered and fair.

Non-Wires Alternatives

Non-Wires Alternatives (NWAs) allow utilities to defer or avoid traditional capital investments in "wires," potentially resulting in cost savings for customers and environmental benefits while maintaining system reliability and resiliency. The Company would identify NWA projects for consideration by using the suitability criteria proposed in Case 16-M-0411.[82]

Section 6.2 of the Joint Proposal recommends that the costs incurred for the implementation of NWAs be amortized and recovered over a ten-year period, with carrying charges at the pre-tax weighted average cost of capital. The costs would be offset by any carrying charges on traditional infrastructure capital projects that the NWA project would defer. The costs would be recovered through an NWA surcharge to be included in the delivery charge. The NWA surcharge would be added to customers' demand charges or, for service classes billed on an energy-only basis, energy charges. The amount would be set by an electric rate statement that would be filed with the Commission and posted on the Company's website.

[82] Case 16-M-0411, In the Matter of Distributed System Implementation Plans, Joint Utilities' Supplemental Distributed System Implementation Plan (filed November 1, 2016), pp. 41-47.

The Joint Proposal also recommends that the Company have the opportunity to earn an incentive on NWA projects. Separate but similar incentive mechanisms would be established for large NWA projects[83] and small NWA projects.[84] For large NWA projects, which generally require a larger number of MWs and have a longer lead time, the Company would use a full-scale Benefit Cost Analysis (BCA)[85] to compare the present value of the net costs and benefits of an NWA project with the present value of the net costs and benefits of a traditional infrastructure project. For small projects, the need for which tends to arise more rapidly than for large projects, the Company would use a "streamlined" BCA that would include the major categories of costs and benefits outlined in the BCA Order as well as carbon dioxide reduction benefits, but would not include other non-energy benefits or benefits that otherwise might be realized by implementing a traditional infrastructure solution.

The Joint Proposal recommends a multi-step process for determining the amount of the incentive the Company would receive for implementing NWA projects. The final incentive for both large and small NWA projects would be subject to a floor of

[83] A large project would be defined as "one where the estimated capital cost of the traditional infrastructure investment to be deferred is greater than or equal to $1 million. Joint Proposal, Appendix 13, p. 1, n. 1.

[84] A small project would be defined as "one where the estimated cost of the traditional infrastructure investment to be deferred is greater than $500,000 but less than $1 million." Id., p. 1, n. 2.

[85] The BCA would be conducted in conformance with the Commission's order in Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Establishing Benefit Cost Analysis Framework (issued January 21, 2016).

$0 and a cap of 50% of the forecasted initial net benefits.[86] The incentive would be recovered pursuant to the electric rate statement mechanism mentioned above with respect to costs. The NWA project costs and final incentive would be allocated to each service class based upon the one-hour coincident peak for the transmission portion, if any, of a deferred traditional project, and non-coincident demand allocator for the sub-transmission and distribution portions of the deferred traditional project.

Under the Joint Proposal, where an NWA project displaces a project otherwise included in the Company's Average Electric Plant in Service balances, the balances would be reduced to exclude the forecasted net plant associated with the displaced project. The carrying charge associated with the displaced project would be applied as a credit against the recovery of the associated NWA project cost to be recovered from customers. If the carrying charge on the net plant of a displaced project is higher than the recovery associated with NWA project costs, the difference would be deferred for the benefit of customers.

The Joint Proposal would require the Company to submit an implementation plan and BCA for each NWA project, which would include detailed measurement and verification procedures, the Company's portfolio of NWA projects, the anticipated costs of the NWA, a demonstration whether each NWA project's expenditures are incremental to the Company's revenue requirement or will displace a project subject to the Company's Capital Investment Reconciliation Mechanism, the BCA results when available, and the Company's customer and community outreach plan.

[86] The Joint Proposal also addresses the process that would apply to modify the incentive if more or fewer MWs are needed to effectuate the deferral of a traditional infrastructure project. JP, Appendix 13, pp. 2-4.

Implementation plans would be updated no less frequently than annually. In addition, the Company would provide quarterly reports to detail expenditures and costs, describe project activities, provide project in-service dates, state NWA cost and incentive recoveries, and identify operational savings or other benefits.

The Joint Proposal adopts Staff's recommendations that NWA cost recovery and incentive mechanisms be implemented and that the Company's Capital Investment Reconciliation Mechanism be modified based on similar mechanisms approved by the Commission in recent Consolidated Edison cases.[87] The treatment of NWA projects recommended in the Joint Proposal provides explicit direction as to the manner in which the Company's earning opportunity will be preserved, while also insuring that customers will be protected from paying for both an NWA project and for the capital project it is displacing. The proposed treatment of NWAs would align the Company's economic objectives with public policy promoting DER integration, and will allow ratepayers to benefit from the Company's efforts to seek cost-effective alternatives to traditional electric infrastructure investments. The proposed treatment of NWAs set forth in the Joint Proposal is unopposed.

Advanced Metering Infrastructure

Under section 15.4 of the Joint Proposal, Niagara Mohawk would convene a collaborative with Staff and interested

[87] Case 15-E-0229, Petition of Consolidated Edison Company of New York, Inc. for Implementation of Projects and Programs that Support Reforming the Energy Vision, Order Approving Shareholder Incentives (issued January 25, 2017); Cases 16-E-0060 et al., Consolidated Edison Company of New York, Inc. – Electric and Gas Rates, Order Approving Electric and Gas Rate Plans (issued January 25, 2017).

parties to refine and update its Advanced Metering Infrastructure (AMI) business plan. The collaborative would provide participants with an opportunity to review and provide input on the Company's plan to implement AMI throughout its service territory. The Joint Proposal recommends a collaborative schedule that would include large group and possibly smaller working group meetings. The goal of the collaborative would be to present to the Commission a report with a revised AMI business plan, by October 1, 2018, for Commission review and action.

The Company originally proposed the full-scale deployment of AMI electric meters and AMI-compatible encoder receiver transmitters (ERTs) for gas meters over a five-and-a-half year program implementation period. In support of that proposal, the Company filed an updated AMI business case and BCA dated April 28, 2017.[88] Out of a total projected cost of more than $570 million, the Company requested that approximately $118 million be included in the electric business revenue requirement and approximately $39.7 million be included in the gas business revenue requirement over a three-year period.[89] Staff originally testified that, over the estimated life of the program, the program costs potentially would outweigh the program benefits over that period.[90] Staff recommended that the Company be provided with funding for project management and to engage with interested stakeholders to further develop and revise its AMI plan, including the BCA, to provide a clearer picture of the benefits and costs of implementing AMI throughout Niagara

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88 Ex. 131, Exhibit AMI-2, pp. 4, 7.

89 Ex. 129, Testimony of Company's AMI Panel, p. 31.

90 Ex. 361, Testimony of Staff's AMI Panel, p. 6.

Mohawk's service territory.[91] UIU recommended that the Commission delay approving the AMI Business Plan.[92] Pace recommended that the Company adopt Con Edison's AMI scorecard.[93]

Public comments overwhelmingly opposed implementation of AMI in the Company's service territory. The Joint Proposal essentially adopts Staff's position that the Company revise and complete development of its AMI Business Plan with input from all interested stakeholders, and ensures that the Company's revised AMI proposal is presented to the Commission for its consideration in a timely manner. Given the uncertainties raised by the parties and public, we agree that the proposal is not ready for Commission consideration at this time. Instead, we welcome the further development of this proposal through the parties' collaborative efforts, as proposed by the JP.

Electric Vehicle Program

Section 13.9 of the Joint Proposal recommends a new electric transportation initiative under which the Company would make capital upgrades to accommodate the future installation of electric vehicle (EV) charging stations at commercial customers' properties and provide monetary incentives to encourage the installation of those stations. The Joint Proposal describes the initiative as an electric vehicle charging station development and education program designed to increase electric vehicle adoption while supporting New York State's zero emission vehicles (ZEV) and greenhouse gas emissions policy goals. The proposed rate plan for the electric business includes a combined $2 million annually for the electric transportation initiative

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[91] Id., pp. 7-9.

[92] Ex. 590, pp. 3-4.

[93] Ex. 569, p. 4.

and an electric heat initiative, for a cumulative total of $6 million. Over the term of the proposed rate plan, the Company would spend a minimum of $2 million on each initiative and would allocate the remaining $2 million between the initiatives in an amount the Company determines would deliver the most benefits for customers through carbon reductions.

In pre-filed testimony, the Company had requested capital and O&M costs for an electric transportation initiative of $2.84 million in Rate Year 1, $7.32 million in Rate Year 2, and $13.24 million in Rate Year 3.[94] Staff explains that the lower funding amounts proposed in the JP balance "the rate impact of these incremental programs with the need to increase the market penetration of technologies that support the State's energy and climate policy objectives."[95] Pace strongly supports the proposed electric transportation initiative, considering the proposed funding levels to be an "adequate start."[96] Noting that the proposed electric transportation program was not "designed to unilaterally achieve the full range of New York transportation electrification goals," ChargePoint supports the proposed program as providing opportunities for continued growth in the EV and EV supply equipment markets.[97] Recognizing that limited access to charging stations is a major barrier to EV use, Tesla states that, although the proposed funding level is "modest," the "investment in charging infrastructure is [a]

[94] Ex. 202, Electric Customer Panel Corrections and Updates Exhibit, Schedule 8.

[95] Staff Statement in Support, p. 94.

[96] Pace Statement in Support, p. 20.

[97] ChargePoint Statement in Support, p. 3.

critical first step towards animating the EV market and moving New York towards its ambitious clean energy goals."[98]

Acadia, NRDC, AGREE and PUSH oppose the electric transportation initiative upon the grounds that the proposed investment levels are, they say, too small and unlikely to meaningfully accelerate EV adoption.[99] In making that argument, they note the State's ambitious goals for developing the EV market and the more significant funding levels used in some other states to support EV adoption.[100] They recommend that the Commission establish a generic, statewide proceeding so that the utilities can "develop proposals that bring the state significantly closer to the ZEV goal of approximately 800,000 EVs by 2025 and Charge NY goal of 3,000 charging stations by the end of 2018 and 10,000 by 2021."[101]

Acadia, NRDC, AGREE and PUSH do not proffer any specific alternative proposal to the electric transportation initiative set forth in the Joint Proposal. Also, as Staff states, those parties do not offer an alternative plan to offset increased costs for the Company's electric transportation initiative with reductions to other costs to achieve rates they consider affordable. Those parties also overlook that the Joint Proposal recommends the addition of an electric vehicles EAM metric to incentivize the Company to increase the number of electric vehicles and plug-in hybrid electric vehicles registered in its service territory. We agree with the Company, Staff and MI, that the electric transportation initiative recommended in the Joint Proposal reflects an appropriate

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98 Tesla Statement in Support, p. 4.

99 Joint Acadia Statement in Opposition, p. 25.

100 Id., pp. 25-26, 28-29.

101 Id., pp. 30-31.

balancing of competing and diverse interests. The proposed electric transportation initiative is a good first step in increasing the market penetration of EVs to support important energy and climate policy objectives.

Reduction of Petroleum Pollution Efforts

In the 2013 Rate Order, the Commission adopted terms that supported a Niagara Mohawk oil-to-gas conversion rebate program, capped at $1 million annually, and required the Company and Staff to report on collaborative efforts to design a growth plan for Niagara Mohawk's gas business.[102] In 2014, after reviewing the report, the Commission approved the recommendations therein, allowing the Company to implement a proposed pilot program that served a primary purpose of reducing the use of oil as an energy source, particularly for winter heating.[103]

Niagara Mohawk implemented its pilot, the Neighborhood Expansion Program, and filed regular reports updating the Commission on its efforts. Its most recent report, filed February 6, 2018, details the progress that the Company has achieved through the rate plan on both its rebate programs for oil-to-gas conversions and its Neighborhood Expansion Program efforts to identify neighborhoods of sufficient density to support the installation of new main and reduce the reliance on oil heating, with goals to reduce air pollution and reduce heating costs to consumers. The Neighborhood Expansion Program has established targets of installing 14,000 feet of new main

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[102] 2013 Rate Order at 15.

[103] Case 12-G-0202, Niagara Mohawk Power Corporation d/b/a National Grid – Gas Rates, Order Approving Gas Growth Collaborative Report Recommendations (issued July 28, 2014).

and attaching 100 new customers annually. The February 2018 Progress Report notes that, since 2014, the Company has installed 54,249 feet of new main, making gas available to 915 potential customers of which 496 have connected for new service.[104]

The JP proposes to continue funding for the oil-to-gas conversion rebate program (JP Section 13.8.2) and the Company's Neighborhood Expansion Program (JP Section 13.8.3). For the oil-to-gas conversion rebates, the JP allows for an annual rate allowance of $764,000, reconcilable to actual costs, with an annual cap of up to $1.0 million for which costs are deferred for future collection should those costs exceed the rate allowance. The JP would retain the same annual targets for the installation of new gas main and customer connections for the Neighborhood Expansion Program. Additionally, as part of its marketing for the Neighborhood Expansion Program, the Company will assess customers' interest in converting to heat pumps.

In their Statement Opposing the Joint Proposal, AGREE, PUSH and SUN argue that the Company's Neighborhood Expansion Program efforts conform to an out-of-date gas expansion policy that ignores the impact of emissions from both the harvesting and transportation of natural gas, as well as from its use as heating fuel.[105] Those parties state that, should New York's gas distribution companies continue to encourage, incentivize, and accommodate the conversions of customers to gas as their winter heating source, it will make it much harder, if not impossible,

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[104] Case 12-G-0202, Niagara Mohawk Power Corporation d/b/a National Grid – Gas Rates, Gas Growth Program Semi-Annual Progress Report (filed February 6, 2018) (February 2018 Progress Report), p. 3.

[105] AGREE/PUSH/SUN Supplementary Statement in Opposition, pp. 6-9.

for New York to meet its 2015 State Energy Plan greenhouse gas reduction goals of 40% by 2030.[106] They argue that the State would be better served by directing its efforts toward encouraging the adoption of ground source and cold-climate air source heat pumps.[107] While these parties concede that the JP includes incentives to support heat pump adoption, they argue that such incentives are inadequate to achieve the State's energy goals, particularly when the JP would provide for equal investments to advance fossil fuel infrastructure.

Pace and EDF support the JP, also discussing the Neighborhood Expansion Program from an emissions reduction perspective. Contrary to the opposition of the JP, Pace and EDF offer support for the Neighborhood Expansion Program to proceed at the same targeted levels that have been in place since the program's adoption. They condition their support on the additional assurance, provided for in the JP, that the Company will make efforts to provide prospective new customers with balanced information on heating alternatives including heat pumps, and on Niagara Mohawk's commitment to study the costs and benefits of the Neighborhood Expansion Program, including the use of the Commission's societal cost test.[108]

Staff acknowledges that achieving the State's greenhouse gas reduction goals will take significant effort from all energy consuming sectors. Staff cites the State Energy Plan's support for conversion programs designed to move end

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106 Id.

107 Id.

108 Case 14-M-0101, Reforming the Energy Vision, Order Establishing the Benefit Cost Analysis Framework (issued January 21, 2016). See EDF Statement in Support, pp. 6-8; Pace Statement in Support, pp. 16-18.

users from "carbon-intensive petroleum products" to cleaner fuel alternatives coupled with high-efficiency heating equipment.[109] The State Energy Plan specifies that petroleum distillate fuels produce higher levels of carbon dioxide, sulfur dioxide and particulate matter than natural gas.[110]

The record demonstrates that Niagara Mohawk's Neighborhood Expansion Program, an effort that focuses on primarily achieving oil-to-gas conversions to reduce emissions and heating costs, is a pilot program of limited scope. The JP proposes to retain that scope, as well as that purpose. Although there may be cleaner alternatives to natural gas, the State Energy Plan and NYSERDA agree with our assessment that natural gas offers societal benefits over the use of petroleum distillates. Given the additional stipulations that the Company has made, notably reforming its marketing materials to apprise end-users of alternatives, as well as conducting cost and benefit analyses to be provided in the Company's next rate filing, we find no inconsistency with the State's greenhouse gas reduction goals. We further direct the Company to provide information to customers, when appropriate, about the value and cost-effectiveness of alternatives.

Earnings Adjustment Mechanisms

As noted above in discussing energy efficiency and electric vehicles, Earnings Adjustment Mechanisms (EAMs) are proposed in the JP as a tool to incentivize actions by the Company and its customers to improve the efficiency of the electric system and their electric usage, to promote development of the market for distributed energy resources, and to shift

[109] Staff Reply Statement, pp. 13-14.

[110] 2015 State Energy Plan, p. 28.

usage to cleaner technologies.[111] All these actions advance State policies to reduce emissions of greenhouse gases and other pollutants while improving the reliability and resiliency of our energy infrastructure.

Under the JP, the Company would adopt EAMs for its electric and gas businesses starting January 1, 2018, with the EAMs to be measured on a calendar year basis. The JP proposes four electric EAMs with eight metrics and one gas EAM with one metric. Each metric would contain targets set at minimum, midpoint and maximum performance levels, with each level having a corresponding pre-tax PRA dollar amount associated with it. At the maximum levels, the proposed electric EAMs provide Niagara Mohawk with the potential to earn PRAs of $19.49 million in calendar year (CY) 2018, $22.22 million in CY 2019, and $23.59 million in CY 2020. The proposed gas EAM would allow the Company to earn maximum PRAs of $0.80 million in CY 2018, $0.86 million in CY 2019, and $0.93 million in CY 2020.

The JP further provides that, beginning April 1, 2019, the Company would recover PRAs earned under EAMs through electric and gas surcharges.[112] The Company would file quarterly reports with the Secretary no later than 60 days after the end of each calendar quarter to describe its progress toward EAM targets, the actions taken to achieve target performance, and a forecast of whether the Company expects to meet the annual EAM targets. The Company also would file annual EAM reports with the Secretary by March 1 of each year, setting forth its performance on EAM metrics, savings and benefits achieved,

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[111] EAMs were proposed as a ratemaking tool in Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016) (REV Track Two Order).

[112] JP sections 3.8 and 4.10.

calculations for PRAs earned, and explanations for any targets not achieved. By March 1, 2019, the Company would file with the Secretary a mid-point review report of its EAMs in which it would "evaluate capacity factors of solar and combined heat and power, and, if necessary, propose to revise targets and calculations going forward."[113] Any proposed revisions to targets would be subject to Commission approval. Those reporting requirements are unopposed.

The JP proposes adoption of a system efficiency EAM composed of two metrics – Peak Reduction and Distributed Energy Resources ("DER") Utilization. The Peak Reduction metric would incentivize Niagara Mohawk to meet certain megawatt (MW) target levels to reduce its system demand levels during the New York Control Area coincident peak hour. The minimum, midpoint and maximum target levels generally would become more stringent each calendar year.

The DER Utilization metric would incentivize Niagara Mohawk to work with third parties to expand the use of DER resources in the Company's service territory. The metric would measure the sum of the annualized megawatt hours (MWh) from additional DER in the Company's service territory, including community and rooftop solar, combined heat and power, standalone battery storage resources, and fuel cells.[114] As with the Peak Reduction metric, the minimum, midpoint and maximum target levels would become more stringent each calendar year.

The Energy Efficiency EAM is composed of four metrics: Incremental Energy Efficiency, LED Street Light Conversions, Residential Energy Intensity, and Commercial Energy Intensity.

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[113] JP, Appendix 7, p. 6.

[114] The metric will not include demand response, electric vehicles or heat pumps.

The Incremental Energy Efficiency metric would incentivize Niagara Mohawk to achieve energy efficiency savings in CYs 2018-2020 with annual savings targets that exceed, and effectively supersede, Niagara Mohawk's Commission-approved annual target of 230,705 MWh for 2016 through 2018. The metric would be measured as the annual sum of MWh savings from all of Niagara Mohawk's administered energy efficiency programs. Under the JP, Niagara Mohawk would be entitled to earn incentives only if the Estimated Useful Life (EUL) of its ETIP portfolio is at least 90 percent of its current EUL of 6.7 years. In addition, the Company would have to achieve its current EUL of 6.7 years to earn the full incentive amounts and would earn a prorated share of the incentive between 90 percent and 100 percent of the current EUL. If the Commission were to require changes to Niagara Mohawk's ETIP, the Company would file a petition within 90 days after Commission approval of the changes to adjust the Incremental Energy Efficiency metric performance levels and EUL threshold, as appropriate.

The LED Street Light Conversions metric proposed in the JP would incentivize Niagara Mohawk to increase the conversion of street lights to LED lighting and would calculate the Company's performance based upon the MWh saved using a percentage of street light conversions each year. The Company would earn no incentive for meeting the minimum target of 9,124 MWh for CYs 2018 through 2020, but would earn PRAs for meeting the midpoint and maximum targets.

The Residential Energy Intensity metric would incentivize Niagara Mohawk to help reduce residential customers' total usage on a per customer basis by measuring the year-over-year percentage change in kilowatt hours (kWhs) per residential customer. The Commercial Energy Intensity metric would incentivize Niagara Mohawk to reduce commercial customers' total usage on a per customer basis by measuring the year-over-year percentage change in MWh per commercial customer.

The Interconnections EAM is composed of a Developer Satisfaction metric, which would incentivize Niagara Mohawk to improve the Distributed Generation (DG) interconnection process and increase the satisfaction of developers who have begun the DG interconnection process and seek to interconnect DG projects above 50 kilowatts (kW) and up to 50 MW. The Joint Proposal does not provide minimum, midpoint and maximum targets for this metric but states that such targets will be developed in Case 16-M-0429.[115]

The Environmentally Beneficial Electrification EAM metric would incentivize Niagara Mohawk to reduce carbon emissions by facilitating the use of electric vehicles and heat pumps in the Company's service territory. It would measure the lifetime metric tons of avoided carbon dioxide from the use of incremental electric vehicles and heat pumps. The electric vehicles metric would measure incremental electric vehicles and plug-in hybrid electric vehicles registered in Niagara Mohawk's service territory, as compared to those registered in a peer group of other utilities' service territories. Incremental heat pumps would be measured by the number of rebates provided by the Company for air-source and ground source (geothermal) heat pumps.

The JP proposes a gas Incremental Energy Efficiency EAM that would incentivize Niagara Mohawk to achieve energy efficiency savings above annual savings targets for CYs 2018 through 2020. As with the (electric) Energy Efficiency EAM,

[115] Case 16-M-0429, In the Matter of Earnings Adjustment Mechanism and Scorecard Reforms Supporting the Commission's Reforming the Energy Vision.

these targets effectively replace those previously proposed by the Company for its gas ETIP for these years.

The proposed EAMs represent various compromises on the litigation positions originally taken by several parties. Contrary to Niagara Mohawk's position that it be allowed to earn PRAs for its performance on EAMs in CY 2017,[116] the JP adopts Staff's and AEE's litigation position that EAMs be applied prospectively only.[117] We agree that this is appropriate, given that they are designed as an incentive mechanism that cannot possibly induce behavior that has already occurred. In addition, although Staff originally recommended that EAMs be measured on a rate year basis, the JP adopts the Company's position, supported by AEE, that EAMs be measured on a calendar year basis.[118] Recognizing that the value of basis points fluctuates over time and is directly related to the amount of plant in service, the JP adopts Staff's recommendation that PRAs be established in terms of absolute dollars, rather than in basis points as proposed by the Company. This is a wise provision, because it avoids any incentive for the Company to attempt to inflate the basis point value by increasing its net plant in service.[119] The JP also reflects compromise on the specific EAMs proposed to be used.

The proposed EAM target levels and PRA amounts set forth in the JP also are the product of compromise between the

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[116] Ex. 108, Company's Electric Customer Panel, pp. 44-45; Ex. 297, Company's Electric Customer Panel Rebuttal, pp. 25-26.

[117] Ex. 382, Staff EAM Panel, p. 9; Ex. 594, UIU EAM Panel, p. 5.

[118] Ex. 382, Staff EAM Panel, pp. 6-8; Ex. 297, Company's Electric Customer Panel Rebuttal, p. 24; Ex. 500, AEE Testimony, p. 2.

[119] Ex. 382, Staff EAM Panel, p. 10.

litigation positions of the Company, Staff and other parties. To the extent that PULP makes a conclusory statement that the proposed target levels are not aggressive enough,[120] we disagree. As stated by Staff, the proposed target levels are set to require the Company to "ramp-up" its efforts to promote our energy and climate policy objectives.

While PULP also suggests that the PRA amounts proposed in the JP are too high, AEE conversely states its concern that the proposed PRA amounts are too low to appropriately incentivize the Company to work toward achieving the EAM targets.[121] In the REV Track Two Order, the Commission set an initial ceiling for the amount of PRAs to be earned under the first round of REV initiated EAMS, stating that "the maximum amount of earnings should not be more than 100 basis points from all new incentives."[122] The Commission did not state that an 100 basis point maximum was necessary or appropriate for all cases, and it left the determination of the appropriate amount to be resolved in specific rate cases. Here, the amount of PRAs proposed in the JP reflects a consensus view of the Company, Staff and other parties as to the PRA amounts that would be sufficient to properly incent the Company to achieve EAM targets. Niagara Mohawk specifically states that the proposed EAMs "provide meaningful incentives to the Company to engage in activities necessary to attain the potential earnings adjustments."[123] We agree that the proposed PRAs are

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[120] PULP Statement, pp. 5-6.

[121] AEE Statement, p. 4.

[122] REV Track Two Order, Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016), p. 68.

[123] Company's Reply Statement in Support, p. 22.

appropriately set at amounts that will encourage the Company to satisfy EAM target levels.[124] At the same time, we acknowledge the important balance struck by the JP between the objective to incentivize Company behavior using ratepayer funds and the need to minimize increases in rates. Additionally, we recognize that this is the first time that Niagara Mohawk will be operating under EAMs. Based on the experience gained during the course of this rate plan, the Commission can review the appropriateness of the PRA amounts in the Company's next rate case. For all these reasons, the EAMs are in the public interest and are adopted as proposed in the JP.

Rate Design Issues

Customer and Minimum Monthly Charges

In its initial filing, Niagara Mohawk proposed to increase the electric customer charges for its Large General Subtransmission and its General Transmission customers to more closely reflect the cost of service shown in the Company's embedded cost-of-service study. For all other classes, including its residential electric customers, the Company requested to leave the customer charge at the same level as is in its existing rate design.

Similarly, Niagara Mohawk proposed to retain the existing amount of the minimum monthly charge for most of its gas service classes, including its residential heating customers. The only class for which the Company sought to

[124] Notwithstanding MI's general position against positive-only EAMs for utility shareholders and its skepticism that implementation of positive-only EAMs will provide customers with net benefits that could not have been achieved at a lower or no cost, MI states that the EAMs set forth in the Joint Proposal are acceptable and should be adopted without modification as an integral part of the Joint Proposal. MI's Statement in Support, pp. 24-25.

increase the minimum charge was for New York State Gas and Electric (NYSEG), which uses Niagara Mohawk for transportation service. Staff did not object to the Company's gas rate design proposal regarding the minimum monthly charge. However, MI advocated that any gas rate increase to its constituents' gas service classes be apportioned first against the minimum monthly charge, to bring the minimum charge closer to the customer-related costs as reflected in the embedded cost of service study, with any remaining increase to be applied to the volumetric rates.

The JP adopts the Company's position for its electric rates, freezing the customer charge at its existing tariffed level. For gas rates, the JP also maintains the existing level of the minimum charge for residential and small commercial customers, while incrementally raising the charge over the three-year rate plan for Niagara Mohawk's large firm transportation and large standby service transportation customers.

Acadia Center, PUSH, AGREE, NRDC and Richard Ford object to the JP's provision retaining the residential customer charge, arguing for its reduction or even its abolition. Those parties state that the charge serves as a disincentive for customers to implement energy efficiency measures. In addition, they state that higher minimum charges may impact low-income customers to a greater degree than other customers. These parties also complain that Niagara Mohawk's monthly residential fixed charge is higher than its affiliates' fixed charges in other states.

Staff states that the rate design is reasonable in the context of Niagara Mohawk's embedded costs of service. Staff notes that retaining the charge at its existing level is justified inasmuch as the Commission continues to examine the issue on a statewide basis. Staff cites to the National Association of Regulatory Utility Commissions (NARUC) Electric Utility Cost Allocation Manual to support the JP's allocation of customer-related costs, stating that Niagara Mohawk's embedded cost of service study supports continuing the existing level of the Company's fixed monthly charges for both electric and gas on a cost basis while the Commission continues to consider its policy regarding such charges.[125]

We agree that maintaining the monthly fixed charges at their current level is justified at this time. It is reasonable to freeze these monthly charges for mass market service classes while we continue our analysis of mass market rate design on a state-wide basis.[126]

Commercial and Industrial Demand Charges

Under section 3.3 of the Joint Proposal, existing distribution delivery demand charges would continue to apply with respect to commercial and industrial (C&I) customers. General service rate classes that recover revenue through demand rates include Service Classification No. 2 (SC-2), Small General Service, which generally consists of small retail businesses and stores; Service Classification No. 3 (SC-3), Large General Service, which typically consists of relatively larger commercial or smaller industrial customers; and Service Classification No. 3A (SC-3A), Large General Service – Time of Use Rate, which are typically very large C&I customers such as

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[125] Staff Statement in Support, pp. 20-21.

[126] 15-E-0751 et al., Value of Distributed Energy Resources, Notice of Initial Scopes for Phase Two Working Groups (issued July 28, 2017), Appendix B.

large manufacturing plants, universities and hospitals.[127] Current C&I demand charges for SC-2, SC-3 and SC-3A are based, in part, on individual customer peak usage. For all those customers, demand is determined, in relevant part, by the highest average kW measured in a fifteen-minute interval during the month or billing period.[128]

Acadia, NRDC, AGREE and PUSH argue that C&I demand charges generally should be aligned with delivery system peaks rather than being based upon a C&I customer's peak 15-minute usage, which, they maintain, is much less relevant to system costs than delivery system peak usage. Reiterating points made by Acadia in testimony submitted by its attorney, they assert that C&I demand charges should be based on more narrow time periods such as actual coincident peak times. They further state that the Track Two Order required Niagara Mohawk and Staff in this rate case to consider revisions to existing C&I demand charges to make them more time sensitive, and that the Joint Proposal is contrary to the Track Two Order because it fails to make any incremental changes to C&I demand charges. Finally, they maintain that consideration of C&I demand charges is necessary in this proceeding because, they state, Staff has indicated that it will not address C&I demand charge reform in 2018 in the rate design working group established in Case 15-E-0751.[129]

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127 See Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Niagara Mohawk Demand Charge Evaluation Filing (filed April 17, 2017), pp. 4-5.

128 PSC Tariff No. 220, Electricity, Leaf 371, Revision 20; Leaf 379, Revision 15; Leaf 381, Revision 15; and Leaf 393, Revision 3.

129 Case 15-E-0751 et al., In the Matter of the Value of Distributed Energy Resources (VDER Proceeding).

In the Track Two Order, the Commission noted Staff's observation that some C&I delivery charges could be improved by making them more peak-sensitive and recognized that a "customer should be encouraged to move its own peak demand to a time that is off-peak for the system (or for the local distribution circuit) when the system savings exceed the cost of shifting."[130] The Commission directed that "existing C&I delivery charges should be evaluated in future or pending rate cases to determine whether they can be improved by making them more peak-sensitive and/or by changing the determinants such as peak-to-off-peak ratio that influence customer decisions."[131] In one of the ordering clauses, the Track Two Order directs that C&I demand charge reforms "will be considered for each utility, either in a pending rate case, or pursuant to a filing by each utility by April 1, 2017."[132]

Pursuant to the Rev Track Two Order, Niagara Mohawk filed an evaluation of its existing C&I demand charges in Case 14-M-0101.[133] Based upon its initial analysis of the contribution of C&I service classes to peak load during selected time periods, Niagara Mohawk concluded that "SC3 and SC3A customers connected at the transmission and subtransmission levels generally have very flat load shapes," suggesting that the current rate structures for those C&I customers "are effectively encouraging efficient use of the system and thereby

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130 Case 14-M-0101, supra, REV Track Two Order, p. 120.

131 Id.

132 Id., p. 155. By ruling dated March 31, 2017, the due date for utility filings on C&I demand charges was extended to April 17, 2017.

133 Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Niagara Mohawk Demand Charge Evaluation Filing (filed April 17, 2017).

limiting peaks overall and driving consumption away from peak system demand."[134] With respect to other C&I customers, the Company recognized that opportunities might exist to "flatten load shapes and reduce system peak contribution."[135] However, according to the Company, it is not clear that customers in these rate classes have the same economic or operational ability to shift load away from peak hours. The Company concluded that additional analysis would be needed to evaluate the impacts of adjustments to these demand rates.

In this rate case, Acadia pre-filed testimony that C&I demand charges should be based on the customer's contribution to the delivery system peak rather than on the customer's non-coincident peak usage.[136] In response to Acadia's testimony in this case, Niagara Mohawk asserted that Acadia's proposal would (1) make it more difficult for customers to manage their loads because they do not know when the system peak will occur, (2) add volatility to the Company's revenues as customers are able to move away from the system peak, and (3) lead to increased rates to make up for the shortfall in C&I demand charge revenues.[137] The Company reiterates those arguments in its Reply Statement in Support of the Joint Proposal, and states that it did consider C&I charges in this proceeding, as evidenced by its pre-filed testimony.[138] The Company asserts that, for those reasons, no reasonable basis exists for the Commission to modify the JP with respect to this issue.

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[134] Id., p. 9.

[135] Id.

[136] Ex. 492, LeBel Direct Testimony, pp. 33-35.

[137] Ex. 283, Niagara Mohawk Electric Rate Design Panel Rebuttal Testimony, pp. 43-44.

[138] Company's Reply Statement in Support, pp. 20-21.

Staff states that C&I demand charges were appropriately addressed by Niagara Mohawk's filing in the REV proceeding pursuant to the Track Two Order because the Company did not then have a rate case pending in which the issue could be addressed, and that modification of the Company's C&I demand charges should be pursued in the VDER proceeding.[139] While acknowledging that Acadia is correct that C&I demand charges are not scheduled to be addressed in the VDER proceeding working groups in 2018, Staff notes that the issue is slated to be considered later in that case.

MI similarly supports consideration of C&I demand charge issues in the VDER proceeding on a generic basis. MI maintains that Acadia's dissatisfaction that the VDER proceeding is not addressing C&I demand charges within the time frame Acadia desires provides no basis for finding the Joint proposal deficient.[140]

The record does not allow us to determine whether the Company's C&I demand charges should be changed at this time. Acadia has offered no substantive proposal on C&I demand charges, and numerous complex issues need to be fully developed before C&I demand charge modifications can be considered, including the rate impacts of any proposed changes. At this time, we agree with Staff and MI that those issues are more appropriately addressed in the VDER proceeding.

Management and Operations Audit Compliance

Public Service Law (PSL) § 66(19)(c) requires the Commission, upon the application of a gas or electric corporation for a major change in rates, to review the

[139] Staff Reply Statement in Support, p. 8.

[140] MI Reply Statement in Support, p. 13.

corporation's compliance with the directions and recommendations made previously by the Commission as a result of the most recently completed management and operations audit. In pre-filed testimony, the Company and Staff discussed the most recently completed management and operations audits of Niagara Mohawk.[141]

In 2008, the Commission instituted a comprehensive management and operations audit of Niagara Mohawk's electric business.[142] The final report by the auditor, NorthStar Consulting Group, released to the public on December 4, 2009, included 44 recommendations for improvement. On December 18, 2009, the Commission directed the Company to submit an Implementation Plan to address those recommendations. The Company filed the Implementation Plan on January 29, 2010, regular written implementation plan updates, and a final update on May 31, 2016. In an audit closeout letter issued on September 20, 2016, Staff acknowledged that all of the audit recommendations had been implemented, but noted that Niagara Mohawk's performance related to project estimating was not yet satisfactory and that Staff would continue to monitor the Company's performance in that regard.

In 2010, the Commission instituted a comprehensive management and operations audit of the affiliate cost allocations, policies and procedures of National Grid USA's New York utilities, including Niagara Mohawk.[143] The final report by

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141 Ex. 610, Zavaglia Testimony, pp. 4-15; Ex. 611, Holst Testimony, pp. 4-25.

142 Case 08-E-0827, Comprehensive Management Audit of Niagara Mohawk Power Corporation d/b/a National Grid's Electric Business, Letter to Thomas King (dated July 16, 2008).

143 Case 10-M-0451, Proceeding to Investigate National Grid Affiliate Cost Allocations, Policies and Procedures, Letter to Thomas King (dated November 18, 2010).

the auditor, Overland Consulting, released to the public on October 12, 2012, included 10 recommendations to improve National Grid's cost allocation process. On January 18, 2013, the Commission directed the Company to submit an Implementation Plan to address those recommendations. The Company filed the Implementation Plan on March 4, 2013, regular written implementation plan updates, and a final update on March 4, 2015. Staff issued an audit closeout letter on July 1, 2015, stating that the final update contained sufficient detail about the completion of all recommendations to satisfy Staff that the audit recommendations had been implemented.

In 2013, the Commission instituted a comprehensive management and operations audit of National Grid USA's New York gas companies, including Niagara Mohawk.[144] The final report by the auditor, NorthStar Consulting Group, released to the public on October 2, 2014, included 31 recommendations for improvement. Each recommendation was accompanied by a Cost Benefit Analysis that detailed anticipated costs and benefits associated with implementing the specific recommendations, as well as potential risks of not implementing the recommendation.[145] In May 2015, the Commission approved National Grid USA's plan to implement those recommendations.[146] In this case, the Company and Staff agreed in testimony that most of the 31 recommendations have been implemented. The two recommendations still being implemented involve National Grid's productivity and work

[144] Case 13-G-0009, Comprehensive Management and Operations Audit of National Grid USA's New York Gas Companies, Letter to Thomas King (dated June 13, 2013).

[145] Case 13-G-0009, supra, Order Approving an Implementation Plan (issued May 14, 2015), Attachment A.

[146] Id., Order Approving an Implementation Plan (issued May 14, 2015).

management tracking and reporting capabilities. Staff does not take issue with the Company's description of the progress it has made in implementing those recommendations.[147]

Accordingly, pursuant to PSL § 66(19), we find that Niagara Mohawk is currently in compliance with the directions and recommendations made in connection with the most recently completed management and operations audits.

Miscellaneous Provisions

There are several other areas on which the signatory parties have found agreement, including, but not limited to, a moderate-income electric and gas energy efficiency offering, to be developed in collaboration with the New York State Energy Research and Development Authority; the continuation of existing electric and gas economic development fund programs; an economic development grant program; IS upgrades to Niagara Mohawk's call center technology; a rate allowance for recovery of walk-in payment transaction fees; provisions for lowering the transaction fee customers are charged when using their credit or debit cards to pay their utility bill; increased same-day electric reconnections for customers whose payment is received by noon; updated training for Company customer service representatives; measures for enhanced customer messaging; recording of outbound and inbound collection calls to and from

[147] The Company and Staff also discussed in pre-filed testimony the status of the audits in Case 13-M-0314, Review of Reliability and Customer Service Systems of NYS Gas and Electric Utilities (instituted July 16, 2013) (Data Audit) and Case 13-M-0449, Operations Audit of Major Utility Internal Staffing Levels and Use of Contractors for Selected Core Functions (Staffing Audit). The Commission approved the implementation plans for the Data Audit on March 10, 2017, and the Staffing Audit on December 15, 2017. The Company is currently in the implementation stage with respect to the recommendations from those audits.

Company call centers; written confirmation of collection arrangements; and the implementation of electronic deferred payment agreements. These provisions demonstrate the comprehensive nature of the JP as the parties have resolved numerous complex rate and policy issues, while providing the Company's customers with some measure of rate predictability for at least three years.

Finally, the Joint Proposal contains numerous provisions implementing agreements among the parties, which do not require our adoption. Those provisions, enumerated in the ordering clauses below, are not disapproved, but their terms are not adopted as part of this order.

Future REV-Based Initiatives

The Commission notes that the Joint Proposal was filed while several REV-related proceedings continue to make progress. The Company may and is encouraged to petition the Commission for approval of REV-based initiatives that advance goals established in this rate case at improved economics, and especially so if the Company has identified opportunities for shared savings. Under REV, New York seeks to lower the costs of and speed the achievement of the State's policy goals through accelerating the deployment at scale of solutions that create the most economic value for both consumers and for the State's energy system, drawing on innovation and investment from all sectors.

The Company has untapped potential to work with innovative third parties to develop alternative solutions to achieve the results committed to by the Company in this proceeding at lower ratepayer expense, at a faster rate, or both. These solutions can take the form of technology or deployment alternatives that are more optimal for specific locations or other utility needs, or business model alternatives that yield additional savings or produce additional revenues, in both cases yielding economics which can be shared among customers, the innovative provider, and the Company.

Mechanisms for such shared savings/benefits can take the form of the Earnings Adjustment Mechanisms identified in this JP for specified outcomes, a non-wires alternative sharing mechanism, sharing of platform service revenues, or future shared savings/benefits constructs designed for specific opportunities and approved by the Commission. The Commission requires the Company to actively continue and expand its work with third parties to identify opportunities for such solutions, to develop them as warranted, and to bring them forward to the Department and/or the Commission as needed. Such third parties are likely to be customers, providing payment to the Company for valuable services rendered by the Company, as well as providers who receive payment from the Company for valuable services rendered to the Company. The Commission recognizes that achieving such benefits from third parties may require the Company to enter into long term contracts. As these contracts would represent long-term financial liabilities, the Commission will require the Company to demonstrate long term net savings or benefit structures that would support entering into the contract. The Commission specifically encourages the Company to bring forward shared savings/benefits approaches to compensation as an alternative or complement to traditional cost recovery or rate-base approaches.

Given the State's policy objectives, especially promising opportunities for such solutions include (but are not limited to):

- AMI, which offers the potential for alternative business models that can generate revenues to the Company;

- Data provision, including system and usage data (subject to necessary protections), to enable third parties to develop novel and economic solutions to Company needs;
- Energy efficiency, which offers the potential for market-based solutions to reduce the cost of achieving energy savings or to offset those costs by revenues or savings elsewhere in the energy system;
- Low- and moderate-income focused initiatives, which can provide benefits to the energy system through strategic deployment of distributed resources or energy efficiency in locations or against time-windows where the energy system faces constraints;
- Non-wire alternatives (NWAs) (and non-pipe alternatives), explored as a universal practice as an alternative to traditional investments that meet the Company's predefined NWA suitability criteria;
- Grid modernization, including the use of technology to deliver reliability and system functionality at the best economics for ratepayers;
- Supply cost reduction, where novel approaches deliver savings in commodity and capacity payments; and
- Operating cost reduction, where novel approaches deliver savings in asset utilization, in operations expenditures, or in administrative/central expenditures.

Across all of these opportunities, the Company is encouraged to develop processes that invite and consider proposals that address proposer-identified opportunities (consistent with stated system needs) and whose solution would provide economic value as described above.

CONCLUSION

In this order, we have highlighted both the contested areas of the Joint Proposal as well as provisions of specific interest. We find that there are several provisions of the JP that offer a significant benefit and inform our public interest analysis. The JP provides for an enhanced low-income program, expanded energy efficiency program, advancement of LED streetlighting options, continued economic development support, system improvement investments, advancement of grid modernization efforts and distributed energy, appropriate incentive mechanisms to further our policy goals, continuation of gas safety mechanisms and accelerated remediation of leak prone pipe. We conclude from our review of the record that the JP provides a fair and impartial balancing of the interests of ratepayers and the Companies and their investors and at modest rate increases. Additionally, the Joint Proposal provides sufficient funding for Niagara Mohawk to maintain safe and reliable service and attract necessary capital to ensure the long-term viability of the Company, while mitigating the ratepayer impact through the use of credits, and taking steps to moderate bill impacts after the rate plans expire. That the JP was executed by several parties of varying interests demonstrates the parties' extensive efforts to address and resolve the outstanding issues to the extent practicable. Finally, the terms of the JP also evidence its consistency with our environmental, social and economic policies and those of the State. In considering the entire proposal, and given the efforts of the diverse parties to reach a comprehensive agreement on all the issues presented, we find that the Joint Proposal is in the public interest.

The Commission orders:

1. The rates, terms, conditions, and provisions of the Joint Proposal dated January 19, 2018, as amended on February 13, 2018, filed in these proceedings and attached hereto as Attachment 1, with the exception of the implementing provisions set forth in Section IV, Subsections 16.1, 16.2, 16.3, 16.6, 16.8, and the first paragraph of Subsection 16.4, are adopted and incorporated herein to the extent consistent with the discussion herein.

2. Niagara Mohawk Power Corporation d/b/a National Grid is directed to file a cancellation supplement, effective on not less than one day's notice, on or before March 27, 2018, cancelling the tariff amendments and supplements listed in Attachment 2, including amendments and supplements concerning the EE Tracker surcharge component of the System Benefit Charge.

3. Niagara Mohawk Power Corporation is authorized to file, on not less than one day's notice, to take effect on April 1, 2018 on a temporary basis, such tariff changes as are necessary to effectuate the terms of this Order for the rates in the rate year beginning April 1, 2018, including changes necessary to effectuate removal of the EE Tracker surcharge component of the System Benefit Charge, and to incorporate any tariff amendments that were previously approved by the Commission since the tariff amendments listed on Attachment 2 were filed.

4. Niagara Mohawk Power Corporation shall serve copies of its filings on all active parties to these proceedings. Any party wishing to comment on the tariff amendments may do so by filing its comments with the Secretary to the Commission and serving its comments upon all active parties within ten days of service of the tariff amendments. The amendments specified in the compliance filings shall not

become effective on a permanent basis until approved by the Commission and will be subject to refund if any showing is made that the revisions are not in compliance with this Order.

5. On September 20, 2017, Niagara Mohawk moved for an extension of the suspension period to May 1, 2018. On October 24, 2017 and November 22, 2017, Niagara Mohawk moved for an extension of the suspension period to June 1, 2018 and July 1, 2018, respectively. Because this order is made within the suspension period to an including March 29, 2018, those motions are dismissed as moot.

6. Niagara Mohawk Power Corporation is directed to file such further tariff changes as are necessary to effectuate the rates for Rate Year 2 beginning April 1, 2019, and for Rate Year 3 beginning April 1, 2020. Such changes shall be filed on not less than 30 days' notice to be effective on a temporary basis.

7. The requirement of the Public Service Law §66(12)(b) and 16 NYCRR 720-8.1 that newspaper publication be completed prior to the effective date of the amendments for Rate Year 1 are waived and Niagara Mohawk Power Corporation is directed to file with the Secretary to the Commission, no later than six weeks following the effective date of the amendments, proof that a notice to the public of the changes set forth in the amendments and their effective date had been published once a week for four consecutive weeks in one or more newspapers having general circulation in the service territory. The requirements of Public Service Law §66(12)(b) and 16 NYCRR 720-8.1 are not waived with respect to Rate Year 2 and Rate Year 3.

8. Within 30 days after the effective date of the rate plan, Niagara Mohawk Power Corporation shall file a report with the Secretary showing, and providing copies of, the accounting entries it has made to effectuate both the creation

of the new electric and gas rate plan settlement deferral credits, and the resolution of each of the issues associated with the settlement deferral credits. The report should also include the presentation of proposed entries that will be made in each rate year that will provide for the allowed funding of the identified gas safety programs and the amortization of the undepreciated investment in pre-AMR meters. The report shall include a full explanation of each actual recorded or proposed accounting entry.

9. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

10. The proceedings in Cases 17-E-0238 and 17-G-0239 are continued. Cases 14-M-0042 and 12-G-0202 are closed, but the reporting requirements in Case 12-G-0202 regarding inside meter sets shall be continued and such reports shall be filed in Case 17-G-0239.

By the Commission,

KATHLEEN H. BURGESS
Secretary