

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

Case 23-G-0225 – 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 23-G-0226 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corporation d/b/a National Grid for Gas Service.

**NATURAL RESOURCES DEFENSE COUNCIL  
STATEMENT IN OPPOSITION TO THE JOINT PROPOSAL**

Natural Resources Defense Council (NRDC) respectfully submits this Statement in Opposition to the Joint Proposal filed with the New York State Public Service Commission (Commission) on April 9, 2024, in the above captioned rate proceedings of The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) and KeySpan Gas East Corporation d/b/a National Grid (KEDLI) (collectively, “National Grid” or “the Companies”) pursuant to the Ruling Establishing Procedural Schedule for Consideration of Joint Proposal issued by Administrative Law Judges (ALJs) James A. Costello and Maureen F. Leary on April 11, 2024.

**PRELIMINARY STATEMENT**

The Joint Proposal is not in the public interest. It contains excessive levels of new capital investment in traditional fossil gas infrastructure—\$2.86 billion for KEDNY and \$2.08 billion for KEDLI—that drive the unjust and unreasonable rate increases for gas service and threaten achievement of the emission reduction and climate justice objectives of New York’s Climate Leadership and Community Protection Act (Climate Act). Specifically, the Joint Proposal includes over \$1.6 billion of new capital investments to proactively replace 351 miles of functioning gas distribution pipes despite the Climate Action Council Scoping Plan’s (Scoping Plan) clear call for a well-planned and strategic downsizing of the utility gas system. The Joint Proposal also

authorizes the deferral for future recovery from customers of over \$23 million in biomethane supply interconnection subsidies without a demonstration of any benefits to the ratepayers who will foot the bill. The imprudent levels of new investments included in the Joint Proposal would facilitate ongoing and prolonged use of the fossil gas system and risk exacerbating the cost and equity challenges presented by transitioning off fossil gas use to achieve the state's climate and clean energy mandates.

Approving costly new investments that subsidize, fortify, and extend the life of the gas system, especially right before National Grid commences efforts to develop a long-term gas system plan<sup>1</sup> and a statewide GHG emission reduction pathway study,<sup>2</sup> is ill-advised and risks jeopardizing an equitable, affordable, and orderly transition of the gas system.

Indeed, increasing costs to maintain a gas system that has declining use creates the conditions to incite a vicious cycle that spurs uncontrolled customer exit from the gas system, further escalating costs for remaining customers, and producing gross inequities among customers and between generations.<sup>3</sup> The customers bearing the brunt of the inequity would likely be those that are most vulnerable or those in disadvantaged communities.<sup>4</sup> The costs of choosing the wrong path are high, wasting both money and time that New Yorkers can ill afford.

In contrast, the benefits from transforming in-building heating and hot water systems that currently rely on combustion of fossil fuels to clean, super-efficient systems using renewable electricity are tremendous. And making New York's buildings more efficient will make them more comfortable and affordable to operate. Electrified buildings can also be active participants in a

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<sup>1</sup> Case 20-G-0131, Order Adopting Gas System Planning Process, (May 12, 2022) (Gas Planning Order).

<sup>2</sup> Case 22-M-0149, Order on Implementation of the Climate Leadership and Community Protection Act. (May 12, 2022).

<sup>3</sup> Case 23-G-0225 & Case 23-G-0226, Direct Testimony of Alice Napoleon on Behalf of Natural Resources Defense Council (Sept. 1, 2023) (Synapse Testimony) at 42:13 – 43:11.

<sup>4</sup> Id.

two-way optimized clean electric system, providing responsive load and reducing the costs of building out our clean, resilient grid powering our buildings and transportation.

The most prudent strategy for the rate term is for National Grid to maximize energy efficiency and building electrification measures through the pursuit of non-pipe alternatives (NPAs) while avoiding any unnecessary investments in new gas system infrastructure. Deferring expensive investments not needed for near-term gas system safety and reliability will provide option value (i.e., the value of flexibility), protect against path dependence, and enable the Company to benefit from the information and policy guidance that result from the gas system planning processes.

Importantly, the Commission’s Order Adopting Gas System Planning Process in Case No. 20-G-0131 (Gas Planning Order)<sup>5</sup> requires National Grid to identify the locations of specific segments of leak prone pipe (LPP) that could be abandoned in favor of NPAs and where infrastructure projects may be needed in the near future to maintain reliability.<sup>6</sup> It further encourages National Grid to take a “neighborhood approach” and work with local groups and State agencies on a comprehensive program that simultaneously removes leaking or leak-prone infrastructure and employs programs such as weatherization and demand response along with electrification.<sup>7</sup> The Commission has confirmed that National Grid should be “strategic when planning the removal of LPP and plan in a cost-effective manner that reduces unnecessary investments.”<sup>8</sup>

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<sup>5</sup> Case 20-G-0131, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Order Adopting Gas System Planning Process (May 12, 2022).

<sup>6</sup> Gas Planning Order at 39.

<sup>7</sup> Id.

<sup>8</sup> Id.

It is premature to presume that National Grid is equipped to make prudent decisions about proactive LPP replacement consistent with the Climate Act before it has completed its gas system planning process and developed a long-term plan, vetted by stakeholders, Department of Public Service (DPS) Staff, the independent consultant, and ultimately the Commission. Allowing the Companies to proactively replace 531 miles of LPP, most of which is functional pipe that is not actively leaking, risks squandering the best, least-cost opportunities for downsizing its system. And it puts customers on the hook for those potentially wasteful decisions while enabling National Grid to earn significant profits on new fossil gas infrastructure that will almost certainly not serve customers for the duration of their useful lives and thus result in stranded costs.

Critically, the Joint Proposal's Commitment to Non-Pipe Alternatives<sup>9</sup> does not mitigate concerns about National Grid's ability to make prudent decisions about proactive LPP replacement consistent with the Climate Act prior to undertaking its gas system planning process nor about its ability to effectively pursue NPAs. While the Joint Proposal includes some potentially beneficial enhancements to National Grid's current approach to NPAs—necessary to improve the underwhelming efforts previously demonstrated by the Companies as per the "Commitment to Non-Pipe Alternatives" in Section 5.1 of the last approved Joint Proposal—these adjustments are still not sufficient to position NPAs for success.

In keeping with New York's climate vision, the Commission should reject the Joint Proposal. Specifically, the Commission should direct National Grid to (1) dramatically reduce the minimum LPP removal targets and to focus on only the highest risk (Tier 1) inventory for proactive replacement; (2) reject the authorization of ratepayer-funded subsidies for biomethane supply interconnection facilities (\$13.195 million for KEDNY and \$9.868 million for KEDLI) and require

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<sup>9</sup> Joint Proposal at Section 7.1.

all interconnection costs to be recovered from the interconnecting biomethane supplier; (3) direct National Grid, as part of its upcoming long-term gas system planning process, to develop a transparent methodology for and to conduct an analysis of its entire gas distribution infrastructure—with a particular focus on the LPP inventory—to identify zones where electrification could be more beneficial and feasible than additional investments in traditional gas infrastructure, and (4) take expeditious actions to develop and standardize the NPA framework for National Grid and all other gas utilities, ensuring it is comprehensive and clearly defined.

### **STATEMENT ON THE JOINT PROPOSAL**

#### **1. The Commission's Settlement Guidelines require the Joint Proposal to be consistent with the objectives of the Climate Act**

The Public Service Law (PSL) requires the Commission to regulate electric and gas rates to ensure that all charges are just, reasonable and adequate for the utility to provide safe and adequate service.<sup>10</sup> In cases where the terms of a Joint Proposal have been submitted for Commission consideration, the Commission must determine if such terms, when viewed as a whole, produce a result that is in the public interest.<sup>11</sup> In doing so, the Commission follows its Settlement Guidelines, and considers whether the terms appropriately balance protection of consumers, fairness to investors, and the long-term viability of the utility.<sup>12</sup> The result of any negotiated proposal should be consistent with the environmental, social and economic policies of the Commission and the State; and it should produce results that are within the range of reasonable results that would have likely arisen from a Commission decision in a litigated proceeding.<sup>13</sup>

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<sup>10</sup> PSL §65(1).

<sup>11</sup> Case 20-E-0380, Order Adopting Terms of Joint Proposal, Establishing Rate Plans and Reporting Requirements (January 20, 2022) at 60.

<sup>12</sup> Id. (citing Cases 90-M-0255 et al., Procedures for Settlements and Stipulation Agreements, Opinion 92-2 (issued March 24, 1992) (Settlement Guidelines), p. 30; Appendix B, pp. 7-9.

<sup>13</sup> Id.

Importantly, the environmental, social, and economic policies of the Commission and the State include the Climate Act, which requires a 40 percent reduction in economy-wide GHG emissions by 2030 and no less than 85 percent reduction in economy-wide GHG emissions by 2050 from 1990 levels, with the goal of net-zero emissions.

The Climate Act also requires prioritizing equity in fighting climate change to ensure that disadvantaged communities<sup>14</sup> are not left behind in the state’s clean energy transition. The Climate Act created a Climate Justice Working Group to “establish criteria to identify disadvantaged communities for the purposes of co-pollutant reductions, greenhouse gas emissions reductions, regulatory impact statements, and the allocation of investments. . . .”<sup>15</sup> It further requires that State agencies, to the extent practicable, direct 40% and in any event no less than 35% “of the overall benefits of spending on clean energy and energy efficiency programs, projects, or investments” to disadvantaged communities.<sup>16</sup> The Climate Act also specifically directs that when “considering and issuing permits, licenses, and other administrative approvals and decisions, . . . [state administrative bodies] shall not disproportionately burden disadvantaged communities.”<sup>17</sup> Indeed, these state entities must “prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities. . . .”<sup>18</sup> In addition, the Climate Act requires meaningful engagement from environmental justice and labor representatives in the State’s climate planning process, and establishment of a new community air monitoring program.<sup>19</sup>

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<sup>14</sup> CLCPA §2, amending Environmental Conservation Law §75-0111(5), S-6.

<sup>15</sup> Id. § 75-0111, 1.b.

<sup>16</sup> Id. § 75-0117

<sup>17</sup> Id. §7. 3

<sup>18</sup> Id.

<sup>19</sup> Id. § 75-0115.

**2. The Scoping Plan identifies that achievement of Climate Act targets requires a dramatic reduction in gas use and a strategic downsizing of the gas system**

Buildings are responsible for the largest share of greenhouse gas emissions in the state,<sup>20</sup> and because our cold climate requires significant space heating, the older age of our building stock, and our large population, New York's buildings also produce more toxic air pollution than any other state, which is why New York leads the nation in premature deaths caused by burning fossil fuels in buildings.<sup>21</sup> Most of New York's building emissions come from burning fossil fuels onsite in residential and commercial buildings, primarily for space and water heating, and associated upstream emissions.<sup>22</sup> The dominant fuel used in buildings is fossil gas delivered via utility gas systems.

The Scoping Plan,<sup>23</sup> which is the roadmap for achieving the CLCPA targets, is clear that such achievement will require a substantial reduction of fossil gas use in all sectors, and a strategic downsizing of the gas system.<sup>24</sup> For perspective, the Plan's Integration Analysis identified the vast majority of current fossil natural gas customers (residential, commercial, and industrial) will transition to electricity by 2050 and identified necessary fossil gas use reductions statewide of at least 33% by 2030 and 57% by 2035.<sup>25</sup>

The Scoping Plan thus calls for a well-planned and strategic downsizing of the gas system,<sup>26</sup> which will require coordination across numerous sectors to integrate planning with the decarbonization of electricity generation and the build-out of local electric transmission and

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<sup>20</sup> New York State Climate Action Council. 2022. "New York State Climate Action Council Scoping Plan," [www.climate.ny.gov/ScopingPlan](https://www.climate.ny.gov/ScopingPlan). (Scoping Plan) at 175.

<sup>21</sup> Jonathan J Buonocore et al 2021 Environ. Res. Lett. 16 054030, A decade of the U.S. energy mix transitioning away from coal: historical reconstruction of the reductions in the public health burden of energy. Illustrated by RMI at <https://rmi.org/uncovering-the-deadly-toll-of-air-pollution-from-buildings/>.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id. at 20.

<sup>25</sup> Id.

<sup>26</sup> Id.

distribution systems to meet anticipated increases in electric demand throughout the state.<sup>27</sup> Integrated planning will ensure the transition is equitable and cost-effective for consumers without compromising reliability, safety, energy affordability, and resiliency.<sup>28</sup>

The Commission, through its Gas Planning Order<sup>29</sup> and Order on Implementation of the Climate Act in Case 22-M-0149 (Climate Act Implementation Order),<sup>30</sup> initiated the integrated planning processes necessary to develop a well-planned and strategic downsizing of the gas system. It is critical that we begin planning and implementing the transition process now because the more gas infrastructure we build or replace today, the more expensive it will be to transition the gas system to be right-sized for achieving the Climate Act's climate justice and emission reduction mandates, and the greater the potential for customers, utilities, and/or taxpayers to be saddled with the expense of stranded assets that will not be in use after 2050.

Importantly, the Scoping Plan provides strategic direction with respect to leak prone pipe. It recommends that State agencies prioritize repair or replacement of LPP to reduce emissions and identify strategic opportunities to retire existing pipelines, in addition to prioritizing measures to ensure safety.<sup>31</sup> It also identifies that actions to reduce methane leakage from gas pipelines can be costly and that expending funds to reduce methane emissions from pipelines may not be justified in cases where the infrastructure could be decommissioned within the next several years.<sup>32</sup> In these instances, consideration should be given to using those funds to speed the transition away from gas and the strategic decommissioning of these smaller branch pipelines that serve individual

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<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Case 20-G-0131, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Order Adopting Gas System Planning Process (May 12, 2022).

<sup>30</sup> Case 22-M-0149, *In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, Order on Implementation of The Climate Leadership and Community Protection Act (May 12, 2022).

<sup>31</sup> Scoping Plan at 358.

<sup>32</sup> Id.



streets and neighborhoods.<sup>33</sup> The Scoping Plan also highlights that a significant part of the emissions from our use of fossil gas occur outside of the state, and that these out-of-state emissions also count as statewide GHG emissions under the Climate Act, which makes reducing the use of piped gas critically important.

### **3. The Joint Proposal would result in dramatic rate increases driven by excessive levels of new capital investment in traditional fossil gas infrastructure**

The Joint Proposal proposes a three-year rate plan for KEDNY and KEDLI for the term beginning April 1, 2024, and ending March 31, 2027. Rate Year (“RY”) 1 is April 1, 2024, through March 31, 2025; RY2 is April 1, 2025, through March 31, 2026; and RY3 is April 1, 2026, through March 31, 2027. As Commission action regarding the Joint Proposal will occur after the start of RY1, the Joint Proposal proposes a “make whole” provision to permit the Company to recover the revenue shortfall resulting from the extension of the suspension period compared to if rates had gone into effect on April 1, 2024.

The Joint Proposal sets forth overall annual revenue requirement increases, as follows:

<b>KEDNY w/ Gross Receipts Taxes (\$M)</b>			
	Revenue Requirement Increase	Delivery Revenue Percent Increase	Total Revenue Percent Increase
RY1	\$444.0M	30.7%	15.9%
RY2	\$172.1M	8.9%	6.9%
RY3	\$132.0M	6.2%	5.3%

<b>KEDLI w/ Gross Receipts Taxes (\$M)</b>			
	Revenue Requirement Increase	Delivery Revenue Percent Increase	Total Revenue Percent Increase
RY1	\$246.5M	26.8%	13.4%
RY2	\$116.5M	9.8%	7.3%
RY3	\$75.7M	5.7%	4.7%

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<sup>33</sup> Id.

To mitigate rate shock in RY1 and rate volatility to customers over the term of the rate plan, the rate increases would be implemented on a levelized percentage basis (an annual total bill increase of 10.5 percent for KEDNY and 9.4 percent for KEDLI).

**a. Proactively replacing 531 miles of functioning pipe during the rate plan is not necessary for safety or reliability**

Among the most significant drivers of these rate increases is the cost of proactively replacing old gas distribution mains and services (pipe) with brand new ones. The Joint Proposal requires National Grid to remove LPP consistent with the following targets:<sup>34</sup>

**Minimum Removal Targets (Miles)**

<b>Minimum Removal Targets</b>	<b>Calendar Year 2024</b>	<b>Calendar Year 2025</b>	<b>Calendar Year 2026</b>	<b>Cumulative (CY 24 - CY26)</b>
<b>KEDNY</b>	40	46	51	152
<b>KEDLY</b>	114	121	129	379
<b>Total</b>	154	167	180	531

If National Grid does not meet the minimum removal targets of miles of LPP in CY2024, CY2025, or CY2026, or the cumulative three-year totals of miles of LPP, they will each incur a negative revenue adjustment of 15 basis points.<sup>35</sup> These very significant negative revenue adjustments are intended to provide a significant financial disincentive for falling short of the target levels.

NRDC recognizes the paramount importance of safe and reliable service by National Grid, and we agree that the Companies should replace those pipes that are necessary to address imminent safety and reliability risk posed by actively leaking pipe; however, the Company does not need to

<sup>34</sup> Joint Proposal Section 10.1.1.

<sup>35</sup> Id.

proactively replace all 531 miles of functioning pipe over the three-year rate plan to maintain safety or reliability.

A critical distinction exists between actively leaking pipe and functioning pipe made of materials that are considered leak prone. Actively leaking pipe represents an imminent safety and reliability risk that the Company should address as quickly as possible. The Joint Proposal contains a host of provisions that ensure actively leaking pipe will be repaired as quickly as possible. For example, the Joint Proposal provides for supplemental leak surveys in which the Companies will annually survey their LPP segments using advanced leak detection technology (or other new Commission-approved leak detection technology) and is required to expeditiously address any findings of leaks emitting 10 standard cubic feet per hour or more or equivalent.<sup>36</sup> The Companies will also implement a Connected Remote Methane Detection (“RMD”) Pilot Program to install RMD devices that use cellular technology to provide data back to the Companies when leaks are detected. Moreover, the Joint Proposal continues and updates existing gas safety performance metrics associated with leak management, damage prevention, emergency response, and gas safety regulations performance, including establishing more stringent thresholds and clarified exceptions that pertain to the potential negative revenue adjustments (NRAs) of 150 basis points as well as opportunities for some positive revenue adjustments (PRAs) for each Company. This combination of positive and negative financial incentives will help ensure the Companies respond in a timely manner to active leaks that represent imminent safety and reliability risk.

In contrast, functioning pipe made of materials that are considered leak prone does not represent an imminent safety and reliability risk. As the Scoping Plan emphasized, we need a well-planned and strategic downsizing of the gas system. Moreover, reducing methane emissions from

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<sup>36</sup> Joint Proposal at 5.5.

proactive replacement of functional pipe is not cost justified,<sup>37</sup> especially if the infrastructure could be decommissioned within the next several years and because out-of-state emissions also count as statewide GHG emissions under the Climate Act, which makes reducing the use of piped gas critically important.

Indeed, LPP retirement is the best, most cost-effective opportunity to downsize the system because it is old pipe that has been nearly, if not fully, paid off by customers. However, as soon as the pipe is replaced, not only is the opportunity to cost-effectively downsize the section of pipe squandered, but also the ability to affordably downsize the system in the future is made materially harder due to the mind-boggling cost of LPP replacement.

Replacing 531 miles of functioning pipe during the rate plan is both unnecessary and imprudent. While NRDC understands and agrees that the LPP on the gas system must be addressed, the priority should be to target the actively leaking pipe through vigorous leak detection strategies like those included in the rate plan and to defer proactively replacing functioning pipe that happens to be made of leak prone materials unless that pipe is classified as the highest risk (Tier 1) inventory or it is absolutely clear that a section of LPP is one that is highly likely to remain used and useful until at least 2050.

Importantly, without a transparent long-term gas system planning process, there is insufficient information to determine which segments of LPP are prime candidates for electrification of end uses by customers being served by that pipe and retirement to downsize the system, and which segments should be maintained in a rightsized gas system that aligns with the Climate Act's targets. National Grid must develop and implement a methodology vetted by stakeholders, Staff, and the Commission to thoroughly analyze its entire gas distribution

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<sup>37</sup> Synapse Testimony at 45:6-13 (*referencing* Direct Testimony of Alice Napoleon and Asa Hopkins, PhD on Behalf of Natural Resources Defense Council. May 20, 2022. Case 22-E-0064 and 22-G-0065.).

infrastructure, with a specific focus on the remaining LPP inventory. This analysis should identify and rank zones where electrification would be more beneficial, economic, and feasible than further investments in traditional gas infrastructure. Until such comprehensive planning is completed, the Commission, DPS Staff, and stakeholders are left to blindly rely on National Grid's assertions that it is conducting LPP replacement prudently and in a manner consistent with Climate Act targets. Accordingly, it is crucial that National Grid defers the removal of as much of the LPP backlog as possible until after this essential analysis and planning is conducted. This strategic tempering of the proactive replacement of functional pipe will ensure that future decisions regarding LPP are made in a manner that is both cost-effective and aligned with broader environmental goals.

**b. The Joint Proposal's NPA provisions do not mitigate concerns over excessive and imprudent investments in proactive LPP replacement jeopardizing an equitable, affordable, and orderly transition of the gas system**

While the Joint Proposal includes some potentially beneficial enhancements to National Grid's current approach to NPAs—necessary to improve the underwhelming efforts previously demonstrated by the Companies pursuant to the "Commitment to Non-Pipe Alternatives" in Section 5.1 of the last approved Joint Proposal—these adjustments are still not sufficient to ensure that NPAs are positioned for success.

First, the language in the Joint Proposal concerning NPAs includes numerous qualifications that substantially weaken the "Commitment to Non-Pipe Alternatives" by granting excessive discretion to the Company, which could inhibit accountability. For example, the provisions allow National Grid to continue using overly restrictive screening criteria for NPA eligibility that was used to disqualify approximately 95% of the capital projects evaluated.<sup>38</sup> Specifically, National

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<sup>38</sup> See Proceeding on Motion of the Commission in Regard to Gas Planning Procedures, Case 20-G-0131, Supplemental Comment of Environmental Defense Fund on Proposed Non-Pipes Alternative Criteria at 22 (Mar. 11,

Grid assessed 183 capital projects to ascertain their eligibility for non-pipeline alternatives and disqualified all but nine projects. Of these, National Grid ultimately selected five supply-side NPAs for implementation—comprising four biomethane injection sites and one hydrogen blending pilot project and did not propose any demand-side NPAs.<sup>39</sup>

Second, the Joint Proposal limits the number and types of NPAs that National Grid must pursue, potentially restricting the scope of alternatives that should be prudently considered. For example, Section 7.1.1 specifies “The Companies will annually identify at least five segments of LPP in each of the Companies’ service territories that could be abandoned if all customers’ natural gas loads were met with NPAs that would allow the section of LPP to be abandoned.” This could be interpreted as weakening the broader directives set by the Commission in the Gas Planning Order to more comprehensively evaluate alternatives to traditional gas system investments. National Grid should screen all proactive LPP replacement projects that are feasible given NPA implementation timelines. The qualifications provided allow for undue discretion on the part of National Grid, diluting the intent to transition away from fossil fuel dependence.

Third, the Joint Proposal provides for an unreasonably long timeline for the Companies’ LPP NPA program. Specifically, it requires a five-year cycle for a pre-determined number of LPP clusters (i.e., only five segments) that would not even begin until Rate Year Two. This means that National Grid would not initiate contact with those customer groups connected to identified gas main earmarked for NPA conversion in that cycle until sometime after April 2026 for NPA that would take place in the 2028-2030 range. Accordingly, the Joint Proposal effectively ensures that

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2024); M. Sullivan et al., Non-Pipeline Alternatives: Meeting Energy Demand Responsibly, EDF (Feb. 2024), [https://www.edf.org/sites/default/files/2024-02/Non-Pipeline-Alternatives-Report\\_EDF\\_Feb2024.pdf](https://www.edf.org/sites/default/files/2024-02/Non-Pipeline-Alternatives-Report_EDF_Feb2024.pdf); 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 & KeySpan Gas East Corp. d/b/a National Grid for Gas Service, Cases 23-G-0225 & 23-G-0226, National Grid (KEDLI) Direct GIOP Testimony, at Exhibit 5 (Apr. 28, 2023), National Grid (KEDNY) Direct GIOP Testimony, at Exhibit 5 (Apr. 28, 2023).

<sup>39</sup> Id.

National Grid will have to replace several hundred more miles of LPP in its next rate plan before a single proactive LPP replacement is avoided under an optimistic timeline.

An equitable, affordable, and orderly transition of the gas system is highly dependent on timely Commission action to standardize and flesh out the NPA framework for National Grid and all other gas utilities. This should be done expeditious and in a transparent manner with robust public input rather than in a confidential settlement process in which the primary objective is to resolve the plethora of issues raised by the Companies' request to increase rates.

#### **4. Existing customers should not subsidize “biomethane” supply interconnections**

The Joint Proposal would authorize National Grid to defer for future recovery from customers the revenue requirement impacts (pre-tax return on investment and depreciation expense) associated with the projected capital costs (up to \$13.195 million for KEDNY and \$9.868 million for KEDLI—over \$23 million in total ratepayer funded subsidies) for new interconnections with biomethane production facilities without any identification of specific benefits to customers to justify these costs.<sup>40</sup> In doing so, the Joint Proposal is seeking to authorize a ratepayer-funded subsidy of the interconnection costs for the developer of the biomethane production facilities (i.e., existing gas customers—rather than the developer—would be responsible for the cost of any gas system extensions and enhancements necessary to safely and reliably interconnect the facilities). Authorizing over \$23 million in ratepayer funded subsidies without identifying specific benefits from the interconnection of new gas supply to existing customers is unjust and unreasonable.

Of note, the Joint Proposal requires National Grid to file a report with the Commission at least 90 days prior to proceeding with the construction of an interconnection between the Companies' distribution systems and a biomethane production facility containing critical

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<sup>40</sup> Joint Proposal at Section 7.8.

information about the interconnection project, which is necessary to determine if any benefit to existing customers would result from the interconnection;<sup>41</sup> however, none of this information would actually be used to evaluate whether the project is in the public interest and should be approved because the Joint Proposal authorizes construction and deferral for costs for later recovery from ratepayers before any of the information about the project is filed with the Commission or any benefit-cost analysis is performed.

Also of note, the Joint Proposal requires that National Grid, if it decides to purchase the “biomethane” supply from the interconnecting biomethane facilities, to not pay any price premium for that supply (i.e., “The prices paid should be no greater than prices of other [fossil] gas supplies purchased at the Companies’ city gates.”).<sup>42</sup> This supply price, however, would not include the price premium that is the customer-funded subsidy of up to \$13.195 million for KEDNY and \$9.868 million for KEDLI for the interconnection costs because the Joint Proposal authorizes National Grid to defer (and eventually rate base) these costs for future recovery from ratepayers.

Requiring customers to subsidize these interconnection costs rather than requiring the developer of the biomethane production facilities to pay them and recoup their costs through their supply contracts is bad policy. It violates the principle of cost causation, which dictates that costs should be allocated to those who cause them or directly benefit from them. In this case, biomethane developers are the primary beneficiaries, as they gain essential access to markets and infrastructure that enables them to sell their product.

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<sup>41</sup> Id. (“(i) a cost estimate for the interconnection project; (ii) a summary of the benefits to the reliability of the gas system in the vicinity of the interconnection project and in the Company’s service territory in general; (iii) a detailed description of the source materials that will be used at the interconnected facility to produce the biomethane; and (iv) a detailed accounting of the upstream GHG emissions avoided by the biomethane that the Companies’ will procure as a result of the interconnection.”).

<sup>42</sup> Id.



Indeed, requiring biomethane developers to bear the interconnection costs aligns with the approach used in the electric power sector, where the costs associated with connecting new resources to the grid, such as renewable energy facilities, are typically covered by the developers.<sup>43</sup> This approach is strategically designed to incentivize private investment while also protecting consumers from risk. Following this approach for gas interconnections not only promotes fairness and equitable cost distribution but would also align with the broader goals of energy justice and affordability by preventing undue financial burdens on residential and small business customers who may not directly benefit from the injected biomethane. It also encourages more rigorous economic viability assessments and responsible project development, leading to a more sustainable and economically sound expansion of biomethane facilities while enhancing cost transparency, allowing for true cost competition among different energy sources, thereby enabling consumers and policymakers to make informed decisions based on the actual costs of various energy options. To align with established practices in other energy sectors and uphold the principles of equitable cost allocation, it is essential that these interconnection costs be shifted to the developers.

Of note, biomethane is not inherently an environmental solution due to the harmful environmental impacts associated with certain feedstock sources and leakage rates;<sup>44</sup> nevertheless, the Joint Proposal would functionally ensure that the National Grid customers who subsidize the biomethane supply interconnections do not receive any environmental benefits for doing so. Specifically, the Joint Proposal not only fails to provide for the Companies to retain or purchase for the benefit of its customers any environmental attribute credits produced in association with

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<sup>43</sup> See New York State Standardized Interconnection Requirements and Application Process For New Distributed Generators and/or Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems (Effective: February 1, 2024) available at <https://dps.ny.gov/system/files/documents/2024/02/sir-effective-february-1-2024.pdf>.

<sup>44</sup> Merrian Borgeson, *A Pipe Dream or Climate Solution? The Opportunities and Limits for Biogas and Synthetic Gas to Replace Fossil Gas*, NRDC, 3, (June 2020), <https://www.nrdc.org/sites/default/files/pipe-dream-climate-solution-bio-synthetic-gas-ib.pdf>.

the biomethane entering the Companies' distribution systems via the interconnections, but it effectively prohibits them from doing so by preventing the Companies from paying a price premium for the purchase of gas supply from the interconnected biomethane facilities given the high cost of biomethane production.

Instead, the Joint Proposal requires National Grid to “engage with the project developers to discuss options for the developers to monetize and sell credits for the environmental attributes associated with the biomethane projects that are (1) voluntary (e.g., not credits that are registered for regulatory compliance with U.S. EPA Renewable Fuel Standard or California LCFS), and (2) sold to an entity located in New York State.”<sup>45</sup> Critically, the requirement here is to “engage with the project developers to discuss options” as opposed to successfully monetize the attributes with a voluntary purchaser that is an entity located in New York State. Therefore, the Joint Proposal does not protect against the project developers monetizing the attributes by selling to out-of-state entities complying with U.S. EPA Renewable Fuel Standard or California LCFS in a manner that would prevent New York from claiming any emissions reduction from the biomethane facility despite New Yorkers subsidizing up to \$23 million of interconnection costs.

The Commission should reject customer-funded capital expenses for biomethane supply interconnection facilities (\$13.195 million for KEDNY and \$9.868 million for KEDLI) and require all interconnection costs to be recovered from the interconnecting biomethane supplier.

## **5. Conclusion**

In keeping with New York's climate vision, the Commission should reject the Joint Proposal. Specifically, the Commission should direct National Grid to (1) dramatically reduce the minimum LPP removal targets and to focus on only the highest risk (Tier 1) inventory for proactive

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<sup>45</sup> Id.

replacement; (2) reject customer-funded capital expenses for biomethane supply interconnection facilities (\$13.195 million for KEDNY and \$9.868 million for KEDLI) and require all interconnection costs to be recovered from the interconnecting biomethane supplier; (3) direct National Grid, as part of its upcoming long-term gas system planning process, to develop a transparent methodology for and to conduct an analysis of its entire gas distribution infrastructure—with a particular focus on the LPP inventory—to identify zones where electrification could be more beneficial and feasible than additional investments in traditional gas infrastructure, and (4) take expeditious actions to develop and standardize the NPA framework for National Grid and all other gas utilities, ensuring it is comprehensive and clearly defined.

Dated: May 1, 2024

Respectfully submitted,

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