

Public Service Commission - Evidentiary Hearing
October 26, 2016

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2 STATE OF NEW YORK
3 DEPARTMENT OF PUBLIC SERVICE

4 -----X
5 CASE No. 16-G-0058 - Proceeding on Motion of
6 the Commission as to the Rates, Charges, Rules
7 and Regulations of KeySpan Gas East Corp. d/b/a
8 Brooklyn Union of L.I. for Gas Service

9 CASE No. 16-G-0059 - Proceeding on Motion of
10 the Commission as to the Rates, Charges, Rules
11 and Regulations of The Brooklyn Union Gas Company
12 d/b/a National Grid NY for Gas Service

13 CASE No. 14-G-0091 - In the Matter of the Acts
14 and Practices of The Brooklyn Union Gas Company
15 d/b/a National Grid Regarding Billing of Each
16 Company's SC No. 2 Customers from March 2008 to
17 March 2014

18 CASE No. 14-G-0503 - Petition for Approval,
19 Pursuant to Public Service Law, Section 113(2),
20 of a Proposed Allocation of Certain Tax Refunds
21 between KeySpan Gas East Corp. d/b/a National
22 Grid and Ratepayers

23 CASE No. 13-G-0498 - Petition for Approval,
24 Pursuant to Public Service Law, Section 113(2),
25 of a Proposed Allocation of Certain Tax Refunds
between KeySpan Gas East Corp. d/b/a National
Grid and Ratepayers

CASE No. 12-G-0544 - In the Matter of the
Commission's 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 No. 11-G-0601 - Petition for Approval,
Pursuant to Public Service Law, Section 113(2),
of a Proposed Allocation of Certain Tax Refunds
between KeySpan Gas East Corp. d/b/a National
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(Continued on next page)

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2 90 Church Street
3 New York, New York 10007

4 Octoober 26, 2016
5 10:30 a.m.

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8 PRESIDING:

9 DAVID R. VAN ORT, ESQ.
10 Administrative Law Judge

11 JAMES COSTELLO, ESQ.
12 Administrative Law Judge

13 COMMISSIONER GREGG C. SAYRE
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3

2 A P P E A R A N C E S:
(in alphabetic order)

3

4 ADAM CONWAY - New York City

5 PHILLIP DECICCO - The Brooklyn Union Gas Company d/b/a
6 National Grid NY & KeySpan Gas East Corporation d/b/a
National Grid

7 JOHN J. DOWLING, P.E. - Consumer Power Advocates

8 NICHOLAS FORST - NYS Department of Public Service

9 BRANDON F. GOODRICH - NYS Department of Public Service

10 STEVEN J. KRAMER - NYS Department of Public Service

11 KENNETH MALONEY - The Brooklyn Union Gas Company d/b/a
12 National Grid NY & KeySpan Gas East Corporation d/b/a
National Grid

13 CATHERINE NESSER - The Brooklyn Union Gas Company d/b/a
14 National Grid NY & KeySpan Gas East Corporation d/b/a
National Grid

15 PATRIC O'BRIEN - The Brooklyn Union Gas Company d/b/a
16 National Grid NY & KeySpan Gas East Corporation d/b/a
National Grid

17 KONSTANTIN PODOLNY - Long Island Power Authority

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ALJ VAN ORT: Good morning. My name is David Van Ort; I'm the Administrative Law Judge with the Department of Public Service. I'm here for the hearing with my co-judge, James Costello, and we are joined this morning by Commissioner Sayre, who was gracious enough to participate this morning because we didn't have a commissioner at the KEDNY Public Statement Hearing so, obviously, we've had to fill that and Commissioner Sayre has been gracious enough to backstop us.

We're here on several cases related to the joint proposal, which was filed on September 7th. I'll give the case numbers. They are 16-G-0058, 16-G-0059, 14-G-0091, 14-G-0503, 13-G-0498, 12-G-0544 and 11-G-0601. We're here, as I indicated, pursuant to a Notice of Evidentiary Hearing that was issued on September 27, 2016. I believe I provided the reporter with a copy of the notice. I'm going to ask that she use that notice and copy the case titles into the transcript when she prepares the transcript so I don't need to spend the next twenty minutes reading off the

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case titles.

The process that we had discussed here, as the parties recall, we had a teleconference on October 13th and we discussed the process for these hearings in which the companies and panels would put up panels to address any questions with respect to the joint proposal. Obviously, at that time, I indicated to the parties that they could sponsor witnesses in addition, if they had witnesses, to address issues regarding the joint proposal. My understanding -- and, parties, correct me if I'm wrong today -- at that time, the parties indicated that there was no anticipated cross-examination of the companies or the staff panels.

Judge Costello and I have some questions in following up on questions that we had issued, some of them that haven't been issued because we issued them only recently, other questions that have been recently issued but we still have some clarification that we're looking for. At that time, if we take a break and if the parties feel they need to ask

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questions of the witness for clarification, we can take it at that time.

Before we begin, I was going to ask Commissioner Sayre if he wished to make any statements.

COMM. SAYRE: Good morning. It's a delight to be here, especially after one of the prettiest train rides in the country down from Albany this morning. I'm much more used to being on the other side of the bench with you all, but it's a good idea, as well as a statutory duty, to take a look at what's going on in a case every now and then and see how it's cooking.

I look forward to today's proceedings and I look forward to getting the recommendation of the administrative law judges when the case comes up to the Commission.

ALJ VAN ORT: Why don't we begin by having exhibits, the additional exhibits, marked for the record here. Our preliminary exhibit list, which is in the document manager system, currently shows the last number is 506, and that was the joint proposal that was filed.

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Since that point in time, we have received statements in support and statements in opposition and a statements that neither supports nor opposes the joint proposal, and we are going to mark those exhibits.

Mr. Goodrich, you look kind of perplexed here. Is there something you wanted to say?

MR. GOODRICH: Your Honors, would you like to take appearances first?

ALJ VAN ORT: Oh. Thank you very much. First, why don't we begin with staff noting your appearances for the record.

MR. GOODRICH: Brandon Goodrich, staff counsel.

MR. FORST: Nick Forst, staff counsel.

MR. KRAMER: Steve Kramer, staff counsel.

ALJ VAN ORT: Who do you have with you?

MR. FORST: On staff's panel in support of the joint proposal we have Luke Quackenbush, Leonard Silverstein, Aric Rider

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and Pat Piscitelli.

ALJ VAN ORT: Thank you.

For the company?

MR. O'BRIEN: For the company, Patric
O'Brien, Catherine Nesser, Phillip DeCicco,
Kenneth Maloney; our witnesses, James Molloy,
Pamela Dise Echenique. At the table here is
Pamela Viapiano and in back we have Kathryn
Granger, Chuck Willard and Kristin Hess.

ALJ VAN ORT: Thank you.

For New York City?

MR. CONWAY: Adam Conway, from the
law firm of Couch White.

ALJ VAN ORT: To your right?

MR. PODOLNY: For the Long Island
Power Authority, the firm of Read and Laniado
by Konstantin Podolny.

ALJ VAN ORT: Mr. Dowling?

MR. DOWLING: For Consumer Power
Advocates, John Dowling.

ALJ VAN ORT: Do we have anyone else
in the audience that hasn't been identified
yet?

(No response.)

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ALJ VAN ORT: Thank you,

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Mr. Goodrich.

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So if we move on to the marking of

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the statements in support and opposition, I see

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right now Consumer Power Advocates filed a

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statement in support, Environmental Defense

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Fund, Estates New York, Great Eastern Energy,

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National Grid, New York City, Spring Creek

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Towers and staff. Did I miss anyone from that

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list?

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(No response.)

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ALJ VAN ORT: What we'll do is we'll

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take the company's first and we will identify

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that as Exhibit 507. The next one we'll mark

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as 508, New York City as 509, CPA as 510,

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Environmental Defense Fund as Exhibit 511,

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Exhibit 512 will be Estates New York,

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Exhibit 513 will be Great Eastern Energy,

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Exhibit 514 will be Spring Creek Towers

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statement.

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Are there any that I missed, anyone

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notice?

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(Whereupon, Exhibits 507 through

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514 are marked for identification, as

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of this date.)

(No response.)

ALJ VAN ORT: Moving on to the statements in opposition, I see that we have four statements which were filed, one by Potomac Economics, one by PULP, one by URAC and one by the Town of Brookhaven; is that correct? Does anyone have anything in addition to that?

(No response.)

ALJ VAN ORT: We will mark Potomac Economic's statement in opposition as Exhibit 515, the Public Utility Law Project's exhibit as 516, URAC's statement as Exhibit 517 and the Town of Brookhaven's as Exhibit 518. Obviously, with respect to these, at this point, I'm just marking them for identification.

(Whereupon, Exhibits 515 through 518 are marked for identification, as of this date.)

ALJ VAN ORT: Now, with respect to reply statements, I show that we received one from Department of Public Service staff, one from the company, one from New York City and

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one from PULP. Are there any in addition to that?

(No response.)

ALJ VAN ORT: I'm getting a lot of blank stares, which is really concerning me.

We will mark the Department of Public Service reply statement as Exhibit 519, KEDLI and KEDNY's reply statement as 520.

I should point out to the reporter, when I'm referring to KEDLI and KEDNY, the companies, they're one in the same. I apologize for not mentioning that to you earlier.

New York City's reply statement will be Exhibit 521 and PULP's reply statement will be Exhibit 522.

(Whereupon, Exhibits 519 through 522 are marked for identification, as of this date.)

MR. FORST: Your Honors, you had submitted a statement either in support or opposition, has that been added to the exhibit list?

ALJ VAN ORT: They're the first one I

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had mentioned.

I did not mention them. Mr. Forst,
thank you very much.

MR. FORST: You're welcome.

ALJ VAN ORT: We will mark that as
Exhibit 523.

(Whereupon, Exhibit 523 is
marked for identification, as of this
date.)

ALJ VAN ORT: Now, moving on to the
questions that we have asked. As of this
morning, I believe, we have responses to all
questions with the exception of set four; is
that correct?

MR. O'BRIEN: That is correct, your
Honor.

ALJ VAN ORT: Okay. What we will do
is we'll mark as Exhibit 524, the questions,
the ALJ questions, we'll mark those as one
exhibit and the responses that we have received
we will mark as Exhibit 525.

Are the parties planning to respond
to the last three or do we have a preference to
address them this morning?

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(Whereupon, Exhibits 524 through 525, are marked for identification, as of this date.)

MR. O'BRIEN: From the company's perspective, we can answer them today.

ALJ VAN ORT: Then Exhibit 525 is going to contain the parties' responses to ALJ 1 through 33. To the extent that we need to reference those, we will obviously just reference it as the exhibit number and then the question number. In addition to that, questions 34 through 36 will be addressed on the record today.

Now, it's my understanding that we have a few corrections that need to be made to either, is it appendices that you mentioned, Mr. O'Brien?

MR. O'BRIEN: The company has three corrections to make to certain appendices to the joint proposal. We circulated the corrections over the weekend indicating that we'd like to discuss them today at the hearing; we have received no objection.

ALJ VAN ORT: Do you have a hard copy

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of those with you?

MR. O'BRIEN: I do. I could pass it up.

ALJ VAN ORT: Yes, please.

MR. O'BRIEN: With your Honor's permission, I think it makes sense -- there's three of them, so if you could mark that as 526, 527, 528. So I would propose to mark as 526, Appendix 1, Schedule 3 to the joint proposal; 527 would be Appendix 3 and 4, Schedules 10, 528 would be Appendix 4, Schedules 4.1 to 4.3.

ALJ VAN ORT: Any objections?

MR. FORST: No objections, your Honor.

ALJ VAN ORT: Thank you.

Mr. O'Brien, can you take a moment and identify what the significant changes or what the changes are in each one of these.

MR. O'BRIEN: Sure. I can do it or we can have the witnesses do it.

ALJ VAN ORT: If you can just do it at first.

MR. O'BRIEN: So Appendix 3, Schedule

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3 is a KEDNY-only schedule and the correction is to page 2 of 3, it's a three-page document. It just corrects calculation of the rate year for regulatory liability.

ALJ VAN ORT: From what to what?

MR. O'BRIEN: There was a cell error in the original exhibit. It was copied over incorrectly. James, do you have?

MR. MOLLOY: It changes from 92.286 million to --

ALJ VAN ORT: Why don't we have the witnesses be sworn in.

WHEREUPON,

PAMELA DICE ECHENIQUE and JAMES MOLLOY,
having been first duly sworn by
ALJ Van Ort, are examined
and testify as follows:

MS. ECHENIQUE: Yes, I do.

MR. MOLLOY: Yes, I do.

WHEREUPON,

PATRICK PISCITELLI, LUKE QUACKENBUSH, ARIC RIDER AND
LEONARD SILVERSTEIN,
having been first duly sworn by
ALJ Van Ort, are examined

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and testify as follows:

MR. PISCITELLI: Yes, I do.

MR. QUACKENBUSH: Yes, I do.

MR. RIDER: Yes, I do.

MR. SILVERSTEIN: Yes, I do.

ALJ VAN ORT: Now would you go ahead,
sir.

MR. MOLLOY: The difference in
regulatory liability is moved from
92.286 million to 54.021 million.

ALJ VAN ORT: Give me the first
number again.

MR. MOLLOY: 92.286.

And to expand upon Patric's
explanation, on the levelized line, which is
the first line, we were meant to add in a
number we added in the second line, and so when
we changed the two numbers around --

ALJ VAN ORT: Are you on the same
page, you're referring specifically to numbers
on that page?

MR. MOLLOY: Yes. Actually, four
numbers changed on that page. I gave you the
fourth number. It's simply a -- looking at

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2 what the levelized rate increase was compared
3 to the revenue requirement, we figured out the
4 difference and we divided it in half. When we
5 calculated the levelized rate increase, we
6 should have included an adjustment for the SIR.
7 We didn't include it there, we included it in
8 the second line for the revenue requirement
9 instead, and this is just correcting it there.

10 ALJ VAN ORT: Did you have anything
11 else with respect to that exhibit?

12 MR. MOLLOY: No, sir.

13 ALJ VAN ORT: Would you prefer that
14 your witness explain it also?

15 MR. O'BRIEN: Ms. Dise Echenique, can
16 you explain the corrections to Schedules 10
17 through Appendix 3 and 4.

18 MS. ECHENIQUE: Yes. So the
19 corrections on Appendix 3 and Appendix 4,
20 Schedule 10, we inadvertently PDF'd and
21 included in the Document A old file, so it had
22 an increase in customer charge, which was
23 inappropriate, so we went back to what was
24 agreed upon through settlement and what's
25 reflected throughout the rest of the document.

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ALJ VAN ORT: So what are all the numbers changing on that page? And, by the way, I appreciate you putting that in -- what is that -- size one font?

MS. ECHENIQUE: So what changed is, the first year it's just page one of both of those, Appendix 3 and Appendix 4, and what changed is the customer charge and the volume metric, because it was agreed upon to go to an overall discount for these classes, but when we inadvertently increased -- showed the PDF that had an increased customer charge, the volume rates were too volume metric. So I can specifically tell you what they changed to and from.

ALJ VAN ORT: Yes, if you wish. Give us the page as you're doing that, if you would.

MS. ECHENIQUE: Sure. I'm on Appendix 3, Schedule 10.

MR. O'BRIEN: Of the original draft proposal, 506.

MS. ECHENIQUE: Of the original draft proposal.

And you can see in here that the

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customer charge was \$11.55.

ALJ VAN ORT: The original customer charge was 11.55, is that where you left off?

MS. ECHENIQUE: Yes. So the original filing, Appendix 3, Schedule 10, page 1 of 2, under the column that says, "Monthly Bill," it's 11.55 in the original filing. That would have been an increase to those customers' customer charge. We agreed upon, through settlement, to hold those flat. Unfortunately, we put the the wrong PDF version in the original joint proposal, so this corrects that. All of the billing packs and everything that goes through were correct in the original filing, show the right rates.

Should I move to KEDLI?

ALJ VAN ORT: Yes.

MS. ECHENIQUE: That was for KEDNY. So the same is true for Appendix 4, same schedule, but under KEDLI, and the same issue. So if we go to -- in the original joint proposal, Appendix 4, Schedule 10, page 1 of 2, you'll also see that the customer charge on this under the monthly bill was increased to

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five percent in additional filing when we agreed upon 3.64. Again, all of the billing packs and other exhibits that relate to this in the original proposal were correct.

ALJ VAN ORT: So the numbers for each one of these are moving from which to which? Just so I could have it clear on the record.

MS. ECHENIQUE: I'm sorry, I didn't hear you.

ALJ VAN ORT: The numbers have been moved from what in the original one to what now?

MS. ECHENIQUE: For KEDLI, for KeySpan, Appendix 4, it's moving -- the customer charge goes from \$5 to \$3.64.

The next block is \$0.45 for them. It was 45, so it goes to 49.

And the last block was 0.244 and that remains the same. That's in the winter month, and then that's the block, on the left-hand side, for the winter months and the summer months goes from \$5 to \$3.64.

The next block was correct and the last block was correct.

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MR. O'BRIEN: And then the final correction, could you explain that for Appendix 4, Schedules 4.1 to 4.3 for KEDLI.

MS. ECHENIQUE: So the last correction from Appendix 4, Schedule 4.1, 4.2 and 4.3, if we look at the NGB rates -- so I'm on the correction Appendix 4, Schedule 4.1, page 6 of 8, the nine NGB rates -- the rates should be the same for both sales and transportation.

ALJ VAN ORT: I'm sorry, what did you say? I didn't hear you.

MS. ECHENIQUE: In the correction, I'm on Appendix 4.

ALJ VAN ORT: What line number?

MS. ECHENIQUE: Schedule 4.1, page 6 of 8, the top -- so I'm on line item 199, the block 2 -- the proposed rates should be the same for both sales and transportation; in the original filing they were different rates. There was a cell reference error, so we corrected it in the sales and transportation rates, and that's true of all three years.

ALJ VAN ORT: Anything else?

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MS. ECHENIQUE: No, that's all.

ALJ VAN ORT: Are there any other
corrections that need to be made?

MR. O'BRIEN: That's the only
corrections.

ALJ VAN ORT: All right.

If there's anything else, I think we
can probably move into the questions that we
had. Does anyone have anything to add before
we start with those?

MR. FORST: Your Honors, would you
like to handle the affidavits at this time?

ALJ VAN ORT: I was thinking about
doing it afterwards. You bring up a good
point. We could probably do it now so that --
unfortunately, when we get done with the
questions, we only want to escape. Why don't
we do it now?

So far I see that we received
affidavits from PULP, UIU, the companies and
Estates New York. Has anyone else submitted
affidavits?

(No response.)

MR. DOWLING: Your Honor, I have two

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affidavits to submit today.

ALJ VAN ORT: You do? Mr. Dowling,
if you wish to bring those up. You are going
to distribute those electronically also,
correct?

MR. DOWLING: Excuse, me?

ALJ VAN ORT: You're going to
circulate them electronically also?

MR. DOWLING: I don't have scans of
theses today.

ALJ VAN ORT: You don't have scans of
those.

Your affidavits are from who?

MR. DOWLING: One is from myself and
the other is from Barbara Tillman from Spring
Creek Towers.

ALJ VAN ORT: So you have Spring
Creek towers. Can I just take a look at them
first?

MR. DOWLING: Sure.

ALJ VAN ORT: For those who were not
hearing me, I just mentioned that I want
electronic copies of these so that my secretary
can put them into the DMS system. So what

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Mr. Dowling is going to do is just identify each of the exhibits, one from Spring Creek Towers, as he indicated, and one from CPA.

Mr. Dowling, if you would identify each of those and we will note the exhibit numbers for those and then we will submit them electronically, circulate them to the parties and send them to both of us and we will put them into DMS.

MR. DOWLING: Certainly. First is the affidavit of John Jay Dowling.

ALJ VAN ORT: For Consumer Power Advocates?

MR. DOWLING: Yes.

ALJ VAN ORT: That will be identified as Exhibit 529.

(Whereupon, Exhibit 529 is marked for identification, as of this date.)

MR. DOWLING: And the second is the affidavit of Barbara M. Tillman on behalf of Spring Creek Towers.

ALJ VAN ORT: And that will be Exhibit 530.

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(Whereupon, Exhibit 530 is
marked for identification, as of this
date.)

ALJ VAN ORT: Thank you, Mr. Dowling,
and as I said, please don't forget to send
those or my secretary will hound you.

Anyone else have affidavits?

MR. CONWAY: Your Honor, this is Adam
Conway for New York City. I have affidavits
from our ten witnesses.

ALJ VAN ORT: Same question for you
Mr. Conway, can you circulate those
electronically in addition to submitting the
hard copies?

MR. CONWAY: Yes.

ALJ VAN ORT: Could you identify
those exhibits, who the witnesses are?

MR. CONWAY: Sure. I have Richard A.
Baudino, B-A-U-D-I-N-O, Lane Kollen,
K-O-L-L-E-N, Bradley Horton, Suzanne Desroches,
D-E-S-R-O-C-H-E-S, John H. Lee.

ALJ VAN ORT: Say the name again.

MR. CONWAY: John H. Lee.

Daniel Tietz, T-I-E-T-Z, Marie

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Philip, P-H-I-L-I-P, Sandra Sanchez, David
Berger, B-E-R-G-E-R, and John Gawronski,
G-A-W-R-O-N-S-K-I.

ALJ VAN ORT: Thank you.

MR. CONWAY: Would you like hard
copies?

ALJ VAN ORT: Yes, please.

Why don't we move to the company now?
That will be Exhibit 531, if everyone is
keeping track here.

(Whereupon, Exhibit 531 is
marked for identification, as of this
date.)

MR. PODOLNY: Your Honor, I have an
affidavit here for the Long Island Power
Authority witness as well.

ALJ VAN ORT: Just one affidavit?

MR. PODOLNY: One affidavit for
Richard L. Levitan and Alexander Mattfolk.

ALJ VAN ORT: Do you have that
electronically?

MR. PODOLNY: I do.

ALJ VAN ORT: If yo would bring that
up. We'll mark that Exhibit 532.

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(Whereupon, Exhibit 532 is
marked for identification, as of this
date.)

MR. O'BRIEN: Your Honor, we have
several affidavits. Would you like me to read
through them?

ALJ VAN ORT: If you would.

MR. O'BRIEN: The affidavit of
Kenneth Daly, Elizabeth Arangio, Ann Bulkley,
Keri Sweet Zavaglia, Sean Mongan, Stephen
Caldwell, Laurie Brown, Ross Turrini, Johnny
Johnston, Charles Willard, Paul Normand,
Maureen Heaphy, Robert De Marinis, Susan Fleck,
Annette Saxman, Theodore Poe, Jr., Larry Frye,
David Campbell, Paula Leaverton, Vivienne
Bracken, James Molloy, Stephanie Briggs, David
Doxsee, Dawn Herrity, Howard Gorman, and then
finally, Pamela Dise Echenique.

I have hard copies, your Honor. Can
I approach?

ALJ VAN ORT: Yes, please.

Those will be marked as Exhibit 533.

(Whereupon, Exhibit 533 is
marked for identification, as of this

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date.)

ALJ VAN ORT: Moving on to Estates
New York, we will mark that as Exhibit 534.
Public Utility Law Project we will mark as
Exhibit 535. Utility Intervention Unit
affidavits we will mark as Exhibit 536, and
that takes us, I believe, to staff.

(Whereupon, Exhibit 534 through
536 are marked for identification, as
of this date.)

MR. FORST: Yes, your Honors. We
have 39 of 42 of our originals, and due to some
difficulties, we would ask that you hold open
Exhibit 537 so that we may submit all of those
in its entirety as one exhibit.

ALJ VAN ORT: Are the exhibits --
rather than have you read through all of them,
they track all the pretrial testimony, there's
nothing left out?

MR. FORST: Correct.

ALJ VAN ORT: Okay. Thank you. So
we will reserve Exhibit 537 for staff's
affidavits.

(Whereupon, Exhibit 537 is

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reserved for Staff's affidavits.)

MR. FORST: Thank you, your Honors.

ALJ VAN ORT: Off the record for a
moment.

(Whereupon, a discussion was
held off the record.)

ALJ VAN ORT: We're going to move
into the questions that we have asked, some of
the questions, and we're going to try to go in
order of the questions that we asked.

Obviously, it's going to shuffle a little bit
because some of the questions that we have
asked may have had follow-up questions and we
may have some additional follow-up questions.

I will start with question No. 11,
ALJ-11. That question deals with the financing
arrangement where the proposal is to use
50 percent of National Grid's money pool and
50 percent of the after tax abated cost of
capital rather than 100 percent of the weighted
cost of capital. The question I was looking
for a response to was, if this is a new
process, in past practice did the company use
this methodology or was it something that this

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is different? Witnesses for the company could probably address that and if staff feels the need to follow-up, they can.

MR. MOLLOY: The levelization that we used for KEDNY and KEDLI is different than what we used previously. I don't think we ever used this type of method for KEDNY and KEDLI.

ALJ VAN ORT: What is the potential benefit, if you just give me a little bit more explanation of what the potential benefit is by shifting to this 50/50 weighting.

Let me help you out there, your response indicates that it reduces the carrying charges by approximately 4.8 million for KEDNY and 1.4 million for KEDLI. Now, is that based upon the shift using the --

MR. MOLLOY: Yeah, it's based on the shift using 50/50 versus using the whole pretax wack.

ALJ VAN ORT: Okay, thank you.

Staff, any response? Do you concur with that response?

MR. PISCITELLI: Yes, your Honor, we do.

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ALJ VAN ORT: Thank you.

The next question that I've got is with respect to the ALJ response, and that's the Energy Star report for OM Manager. Just a very simple question: That's a software system, is it not?

MR. MOLLOY: That is correct.

ALJ VAN ORT: Are there any user fees expected to be incurred by KEDNY for that system?

MR. MOLLOY: Not that I know of.

ALJ VAN ORT: I believe this was -- a New York City proposal is where it originated, correct?

MR. MOLLOY: That's my understanding, yes.

ALJ VAN ORT: But there's no fees for this usage of the system that are in this rate plan, correct?

MR. MOLLOY: To the best of my knowledge, yes, there is not.

MR. O'BRIEN: Your Honor, can we just confer with the witness for a second?

ALJ VAN ORT: Yes.

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MR. O'BRIEN: Your Honor, just with respect to that last question, we just have a clarification.

ALJ VAN ORT: Sure.

MR. O'BRIEN: Were you asking if there's a charge to us or if there's a charge, for example, to the City?

ALJ VAN ORT: I was asking if there's a charge to the company.

MR. MOLLOY: There could be a charge to the company to have maintenance of the system going forward.

ALJ VAN ORT: Did anyone explore as part of this discussion whether or not there are going to be charges or there could be charges?

MR. MOLLOY: I think the 750,000 of total costs included that, you know, the software as well as the maintenance of that cost.

ALJ VAN ORT: Oh, it did. Thank you.

The next question I've got is with respect to response to ALJ 21, that is the response discussing the micro-CHP program. I

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guess one of the questions I have is if you could give me a little bit of an explanation as to how this micro-CHP relates to the REV policy and goals. This is one of three programs that were recommended as REV-oriented and I'm having a little bit of difficulty understanding how you're getting to the rev policy.

MR. MOLLOY: Are you asking me, basically, is micro-CHP, you know, how that relates to reforming the energy vision, right?

ALJ VAN ORT: Correct.

MR. O'BRIEN: Could we go off the record for a second?

ALJ VAN ORT: Sure.

(Whereupon, a discussion was held off the record.)

MR. MOLLOY: I believe it has a little bit of two aspects to it that relate to REV, the first is distributed generation and facilitating that and the other side is giving customers choice, and particularly low-income customers choice, of how they get their power

ALJ VAN ORT: Can you tell me how you came to select the low-income customers and

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low-income areas for this program? I'm trying to figure out what's unique about this area.

MR. MOLLOY: Because the low-income customers are underserved in this environment because they don't have the resources to do it themselves.

ALJ VAN ORT: These micro-CHP units, I believe, one of your responses indicated that these are approximately -- the unit cost is about \$40,000, correct?

MR. MOLLOY: Correct.

ALJ VAN ORT: Now, help me understand how they can obtain the financing of it and this is something that would be economically viable for a low-income customer.

MR. MOLLOY: It isn't economically viable, that's why we're doing it in base rates.

ALJ VAN ORT: But I believe the recommendation or the testimony indicated that this would be financed in a sort of lease-back arrangement; is that correct?

MR. O'BRIEN: Can we go off the record, your Honor?

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ALJ VAN ORT: Sure.

(Whereupon, a discussion was held off the record.)

MR. MOLLOY: The company isn't asking the customers to pay for this. We're not asking for the specific low-income customers to pay for this pilot, and I'm trying to find the section, but the description was where we were going to be putting the technology out to see how it works with our system and the low-income customers group was used, because if we were going to test something we would at least have double the benefit by providing it in a service area where they can rely on it.

ALJ VAN ORT: Thank you for that clarification.

Now, what are the benefits to the electric system, again, looking at REV, are expected to be what? What do you envision they might be?

MR. RIDER: Your Honor, they could test the viability of distributed energy resource. For example, if you have a constrained area, if you could deploy CHP units

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in a particular area, you may avoid upgrades to the electric system for a particular area to solve that problem.

ALJ VAN ORT: Is this something that is part of a demand-response session or?

MR. RIDER: It could be, but that's the reason why we're testing it.

ALJ VAN ORT: And looking at the joint proposal -- and the reason why I bring that up is that the joint proposal indicates that the companies and staff would discuss how to assess the impact of penetration in micro-CHP and power pilot in the peak demand, and I assume that the discussion, again, would go to the demand response, maybe. Would you also include things like interruptible service?

MR. RIDER: Yeah. I think we would want to test the peak demand on the electric side and the peak demand on the gas side, depending on when these resources would be deployed.

ALJ VAN ORT: So you're looking at benefits not simply with respect to the electric system, but benefits to the gas

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system, correct?

MR. RIDER: Yes.

ALJ VAN ORT: Do you agree with that,
sir?

MR. MOLLOY: Yes.

ALJ VAN ORT: I have one question
with respect to the flood zone program. The
question I have is: The proposal for the units
that would be installed, is this one unit or is
it a series of units that perform all the work
or receive all the information that you're
expecting? I believe you're proposing to put
in a thousand flood zone protection packages,
500 in KEDLI and 500 in KEDNY service
territories. You indicated that the equipment
would detect flooding, excess methane levels
and provide data that could potentially detect
the use of ovens for distress heating and theft
of services. Is this one unit or is it
multiple units?

MR. MOLLOY: It's multiple units in
each premises.

ALJ VAN ORT: Okay, so one unit
doesn't do all these things?

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MR. MOLLOY: I think one unit does it, but there are going to be whatever, 500.

ALJ VAN ORT: Right. No, I mean, does each unit perform all these functions?

MR. MOLLOY: I think so.

ALJ VAN ORT: Okay.

MR. RIDER: I think I would clarify that the unit may be on the meter, but it may communicate with other devices. So, for example, you may have a residential methane detector in the house and if that residential methane detector detects gas, it may communicate with the meter and shut off the meter to prevent gas flow into the house.

ALJ VAN ORT: So what you're saying is that one unit doesn't do all these things? It's not a stand-alone unit?

MR. RIDER: I think that standalone unit, that technology package, works with other units within the premises, residential methane detector, could be a flood detection unit, to the extent it detects water in the basement, again, it may shut off the meter to prevent gas flow into the house.

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ALJ VAN ORT: I guess one of the things we probably should ask is: Would you expect the deployment of these, if it's successful, to result in a decrease in unit cost?

MR. RIDER: Unit cost of what?

ALJ VAN ORT: For the flood zone protection units.

MR. RIDER: In the future?

ALJ VAN ORT: Yes.

MR. RIDER: To the extent it's successful, anytime the utility purchases materials, equipment, infrastructure, to the extent it could use economies of scale to something to that extent, yes, I would assume there would be savings in the unit cost, but first we need to determine whether this is a viable program or not before we can move forward, and that's really what's going on here in the context of this rate plan.

ALJ VAN ORT: Do you agree with those statements, sir?

MR. MOLLOY: I agree. I think the unit cost might change or might not because of

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volume. I wouldn't say they definitely will;
it is a commodity out there already, but we do
have purchasing power the more we buy.

ALJ VAN ORT: Moving on to the New
York facility system LAUF, the joint proposal
indicates that there would be a positive LAUF,
is that a misnomer? Is there any such thing as
a negative LAUF?

MR. RIDER: There is.

ALJ VAN ORT: There is. Please
explain what that is.

MR. RIDER: Mathematically possible.
There's meter reading error. There's billing
cycles. There's issues that impact the pure in
and out of a system that can result in a
negative number. So a current example is
Niagara Mohawk Power Corporation filed its
annual reconciliation of gas costs and the LAUF
calculation results in a negative number.

ALJ VAN ORT: But it's all based on
error or something like, it's not an actual --
you're not actually gaining gas in the system?

MR. RIDER: You don't have gas
babies, which I've heard from some engineers.

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No, it's not possible, but it does occur.

ALJ VAN ORT: Thank you.

When you read the joint proposal some things stand out and becomes entertaining.

Can you give me a little bit of explanation as to how the process would take place between the three companies? I think your goal is to assess the receivers, and if you could kind of walk me through that, I would appreciate it, what you envision it to be. I realize you don't have an agreement yet.

MR. RIDER: Maybe the thing to do is step through what currently happens.

ALJ VAN ORT: That would be fine.

MR. RIDER: So currently each -- the New York facilities is owned and operated by Con Edison, KeySpan New York and KeySpan Long Island, and each utility measures its LAUF on the system by taking the in and measuring it versus all sales. Per the current agreement, there is no LAUF assessed to each of the operating entities. Staff, in its case, advocated that each of those three companies should be assessed a LAUF factor for

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transporting gas over that system.

ALJ VAN ORT: So what you're saying is to be made whole?

MR. RIDER: Just to recognize the fact that when you transport gas over a system there's some level of losses. To assess zero, I believe, is not really equitable to any of the companies.

ALJ VAN ORT: Are those treated as OM costs?

MR. MOLLOY: Yes.

ALJ VAN ORT: Could you give us a sense as to what the -- looking at past history, if you have some idea as to what could be a potential break to your impact of this assessment?

MS. ECHENIQUE: Are you talking about the assessment of being a LAUF on the New York facilities?

ALJ VAN ORT: Yes.

MS. ECHENIQUE: I don't have that number in front of me. They're still working on the agreement for New York facilities, so until we determine what the percentage we're

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going to out onto it.

ALJ VAN ORT: You have no estimate at all?

MS. ECHENIQUE: I'm sorry, I don't.

ALJ VAN ORT: Moving onto the site investigation and remediation -- I know that's a favorite topic of everyone -- I guess one of the things I'm trying to understand is with the shifting into the base rates, and now we've got this new provision that allows for the additional amount of the 2 percent over the 25 million, I'll use shorthand to refer to that, the amount which exceeds the rate allowance. Just help me out, if I can understand, are we talking now that the amount that would be charged or the exceeding the 25 million, i needs essentially more than \$88 million? I'll tell you the calculations on the back of the envelope, the 45 million rate year forecast plus 18 million deferral balance plus the 25 million increments. Am I understanding correctly or am I off?

MR. MOLLOY: I have 53 base rates, but I might have the wrong year in front of me.

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It changes from year to year.

ALJ VAN ORT: Right.

MR. MOLLOY: But in the first year, the base rate allowance would be 53.8 million plus the amortization of 18.5, for a total of 72.3, that compares to what we're collecting today of \$67.5 million, so it's an increase from where we are today of about \$5 million.

ALJ VAN ORT: So the 25 million increment would be over the 72.3 million, that would trigger it?

MR. MOLLOY: Yes.

ALJ VAN ORT: I think I asked the question, I'm not sure I got the answer to it, but what would be the potential bill impact at the two percent, assuming the average residential customer, the heating customer, what might we be looking at?

MS. ECHENIQUE: We put an illustrative example in one of our IRs that basically pointed to the illustrative example to get to the 31 million, so those bill impacts were presented. The SIR surcharge is allocated to all firm classes based on a therm basis, and

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so to say what the overall impact is you would need to look at each one of the individual classes, but in theory, if we held to the two percent of revenue, you can approximate the maximum bill impact would be about two percent.

ALJ VAN ORT: What would be the dollar impact on these? What schedules are you referring to and what exhibit?

MS. ECHENIQUE: It's ALJ 6. So ALJ 6 basically took the illustrative example we had in the original JP as to how the mechanism was goes to work and showed an illustrative as to how it would be allocated to the classes and how it would roll through. But I preface that by saying it's illustrative because, one, we don't know the revenue allocation until we know the prior year's revenue, and two, I don't know what the 2 percent impact is until we know the revenue, so this was just trying to give you a feel for how it would be allocated to the classes and then how it would be allocated within the rate design through the class.

ALJ VAN ORT: Could you give me a range about what we're talking about, what kind

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of monthly billing impact?

MS. ECHENIQUE: The overall -- because it's held to two percent of total revenue, it would be in the two percent range, but larger use customers would be higher than two percent, lower rate use --

ALJ VAN ORT: As I mentioned, use the two percent range and use the typical residential heating customer. Worst case scenario, that two percent would mean what.

MS. ECHENIQUE: If I'm looking -- in the IR response, if I'm looking at a total bill impact for residential non-heat customer, a typical usage level is around \$117.

ALJ VAN ORT: You're talking about non-heating, I was asking for heating.

MS. ECHENIQUE: I meant heating. If I didn't say it, I'm sorry. So the 2018 total bill is around \$117 on a monthly basis. So it's...

ALJ VAN ORT: \$33.40, is that what you're saying?

MS. ECHENIQUE: Yes.

ALJ VAN ORT: I asked another

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question; I think I may have confused you folks in the process here. My understanding was, as to that collection of the surcharge would take place but you wouldn't start assessing it until year two the first year that could possibly hit?

MR. MOLLOY: Yeah, the second year would be the first possible time it would happen.

ALJ VAN ORT: Okay, thank you.

I'll let Judge Costello pick up at this point and then I'll finish up with the last few that I might have.

ALJ COSTELLO: I just have a follow-up with respect to ALJ No. 23, which refers to KEDNY's CISBOT and CIP pipeline program. It's a very simple question, it's just to clarify for me. Why are the reconditioned pipes -- why do they remain in the leak-prone pipe program? Why aren't they taken out?

MR. RIDER: So this is new technology and staff is concerned that we're not entirely sure whether or how long the lining or the

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repairing of the joints will extend the life of the main, so we want to be able to track those facilities. The way the tracking works is the company lists all of its leak-prone pipe and ranks them and then the replacement program takes the top priority and replaces them. So by leaving it on the list, we're able to track to determine whether there continues to be leaks on those repaired mains and whether they could sort back up to a point in time where they would need to be replaced and it's a way for us to monitor whether those types of improvements are lasting or whether the technology shouldn't be invested in that type of approach any longer.

ALJ COSTELLO: Is there any distinction between what the CISBOT does? From reading, my understanding is it just deals with leaks in the main area, the main.

MR. RIDER: So cast iron, this type of cast iron, is very large and the way that it's constructed is by spigot with a -- it's called jute -- it's like rope material that's packed in -- and over time that jute dries out

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and the joints leak, and this robot goes in and with cameras finds the joint and repairs that jute with an epoxy, that's the cast iron piece.

The lining, that's used for -- it can be used for cast iron, it can also be used for steel main. It's typically used in longer run sections where there's not taps, otherwise you have to go in and cut the taps out. So, you know, instead of going out and ripping out all the pipe, this infrastructure's walls are very thick, so we don't have a problem with necessarily cracking, but it's more of a leaking joint issue and that's the technology we're trying to test here to determine whether it should be employed at a larger scale.

ALJ COSTELLO: Thank you.

ALJ VAN ORT: Moving on to the response to ALJ 27, and I think you hinted at the information I was looking for but I'm not sure and I just wanted to clarify. What that question pointed to, and it was initially raised by Paul, that the Commission's order in November of 2012 in 11-M-00334, indicated that we expect staff, you know, the parties, to

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explore opportunities to allocate a portion of
in excess earnings to SIR cost. You gave me a
great deal of information here, and it's good
information, but the answer I was looking for
was simply did the parties consider allocating
a portion of excess earnings to SIR costs?
Now, in reading between the lines, I'm trying
to understand, but I think your answer is
effectively yes, but if you could just...

MR. GOODRICH: Your Honor, I'm
concerned the way you're asking is for us to
explain our confidential settlement
discussions, and I don't see how we can do
that.

ALJ VAN ORT: No, I'm not asking for
the details of your discussion, I'm asking was
that a consideration.

MR. GOODRICH: That's part of what
would have been a confidential settlement
discussion. I don't understand how we can say
we considered X but discarded it or not in the
discussions.

ALJ VAN ORT: Let me be more pointed,
Mr. Goodrich. The Commission's order was

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fairly specific and the question that I'm asking, at this point, was did you comply with that provision of the Commission's order?

MS. NESSLER: Can we take a moment, your Honor?

ALJ VAN ORT: Sure.

(Whereupon, a discussion was held off the record.)

MR. GOODRICH: Your Honor, yes, it was an issue that we considered.

ALJ VAN ORT: Thank you.

Moving on to the response to ALJ 28, with respect to the Brooklyn Navy Yard, SIR and co-generation revenue, are there any SIR costs, the revenues that were received and applied in the 2012 case, I believe, was that based on Brooklyn Navy Yard contamination?

MR. MOLLOY: No.

ALJ VAN ORT: No.

Explain to me, what were those dollars directed to, it was just general SIR costs.

MR. MOLLOY: Yes.

ALJ VAN ORT: Okay, thank you.

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I have no further questions.

ALJ COSTELLO: Just a follow-up question with respect to ALJ 29, dealing with the property taxes, and it's basically, if you can explain to me how property taxes are driving rate increases with respect to prior rates as opposed to what the rates are now.

MR. MOLLOY: Property taxes are increasing from what we had in the previous rate cases. I don't have the rate allowance from the previous rate case in front of me, but they have definitely increased from that point in time.

ALJ COSTELLO: With respect to the current plan, do you know how much of the -- what portion of the rate increases you can attribute to property tax increases?

MR. MOLLOY: I mean, I would have to compare it to what we previously had as our rate allowance to show what that is, I just don't have that off the top of my head. If I can get back to you, I think I do have it on my computer.

ALJ COSTELLO: Okay, then you can

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follow up with it.

Just a follow-up with respect to ALJ No. 33, dealing with the change in rates, the methodology for setting rates for the TC and IT customers, what impacts does the change in methodology -- what impacts will they have with respect to the bills for those customers? Will there be increases due to the change in the methodology?

MS. ECHENIQUE: Going to the process, there's different components that the TCs and ITs will be changed. The delivery component is tied to the tail block rate and they were otherwise close to the SE2 or the SE3, so that's the lowest rate within the class. We took a look at the demand rates and adjusted the demand rates to recognize their cost on the system. The demand rate is coming down for those customers. So overall as we tried to go through the process, the TC and IT classes as a whole for KEDNY and the TC and IT as a whole for KEDLI will go down.

MR. RIDER: Can I just say it my way?

ALJ VAN ORT: Sure.

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MR. RIDER: I think you have to know a little bit of the history of TC rates to get an appreciation for what we've done going forward. Historically, the company was allowed to price TC customers at up to firm rates, and because of the price of oil, the tech TC customers' alternative, the company was essentially pricing TC customers at firm service rates. But TC service is not the same service as firm service, so TC customers were upset because they would be paying for, essentially, firm service and not being provided firm service. So what staff did in its testimony is it proposed a discount to TC service and so the way I would explain it is, I think TC customers' rates would go up, but when you compare them to firm rates, they will be getting a 20 discount, and that, I think, is more appropriate pricing, signals the value of service that these folks are taking moving forward.

ALJ COSTELLO: Did the shift in the methodology, the percentage discounts, are they equivalent to the percentage discounts that the

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staff recommended under the former methodology and what would occur here under the new methodology?

MR. RIDER: Well, former methodology, they were allowed to price up to firm service rates. So what staff proposed was a 20 percent discount.

ALJ COSTELLO: From firm service?

MR. RIDER: From firm service. It measured in total, not just on the delivery. So what we're recommending through this rate design is an approximate 20 percent discount for these customers. We hope that in the TC collaborative moving forward we could work with all the parties to come up with a new demand response service classification and we would consider what's the appropriate charges for these customers moving forward.

ALJ COSTELLO: Thank you.

MR. O'BRIEN: Your Honor, Mr. Molloy has the information for the property taxes.

ALJ COSTELLO: Okay.

MR. MOLLOY: In the previous JP for KEDLI, the last year of allowance was \$118

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million and the first year of this rate case will be \$139 million, so an increase of \$21 million. Between the first year and the third year of the rate plan, it goes up to \$158 million, so it adds another \$19 million over the period of time.

For KEDNY, the last year of the merged joint proposal was \$145 million. In our first year of this new rate joint proposal is 140, so it's reduced \$5 million, but that would go up \$26 million over the next three years to 166 at the end of the rate plan.

ALJ COSTELLO: Was that reduction due to a reduction in property taxes or is it to reflect some sort of, probably, an adjustment?

MR. MOLLOY: I think it was actually a reduction in the taxes that we received.

ALJ COSTELLO: Thank you.

ALJ VAN ORT: If I can just follow up with the Judge's question on the property taxes, are the property tax increases based on the new plant or based on a change in the assessment?

MR. MOLLOY: Primarily it's new

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plant, especially between the first year and the third year, that's strictly new plant.

ALJ VAN ORT: One question, if I can just go back for a moment on the SIR cost. The New Town Creek and Gowanus Canal, especially with respect to a New Town Creek, is that the area where the water pollution control facility is, the City, is that that area?

MR. MOLLOY: It's near it.

ALJ VAN ORT: Near it. It's near the Exxon Mobile site and all the rest of those?

MR. MOLLOY: Yes.

ALJ VAN ORT: Okay, now I understand.

I think we can move on to the three questions that we sent out, 34 through 36, which you didn't have an opportunity to answer in time. We'll move to question 34 first. The question that was asked was: Provide an explanation of the permitting process in New York City, the nature of work to be performed and why it could result in a notice of violation being issued to KEDNY. And then there was a second part to that, which is: Describe what actions the company has taken in

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an effort to mitigate the issuance of penalties.

MR. MOLLOY: To construct and operate and maintain our natural gas distribution system, KEDLI must regularly excavate in the streets and sidewalks in the City of New York. For all non-emergency work, KEDLI secures a street opening permit in advance from New York City DOT. We do this by electronically submitting a permit application, which is reviewed by the DOT and a permit is issued. The permit indicates, among other things, the area to be excavated and any work restrictions on the job.

From time to time, KEDNY receives summons in connection with these street openings. Violations include failure to follow permit conditions, debris removal, work hour restrictions, working outside for the permitting area and failure to restore the area to the DOT standard. Why do we incur these violations? In the course of the work, our crews will often encounter unanticipated field conditions. We dig under and it's different

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than what we expected, it's worse or there's other pieces of equipment that we weren't expecting. There's parking issues, heavy traffic, et cetera, that could necessitate us to work beyond the scope of the permit. These conditions may require work for a larger area for a longer period of time than was contemplated when the permit was secured. To complete the necessary work and in the interest of efficiency, we will perform the work that doesn't conform to the permit stipulations to get it done. You already have the street open, you know, you find something, for you to go get the permit to go an extra five feet, or you could do it while the street is open and get that five feet done, it's sometimes just more cost effective to just do the work.

ALJ VAN ORT: Let me just stop you there. These only apply to non-emergency work permits; is that correct?

MR. MOLLOY: My understanding is that these are primarily, yes.

ALJ VAN ORT: And the cost is approximately 1.7 million, or the revenue

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requirement is approximately \$1.7 million a year? Is that my understanding?

MR. MOLLOY: That's the O and M effect, there's a capital component as well.

ALJ VAN ORT: You mentioned you'll submit those electronically. Is there a contacts person or someone within the City that you can -- you've arranged that you can speak with if, in fact, conditions change or does the City have anyone?

MR. MOLLOY: I'm not that close to the actual permitting work, so I don't know if there's a contact person or not.

ALJ VAN ORT: Let me ask you a question. Is this a concern -- and correct me if I'm wrong, but my hunch would be that the City then goes and notifies all the first responders that there's going to be this work performed at such-and-such location, is that what this is essentially to assist for?

MR. O'BRIEN: Can we just go off the record for a second?

ALJ VAN ORT: Sure.

(Whereupon, a discussion was

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held off the record.)

ALJ VAN ORT: Go ahead.

MR. MOLLOY: This isn't really for notifying first responders, I guess, as much as it is to notify people that you're opening up their streets. You just don't want anyone opening up a street and doing work. It also helps when someone does open up a street that you know who to go to to make sure that it actually gets put back together the way it's supposed to be.

ALJ VAN ORT: I guess, going back to my other question, you're not aware of anyone that the company can contact? I mean, if there's changes on something like this and you've already submitted a permit application and were granted a permit application, the City has no provision that you can contact someone and say, Circumstances have changed, we need to change this?

MR. MOLLOY: I think this is -- I can't speak to the City, whether we have a contact, but a lot of these are smaller jobs; it would be one-day permit type of thing where

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you're just replacing a small pipe, and I can't imagine we'd want to be contacting them every time that a 5-foot opening becomes a 6-foot opening or we're working for eight hours instead of six hours.

ALJ VAN ORT: Is there are a charge that goes along with these permits based upon the size of the opening?

MR. MOLLOY: I don't know.

MR. RIDER: I believe there is. I'm also aware that, based on our field work, that the company has a city/state liaison that actually sit in the City's offices and coordinate work with the company.

ALJ VAN ORT: Do you know if this person is involved in the permitting process?

MR. RIDER: I do not.

ALJ VAN ORT: Is it possible that this person could be involved in the permitting process as a way to mitigate these notice of violations being issued?

MR. MOLLOY: I was going to say, we are trying to think about ways of which we can mitigate this and we are working on internally

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coming up with initiatives that might reduce them. We're also working on training for our field personnel to make sure that they have a clear understanding of the process and the permit requirements, that we're not doing it to ourselves. We're setting up procedures to standardize work practices so it's very similar for every job in that we can make the process work better.

And we're also developing KPIs that can be distributed among all our workers so we can see if we do have one particular area that is a problem, we can address it a lot faster.

ALJ VAN ORT: KPI meaning what?

MR. MOLLOY: Key performance indicators.

ALJ VAN ORT: Thank you.

The next question is 35, ALJ 35, and that question was directed to DPS staff. The question that staff explained, what consideration was given to utilize an equity ratio other than 48 percent?

MR. PISCITELLI: Your Honor, I think to answer that, it's worthwhile to go into

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2 briefly how we look at the equity ratio.

3 Basically, we look at the equity ratio in
4 conjunction with other factors and we want to
5 support the company's existing bond rating,
6 which is A minus from Standard and Poor's and
7 A-2 for Moody's. So that's basically how we
8 arrive at the equity ratio, what will support
9 that. We looked at lower numbers and higher
10 numbers and we came to the conclusion that,
11 given the financial metrics that came out of
12 our case, the 48 percent equity ratio would be
13 the level that would support those bond
14 ratings.

15 ALJ VAN ORT: There's a second part
16 to that question and that part requests that
17 you explain in general what, if any, potential
18 impact on the company's risk profiles, bond
19 ratings and revenue requirements might result
20 from using a using a lower or higher equity
21 ratio.

22 MR. PISCITELLI: There's various
23 factors that the rating agencies look at when
24 assigning a bond rating. One of those factors
25 are the financial metrics that fall out of the

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company's operations, so a lower equity ratio would produce lower financial metrics, which is one piece of the equation. So that was our consideration in establishing the equity ratio.

ALJ VAN ORT: Maybe I'll approach this a little bit differently. In the 2006 cases the equity ratio was 45 percent, correct?

MR. PISCITELLI: Yes.

ALJ VAN ORT: Now, what would have changed between that case and the 2012 case, I believe, was 48 percent for KEDNY, correct.

MR. PISCITELLI: Yes.

ALJ VAN ORT: That sort of shift, did you see a shift in the risk profile or the bond ratings or something that suggested that there should be some change at this point in time?

MR. PISCITELLI: I didn't examine if there was a shift. I really focused on what metrics would be important to maintain in order to maintain the existing bond rating, but I didn't go back in time to see what the shift was that would require anything different.

ALJ VAN ORT: Thank you.

ALJ COSTELLO: Just turning to ALJ

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36, does the joint proposal make any changes to the current allocation across customer service performance metrics of the total pretax potential negative revenue adjustment to which KEDNY is exposed? And if so, what are they?

MR. SILVERSTEIN: There is no change on KEDNY's allocation of the potential negative revenue adjustments. For KEDLI, there is one modification. The total amount at risk is the same, at 9.9 million, but a new metric was added, the call center answer rate. So all of the amounts at risk were changed. And if you look at the joint proposal on page number 92, the potential NRA for complaints was changed from 4.5 million to 3.9 million. On page 94 of the JP it lists the NRA for calls answered at \$990,000. It was previously -- that's a new metric.

ALJ COSTELLO: Those are the only changes?

MR. SILVERSTEIN: And the customer satisfaction was reduced and adjusted bills was reduced in order to keep the total amount of risk at 9.9 million. So the existing service

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quality program is listed in Exhibit CSP2 -- I don't have the exact page number in front of me -- from Consumer Services' testimony, and the new amounts are listed in the joint proposal on pages 92 and following.

ALJ COSTELLO: Do you have anywhere -- I saw there was testimony saying there was 10 percent for weight given to this metric with respect to any allocation. Do you have any of those percentages as they would now be for KEDLI.

MR. SILVERSTEIN: Those percentages were, I think, based on the proposed program from the company. I could calculate them and get those percentages to you.

ALJ COSTELLO: Thank you.

I just have two questions also with the customer service programs that are not reflected in the interrogatory. One of them is: There was discussion about the companies wanted to do load balancing for their answer rate with respect to telephone customer answers within 30 seconds, and I just wanted an explanation of load balancing. Is that

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basically just to share the calls across more call centers, is that what load balancing was.

MR. MOLLOY: Yeah, pretty much.

ALJ COSTELLO: Is there anything else other than that?

MR. MOLLOY: No, I think that's it.

ALJ COSTELLO: And then with respect to the positive revenue adjustment for service terminations, there are different numbers. Can you just tell me how those monetary amounts were arrived at? If you need, it's JP Section 7.7.8 and it's pages 47 and 96 of the joint proposal.

MR. MOLLOY: Are you asking how were they derived or how do they compare to, let's say, current?

ALJ COSTELLO: How were they derived? What went into the calculation? What considerations are you looking at in determining the positive revenue adjustment? At some point in testimony there was some indication that a cost saved, I guess, for terminations was included and I'm just trying to find out what specific considerations went

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into that determination in making a positive revenue adjustment.

MR. O'BRIEN: Can we just go off the record for a second.

ALJ COSTELLO: Sure.

(Whereupon, a discussion was held off the record.)

MR. O'BRIEN: Your Honors, while we're looking for that, with respect to questions 34, if you would like, we can provide a more detailed response which discusses the liaison. Mr. Molloy, he's not from ops. We can talk with our ops folks and get back to you, if you would like.

ALJ VAN ORT: Do the parties have any objection to a more detailed response?

(No response.)

ALJ VAN ORT: I think that I'd appreciate that and we can assign an exhibit number to that. So we will assign that as Exhibit 538.

(Whereupon, Exhibit 538 is marked for identification, as of this date.)

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MR. O'BRIEN: Thank you.

ALJ VAN ORT: Obviously, with that response when you circulate it to the parties, the response obviously won't be too detailed. So given that we need no expedite this process, any objections to that, by all means, within no more than two days, if anybody has any objection to the response.

MR. SILVERSTEIN: Your Honor, to answer your previous question, so the amount of risk was chosen, the positives incentive amount at risk, it's approximately seven basis points and we thought it would provide a meaningful amount to provide an incentive to the companies to try to reduce those uncollectibles and terminations.

ALJ COSTELLO: So there's no tie to what might be -- if there's any sort of cost savings with respect to avoiding the terminations or was there any tie or it's simply as an incentive, an amount that you arrived at based on this is an amount that would be appropriate to incentivize them?

MR. SILVERSTEIN: It's a meaningful

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incentive for the company to reduce the uncollectibles in terminations and there's not an exact amount that you would save; it's not tied in.

ALJ COSTELLO: Okay.

ALJ VAN ORT: I just wanted to follow up with a couple of questions going back to the SIR. I should have asked earlier, but unfortunately, I've got things buried in paper. The balance of the SIR expenses are approximately how much, if you can tell me, between both companies?

MR. MOLLOY: The deferral balance for KEDNY is approximately 185 million and for KEDLI, approximately 141 million.

ALJ VAN ORT: Now, folding these into base rates, will these amounts be fully amortized over the three years?

MR. MOLLOY: These are being amortized over ten years.

ALJ VAN ORT: Over ten years. The reason why I'm bringing that up, the City had indicated being amortized and it's kind of puzzling. They may not have put it

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that strong, but it didn't look right.

And the last question, I guess, I've got, the surcharge for the past SIR cost, is that going to be eliminated? This is more the mechanical process.

MR. MOLLOY: The surcharge for KEDNY right now is at 62.5 million. That will be set to zero for calendar year '18 with the potential of going up in calendar year -- I'm sorry, calendar year '17 with potential of going up in '18 or '19.

ALJ VAN ORT: So the mechanism itself will continue?

MR. MOLLOY: Yes. And for KEDLI, it is being removed.

ALJ VAN ORT: KEDLI and KEDNY's will be eliminated?

MR. MOLLOY: That is correct.

ALJ VAN ORT: I have no further, do you?

ALJ COSTELLO: I just have a few more questions. One, dealing with the power generation issues, which are contained in Section 6.9 of the joint proposal, and the

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first question is, if you can, explain how by redesignating the cash-out premiums and discounts as penalties, how that helps with system reliability and how it is -- and why it's necessary as opposed to just having the operational flow order cut in system, what's currently operating, what is the purpose for having -- by designating these imbalance charges and discounts as penalties, what does that achieve that is not otherwise achieved under the current system or the current designations?

MR. RIDER: I think we explained that in one of our statements, reply statements, to Potomac. This has to do with power generators and their ability to recover costs that are penalties. If power generators are allowed to recover those costs and stay on the system, it jeopardizes system reliability. So these charges were always penalties in our mind and by just clarifying that in tariff, it will hopefully change the generators behavior so that they abide by, I guess, the provisions and not be able to bid in to the ISO during these

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OFOs or constraints that would jeopardize the system or reliability of the system.

MR. GOODRICH: Can we go off the record for a moment?

(Whereupon, a discussion was held off the record.)

MR. RIDER: Maybe I should step back and start by saying that the balancing service is within plus or minus 2 percent, and the company procures assets to provide that service to its customers and beyond that it doesn't have the assets to provide that service, so that's why it's a penalty.

The FERC order -- there's a FERC order that identified -- I think I should probably point you to our reply statement, which identifies the FERC order.

ALJ COSTELLO: I know it's in there.

MR. RIDER: I would just state that we believe that by calling it a penalty, it, I guess, incentivizes certain customers to abide by the rules and not jeopardize system reliability.

ALJ VAN ORT: Can I just clarify,

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you're referring to a penalty in the FERC connotations, not a penalty into the Public Service Law realm, correct?

MR. RIDER: Yeah.

ALJ VAN ORT: Penalty, as you well know, has a very different meaning under Public Service Law.

MR. RIDER: Yes.

ALJ VAN ORT: And it's a negative revenue incentive.

MR. RIDER: Yes. It's not a --

ALJ VAN ORT: It's negative revenue adjustment or negative revenue incentive, it's an incentive. It's an incentive mechanism in public service.

MR. GOODRICH: Your Honor, this has nothing to do with the company, it's a tariff.

ALJ VAN ORT: That's what Mr. Rider just said. I just want to clarify that he was speaking not to the Public Service Commission.

MR. RIDER: I'm not a lawyer.

ALJ COSTELLO: If somebody can just explain to me what the no harm, no foul provision, just a general explanation of what

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those are, how they operate.

MR. O'BRIEN: Can we go off the record for a second?

(Whereupon, a discussion was held off the record.)

MS. ECHENIQUE: So the no harm, no foul is when the system is out of balance one way or the other, say the system is short, and an individual customer is out of balance in the opposite direction, so the system is short and they're long, the no harm, no foul is they would not incur any additional costs in penalties. And so we're not proposing to have a no harm, no foul provision in the joint proposal, it is an aspect we'll look at in the collaborative.

MR. GOODRICH: Your Honors, earlier you had asked about the percentages on the CSPI metrics, and Mr. Silverstein can provide those.

ALJ COSTELLO: Okay, thank you.

MR. SILVERSTEIN: So for KEDLI on the PSE complaint rate, it's going from 45 percent to 40 percent. For customer satisfaction, it's going from 45 percent for the total amount at

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risk to 40 percent. For adjusted bills, it remains at 10 percent and for call answer rate, because it's a new measure, it went from zero to 10 percent of the total amount at risk.

ALJ COSTELLO: Okay, thank you.

MR. SILVERSTEIN: You're welcome.

ALJ COSTELLO: And I don't know if this is something you'll actually be able to tell me, but there's a geothermal pilot project which is contained in the joint proposal with respect to KEDLI, and I don't know if you can say why this was something that there's a reason why it's not also applicable or something that's not going to apply to KEDNY.

MR. RIDER: I think the short answer is this is something that we believe is new and innovative, and we think that the KEDLI system is more apt to have the, I guess, real estate, the land to be able to implement a geothermal system, test it out to see if it works.

ALJ VAN ORT: Can I ask a question? What are the benefits to the gas system that you would see from a geothermal system?

MR. RIDER: To the extent that we

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could avoid upstream pipeline capacity in installing a geothermal system, pipelines in general take very long times to construct, very, very expensive and we often have a lot of opposition to those pipelines, so to the extent we can install systems to avoid procuring those assets, it may be worthwhile.

ALJ COSTELLO: With respect to joint proposal Section 6.2, which is on page 109, the joint proposal discusses resolution of issues about the creation of a regulatory asset, pension and OPEC asset, and I just -- if you can tell me, basically, how these issues are to be resolved, it looks like it says without a formal Commission action, but will there be any Commission involvement before the issue is finally resolved? I know it envisions staff review. How does this process work, this informal process, how is it envisioned to work?

MR. GOODRICH: Can we have a moment off the record?

ALJ COSTELLO: Sure.

(Whereupon, a discussion was held off the record.)

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MR. GOODRICH: Mr. Quackenbush will answer your question.

MR. QUACKENBUSH: Your Honor, staff did not have the time to properly give a full audit and review of the pension and OPEB expenses and that is something that is outstanding. If need be, we would petition. Without a petition, it would go in front of the Commission.

MR. MOLLOY: I just want to clarify, when you said pension-OPEB expense, it really is the pension-OPEB curtailment settlement loses due to the MSA agreement?

MR. QUACKENBUSH: That's correct.

ALJ COSTELLO: But the joint proposal, the reason I asked is that the joint proposal says that, "The issues arising from this will be resolved during the term of the KEDNY and KEDLI rate plans without the need for the companies to file a formal petition with the Commission." And then it goes on to just explain the staff would need further information to complete its review. So are you saying that there may be, if those issues are

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not resolved informally, it would still have to go to the Commission?

MR. GOODRICH: Your Honor, yes. If the process is not resolved formally or if there is a need for -- I believe one possible outcome would be the need for deferral authority, then that would go to the Commission. What the JP is saying is that these issues have clearly been raised in this case, except for the fact that complicated issues prevented staff from doing a review within the confines of this case. However, since it's clearly been raised in this case, we don't believe there is a need for the company to file a separate petition. Their request has been raised, staff will review it and if needed, this can be raised in a traditional session to the Commission.

ALJ COSTELLO: Thank you.

And I just have one further question, and this goes to asking something that URAC raised with regard to customer confusion with the use of KEDNY's DBA and bills and what -- at least, what they say is customer confusion

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because it doesn't match what's on the tariff,
is there any way to change what's on the tariff
to make it so that it would match what's on the
bills instead of having to change all of your
billing and whatnot?

MR. RIDER: From a staff perspective,
that's their legal name so that's a legal
document that needs to be on our ETS and
reflective of that. But, during the course of
the case, staff is trying to make improvements
to the ETS system and actually clarify on that
system the acronym KEDLI and KEDNY or the
Brooklyn Union Gas Company is actually National
Grid so that when a customer is directed to our
site via the company's website, that the
customer actually has a footnote there so they
could understand which service territory they
belong in and which tariff to refer to.

ALJ COSTELLO: Thank you.

ALJ VAN ORT: That is all the
questions that we have. Obviously, with
respect to ALJ --

ALJ COSTELLO: I'm sorry, I do have
one more question, and this has to deal with

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the ESCOs, which also has a provision which says that deliveries in excess of 2 percent will be designated as penalties. I wanted to know, do the same purposes underlie that as with respect to the power generation issue?

MS. ECHENIQUE: Yes, they do.

ALJ COSTELLO: So that's for purposes of making sure the system reliability or maintain the system reliability?

MS. ECHENIQUE: Correct.

ALJ COSTELLO: Okay, thank you.

ALJ VAN ORT: As I started saying, with respect to -- we have one response that you're going to flesh out on ALJ 34. As I indicated, if anyone has an objection to the response it must do so within two days. I don't see any need for any more time than that. Obviously, with respect to the affidavits that are coming in, the parties are free to -- ones that are just circulating, some of them are circulating now, if anybody has any objection to the any of the affidavits, obviously, two days is sufficient. I don't think it takes any more than that.

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MR. DOWLING: Your Honor, this is John Dowling. I circulated electronic copies of those two affidavits that we referred to earlier, if I can submit them now.

ALJ VAN ORT: Yes, if you would. That's the reason why I mentioned it, I see that yours came in. Yours came in, the City's, LIPA's was filed, Mr. Conway, was turned in this morning and Ms. Tillman's is also.

With that said, to the extent that we have all the exhibits in the record, or the exhibits that have been received with the expectation of 38 and the affidavits the parties haven't reviewed, are there any objections to these exhibits being moved into the record, the ones that have already been identified and ones today that have been identified the parties have received?

(No response.)

ALJ VAN ORT: Hearing none, okay, they are admitted.

(Whereupon, Exhibits 507 through 538 are admitted into evidence, as of this date.)

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ALJ VAN ORT: I want to thank you
all. I don't know if there's any other
business that we need to take care of today, I
suspect that we do not, but thank you all for
coming and have a safe trip back.

(Time noted: 12:41 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
 ss.:
COUNTY OF RICHMOND)

I, Therese L. Sturges, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

I reported the proceedings in the within-entitled matter and that the within transcript is a true record of such proceedings.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st of October, 2016.

THERESE L. STURGES

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