

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission as to the Rates,
Charges, Rules and Regulations of KeySpan Gas East
Corp. d/b/a Brooklyn Union of L.I. for Gas Service** **Case 16-G-0058**

**Proceeding on Motion of the Commission as to the Rates,
Charges, Rules and Regulations of The Brooklyn Union
Gas Company d/b/a National Grid NY for Gas Service** **Case 16-G-0059**

**Acts and Practices of The Brooklyn Union Gas Company d/b/a
National Grid NY and KeySpan Gas East Corporation d/b/a
National Grid Regarding Billing of Each Company's SC No. 2
Customers from March 2008 to March 2014** **Case 14-G-0091**

**Proposed Allocation of Certain Tax Refunds between
KeySpan East Corp. d/b/a National Grid and Ratepayers** **Case 14-G-0503**

**Proposed Allocation of Certain Tax Refunds between
KeySpan East Corp. d/b/a National Grid and Ratepayers** **Case 13-G-0498**

**Examination of The Brooklyn Union Gas Company d/b/a
National Grid NY's Earnings Computation Provisions
and Other Continuing Elements of the Applicable Rate Plan** **Case 12-G-0544**

**Proposed Allocation of Certain Tax Refunds between
KeySpan East Corp. d/b/a National Grid and Ratepayers** **Case 11-G-0601**

**CITY OF NEW YORK
STATEMENT IN SUPPORT OF JOINT PROPOSAL**

Dated: September 16, 2016

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PRELIMINARY STATEMENT

The City of New York (“City”), one of the largest customers on the KeySpan Gas East Corporation d/b/a Brooklyn Union of L.I. (“KEDLI”) and Brooklyn Union Gas Company d/b/a National Grid NY (“KEDNY”; collectively “the Companies”) gas systems, hereby submits this Statement in Support of the Joint Proposal (“JP”) filed with the New York State Public Service Commission (“Commission”) on September 7, 2016. The JP recommends a comprehensive resolution of the issues in these proceedings and should be adopted by the Commission.¹

ARGUMENT

THE JP IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED

A. The JP Complies With The Commission’s Settlement Guidelines

The Commission has established the following criteria for evaluating a joint proposal: (a) the extent to which a joint proposal is supported by adverse parties; (b) whether the record for decision is adequate; and (c) whether the settlement is consistent with law and public policy, has a rational basis, balances the interests of customers and shareholders, and compares favorably with the probable outcome of litigation.² Except as noted in footnote 1, above, the Commission should adopt the JP because it satisfies these criteria.³

¹ The low income provisions in the JP reflect, among other things, benefit levels and implementation costs that depend on Commission action in Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers. As explained in Point B.3, *infra*, the City takes exception to these portions of the JP and respectfully urges the Commission to remove any lingering uncertainty surrounding low income benefits to eligible customers as soon as possible.

² Case 90-M-0255, Proceeding on Settlement Procedures and Guidelines, Opinion No. 92-2 (issued March 24, 1992).

³ The City’s Statement focuses on the issues of greatest importance to the City. The omission herein of any issue resolved in the JP should not be construed as a lack of support for same. Citations to testimony, exhibits and the JP within this Statement are by reference to the Exhibit List filed in these proceedings on September 15, 2016 (e.g., Exh. ___).

There is broad support for the JP. The parties that executed the JP represent a broad range of interests that often are adverse, and include the City, KEDLI, KEDNY, Department of Public Service Staff (“Staff”), customer groups, retail energy suppliers, and environmental advocates (the “Signatory Parties”). In addition to the opposition filed by Urac Corp. on September 9, 2016, the Public Utility Law Project (“PULP”) has stated that it intends to oppose the JP on issues ranging from return on equity, earnings sharing, Site Investigation and Remediation cost recovery, and perhaps others, but the City does not know the specific nature of PULP’s objections.⁴

The record provides a rational basis for concluding that the compromises set forth in the JP are reasonable and appropriate. All parties received sufficient notice of the settlement negotiations, as required by 16 NYCRR § 3.9(a). To the extent possible, the schedule for negotiations accommodated all parties, and no party was denied the opportunity to participate in the negotiations.⁵ In addition to this Statement and those submitted by other Signatory Parties, the record before the Commission includes testimony and exhibits from the Companies and 12 other parties. The issues raised throughout these proceedings are either resolved in the JP, or the JP establishes a process for resolving them.

⁴ The City reserves the right to reply to PULP, and Urac, in its Reply Statement.

⁵ Contrary to Urac’s claims in its September 9, 2016 *Statement in Opposition to Joint Proposal*, all parties were provided ample opportunity to participate in all settlement negotiations. The City does not agree with Urac’s characterization that it was relegated to the sidelines. Indeed, many parties with unique and varied interests were able to successfully resolve their concerns within the JP and the diverse nature of those concerns is on full display throughout the JP.

B. The JP Is Just And Reasonable, Balances the Interests of Customers and Shareholders And Is Superior To A Litigated Result

The JP was developed, and should be read and interpreted, as a comprehensive proposal that resolves the vast majority of the issues that arose during these proceedings.⁶ The provisions should be considered in their entirety, with each supporting the others. In viewing the JP in this manner, the Commission should conclude that its provisions fairly and reasonably address the relevant policies, initiatives, and goals of the State and City, the needs of customers, and shareholder interests. Consequently, the Commission should find that the JP is in the public interest and adopt its terms and conditions.

1. Revenue Requirement, Term And Capital Structure

KEDNY and KEDLI initially sought revenue increases of \$321 million and \$191 million, respectively. (Exh. 506 at 2) Staff sought significant reductions to the amounts requested by the Companies, and the City and other parties sought similar or different revenue adjustments as Staff. As is typical in rate cases, the parties filed testimony based on a one-year rate case.

The JP establishes a three year rate plan for both KEDNY and KEDLI. KEDNY's revenue requirement increases for the three rate years consecutively are \$272.090 million, \$40.122 million, and \$48.915 million for firm and non-firm customers. (*Id.* at 6–7) KEDLI's revenue requirement increases for the three rate years consecutively and are \$112.002 million, \$19.594 million, and \$26.973 million for firm and non-firm customers. (*Id.* at 61) The revenue requirement increases will be levelized such that each year the Companies receive equal percentage increases in their

⁶ Like any settlement, the JP represents a compromise resolution among the parties in which no party received everything it wanted. Overall, the Signatory Parties found its terms to be fair and reasonable, even though some issues may not have been addressed.

respective revenue requirements (14.85% per year for KEDNY; 8.1% per year for KEDLI). (*Id.* at App. 1, Sch. 3, p. 1; App. 2, Sch. 3, p. 1)

The City shares the concern that the JP includes significant rate increases. However, the JP must be viewed in context. The Companies have not received base rate increases in nearly nine years.⁷ More recently, the Companies have significantly ramped up capital expenditures to meet tightening safety and reliability targets, in particular related to removal and replacement of old, leak-prone pipe. The combination of these and other factors has resulted in the need for significant rate relief, and the revenue requirement increases, while significant, are needed to ensure safe, reliable, and resilient gas delivery systems.

Moreover, the revenue requirement increases set forth in the JP are clearly within the potential litigated results of these cases, and it is very common for a settlement to extend for multiple years even though the litigated result would be for a single year. Similarly, the proposed capital structure is within the scope of the parties' testimonial positions. The recommended returns on equity of 9.0% for both Companies, and the 48% equity ratio, are within the range of the litigated positions of Staff and the Companies. (*See, e.g.*, Exh. 357 at 5; Exh. 379).

Finally, the multi-year terms of the rate plans provide material benefits to customers and the Companies. Customers will benefit from avoiding a very large increase (greater than 30% for KEDNY) in Rate Year One and rate predictability for an extended period of time, while at the same time benefitting from modernizations and upgrades to an aging gas distribution system that is delivering gas to a growing customer base. And, as illustrated in the JP, levelizing SIR costs

⁷ Cases 06-G-1185 et al., In the Matter of Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island – Gas Service, Order Adopting Gas Rate Plans for KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island (issued December 21, 2007).

over the rate plan's three-year term materially softened the overall bill impacts on customers. (Exh. 506 at App. 1, Sch. 3, p. 1; App. 2, Sch. 3, p. 1)

2. Storm Hardening And Resiliency

Hurricane Sandy amply demonstrated that reliable gas delivery service is essential to the economy and public health, safety, and welfare, and that the City's infrastructure – including its utility infrastructure – must be made more resilient to future weather events. The City advocated for the Companies to proactively consider future climate risks, including establishing an individual storm hardening collaborative. (Exh. 409 at 7) In line with that recommendation, the JP requires the Companies' to collaborate with the City and other stakeholders no later than 60 days following the Commission's Order adopting the JP to consider storm hardening and climate resiliency projects, strategies for assessing climate risk factors for the gas distribution system, and guidelines for incorporating climate change projections in their long term capital planning. (Exh. 506 at 132–33) All of these measures are needed to reduce the number and duration of outages brought on by extreme weather events, and a collaboration between the Companies to address them is within the range of litigated positions. Overall, the JP's treatment of this issue reflects a balancing of the litigated positions, fairly reflects all relevant interests, and is reasonable and in the public interest.

3. Low Income Programs

With respect to the number of participants in the Residential Reduced Rate programs, KEDNY originally forecasted 64,100 participants, which represents an increase above the target of 60,000 participants for the 12 months ended September 30, 2015. (Exh. 127 at 70) KEDLI forecasted 13,900 participants, which represents a decrease from the target of 30,000 participants for the 12 months ended September 30, 2015. (*Id.*)

The Companies have historically relied on manual enrollment to reach eligible customers that do not receive HEAP grants, utilizing methods such as calls to the call center and referrals from customer advocates or social services agencies. This has resulted in a relatively low number of participants in the Companies' Residential Reduced Rate programs. (Exh. 413 at 9) To address this disparity, the Companies proposed a collaborative with Staff, New York City Human Resources Administration ("HRA"), New York State Office of Temporary and Disability Assistance ("OTDA") and other interested parties to develop a file matching proposal that would permit HRA and/or OTDA to identify assistance program-eligible customers and automatically enroll such customers in the Residential Reduced Rate programs. (Exh. 127 at 70) The City instead advocated for the Companies to take more expedient measures to capture more low income customers that may be eligible for discounts. (Exh. 413 at 12–13) The City argued that a file sharing program with HRA was appropriate for both KEDNY and KEDLI, in the near term, and disputed the need for a collaborative. (*Id.*)

Under the JP, KEDNY will use commercially reasonable efforts to undertake the first HRA file match in Fall 2016. (Exh. 506 at 56–57) If that deadline proves infeasible, KEDNY is required to perform the HRA file match no later than Spring 2017. (*Id.* at 57) Additionally, KEDNY will reimburse HRA for its administrative costs up to \$0.100 million for performing the match for both KEDNY's service territory and the Rockaway portion of KEDLI's territory. (*Id.*) These outcomes, which are consistent with the City's testimony and the litigated positions of other parties, are expected to promptly extend rate discounts to over 125,000 low income customers in Brooklyn, Queens and Staten Island that are not currently receiving the discounts for which they are eligible, a result clearly within the public interest. (*See, e.g.*, Exh. 265 at 27)

Under the JP, KEDLI is also expected to facilitate a file match process with HRA no later than January 1, 2018 to identify and enroll additional low income customers in the Rockaway portion of KEDLI's territory. (Exh. 506 at 104) However, the JP makes this file match contingent upon the Commission authorizing KEDLI to defer its implementation costs for this file match in Case 14-M-0565. (*Id.*) While KEDLI has committed in the JP to request deferral of its implementation costs in Case 14-M-0565, the City cannot agree to making the file match for the Rockaways portion of KEDLI's service territory contingent upon Commission action in another proceeding. As noted in its initial testimony, KEDLI estimates that a file match for the Rockaways could identify as many as 6,000 eligible low income customers. (Exh. 127 at 72) Expanding low income benefits to eligible customers is a critical concern of the City's and the City respectfully urges the Commission to act as expeditiously as possible to ensure all eligible low income customers receive the benefits available to them.

In its recent Low Income Order, the Commission expressly authorized KEDNY to pursue a file match with HRA, similar to the file match undertaken with Consolidated Edison Company of New York, Inc. ("Con Edison"), based principally on the facts that KEDNY's service territory is geographically concentrated and the customer population is similar to Con Edison's.⁸ The Rockaways portion of KEDLI's service territory also satisfies these two criteria and there is no rational basis for excluding one portion of New York City from a City-wide file match (save for perhaps an inadvertent oversight in the Low Income Order). Importantly, HRA stands willing and able to complete its portion of the file match for the Rockaways, an area still suffering from the

⁸ 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 and effective May 20, 2016) ("Low Income Order") at 16.

impact of Hurricane Sandy. And, despite being small in geography, the Companies' testimony illustrates the significant number of under-served low income ratepayers within the Rockaways and extending the file match there will ensure consistent application of the file match throughout the City while delivering material relief to customers. (Exh. 127 at 71–72) Accordingly, the City requests that, in its Order here, the Commission require KEDLI to implement a file match for the Rockaways portion of its service territory no later than January 1, 2018 and defer any related costs.

With respect to low income discount levels, the Companies initially proposed to increase monthly low income customer discounts under their Residential Reduced Rate program by five percent. The City sponsored testimony supporting this proposed increase. The Companies further proposed to discontinue their On Track Programs, which the City opposed. (Exh. 413 at 15) The JP proposes to discontinue the Companies' On Track Programs, however, customers currently enrolled in the programs will be allowed to continue either until they complete the program or are removed because of non-compliance. (Exh. 506 at 58, 105) Allowing current customers of the On Track Programs to continue to receive the associated benefits is in the public interest and is within the range of reasonable outcomes of the issue being fully litigated.

The JP further recommends that in Rate Year One, KEDNY and KEDLI will provide eligible heating customers, including customers identified through the HRA file match, with a low income discount that is equivalent to their Tier 1 discounts contained in the Low Income Order (respectively, discounts of \$19.00 and \$41.00). KEDNY and KEDLI will provide eligible non-heating customers with low income discounts of \$3.00 and \$8.81 per month, respectively. (*Id.* at 57, 104) In Rate Year Two, the Companies will conform their Residential Reduced Rate program and benefit levels to the requirements of the Low Income Order and any orders on rehearing, as

well as any Implementation Plans filed in Case 14-M-0565 (as may be modified by the Commission). (*Id.* at 56, 102–3)

Expanding the low income discounts is within the range of litigated outcomes and, given the Commission’s recent findings in the Low Income Order, is clearly within the public interest of managing customers’ energy burdens. However, the Low Income Order is currently the subject of multiple petitions for rehearing and/or clarification, including one filed on behalf of the City that could impact the benefit levels received by KEDNY and KEDLI customers in Rate Years Two and Three. For example, the City’s rehearing petitions seeks clarification that new, eligible heating customers that are identified after implementation of the Low Income Order will receive the full heating discount allowed under the Low Income Order.⁹ Absent Commission action on rehearing prior to Rate Year Two, the phrasing of the Low Income Order raises a concern as to whether the Companies would only extend the non-heating discount to such newly-identified heating customers. As identified by the City in its Rehearing Request, providing a non-heating discount to an eligible heating customer “would be unfair, unreasonable, and inconsistent with the Commission’s stated goals” within the Low Income Order.¹⁰ There simply is no rational basis for providing different discount levels to similarly situated low income heating customers in the Companies’ service territories and any attempts to interpret the Low Income Order otherwise run contrary to both the express language and the spirit of the Low Income Order.

While the City is confident that the Commission will issue a ruling in Case 14-M-0565 prior to the start of Rate Year Two on January 1, 2018, such that this issue will be moot, the City nevertheless requests that, in its Order here, the Commission clarify that the full heating discount

⁹ Case 14-M-0565, *supra*, *Petition for Rehearing and Clarification of the City of New York* (filed June 20, 2016) at 12-14 (“Rehearing Request”).

¹⁰ *Id.* at 14.

will be provided to all newly-identified eligible low income heating customers. Further, in the absence of a Commission ruling in Case 14-M-0565 prior to Rate Year Two, the City reserves the right to challenge the Companies' application of the Joint Proposal with respect to newly-identified low income heating customers, should the Companies determine that such customers are eligible for anything but the full heating discount.

4. Revenue Allocation and Rate Design

The Companies filed an embedded cost of service study ("ECOSS") that was found to be acceptable by the City for purposes of revenue allocation. (Exh. 392 at 3) However, the City sponsored testimony that KEDNY's proposed revenue allocation would result in slow, incremental progress in moving classes toward cost based rates. (*Id.* at 13) Other parties, including Staff and the Utility Intervention Unit of the New York State Department of State's Division of Consumer Protection ("UIU"), proposed modifications to the Companies' proposed revenue allocation and rate design, including higher percentage increases to the tail blocks of the non-residential service classes. (Exh. 433 at 51)

Under the JP, KEDNY's Rate Year One revenue increase will be allocated to all firm service classifications except SC 1B-DG, SC 17-1B-DG, SC 17-21, and SC 21 to achieve a distribution rate increase on a pro rata basis proportionate to delivery revenues. The allocations for Rate Years Two and Three are similar. (Exh. 506 at 8) In each rate year, each rate block will receive an equal percentage increase. (*Id.* at 9) KEDLI's Rate Year One revenue increase will be allocated to all firm service classifications except SC 1B-DG, SC 5-1B-DG, SC 5-17, and SC 17 to achieve a distribution rate increase on a pro rata basis proportionate to delivery revenues. (*Id.* at 62) The allocations for Rate Years Two and Three are similar. (*Id.* at 63) The JP recommends no increases to the minimum monthly charge for residential heating customers.

Given competing proposals regarding how to increase the non-residential service class tail blocks, the JP's equal percentage allocation across all rate blocks falls within the possible range of litigated outcomes. Moreover, due to the overall size of the delivery rate increases in these cases, allocating the increases proportionally to all firm service classes, and also to all customers within each class, is a compromise that is fair and reasonable and consistent with the policy of gradualism to mitigate rate shock to any particular customer segment.¹¹ Further, holding the minimum monthly charge steady for residential heating customers provides a significant benefit to these customers, particularly lower usage customers where the customer charge may comprise a relatively larger percentage of the overall bill.

Finally, to address concerns raised by UIU regarding the proper methodology for conducting the ECOSS, the JP calls on the Companies to submit an ECOSS in their next base rate case in which the costs of mains will be classified 100 percent as demand-related. (Exh. 506 at 131) The City and others explained the numerous reasons why the Companies' ECOSS properly classified distribution mains as both customer- and demand-related, including that it is consistent with both Commission precedent as well as the manner in which the Companies invest in distribution main (i.e., "the number of customers connected to the distribution system is...[an] important causative factor in distribution main investment"). (Exh. 429 at 2-12) Importantly, the JP is explicit that the Companies are not required to support using the results of this modified ECOSS study for any purpose, nor are the Companies or other Signatory Parties prohibited from introducing other embedded cost of service studies or making other revenue allocation or rate

¹¹ See Cases 12-E-0201 and 12-G-0202, In the Matter of Niagara Mohawk Power Corporation d/b/a National Grid – Electric and Gas Rates, Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal (issued March 15, 2013) at 11; Case 09-E-0717, In the Matter of Rochester Gas and Electric Corporation – Electric Rates, Order Revising Rate Plan Targets (issued October 14, 2011) at 3.

design proposals in future cases. (Exh. 506 at 131) Given the substantial disagreement in the parties' litigated positions with respect to classification of distribution mains, this compromise is fair and reasonable.

5. Non-Firm Rate Design

The Companies proposed material, detrimental changes to their non-firm gas rates. The City and other parties opposed many of the proposed changes. The Companies' existing Temperature Controlled ("TC") and Interruptible ("IT") Services' rate design is modified under the JP such that TC and IT volumetric delivery rates are set at the otherwise applicable firm rate class tail block rate. (Exh. 506 at 10, 64) For KEDNY, this means that TC classes will receive a volumetric rate decrease in Rate Year One, and over the three years of the proposed rate plan, will end up with overall delivery rate increases that are significantly lower than the total levelized distribution revenue increase. In addition, under the JP, TC and IT customers will be assessed the billing charge and TC and IT sales customers will be assessed the Merchant Function Charge ("MFC"), which the City originally opposed. (*Id.* at 10, 65)

The lower overall increases to KEDNY's TC customers will help bring these customers closer to cost of service over the term of the rate plan and help ensure these customers pay rates that are lower than the otherwise-applicable firm rate, an outcome that all parties agree is in the public interest. Moreover, exposing non-firm customers to the MFC is a reasonable compromise that, given the overall non-firm rate design, results in non-firm rates that are just and reasonable.

Other non-firm rate design proposals, including a new surcharge option for non-firm customers upgrading to firm service and tariff amendments to require affirmations from customers that they are equipped to switch to alternative fuel when needed, are also consistent with the litigation record and in the public interest. (*Id.* at 15, 69) These tariff amendments will serve

important public policies and will promote dependability and help prevent gaps in service to firm customers. Finally, while the Companies will not add any new TC customers during the term of the Companies' rate plans, existing TC customers will be allowed to remain TC customers, and will be permitted to switch to any other non-firm service for which they qualify, or switch to firm service to the extent the Companies can facilitate the switch. (*Id.* at 119) Moreover, the Companies will conduct a collaborative designed to study potential new non-firm rate design options, including potential creation of a dual-fuel firm service. (*Id.* at 117–118) These proposed measures represent a fair result compared to the potential litigated outcome.

6. Depreciation

The Companies proposed significant changes to their present depreciation rates that resulted in an increase in annual depreciation and amortization expense for KEDNY of \$11.476 million and KEDLI of \$15.354 million. (Exh. 415 at 3) The City opposed the Companies' proposed changes on the grounds that they would result in excessive and unreasonable depreciation rates and expense, and the City proposed reductions to KEDNY's and KEDLI's depreciation expense of up to \$51.460 million and \$37.068 million, respectively. (*Id.* at 30) Staff also recommended downward adjustments to the Companies' depreciation expense.

Under the JP, depreciation expense in Rate Year One will be adjusted downward by \$27.237 million for KEDNY and \$26.892 million for KEDLI. (Exh. 506 at App. 1, Sch. 1; App. 2, Sch. 1) The JP represents a compromise between the parties' positions that, for the most part, continues the existing depreciation scheme, but with adjustments that resulted in meaningful reductions in present depreciation expense. This compromise serves both customer and shareholder interests because it provides an appropriate level of cash flow to the Company while reducing the rate impacts on customers.

7. Capital Expenditures

The Companies' rate filings described plans for significant increases in investment in gas infrastructure and other capital investments in 2017, 2018 and 2019. According to the Companies, capital expenditures have increased over the last several years, and will continue to increase, due to an attempt to take advantage of abundant natural gas supply, increased safety regulations and weather events. (Exh. 402 at 7; Exh. 399 at 28) With respect to leak-prone pipe ("LPP"), KEDNY and KEDLI proposed to increase their annual replacement targets by 3 miles and 20 miles, respectively, and to fund incremental replacements through a new surcharge mechanism. (Exh. 402 at 17; Exh. 399 at 34) The City and others raised numerous concerns with the Companies' plans, particularly with respect to the rate of planned LPP replacement. (Exh. 428 at 6.)

Consistent with the City's testimony, the JP requires that the Companies increase their efforts on replacing leak-prone pipe, including an accelerated focus on replacing LPP in flood-prone areas. For example, the JP requires that KEDNY and KEDLI must replace a total of 180 miles and 405 miles of LPP, respectively, over the term of the rate plan or else be subject to significant penalties. (Exh. 506 at 49, 97) This represents extensive acceleration over the Companies' initial proposals. In addition, starting with LPP replacements in Rate Year Two, the Companies LPP risk ranking algorithm will be updated such that, when all else is equal, the Company will target LPP located within designated flood zones. (*Id.* at 18–19, 73) The JP also provides the Companies with incentives to remove additional LPP above the targets and to reduce the per-unit costs associated with LPP replacements, which would inure to the benefit of customers in future rate cases. (*Id.* at 49–50, 98) These measures are reasonable and in the public interest because they promote the timely removal of unreliable infrastructure at just and reasonable rates. Moreover, the JP ensures that the Companies will invest in the future of their gas systems, and the

stronger, more resilient systems should benefit its customers for many years by increasing reliability, reducing outages, and yielding material environmental benefits in the form of reduced methane emissions.

8. Service Quality

The City testified to the need to reduce the number of estimated and adjusted bills that are provided for City accounts, noting that, over a two-year period, the percentage of estimated reads on City accounts ranged from 17% to 40%. (Exh. 392 at 37) In order to reduce estimated bills to the City, the JP requires KEDNY to install AMI-adaptable AMR meters on all City accounts that do not currently have AMR meters by March 31, 2017. (Exh. 506 at 110–11) This provision is not opposed by any party, is consistent with potential litigated outcomes, and should result in noticeable reductions to the number of estimated and adjusted billings to the City.

9. Data Sharing and Benchmarking

The City testified to the need for more comprehensive data sharing of energy usage to facilitate an understanding of where resources for sustainability efforts should be directed. (Exh. 411 at 16) The City emphasized that sharing of aggregated energy consumption data, energy efficiency program participation and ongoing communication on changes to programs and incentives would provide a robust foundation for achieving the most value in directing resources. (*Id.*) The JP provides that, beginning in Rate Year Two, the Companies will implement (in consultation with the City) an automated process to automatically upload building-wide energy consumption data to the EPA's Portfolio Manager website, at a cost of no more than \$750,000. (Exh. 506 at 110) Again, this provision is not opposed by any party and is consistent with potential litigated outcomes. Moreover, automating the uploading of building-wide energy consumption data to EPA's Portfolio Manager should greatly improve the quantity and quality of consumption

data that is reported and tracked as part of Local Law No. 84 (“LL84”), which requires owners of large buildings to annually measure their energy and water consumption and report it to the City.¹² The data gathered from LL84 provides essential information that allows the City to pursue increasingly aggressive programs and policies to drive down energy and water consumption, as well as utility cost expenditures. Improving the quantity and quality of this data, through an automated process that improves the flow of information, will promote the public interests being served by LL84. And, by including a cost cap on the automation process, the JP ensures that these improvements will be made at a reasonable cost to ratepayers.

10. Site Investigation and Remediation (“SIR”) Expenses

Remediation of polluted sites is a vital concern of both the Commission and the City. To ensure that the Companies have adequate resources to address this issue, the JP proposes that each year, the Companies will fully reconcile actual SIR expenses to the Forecast Rate Allowance, and any under or over expenditures will be deferred for future refund or to recovery from customers. (Exh. 506 at 32–33, 82–83) Moreover, to address unknown but potentially significant costs related to the cleanup of the Gowanus and Newtown sites, the JP provides, for KEDNY only, a SIR surcharge mechanism that, beginning in Rate Year Two, can allow KEDNY to recover certain expenditures associated with those sites. (*Id.* at 32) In an effort to reduce the impact on ratepayers during the proposed three-year term, while also minimizing future deferrals that must be recovered in later rate cases, the surcharge would be triggered if the reconciliation between the rate allowance and actual costs exceeds \$25 million (on a cumulative basis), and the surcharge is capped at 2% of KEDNY’s prior year aggregate revenues. (*Id.* at 32–33) Overall, the resolution of SIR expenses

¹² See “LL84: Benchmarking,” New York City Mayor’s Office of Sustainability, <http://www.nyc.gov/html/gbee/html/plan/l184.shtml> (last visited Sept. 15, 2016).

within the JP is within the range of litigated outcomes and consistent with the public interest in remediating these sites in a timely and cost-effective manner. The reconciliations and surcharges will ensure that the Companies have adequate resources to undertake and manage complex and costly cleanups while at the same time capping the overall exposure of ratepayers to unknown costs that may arise during the rate plan.

CONCLUSION

The terms and conditions of the JP are fair, reasonable, and consistent with the Commission's settlement guidelines. The record in these proceedings provides substantial evidence upon which the Commission can find that the JP is in the public interest, produces just and reasonable rates, and provides for safe and adequate service. Therefore, except as noted in footnote 1 and Point B.3 above, the City therefore respectfully urges the Commission to adopt the JP without modification.

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