STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of the Brooklyn Union Gas Company for Gas Service	)	**Case 23-G-0225**
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of the KeySpan Gas East Corp d/b/a National Grid for Gas Service	)	**Case 23-G-0226**

STATEMENT OF SUPPORT OF JOINT PROPOSAL

BY

ENVIRONMENTAL DEFENSE FUND

Date: May 1, 2024

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Before the New York State Public Service Commission ("Commission"), and pursuant to the April 11, 2024 Ruling Establishing Procedural Schedule for Consideration of Joint Proposal, Environmental Defense Fund ("EDF") respectfully submits this Statement of Support regarding the Joint Proposal filed by 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 "Companies") on April 9, 2024 in the above-captioned proceedings.

I. INTERESTS OF EDF

EDF is a membership organization whose mission is to preserve the natural systems on which all life depends, including universally upholding the fundamental human rights of all people to breathe clean air, grow in vibrant communities, and live in a clean and healthful environment in balance with flourishing biodiversity. Guided by science and economics, EDF seeks practical solutions to resolve environmental problems, and recognizes that achieving a stable climate future will require a dramatic reduction in fossil fuel use in all sectors. EDF seeks to facilitate cost-effective and efficient energy market designs, regulatory frameworks, and community participation to modernize the energy system and drive economy-wide greenhouse gas emissions reductions through reduced reliance on oil and natural gas.

EDF is headquartered in New York and has employees and more than 25,000 members in the state. Before this Commission, EDF has highlighted the importance of harmonizing energy policies and utility oversight with the state's climate goals, and the need to apply heightened scrutiny to infrastructure buildout that undermines drivers for more efficient solutions and potentially imposes long-term economic and environmental costs on ratepayers.[1] EDF has also

[1] *See, e.g.*, *In the Matter of a Review of the Long-Term Gas System Plan of National Fuel Gas Distribution Corp.*, Case 22-G-0610, Comments of Envtl. Def. Fund on Nat'l Fuel Gas

emphasized the importance of reducing emissions of the potent greenhouse gas methane, the primary component of natural gas, from pipelines and associated infrastructure.[2]

EDF dedicated staff and expert time and resources to participating in this proceeding. EDF developed and submitted expert testimony in September 2023, and our representatives and staff engaged in settlement negotiation meetings during October 2023 through March 2024.

Distribution Company's Initial Long-Term Plan (Mar. 13, 2023); *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Case 20-G-0131, Comments of Environmental Defense Fund (May 3, 2021); *Proceeding on Motion of the Commission Regarding Electric Utility Supply Equipment and Infrastructure, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corp. d/b/a National Grid for Electric & Gas Service*, Cases 20-E-0380 & 20-G-0381, Direct Testimony of James Garren on Behalf of EDF (Nov. 25, 2020); Case 18-E-0138, Initial Comments of Environmental Defense Fund (April 27, 2020); *In the Matter of Staff Investigation into a Moratorium on New Natural Gas Services in The Consolidated Edison Company of New York, Inc. Service Territory*, Case 19-G-0080, Comments of Environmental Defense Fund (Feb. 28, 2019); *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation for Electric and Gas Service*, Case 17-E-0238 and 17-G-0239, Testimony and Attachments of Simi Rose George on behalf of EDF (Aug. 25, 2017); *Proceeding on Motion of the Commission to Address Issues Associated with the Restructuring of the Emerging Competitive Natural Gas Market*, Case 93-G-0932, EDF Letter to Secretary Burgess re: Heightened Scrutiny of Precedent Agreements Supported by Affiliates, (Nov. 29, 2016).

[2] *See, e.g.*, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Case 20-G-0131, Comments of Environmental Defense Fund at Part VIII, p64 (May 3, 2021); *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 19-G-0309 & 19-G-0310, Direct Testimony of Joseph von Fischer on Behalf of EDF (Aug. 30, 2019).

II. STATEMENT OF SUPPORT

Elements of the Joint Proposal advance environmental and climate benefits, and although limited by the constraints of a rate case, constitute important aspects of the agreement.[3] EDF supports the Joint Proposal and recommends the Commission approve it.

A. The Joint Proposal Does Not Support Inappropriate Hydrogen-Methane Blending

The Joint Proposal provides no funding or support for the hydrogen-methane blending pilot that National Grid proposed in its initial rate filing. The Joint Proposal states that the Companies "will not proceed with any project that injects hydrogen into its distribution system or serves any customer with hydrogen until" it has filed a proposal with the Commission and received Commission authorization to proceed.[4]

In its rate filing, KEDLI sought $13.3 million in capital costs for the "HyGrid Project," a proposal to inject hydrogen into a portion of its local gas pipeline distribution system that serves 844 customers in the Town of Hempstead, New York.[5] National Grid proposed that the project would begin mixing 3% hydrogen / 97% natural gas methane by volume in 2025,[6] and stated its

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[3] The limits of the rate case format indicate the need for further action by the Commission in other proceedings, to ensure that New York utilities are not acting "inconsistent with . . . the attainment of the statewide greenhouse gas emissions limits." CLCPA § 7(2).

[4] *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, Joint Proposal at 58 (Apr. 9, 2024).

[5] *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-0225, KEDLI Direct Testimony of the Gas Infrastructure and Operations Panel at 81 Line 6 (Apr. 28, 2023) [hereinafter "KEDLI GIOP Direct Testimony"].

[6] KEDLI GIOP Direct Testimony at 81, Line 21; *id.* at 83 Lines 8-9.

intention to increase the blend rate to 20% hydrogen / 80% natural gas over either an 18-month or 3-year period—reaching 20% hydrogen by 2026, 2027, or 2028.[7]

EDF filed expert testimony explaining concerns with hydrogen-methane blending and the HyGrid project.[8] Other parties also opposed the project.[9]

Hydrogen Leakage Presents Environmental, Safety, and Health Risks. While the combustion of hydrogen does not emit carbon dioxide or other greenhouse gases ("GHGs"), hydrogen itself is an indirect greenhouse that will cause warming when emitted into the atmosphere by increasing the concentrations of short-lived GHGs.[10] Due to its small molecule size and lower viscosity, hydrogen is expected to leak 1.3- to 3-times faster than natural gas.[11] Since hydrogen leakage contributes to climate warming, the impact of hydrogen leaks could significantly undermine any potential climate benefit of hydrogen-methane blending.[12]

The potential for hydrogen leaks also presents safety concerns. Hydrogen has a wider flammability range than methane, can ignite more easily than methane, and burns hotter than

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7 *See 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, Direct Testimony of Ilissa Ocko on behalf of Environmental Defense Fund (Sept. 1, 2023) [hereinafter "Ocko Direct Testimony"], Exhibit __ (IO-3), National Grid Response to Information Request NRDC-027 (Aug. 4, 2023); *id.*, Exhibit __ (IO-2), National Grid Response to Information Request AGREE-05 (June 12, 2023).

8 Ocko Direct Testimony.

9 *See* Direct Testimony of Sonal Jessel on Behalf of WE ACT for Environmental Justice (Sept. 1, 2023); Direct Testimony of Alice Napoleon on Behalf of Natural Resources Defense Council (Sept. 1, 2023).

10 Ocko Direct Testimony at 24 Line 14 – 25 Line 3.

11 Ocko Direct Testimony at 31, Line 12-14.

12 Ocko Direct Testimony at 25, Lines 1-2; Ocko Direct Testimony at 28, Lines 2-5.

methane (natural gas).[13] There is a lack of technical consensus on a safe hydrogen-methane blend rate for infrastructure designed to transport natural gas. One study found that only a 5% blend rate is safe due to the limitations of legacy equipment,[14] while another analysis concluded that the blend rate should be set on a case-by-case basis depending on the limitations and differences of the local infrastructure.[15] Without a scientific consensus possible for a safe hydrogen blending limit system-wide, hydrogen blending into gas distribution systems should not be pursued.

Hydrogen combustion likely generates higher nitrogen oxides ("NOx") emissions than natural gas, and it is unclear whether current NOx removal technologies are effective against NOx generated from blended methane/hydrogen used in buildings.[16] NOx is a harmful pollutant that worsens air quality and can have adverse effects on lung health.[17] Combustion of hydrogen or methane/hydrogen blends in buildings could increase health risks for consumers.

Hydrogen-Methane Blending is Not a Viable Decarbonization Strategy, Particularly for Residential and Commercial Buildings. Hydrogen is expected to play a key role in decarbonizing hard-to-electrify sectors, but it is not a silver bullet, and research indicates that

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[13] Ocko Direct Testimony at 37, Lines 4-15.

[14] Ocko Direct Testimony at 39, Lines 11-12 (citing Arun SK Reju, *Hydrogen Blending Impacts Study,* CAL. PUB. UTIL. COMM. (July 18, 2022), https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M493/K760/493760600.PDF).

[15] Ocko Direct Testimony at 39, Lines 12-13 (citing Jochen Bard et al., *The Limitations of Hydrogen Blending in the European gas Grid,* FRAUNHOFER IEE (Jan. 2022), https://www.iee.fraunhofer.de/content/dam/iee/energiesystemtechnik/en/documents/Studies-Reports/FINAL_FraunhoferIEE_ShortStudy_H2_Blending_EU_ECF_Jan22.pdf).

[16] Ocko Direct Testimony at 38, Lines 3-5 (citing Wright et al., *Emissions of NO_x from Blending of Hydrogen and Natural Gas in Space Heating Boilers,* 10 SCI. ANTHROPOCENE 00114 (2022), https://online.ucpress.edu/elementa/article/10/1/00114/183173/Emissions-of-NOx-from-blending-of-hydrogen-and).

[17] Ocko Direct Testimony at 38, Lines 5-6 (citing *Nitrogen Dioxide,* AM. LUNG. ASS'N, https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/nitrogen-dioxide (last updated Oct. 2023)).

mixing hydrogen into existing natural gas distribution systems raises significant concerns and has limited benefits. First, it requires significant energy to produce hydrogen, and further energy is lost at every step of the value chain. If electricity generated by wind turbines is distributed to homes, only about 5 to 10% of the energy is lost along the way; but if that same wind energy is used to produce hydrogen that is distributed to homes via pipelines and compression for combustion, 25 to 65% of the energy can be lost along the way.[18] Second, hydrogen has a lower energy density per unit compared with natural gas (about one-third), meaning that a greater volume of hydrogen-methane mixture must be transported and combusted to obtain the same energy output as natural gas alone.[19] Third, as discussed above, hydrogen is a climate-warming gas that can leak more easily than natural gas. And fourth, hydrogen blending in gas distribution systems could prolong fossil fuel reliance by facilitating continued investment and expansion of a pipeline network that still primarily delivers and facilitates combustion of natural gas.

The New York Climate Action Council Scoping Plan cautions against hydrogen blending, stating that "the existing gas system was not designed to handle any substantial quantity of blending of hydrogen, so the safety and durability of the system must be addressed before hydrogen is introduced into existing infrastructure."[20] The CAC called for further evaluation of hydrogen blending "to determine the feasibility and the climate impact . . . includ[ing] an evaluation of the full life cycle greenhouse gas (GHG) and co-pollutant

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[18] Ocko Direct Testimony at 29-30 (citing Shrestha & Sun, *Rule #1 of deploying hydrogen: Electrify first*, EDF ENERGY EXCHANGE (Jan. 30, 2023) https://blogs.edf.org/energyexchange/2023/01/30/rule-1-of-deploying-hydrogen-electrify-first/.)

[19] Ocko Direct Testimony at 31, Lines 1-8.

[20] NEW YORK STATE CLIMATE ACTION COUNCIL, New York State Climate Action Council Scoping Plan at 351 (Dec. 2022), https://climate.ny.gov/resources/scoping-plan/.

emissions impacts, health impacts, impacts on energy affordability, and safety and reliability considerations" before hydrogen is injected into gas pipelines.[21]

The Joint Proposal's lack of support for the HyGrid Project is a positive outcome for ratepayers and New Yorkers. The Commission should convene a dedicated proceeding to evaluate hydrogen-methane blending and establish statewide standards to review such proposals. Otherwise, the Commission will be forced to repeatedly grapple with these complex and technical issues across different proceedings, as other utilities have expressed intentions to pursue hydrogen blending projects as well.[22]

B. The Joint Proposal Advances Non-Pipeline Alternative Programs

Non-Pipeline Alternatives ("NPAs") can help utilities and regulators diversify options to satisfy energy demand and avoid locking in long-term commitments to costly pipeline infrastructure, while facilitating reduced reliance on natural gas and cutting climate-warming greenhouse gas emissions. In the Joint Proposal, National Grid commits to build on its existing NPA programs and implement a series of new, innovative approaches, including improving customer outreach efforts and incorporating more opportunities for community engagement in the development of NPA programs. Diligent implementation of these commitments by National Grid will benefit ratepayers and the environment.

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21 *Id.*

22 *See, e.g.*, *In the Matter of a Review of the Long-Term Gas System Plan of National Fuel Gas Distribution Corporation*, Case 22-G-0610, NFGD Final Long-Term Plan at 68 (July 17, 2023) (proposing to blend hydrogen starting at 0.5% Btu content in 2030, and increase the blend over time at a rate of 0.5%/year); *In the Matter of a Review of the Long-Term Gas System Plan of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation,* Case 23-G-0437, NYSEG-RGE Final Long-Term Plan at 98 (April 26, 2024) (proposing to "[p]ursue green hydrogen blending starting at a level of 1.25% in 2028, increasing by 1.25%/year, and achieving a blend of 20% by volume in 2043").

Section 7.1.5, Customer Outreach. The Companies will "increase their efforts to inform customers of NPA project opportunities and increase customer education and outreach" through a variety of channels.[23] National Grid will track and report on the effectiveness of customer outreach efforts. This is an important commitment because National Grid's past NPA proposals have faced challenges with customer buy-in. For example, National Grid reported that despite identifying 5 leak-prone pipe ("LPP") segments where pipe replacement could potentially be avoided through NPAs for 2023, no segments were determined to be "feasible to go forward with NPAs" because "[c]ustomers cited a variety of reasons that made them less interested to pursue alternatives, which included cost (initial purchase price and possible increase to operating costs), existing equipment not being at the end of useful life, and concerns about reliability of electric infrastructure."[24] Deeper investments in this area, and accountability through more structured reporting on customer outreach progress, are positive steps forward.

Section 7.1.1, Alternatives to Leak-Prone Pipe Replacement. The Companies will expand existing efforts to identify NPAs that could avoid planned leak-prone pipe replacement projects, such as heat pumps or thermal energy networks. LPP replacement is costly to customers and extends the life of the fossil natural gas distribution system, so this is a high-value area for NPA implementation. National Grid will shift to a more formalized five-year cycle for LPP-to-NPA projects and will continue to annually identify at least 5 segments of LPP in each of the KEDNY and KEDLI service territories that could be abandoned by shifting away from traditional gas service to NPAs.

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[23] Joint Proposal at 44.

[24] Cases 19-G-0309 & 19-G-0310, National Grid Rate Year 3 & First Quarter 2023 Capacity Demand Metric Report at 13-14 (Apr. 28, 2023).

The NPAs for LPP program will enhance energy system equity through a commitment to prioritize projects in disadvantaged communities, as well as a commitment to engage with the New York City Housing Authority for a potential large-scale NPA.[25] And the program can be shaped by community perspectives, as National Grid is committed to filing an LPP NPA implementation plan within 120 days of an order approving the Joint Proposal, which will be subject to stakeholder review and comment that the Companies will incorporate into a revised plan; and a subsequent stakeholder engagement meeting to discuss progress.[26]

Alternatives to Gas Main Extensions (7.1.3), Service Line Installation/Replacement (7.1.4), & System Reinforcements (7.1.2). The Joint Proposal contains commitments by National Grid to implement NPA programs that can reduce expansion of the gas pipeline system by avoiding gas main extensions over 100 feet and new service connections—and instead directing energy consumers to electrification and other alternatives.[27] National Grid will also seek to "reduce gas system firm demand and avoid future gas system reinforcements, including through targeted incentives for energy efficiency, demand response, and electrification."[28] Additionally, KEDNY and KEDLI are committed to each issuing at least one Request for Proposals for NPAs each year, and to consult with Department of Public Service Staff.[29] This backstop will ensure continued efforts by the Companies to solicit NPA proposals from contractors.

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[25] Joint Proposal at 41.

[26] Joint Proposal at 42.

[27] Joint Proposal at 42-43.

[28] Joint Proposal at 42.

[29] Joint Proposal at 45-46, Section 7.1.7.

C. Further Policy Development is Needed to Drive Success for NPAs

The Joint Proposal contains valuable commitments to advance implementation of Non-Pipeline Alternatives, but further progress in other proceedings is essential to ensuring that gas utility NPA programs are successful in New York. The Commission directed utilities to propose NPA suitability criteria in Case 20-G-0131, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, and EDF and other stakeholders provided comments on those proposals, in 2022. EDF recently submitted supplemental comments and a new report on NPA program implementation that included learnings from National Grid's recent NPA efforts.[30] National Grid has proposed screening criteria that would deem any capital project set to commence within 24 months as ineligible for NPA consideration.[31] In its 2023 rate filing, National Grid used this threshold to justify dismissing 44 capital projects from NPA consideration; and in 28 of those instances, the 24-month threshold was the sole reason for dismissal of NPA consideration.[32] This threshold can result in near-term projects being arbitrarily excluded from NPA consideration. While some of the commitments in this Joint

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[30] *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 (Mar. 11, 2024).

[31] *See Proceeding on the Motion of the Commission in Regard to Gas Planning Procedures*, Case 20-G-0131, National Grid's Proposals for Non-Pipe Alternative Screening and Suitability Criteria (Aug. 10, 2022).

[32] *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 11 (Mar. 11, 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; *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).

Proposal will help to ensure that near-term system expansion projects are considered for NPAs—such as the programs to offer customers alternatives to gas main and service line extensions—the Commission must act promptly to finalize NPA criteria for National Grid and all utilities that maximize NPA consideration.

As referenced in the Joint Proposal,[33] a cost recovery mechanism for NPAs will need to be established, and National Grid and other utilities have proposals pending in Case 20-G-0131.[34] The Joint Proposal identifies the basic pathway for NPA cost recovery, but notes that costs "will be recovered as a regulatory asset in the manner determined by the Commission in response to the Companies' NPA implementation plan filing."[35] Timely Commission action on these proposals will ensure clarity and consistency in cost recovery for NPA projects.

D. Reporting Commitments Will Improve Transparency & Accountability

Pursuant to the Joint Proposal, National Grid will begin filing an annual "NPA Opportunities and Programmatic Success" report to provide updates on the above-detailed NPA programs as well as the Companies' retention of an implementation contractor for NPA efforts.[36] National Grid will also continue to report on its Capacity Demand Metrics, which include NPAs, efficiency, demand response, and electrification. The Companies' quarterly and annual Capacity

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[33] Joint Proposal at 39 ("The Signatory Parties anticipate that the Commission will issue an order that establishes an NPA Framework in Case 20-G-0131, the Gas Planning Proceeding."); *id.* at 40 (The costs incurred by the Companies for implementation of new NPAs during the term of the rate plan, including the overall pre-tax return on such costs, will be recovered as a regulatory asset in the manner determined by the Commission in response to the Companies' NPA implementation plan filing.")

[34] *See, e.g., Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Case 20-G-0131, National Grid NPA Screening and Suitability Criteria Filing (Aug. 10, 2022).

[35] Joint Proposal at 40.

[36] Joint Proposal at 45.

Demand Metrics reports over the last few years have been deeply informative about lessons learned regarding NPA implementation, documenting strategies such as issuing RFIs prior to RFPs to solicit more contract perspectives, and issuing RFPs to address smaller chunks of load at a time to encourage more contractor engagement.[37]

National Grid will file an annual CLCPA and Disadvantaged Communities ("DAC") Report that will include data on energy efficiency spending, demand response programs, main replacement, leak repairs, customer operations data, and clean energy jobs, with information broken out to increase understanding of how National Grid is fulfilling these efforts specifically in disadvantaged communities compared to its overall service territory.[38] The Joint Proposal also includes a commitment to include a DAC analysis in the Companies' next rate filing for any capital project with estimated costs of $1 million or greater.[39] These reports and analysis will generate useful information to assess National Grid's engagement in DAC communities, which is essential to ensure consistency with CLCPA equity provisions, discussed *infra*, Part III.

E. The Joint Proposal Addresses Some Biomethane Concerns

In its rate filing, National Grid proposed cost recovery for continued work at the Newtown Creek biomethane facility, plus multiple interconnection facilities for planned

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[37] *See, e.g.*, *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 19-G-0309 & 19-G-0310, Annual Demand-Side Management Filing of KEDNY/KEDLI at 14-16 (June 30, 2023).

[38] Joint Proposal at 46-51, Section 7.2.

[39] Joint Proposal at 51, Section 7.3.

biomethane facilities that will not be operated by National Grid.[40] The Joint Proposal includes cost recovery for these projects, and also includes some commitments that will improve transparency and accountability around these projects and seek solutions to retain any climate benefits of these projects in the State of New York.

In testimony, EDF explained concerns with biomethane deployment, including that "local emissions of air pollution (such as NOx) from biomethane combustion are equivalent to natural gas combustion and contribute to negative health effects—which could be eliminated by converting homes from gas combustion to electrification" and that "[s]upplies of climate-beneficial biomethane are limited and are best allocated for hard-to-electrify sectors rather than blending into gas distribution systems for delivery to buildings."[41]

Sale of Biomethane Environmental Attributes Poses Double-Counting Concerns. Another important consideration for biomethane projects is that the environmental attributes associated with biomethane are often sold through book-and-claim programs, whereby relevant regulators issue marketable credit certificates that are used for regulatory compliance with the U.S. EPA Renewable Fuel Standard ("RFS") or California Low Carbon Fuel Standard

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[40] *See 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 for Gas Service*, Case 23-G-0225, KEDNY Direct Testimony of Gas Infrastructure and Operations Panel at 79-84 (April 28, 2023) [hereinafter "KEDNY GIOP Direct Testimony"].

[41] Ocko Direct Testimony at 49, 50 (citing Billimoria & Henchen, *Regulatory Solutions for Building Decarbonization*, ROCKY MOUNTAIN INST. (2020), at 21, https://rmi.org/wp-content/uploads/2020/07/Regulatory-Solutions-Framework-Report-070820.pdf; NAT. RES. DEF. COUNCIL, *Issue Brief: A Pipe Dream or Climate Solution? The Opportunities and Limits of Biogas and Synthetic Gas to Replace Fossil Gas* (June 2020), https://www.nrdc.org/sites/default/files/pipe-dream-climate-solution-bio-synthetic-gas-ib.pdf).

("LCFS").[42] EPA permits compliance credits to be generated for biomethane if the generator and purchaser of the credits are connected by a commercial distribution system, which may include a physically connected pipeline.[43] California allows the generation of LCFS compliance credits for any biomethane "injected into the North American natural gas pipeline without requirements that this fuel be demonstrated to have been physically delivered into California."[44]

In light of these federal and state programs, biomethane production is more cost-competitive for developers when they can generate and sell compliance credits for California LCFS or EPA RFS. National Grid ratepayers will be funding investments into local biomethane projects via this Joint Proposal, and National Grid has claimed climate benefits associated with these projects,[45] but those same projects may be selling compliance credits on the California LCFS market—and thus neutralizing any climate benefits for purposes of New York CLCPA accounting. To claim climate benefits in New York, if compliance credits are sold in California for the same environmental attributes, would be double counting.

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42 *See* U.S. EPA, Final Rule: Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14670, 14673 (Mar. 26, 2010); 40 C.F.R. § 80.1434(a)(1); 17 C.C.R. §§ 95480, 95483.1, 95487.

43 *See* 40 C.F.R. § 80.1426; 40 C.F.R. § 80.125; U.S. EPA, Final Rule: Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes, 88 Fed. Reg. 44468, 44524 (July 12, 2023).

44 *See* California Air Resources Board, Low Carbon Fuel Standard 2023 Amendments, Standardized Regulatory Impact Assessment (SRIA) at 9 (Sept. 8, 2023), https://ww2.arb.ca.gov/sites/default/files/2023-09/lcfs_sria_2023_0.pdf.

45 KEDNY GIOP Direct Testimony at 80, Lines 17-21 ("The proposed RNG interconnections will reduce GHG emissions by eliminating new carbon emissions from the volume of fossil gas the RNG displaces and that would have been consumed by customers downstream of the interconnection. RNG interconnections also eliminate the GHG emissions that would have occurred upstream of the interconnections attributable to the fossil gas displaced by the RNG.")

In the Joint Proposal, National Grid commits to seek solutions to ensure climate benefits are retained in New York via appropriate management of environmental attribute credits. Regarding the biomethane interconnection projects, the Joint Proposal states that for "any environmental attribute credits produced in association with the biomethane entering the Companies' distribution systems via the interconnections, the Companies will 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."[46] Regarding Newtown Creek, the Joint Proposal states that National Grid will "engage with senior staff at Con Edison and difficult-to-electrify gas customers (to be mutually agreed by KEDNY and the City) to discuss the potential purchase and sale of the biomethane and the associated environmental attributes produced by the Newtown Creek project."[47] National Grid will also report on revenues from the sale of environmental attributes (as well as the sale of biomethane itself) for the Newtown Creek facility.

Community Concerns with Newtown Creek Facility. Parties raised concerns with the air quality and noise impacts associated with the Newtown Creek facility.[48] It is essential that

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46 Joint Proposal at 56.

47 Joint Proposal at 57.

48 *See, e.g.*, *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 Corporation d/b/a National Grid for Gas Service*, Cases 23-G-0225 & 23-G-0226, Direct Testimony of Sonal Jessel for WE ACT for Environmental Justice at 27-28 (Sept. 1, 2023).

National Grid and New York City operate this facility in a manner that protects air quality and does not overburden nearby communities.

The Joint Proposal contains reporting commitments that will enhance information tracking and reporting regarding system outages and community complaints at the Newtown Creek facility. KEDNY will file an annual report including information on biomethane production quantities, the number of days the project was offline, the number of hours the project was offline on the days it was offline, and the GHG emissions reductions associated with the Newtown Creek project, as well as the following information about community complaints: "the number and nature of formal complaints received by National Grid about the Newtown Creek project. Formal complaints include PSC complaints, Better Business Bureau complaints, complaints received via the complaint form on National Grid's website, and other customer complaints managed by the Companies' Office of the President group."[49]

While not resolving all issues, this reporting commitment should ensure that National Grid monitors community complaints about the Newtown Creek facility.

F. The Joint Proposal Contains Provisions to Reduce Methane Leakage through Deployment of Advanced Leak Detection

At Section 5.5 of the Joint Proposal, the Companies commit to survey 50% of their leak-prone mains using advanced leak detection technology (i.e., vehicle-mounted cavity ring down spectroscopy with GPS and wind measurement technology) in Rate Year 1, and to survey 100% of leak-prone mains in subsequent years.[50] The Companies will identify high-emitting leaks of 10 standard cubic feet per hour (scfh) and greater and repair those leaks within 180 days. Finally,

[49] Joint Proposal at 57.

[50] Joint Proposal at 32, Section 5.5.

the Companies will report annually on the results of the program. This program will ensure National Grid's continued use of advanced methane detection technology and faster repair of high-emitting leaks that are responsible for climate-warming methane emissions.

III. THE COMMISSION MUST ESTABLISH A STANDARD FOR CLCPA SECTION 7 ANALYSIS IN RATE CASES

The CLCPA mandates that New York adopt measures to reduce statewide GHG emissions by 40% by 2030 and 85% by 2050 (below 1990 levels) and achieve economywide net zero emissions by 2050, and seeks to "maximize reductions of both greenhouse gas emissions and co-pollutants in disadvantaged communities," among other targets.[51] CLCPA Sections 7(2) and 7(3) require that "all state agencies," in "considering and issuing" administrative approvals and decisions, (a) "shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits,"[52] and (b) "shall not disproportionately burden disadvantaged communities" and "shall prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities."[53]

Sections 7(2) and 7(3) of the CLCPA (collectively, "Section 7") apply to rate case orders.[54] In order to conduct an accurate assessment of GHG emissions and impacts to

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51 CLCPA § 1(4); *id.* § 2 (N.Y. ECL § 75-0107(1)); N.Y. ECL § 75-0103(14)(d).

52 CLCPA § 7(2).

53 *Id.* § 7(3).

54 *See* CLCPA § 7; *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 19-G-0309 & 19-G-0310, Order Approving Joint Proposal, As Modified, and Imposing Additional Requirements at p69, 70 (Aug. 12, 2021) (concluding "Sections 7(2) and 7(3) are applicable to the Commission's actions here," observing "the Legislature's intent that Section 7(2) of the CLCPA be broadly construed," and explaining that "Commission orders in rate cases fall within the ambit of Section 7(2)'s [and 7(3)'s] application to 'other administrative approvals'

disadvantaged communities associated with a utility rate filing or Joint Proposal, the Commission should have clear, consistent standards.

CLCPA Section 7(2), GHG Emissions. Regarding Section 7(2), a framework is needed to assess the expected GHG emissions associated with a utility rate proposal.[55] Gas utility alignment with the CLCPA will require year-over-year reductions in GHG emissions (including Scope 1, 2, and 3 emissions), and it is the Commission's responsibility to approve rate filings consistent with that trajectory. The Commission has taken commendable action in other proceedings to establish year-over-year GHG emissions tracking and reporting standards for New York utilities, but this work remains incomplete. In a May 2022 Order, the Commission stated that "it must establish clear and consistent statewide guidelines for GHG emissions reporting requirements to ensure that the State's major electric and gas IOUs (collectively, the Utilities) are on track to meet the CLCPA targets," and further directed New York utilities in future rate case filings to "include an assessment of the GHG emissions impacts of each specific investment, capital expenditure, program, and initiative included in their rate filings."[56]

notwithstanding the absence of a direct correlation to any item provided in the list of examples").

[55] *See* Case 22-M-0149, Request of Environmental Defense Fund for a Notice of Comment and Further Action on the Joint Utilities' Proposal for an Annual Greenhouse Gas Emissions Inventory Report (Feb. 14, 2023); Case 20-G-0131, Comments of EDF on Staff Gas System Planning Process Proposal at p28-33 (May 3, 2021); Case 20-G-0131, Comments of EDF, Attachment 4: Gas Company Climate Planning Tool and Supporting Documentation (submitted May 3, 2021).

[56] *In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, Case 22-M-0149, Order on Implementation of the CLCPA at 14-15, 16 (May 12, 2022).

The utilities filed a joint proposal for annual GHG inventory reporting in December 2022, and after it was noticed for public comment, EDF filed comments in September 2023.[57] In relevant part, EDF stated that the Commission should "adopt a framework for reporting GHG emissions associated with rate case filings, as well as Joint Proposals (since rate cases in New York are typically resolved through multi-party settlements referred to as Joint Proposals)."[58]

The Commission should evaluate the utilities' proposal and stakeholder comments and adopt an annual GHG accounting framework. The Commission must also adopt a framework for quantifying GHG emissions associated with rate filing and settlements, to ensure that its decisions in rate cases are consistent with CLCPA Section 7.

CLCPA Section 7(3), Disadvantaged Communities. Regarding Section 7(3), clear standards are needed to determine whether a proposed action will disproportionately burden disadvantaged communities and prioritize GHG and co-pollutant reductions in DACs. Experts have presented detailed recommendations for utility approaches and considerations to reduce burdens in disadvantaged communities, and how the Commission should conduct such a review.[59] The Commission should institute a standardized process for this review.

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[57] *In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, Case 22-M-0149, Joint Utilities' Proposal for An Annual Greenhouse Gas Emissions Inventory Report (Dec. 1, 2022); *In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, Case 22-M-0149, Comment of EDF on the Joint Utilities' Proposed Methodology for Annual Greenhouse Gas Emissions Inventory Reporting (Sept. 5, 2023).

[58] Case 22-M-0149, Comment of EDF on the Joint Utilities' Proposed Methodology for Annual Greenhouse Gas Emissions Inventory Reporting at 16 (Sept. 5, 2023).

[59] *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 Corporation d/b/a National Grid for Gas Service*, Cases 23-G-0225 & 23-G-0226, Direct Testimony of Sonal Jessel for WE ACT for Environmental Justice at p11-13 (Sept. 1, 2023); *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and*

In the Joint Proposal, National Grid commits to filing an annual CLCPA and DAC Report and to include a DAC analysis in the Companies' next rate filing for any capital project with estimated costs of $1 million or greater. These reports and analysis will allow the Commission and stakeholders to track progress, but this information will not be made available until after approval of a Joint Proposal. The Commission must consider and adopt a framework for assessing the impact of rate filing and settlements on disadvantaged communities, to ensure that its review of Joint Proposals in rate cases is consistent with CLCPA Section 7.

IV. CONCLUSION

EDF supports the Joint Proposal and recommends the Commission approve it. The Joint Proposal contains no funding or support for the HyGrid pilot that National Grid proposed in its initial rate filing, which is a beneficial outcome due to the concerns and limitations of hydrogen-methane blending, particularly in residential and commercial buildings. The Joint Proposal contains beneficial programs to advance the use of Non-Pipeline Alternatives, as well as provisions to address some concerns with biomethane projects.

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Regulations of Consolidated Edison Company of New York, Inc. for Electric & Gas Service, Cases 22-E-0064 & 22-G-0065, Direct Testimony of Sonal Jessel on Behalf of WE ACT for Environmental Justice and Alliance for a Green Economy at Page 33-47 (May 20, 2022); Case 20-G-0131, Synapse Energy Economics, *Long-Term Planning to Support the Transition of New York's Gas Utility Industry* at p13 (Apr. 30, 2021) (filed May 3, 2021, by NRDC in Case 20-G-0131) (proposing an Energy Justice Analysis framework to focus on specific customer segments and community-level impacts).

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