

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

CASE 23-G-0225

**PROCEEDING ON MOTION OF THE COMMISSION AS TO THE RATES,
CHARGES, RULES AND REGULATIONS OF THE BROOKLYN UNION GAS
COMPANY D/B/A NATIONAL GRID NY FOR GAS SERVICE**

CASE 23-G-0226

**PROCEEDING ON MOTION OF THE COMMISSION AS TO THE RATES,
CHARGES, RULES AND REGULATIONS OF KEYSpan GAS EAST
CORPORATION D/B/A NATIONAL GRID FOR GAS SERVICE**

CASE 23-G-0200

**PETITION OF THE BROOKLYN UNION GAS COMPANY D/B/A
NATIONAL GRID NY FOR A NEW YORK STATE SALES TAX
REFUND UNDER 16 NYCRR SECTION 89.3 AND REQUEST FOR AN
EXTENSION**

**STATEMENT OF THE
BROOKLYN UNION GAS COMPANY D/B/A NATIONAL GRID NY
AND KEYSpan GAS EAST CORPORATION D/B/A NATIONAL GRID
IN SUPPORT OF JOINT PROPOSAL**

Dated: May 1, 2024

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Case 23-G-0225 - Proceeding On Motion Of The
Commission As To The Rates, Charges, Rules
And Regulations Of The Brooklyn Union Gas
Company d/b/a National Grid NY For Gas
Service**

**Case 23-G-0226 - Proceeding On Motion Of The
Commission As To The Rates, Charges, Rules
And Regulations Of KeySpan Gas East
Corporation d/b/a National Grid For Gas Service**

**Case 23-G-0200 - Petition of the Brooklyn Union
Gas Company d/b/a National Grid NY for a New
York State Sales Tax Refund under 16 NYCRR
Section 89.3 and Request for an Extension**

**STATEMENT OF THE
BROOKLYN UNION GAS COMPANY D/B/A NATIONAL GRID NY
AND KEYSpan GAS EAST CORPORATION D/B/A NATIONAL GRID
IN SUPPORT OF JOINT PROPOSAL**

The Brooklyn Union Gas Company d/b/a National Grid NY (“KEDNY”) and KeySpan Gas East Corporation d/b/a National Grid (“KEDLI”) (KEDNY and KEDLI are collectively referred to as the “Companies”) submit this Statement in Support of the Joint Proposal dated April 9, 2024 (“JP”) in the above-captioned proceedings. The JP is the product of more than eleven months of rate case proceedings and negotiations, and is supported by the Companies and four other parties with diverse interests, including the New York State Department of Public Service Staff (“Staff”), the City of New York (“NYC”), the Environmental Defense Fund (“EDF”), and

NRG Energy, Inc. (“NRG”).¹ The JP will allow the Companies to deliver on their core mission of providing safe and reliable gas service to customers, while providing for rate stability and maintaining affordability over the three-year term of the rate plans. The JP funds capital investments and programs that will enhance the reliability and resiliency of the Companies’ distribution networks serving nearly two million customers, while significantly reducing system leaks and associated emissions. The JP also provides for innovative investments, programs, and initiatives designed to support New York’s clean energy policy goals, including the objectives established in the Climate Leadership and Community Protection Act (“CLCPA”),² that build upon the Companies’ experience under their current rate plans. Altogether, the JP addresses system safety and reliability needs while taking meaningful near-term action consistent with the CLCPA goals.

In determining whether a rate settlement is in the public interest, the Commission recently held that the rate case review process “requires the Commission to ensure reliability and public safety are maintained through just and reasonable rates in the broad context of many considerations that include achieving emissions reductions and other clean energy objectives.”³ Rate plans must “appropriately balance the interests in reliability, public safety, and reasonable rates with emission reductions and clean energy objectives, without disproportionately burdening disadvantaged communities.”⁴ In this regard, the JP presents a comprehensive resolution of these rate

¹ The Companies, Staff, NYC, EDF, and NRG are hereinafter collectively referred to as the “Signatory Parties.”

² L. 2019, ch. 106.

³ Cases 22-E-0064 and 22-G-0065, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service*, “Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans With Additional Requirements” (July 20, 2023) (“2023 Con Edison Rate Order”) at 95-96.

⁴ *Id.* at 96.

proceedings that ensures continued access to safe, reliable, and affordable energy for the Companies' customers, while at the same time advancing clean energy investments and programs to support the State's energy and climate goals. The JP reflects the input of numerous parties committed to achieving a reasonable outcome and, while the JP does not address all items to the full satisfaction of all stakeholders, the resulting settlement is an unquestionably positive outcome for the Companies' customers and other stakeholders.⁵ In addition, as required by Sections 7(2) and (3) of the CLCPA, adoption of the JP by the Commission would in no way be "inconsistent with or...interfere with the attainment of statewide greenhouse gas emission limits" established in Article 75 of the Environmental Conservation Law, and it will not "disproportionately burden disadvantaged communities."⁶ Moreover, consistent with Section 7(3) of the CLCPA, the JP contains a number of provisions that "prioritize reductions of greenhouse gas emission and co-pollutants in disadvantaged communities."⁷ For these reasons, the JP should be found to be in the public interest and adopted by the Commission in its entirety without modification.

I. Introduction and Overview

The JP sets forth a three-year rate plan for each of the Companies commencing April 1, 2024, and continuing through March 31, 2027.⁸ While the JP establishes a rate plan for the period beginning April 1, 2024, the Signatory Parties anticipate a June 1, 2024 effective date of new

⁵ See *id.* at 138 ("A JP is not required to include all programs desired by opposing parties for it to be in the public interest.").

⁶ CLCPA § 7(2) and (3). In the 2023 Con Edison Rate Order, the Commission determined that all state agencies must consider these factors when issuing their decisions. 2023 Con Edison Rate Order at 89.

⁷ CLCPA § 7(3); 2023 Con Edison Rate Order at 89.

⁸ JP Section IV.1. For the purposes of the JP, Rate Year One, Rate Year Two, and Rate Year Three are the twelve months ending March 31, 2025, March 31, 2026, and March 31, 2027, respectively. See JP Sections III.2, III.3, and III.4.

rates.⁹ The JP is supported or not opposed by a significant number of stakeholders with diverse interests. The Signatory Parties supporting the JP represent customer, environmental, governmental, and energy policy interests. Non-opposing parties include the Utility Intervention Unit of the New York Department of State’s Division of Consumer Protection (“UIU”). This broad base of support for/non-opposition to the JP among these frequently adverse parties provides a strong basis for the Commission to adopt the JP.

The JP is the product of lengthy and extensive settlement discussions¹⁰ and reflects the issues raised by, and input from, Signatory Parties, as well as those parties who are neutral towards and oppose the JP. The JP comes at a pivotal time in the energy industry, in which policy initiatives have created the need for investments to ensure the continuing reliability and safety of gas distribution systems, while at the same time supporting efforts to meet emission reduction goals and combat climate change. The JP provides for necessary investments in the Companies’ gas systems that address both policy goals.

The JP also mitigates costs and prioritizes affordability by reducing discretionary spending and eliminating non-essential programs from the Companies’ initial rate filings, deferring capital investment where such deferrals would not compromise safety or reliability, reflecting more than \$70 million in efficiency savings in rates over the term of the rate plans, providing approximately

⁹ See JP Section IV.2.3. The JP proposes a “make whole” provision that is designed to ensure that the Companies are restored to the same financial position they would have been had rates gone into effect April 1, 2024. If new rates are not in effect June 1, the Companies would need to recalculate base delivery rates to reflect the new effective date. See Cases 23-G-0225 and 23-G-0226, “Order on Extension of Maximum Suspension Period of Major Rate Filings” at Ordering Paragraph 3 (Issued and Effective March 15, 2024)(holding that KEDNY and KEDLI “shall be made whole ... for the period between April 1, 2024 and August 31, 2024.”).

¹⁰ By notice dated September 26, 2023, the Companies notified all parties of the commencement of settlement negotiations. Settlement conferences were held on multiple dates in 2023 and 2024. These conferences in all instances complied with the Commission’s Settlement Guidelines and regulations.

\$210 million in bill credits to support low-income customers over the term (including more than \$60 million in Rate Year One), deploying additional resources to promote the Companies' Energy Affordability Program ("EAP"), enhancing customer protections for financially vulnerable customers, funding an average of more than \$75 million per year across the plan for energy efficiency programs that will enable customers to use less energy, establishing a shareholder-funded weatherization program targeted at disadvantaged communities, phasing-in increased depreciation expense and deferring the amortization of depreciation reserve deficiencies until Rate Year Two, utilizing rate mechanisms such as levelization to smooth the impact of needed bill increases over several years, and utilizing downward tracking mechanisms for investments in utility plant and information technology to ensure that customers will not be harmed if the Companies underspend their capital programs.¹¹ In the absence of a JP, many of these benefits could not be attained through litigation.

II. Standard of Review

The JP is the result of lengthy, complex, and difficult negotiations among normally adversarial parties. The negotiations fully complied with the Commission's settlement rules¹² and provided all parties the opportunity to participate. In evaluating whether a JP is in the public interest, the Commission has consistently applied the following standards set forth in Settlement Guidelines:¹³

- A desirable settlement should strive for a balance among (1) protection of the customers; (2) fairness to investors; and (3) the long-term viability of the utility. Additionally, a settlement should be consistent with sound environmental, social and

¹¹ See JP Section I.1.

¹² 16 NYCRR § 3.9(a), (d).

¹³ 32 NYPSC 71, Case 90-M-0255 *et al.*, *Proceeding on Motion of the Commission Concerning its Procedures for Settlement and Stipulation Agreements*, filed in C11175, Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines, Opinion No. 92-2 (March 24, 1992) ("Settlement Guidelines").

economic policies of the Agency and the State and should produce results that were within the range of reasonable results that would likely have arisen from a Commission decision in a litigated proceeding.

- In judging the settlement, the Commission shall give weight to the fact that a settlement reflects agreement by normally adversarial parties.¹⁴

The Order adopting the Settlement Guidelines enumerates the following factors to be considered in the “substantive review” of a proposed agreement:¹⁵

- The settlement’s consistency with law and the regulatory, economic, social and environmental policies of the Commission and the State;
- Whether the agreement compares favorably with the likely result of full litigation and is within the range of reasonable outcomes;
- Whether the settlement strikes a fair balance among interests of customers, investors and the long-term soundness of the utility;
- The existence of a rational basis for decision;
- The completeness of the record; and
- Whether the settlement is contested.

The first four of the foregoing factors, according to the Commission, are elements of the public interest standard, while the last two “simply guide [the Commission] in [its] assessment.”¹⁶

As stated above, the JP is supported or not opposed by parties who often have competing and adverse interests. These parties include Staff, NYC, EDF, NRG, and UIU. That such a diverse group either supports or does not oppose the JP provides persuasive evidence that it is not only reasonable, but also well within the range of reasonable litigated outcomes for these proceedings. In terms of balancing the interests of customers, the JP reflects significant compromises of divergent points of view, including adjustments that reflect concerns raised by parties that do not

¹⁴ Settlement Guidelines, Appendix B at 8.

¹⁵ Settlement Guidelines at 30.

¹⁶ *Id.*

object to, but are not Signatory Parties to the settlement, as well as those that may oppose the settlement. The parties to these proceedings undertook considerable efforts to explore potential compromises thoroughly over a lengthy period of negotiations. The Companies appreciate the professionalism and patience of all parties that participated in the settlement process. The JP reflects a reasonable compromise among the Signatory Parties that fairly balances the interests of all parties.

The JP also fully satisfies the Commission's Settlement Guidelines. First, the JP satisfies the standards of New York's Public Service Law ("PSL") in that it will enable the Commission to adopt rates and terms of service that are just and reasonable.¹⁷ Moreover, the JP is consistent with Commission and New York State economic, social, and environmental policies. For example, as discussed more fully below in Section III, the JP contains a number of provisions that are designed to support the Commission's and New York State's commitments to reducing greenhouse gas ("GHGs") emissions, as well as provisions that prioritize reductions in GHG emissions and co-pollutants in disadvantaged communities. In addition, the JP contains provisions that are consistent with the Commission's policy goals of mitigating customer bill impacts and decreasing the number of service terminations particularly to low- to moderate-income ("LMI") customers.

Second, the JP also produces a result that is reasonable and well within the range of outcomes that would have resulted from a fully litigated proceeding. As discussed more fully below, certain provisions of the JP reflect positions advocated by the Companies, Staff, and other parties in pre-filed testimony, while other provisions are the product of significant compromises

¹⁷ See PSL § 66(12)(i).

among the parties. Taken as a whole, the JP produces a result that compares favorably with the likely results of litigation.

Third, the JP appropriately balances the interests of customers and other stakeholders with the long-term financial integrity of the utilities. For example, the JP reflects a return on equity (“ROE”) that is lower than the ROE sought by the Companies but higher than the ROE proposed by Staff. The result of the JP is that the rates set forth therein should provide meaningful support to enable the Companies to maintain their investment-grade credit quality and financial integrity. This in turn will benefit customers by allowing the Companies to continue to access the financial markets at reasonable terms and avoid the increased costs associated with credit rating downgrades.

Fourth, the JP is supported by the record. The JP is the product of an extensive amount of information exchanged during these proceedings through discovery (which included more than 1,700 information requests directed at the Companies), pre-filed testimony, and extensive settlement negotiations. All parties to these cases had the opportunity to submit discovery and testimony, which ensured that their perspectives were considered during the settlement process.

Based on the foregoing, and as more fully detailed below, the JP meets the public interest standard set forth in the Commission’s Settlement Guidelines and there is thus a rational basis for the Commission to adopt the JP in its entirety.

III. The Provisions of the Joint Proposal are Fully Consistent with the CLCPA

The JP contains numerous commitments and provisions that support the GHG reduction goals of the CLCPA – and the JP is otherwise consistent with the requirements of the CLCPA and the related policies established by the Commission in its “Order Adopting Gas System Planning

Process” in Case 20-G-0131,¹⁸ and its “Order on Implementation of the Climate Leadership and Community Protection Act” in Case 22-M-0149.¹⁹ The CLCPA mandates that New York’s GHG emissions be 40 percent below 1990 levels by 2030 and 85 percent below 1990 levels by 2050.²⁰ Moreover, the CLCPA requires that: (1) by 2030, 70 percent of statewide electric generation shall be generated by renewable energy systems; and (2) by 2040, the statewide electric grid shall be zero emissions.²¹ The CLCPA requires various State agencies, including the Commission, to “promulgate regulations to contribute to achieving the statewide greenhouse gas emissions limits established in Article 75 of the Environmental Conservation Law.”²² In addition, the Commission has recognized, as noted *supra*, that CLCPA Section 7(2) requires all State agencies to consider whether their administrative approvals and decisions “are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits” established in Environmental Conservation Law (“ECL”) Article 75. The Commission further recognized that CLCPA Section 7(3) requires all State agencies to ensure that their decisions will not “disproportionately burden disadvantaged communities,” and that their decisions will “prioritize reductions in greenhouse gas emissions and co-pollutants in disadvantaged communities.”²³

¹⁸ Case 20-G-0131, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, “Order Adopting Gas System Planning Process” (May 12, 2022) (“Gas Planning Order”).

¹⁹ Case 22-M-0149, *Proceeding on Motion of the Commission Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act*, “Order on Implementation of the Climate Leadership and Community Protection Act” (May 12, 2022) (the “CLCPA Implementation Order”).

²⁰ CLCPA § 2 (codified at N.Y. Env’tl. Conserv. Law § 75-0107(1)). The Commission has acknowledged that “the CLCPA contains no mandates or guidelines with respect to emissions associated with the State’s gas distribution system or gas supplied by utilities.” Case 21-E-0074 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service*, “Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans, With Additional Requirements” (April 14, 2022) (“2022 O&R Rate Order”) at 74.

²¹ CLCPA § 3 (codified at PSL § 66-p(2)).

²² CLCPA § 8.

²³ CLCPA § 7(2) and (3); *see also* 2023 Con Edison Rate Order at 89.

The Commission has further determined that these evaluations are “not performed in a vacuum” but rather are “made in the context of the Commission’s core responsibility to ensure that ‘[e]very gas corporation, every electric corporation and every municipality...furnish[es] and provide[s] such service, instrumentalities and facilities as *shall be safe and adequate* and in all respects just and reasonable.’”²⁴ Simply put, “[t]he CLCPA does not override the Commission’s responsibility to ensure reliability, public safety and reasonable rates in favor of emissions reductions.”²⁵ “The Commission’s core mission is to ensure the continued provision of safe and adequate utility service at just and reasonable rates. Indeed, the Commission views this objective as paramount during the transition to cleaner energy systems.”²⁶

A. The Joint Proposal Is Consistent with CLCPA Section 7(2)

CLCPA Section 7(2) requires the Commission to determine whether a proposed rate settlement is directionally consistent with the State’s emissions reduction goals.²⁷ The Commission has found that a rate settlement complies with the CLCPA’s emissions reduction goals to the extent it “appropriately balance[s] the interests in reliability, public safety, and reasonable rates with emission reductions and clean energy objectives” and serves as “an important step in the ongoing process of achieving the CLCPA’s greenhouse gas limits, one that will be built upon in future rate cases and other Commission proceedings.”²⁸

²⁴ Case 19-G-0309 *et al.*, *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*, Order Approving Joint Proposal, As Modified, And Imposing Additional Requirements at 73-74 (Aug. 12, 2021) (quoting PSL § 65, emphasis in original) (“2021 KEDNY/KEDLI Rate Order”).

²⁵ *Id.* at 80.

²⁶ Case 21-G-0577, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Liberty Utilities (St. Lawrence Gas) Corp. for Gas Service*, “Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plan” (June 22, 2023) at 33.

²⁷ 2021 KEDNY/KEDLI Rate Order at 69-70.

²⁸ Case 20-E-0380 *et al.*, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service*, “Order

Under the Commission’s articulated standard, the JP complies with CLCPA Section 7(2). In particular, the JP establishes just and reasonable rates and enables activities that promote reliability, resiliency, and public safety while at the same time containing a number of provisions and items, discussed in Section IV below, that are designed to support the CLCPA’s clean energy goals and GHG targets, including:

- (i) JP Sections 7.1 – 7.1.7, which address Non-Pipeline Alternatives (“NPAs”) and commit the Companies to significant analyses and aggressive promotion of NPAs during the term of the proposed rate plans;
- (ii) JP Sections 7.2 – 7.2.2, which require the Companies to file annual reports concerning CLCPA and disadvantaged community issues and other related matters and obtain feedback from interested stakeholders concerning the Companies’ efforts to address these issues;
- (iii) JP Section 7.3, which requires the Companies to provide in their next rate case an analysis of the impact of capital projects involving investments of \$1 million or greater on disadvantaged communities;
- (iv) JP Section 7.4, which requires the Companies to continue to report on the energy efficiency, demand response, electrification, and other capacity demand metrics adopted in their previous rate cases;
- (v) JP Section 7.5, which extends the prohibition on marketing new gas connections and conversions, and also provides that the Companies will encourage applicants requesting gas services to consider electrification options and require new gas

Adopting Terms of Joint Proposal, Establishing Rate Plans and Reporting Requirements” at 83 (January 20, 2022) (“2022 Niagara Mohawk Rate Order”).

customers to acknowledge in writing that they have been provided information on non-fossil alternatives;

- (vi) JP Section 7.6, which requires the Companies' continued participation in the Commission's Utility Thermal Energy Network proceeding and implementation of authorized geothermal systems;
- (vii) JP Section 7.7, which permits the Companies to seek to eliminate certain customer incentives currently included in the Companies' gas tariffs that encourage new customers to connect to the Companies' distribution systems;
- (viii) JP Section 7.8, which addresses biomethane supply interconnections;
- (ix) JP Section 7.9, which provides for enhanced reporting concerning KEDNY's Newtown Creek waste-to-energy project;
- (x) JP Section 7.11, which sets forth the System Efficiency Earnings Adjustment Mechanism measuring the Companies' success in expanding their gas demand response programs;
- (xi) JP Section 10.1, which establishes minimum leak prone pipe ("LPP") removal targets;
- (xii) JP Section 10.2.1, which establishes aggressive targets to reduce system leaks, and JP Section 5.5 which provides for supplemental leak surveys intended to capture high-emitting leaks;
- (xiii) JP Section 10.3, which establishes aggressive damage prevention targets;
- (xiv) JP Section 11.7, which expands the availability of multilingual customer assistance materials that will assist the Companies in promoting their energy efficiency and clean energy programs; and

- (xv) JP Sections 11.10 – 11.10.6, which set forth provisions related to the Companies’ continuing provision of energy efficiency and weatherization, health, and safety programs.

Based on the foregoing, the Commission’s adoption of the JP would commit the Companies to undertaking a number of actions to help the State achieve the CLCPA’s GHG emissions reduction requirements while satisfying the Companies’ obligations under the PSL to continue to provide safe and adequate service to its customers. As a result, the Commission should find that the JP is consistent with CLCPA Section 7(2) and will not interfere with the attainment of the CLCPA’s GHG emissions reduction targets.

B. The Joint Proposal Is Consistent with CLCPA Section 7(3)

Pursuant to CLCPA Section 7(3), the Commission must find that the JP does not disproportionately burden disadvantaged communities and prioritizes reductions of GHGs and co-pollutants in disadvantaged communities. The Commission has previously determined that a finding that a Joint Proposal “allow[s] the Companies to continue providing safe and reliable service is consistent with the finding that the Joint Proposal also does not disproportionately burden disadvantaged communities.”²⁹ Moreover, the Commission has found that a Joint Proposal that allows for infrastructure projects that ensure that gas is available for heat and hot water through the winter seasons is consistent with CLCPA Section 7(3) because “low-income New Yorkers...may not be able to afford the energy efficiency products and heat pumps incentivized

²⁹ 2021 KEDNY/KEDLI Rate Order at 81.

by the Joint Proposal.”³⁰ In addressing consistency with CLCPA Section 7(3), the Commission has also looked to see if the Joint Proposal contains low-income protections.³¹

Based on the above criteria, the Commission should find that the JP benefits, and does not disproportionately burden, disadvantaged communities. First, the JP provides funding for investments and maintenance necessary to maintain safe and reliable service for all communities, including disadvantaged communities.³² Once completed, the capital projects funded through the JP will have a net positive effect on the communities served by the Companies through a reduction in GHG emissions and improvements in the safety and reliability of the Companies’ gas distribution systems.

In addition, the Companies’ capital projects will be performed across the Companies’ service territories, including work in disadvantaged communities. These projects, most of which will improve the reliability and resiliency of the Companies’ systems, are generally expected to have beneficial effects on emissions in local communities through reduced leaks and breaks.

The JP’s NPA provisions will also benefit disadvantaged communities because the NPA provisions provide that the Companies will significantly expand both their promotion of NPAs and the number of NPA programs, which will include programs that promote NPAs in place of LPP

³⁰ *Id.* The Commission has also stated that “until such time as more homes are converted to air- or ground-source heat pumps, ensuring access to reliable natural gas for home heating will provide the most benefit to low- and moderate-income communities.” *Id.* at 82.

³¹ Case 21-G-0394 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Corning Natural Gas Corporation for Gas Service*, “Order Adopting Terms of Joint Proposal, Establishing Rate Plan and Approving Merger” (June 16, 2022) at 49 (finding that “[i]n light of the low income protections contained in the JP, we also find that the JP does not impose an undue burden on disadvantaged communities as required by § 7(3) of the CLCPA”).

³² *See* JP Section 5.

replacement, system reinforcement, main extensions and service line installations and replacements.³³

The JP also contains several provisions that substantially benefit disadvantaged communities by maintaining the affordability of electric and gas service. For example, the JP continues and expands upon the Companies' Energy Affordability Programs, which include a four-tier discount system based on varying needs consistent with the parameters established by the Commission in Case 14-M-0565.³⁴ Moreover, the JP provides that the Companies will significantly expand their marketing and outreach to LMI customers,³⁵ continue to provide economic development programs,³⁶ establish new weather-related protections for customers,³⁷ expand the availability of translated customer assistance materials,³⁸ increase the promotion of special protection programs,³⁹ and enhance their procedures for offering deferred payment agreements ("DPAs").⁴⁰

The Commission's goal in the Low-Income Order is to set discounts to achieve a three percent energy burden for low-income gas customers balanced with a two percent total revenue budget cap.⁴¹ In the JP, because the calculation of the low-income discount for KEDNY is limited

³³ JP Section IV.7.1.1-7.1.4.

³⁴ Case 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Customers*, "Order Adopting Low Income Program Modifications and Directing Utility Filings" at 8 (May 20, 2016).

³⁵ JP Section IV.11.8.1.

³⁶ JP Section IV.11.1.

³⁷ JP Section IV.11.3.

³⁸ JP Section IV.11.7.

³⁹ JP Section IV.11.8.

⁴⁰ JP Section IV.11.5.

⁴¹ Case 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Customers*, "Order Adopting Energy Affordability Policy Modifications and Directing Utility Findings" at 36 (August 12, 2021). While the Order speaks to a six percent overall energy burden, that burden equals three percent for electricity and three percent for gas.

to the two percent budget cap, KEDNY's low-income heating customers in Tiers 2 through 4 would see relatively higher bill impacts in Rate Year One. While this is the result of applying the Commission-accepted discount calculation, the bill impacts for Tiers 2 through 4 could be moderated by adjusting the factors in the discount calculation to result in an equal energy burden across the discount tiers. In circumstances where the two percent budget cap is exceeded, as is the case here, this approach would allow for a more equal distribution of low-income credits across the tiers. Attached as Appendix 1 is a table that illustrates the difference in bill impacts that would result from the Commission-accepted discount calculations and the adjusted calculations. The Companies would not object to the adoption of the adjusted methodology reflected in Appendix 1.⁴²

Additional provisions of Section IV of the JP that will help the Companies to prioritize reductions in GHGs and co-pollutants in disadvantaged communities include:

- (i) JP Section 7.2 requires the Companies to file a CLCPA and Disadvantaged Communities Report that will include data on energy efficiency spending, demand response, main replacements, leak repairs, customer operation, and clean energy jobs in both disadvantaged and non-disadvantaged communities;
- (ii) JP Section 7.3 requires the Companies to include in its next rate proceeding an analysis of any capital project of \$1 million or greater that is located in or could reasonably be expected to impact a disadvantaged community;
- (iii) JP Section 11.7 requires the Companies to offer expanded language access, which will permit the Companies to better promote their energy efficiency and demand

⁴² The Companies will also raise the issue in the Energy Affordability Program Working Group.

response programs and other clean energy services in disadvantaged communities;
and

- (iv) JP Section 11.10.6 requires the Companies to establish a shareholder-funded program of up to \$6 million over the term of the rate plans to provide weatherization, health, and safety measures to LMI and disadvantaged community households.

These programs fully support a Commission finding that adoption of the JP will not impose a disproportionate burden on disadvantaged communities and will prioritize reductions in GHGs and co-pollutants in such communities.

IV. Elements of Joint Proposal

A. KEDNY and KEDLI Rate Plans

1. Effective Date and Term

The JP proposes three-year rate plans for the Companies beginning April 1, 2024 and continuing through March 31, 2027.⁴³ Three-year rate plans are common terms in multi-year rate settlements.⁴⁴ Three-year rate plans benefit both the Companies and their customers by providing delivery rate certainty for customers that in turn provides the Companies with a greater ability to plan and greater financial stability than would be provided in a one-year litigated case. The three-year term also provides the Companies and their customers and investors with assurance that the Companies will have sufficient resources to enable them to continue to provide safe, adequate, and reliable service over the term of the plans.

⁴³ JP Section IV.1.

⁴⁴ See, e.g., Cases 22-E-0317 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service*, “Order Adopting Joint Proposal” (October 12, 2023) (“2023 NYSEG/RGE Rate Order”) at 20; 2023 Con Edison Rate Order at 14.

In the absence of the three-year term negotiated by the parties in this case, the Companies would be required to begin planning their next rate case immediately after the Commission takes action on the JP. In contrast, Commission approval of the Term provision of the JP will afford the Companies the opportunity to focus their efforts on implementing the JP and conducting their operations in a manner designed to achieve the JP's goals and objectives. The proposed three-year rate plans are consistent with Commission policy that encourages multi-year rate plans in an effort to avoid the substantial efforts and resources required to litigate rate cases each year.⁴⁵ The Term provision will also free up the resources of Staff and other parties as a result of not having to participate in ongoing annual rate case processes for the Companies. The Term provision of the JP is clearly reasonable and consistent with the public interest.

2. Revenue Requirements

2.1. Rate Plan Revenue Requirements

In their initial filings in these proceedings, the Companies proposed revenue requirement increases in Rate Year One of \$414.2 million for KEDNY and \$228.2 million for KEDLI.⁴⁶ In their rebuttal testimony, the Companies increased their proposed revenue requirement to \$504.3 million for KEDNY⁴⁷ and \$314.3 million for KEDLI.⁴⁸ Staff, the only other party to submit testimony concerning a comprehensive revenue requirement for each of the Companies in Rate

⁴⁵ Case 16-G-0257, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service*, "Order Establishing Rates for Gas Service" (April 20, 2017) at 63-65; *see also* 2021 KEDNY/KEDLI Rate Order at 216-18.

⁴⁶ JP Section I.2.1; Direct Testimony of KEDNY Revenue Requirements Panel at 14; Direct Testimony of KEDLI Revenue Requirements Panel at 14.

⁴⁷ *See* Rebuttal Testimony of KEDNY Revenue Requirements Panel at 4.

⁴⁸ *See* Rebuttal Testimony of KEDLI Revenue Requirements Panel at 4.

Year One, recommended a total base delivery revenue increase of \$389.4 million for KEDNY and \$219.8 million for KEDLI.⁴⁹ The JP proposes the following revenue requirements increases.⁵⁰

	Rate Year One (\$ million)	Rate Year Two (\$ million)	Rate Year Three (\$ million)
KEDNY	\$444.0	\$172.1	\$132.0
KEDLI	\$246.5	\$116.5	\$75.7

In percentage terms, these revenue requirement changes equate to total bill percentage changes of 15.9 percent, 6.9 percent, and 5.3 percent on total bills for KEDNY, and 13.4 percent, 7.3 percent, and 4.7 percent on total bills for KEDLI in Rate Years One, Two, and Three, respectively.⁵¹

The revenue requirements proposed in the JP reflect both reasonable compromises of positions advocated in these proceedings that are consistent with the results that would likely be obtained through litigation as well as the parties' efforts through the negotiation process to find additional efficiencies and scale back certain capital programs proposed in the Companies' filings. Specifically, the proposed revenue requirements reflect:

- (i) ROEs of 9.35 percent,⁵² which represent a compromise between the Companies' proposed ROE of 10.3 percent for a multi-year settlement⁵³ and Staff's recommendation of 9.1 percent⁵⁴ for a one-year rate case;
- (ii) Operation and maintenance ("O&M") expense levels that reflect reductions of \$43.074 million in Rate Year One for KEDNY and \$10.880 million for KEDLI in

⁴⁹ Testimony of Staff Policy Panel at 7, 9.

⁵⁰ JP Section IV.2.1.

⁵¹ In terms of increases in delivery revenue only, those increases equate to percentage increases of 30.7 percent, 8.9 percent and 6.2 percent for KEDNY and 26.8 percent, 9.8 percent and 5.7 percent for KEDLI in Rate Year One, Two and Three, respectively.

⁵² JP Section IV.2.1.

⁵³ Direct Testimony of Joshua C. Nowak at 73.

⁵⁴ Testimony of Kwaku Duah at 10.

Rate Year One as compared to the Companies' corrections and updates filings in these cases;⁵⁵

- (iii) Revised depreciation rates that reflect (a) the commencement of the amortization of LPP for KEDNY and the continuation of the amortization of LPP as authorized in KEDLI's previous base rate case, (ii) the phase-in of revised depreciation rates over four years for KEDNY⁵⁶ and two years for KEDLI, and (iii) the amortization of depreciation reserve deficiencies of \$131.246 million for KEDNY and \$337.881 million for KEDLI over 20 years beginning in Rate Year Two; and
- (iv) The annual amortization of KEDNY's net regulatory asset balance as of December 31, 2022, totaling \$195.520 million, over 10 years, and the annual amortization of KEDLI's net regulatory liability balance as of December 31, 2022, totaling \$41.072 million, over five years.⁵⁷

The overall revenue requirements proposed in the JP, as well as the significant inputs to those revenue requirements, are supported by the record in these cases and/or applicable Commission precedent. For example, the proposed ROE of 9.35 percent is:

- Much closer to the 9.1 percent ROE for a one-year rate case supported by Staff in these cases⁵⁸ than the ROE of 10.30 percent for a multi-year rate plan recommended by the Companies;⁵⁹ and

⁵⁵ JP Appendix 1, Schedule 1 (KEDNY) and Appendix 2, Schedule 1 (KEDLI).

⁵⁶ JP Section IV.2.1(d). Because the term of the rate plan is three years, KEDNY's revenue requirement reflects three years of a four-year phase-in of revised depreciation rates. This was done to mitigate potential bill impacts in this Joint Proposal. *See* JP p. 10, note 6.

⁵⁷ JP Section IV.2.1(f).

⁵⁸ Testimony of Kwaku Duah (Staff) at 62.

⁵⁹ Direct Testimony of Joshua C. Nowak at 72-73.

- Similar to the recent ROE recommendation of Staff witness David P. Warnock of 9.25 percent for a one-year rate case involving National Fuel Gas Distribution Corporation in Case 23-G-0627⁶⁰ and the 9.25 percent ROE authorized as part of a multi-year rate plan in the 2023 Con Edison Rate Order.⁶¹

The capital structure proposed in the JP reflecting a 48 percent equity component is also consistent with recent Commission precedent.⁶² The equity ratio is also supported by testimony submitted by both the Companies and Staff,⁶³ and is not opposed by any party in this proceeding. Both the capital structure and ROE proposed in the JP have a basis in the record, are well within the range of outcomes that could have resulted from a litigated case, and are otherwise in the public interest.

With respect to the overall level of O&M expenses reflected in the proposed revenue requirements, the record shows that Staff's litigation position in these cases recommended Rate Year One reductions to the level of O&M expenses reflected in the Companies' corrections and updates filings of \$62.452 million for KEDNY and \$28.220 million for KEDLI.⁶⁴ In contrast, as discussed *supra*, the Rate Year One revenue requirements proposed in the JP reflect O&M expense reductions of \$43.861 million for KEDNY and \$10.880 million for KEDLI as compared to the Companies' corrections and updates filings.⁶⁵ These O&M expense levels reflect the parties'

⁶⁰ See Case 23-G-0627, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service*, Direct Testimony of David P. Warnock (March 1, 2024) at 103.

⁶¹ 2023 Con Edison Rate Order at 71, 77-80. The Commission has recognized on many occasions that it is appropriate to recognize a premium to the ROE established as part of a multi-year settlement to compensate the utility for the risk associated with a multi-year plan. *Id.* at 78-79.

⁶² *Id.* at 71; 2023 NYSEG/RGE Rate Order at 27.

⁶³ Direct Testimony of KEDNY Capital Structure Panel at 5-7; Direct Testimony of KEDLI Capital Structure Panel at 5-7; Testimony of Kwaku Duah (Staff) at 33-34.

⁶⁴ Exhibit __ (SRRP-1) (KEDLI) and Exhibit __ (SRRP-2) (KEDLI).

⁶⁵ JP Appendix 1, Schedule 1 (KEDNY) and Appendix 2, Schedule 1 (KEDLI).

concerted efforts to reach compromises that would be consistent with the results that could be achieved in litigation and reflect a level of O&M that allows the Companies to continue the safe and reliable operation of their systems while at the same time ameliorating rate impacts to customers and making progress towards the State's energy policy and emissions reductions goals.

With respect to depreciation rates, the JP proposes a reasonable compromise between the positions advocated by the Companies, Staff, and NYC in testimony. In this regard, there was broad agreement among the parties submitting testimony that the Companies' depreciation rates needed to be increased.⁶⁶ The compromise reflected in the JP sensibly provides for the phase-in of the negotiated increases over a multi-year period.

Finally, the amortization of existing balances of net regulatory assets for KEDNY and net regulatory liabilities for KEDLI reflect a reasonable compromise between the litigation positions of the Companies and Staff.

The Companies recognize that the JP proposes rate increases that are significantly larger than those provided for in the Companies' current Commission-approved rate plans.⁶⁷ However, the Companies' current rate plans were negotiated during the COVID-19 Pandemic and went to extraordinary lengths to minimize rate increases during that period. These efforts involved reducing the scale of proposed investments and programs, deferring recovery of certain costs of providing service, and utilizing substantial credits to offset costs.⁶⁸ Many of these measures are

⁶⁶ Rebuttal Testimony of Ned W. Allis at 2; Testimony of Paul J. Darmetko, Jr. (Staff) at 10-13; Direct Testimony of David Garrett (NYC) at 2-10.

⁶⁷ Under the Companies' current rate plans, they received no rate increase during the first rate year and overall increases of 2.0 percent for KEDNY and 1.8 percent for KEDLI in each of the second and third rate years. See Staff Policy Panel Testimony at 6.

⁶⁸ See Direct Testimony of the Companies' Policy Panel at 20; Testimony of the Staff Policy Panel at 6-7. The Companies would note that KEDLI's regulatory liability balance is being used to reduce its revenue requirements in this proceeding.

no longer available to moderate rate increases. Moreover, many of the cost pressures that are driving the revenue requirement proposed in the JP are due to factors that are largely beyond the Companies' control including (i) the impact of greater-than-normal inflation on virtually every aspect of the Companies' cost of service, (ii) increases in the cost of capital that are due in part to the Federal Reserve's efforts to contain inflation, (iii) supply chain shortages, (iv) federal and state pipeline safety mandates, (v) property tax increases,⁶⁹ and (vi) costs to deliver expanded energy efficiency and other demand reduction offerings.⁷⁰

In sum, it is readily apparent that the revenue requirements proposed in the JP reflect significant compromises as compared to the Companies' initial filings in these proceedings and result in rates that are just, reasonable, and consistent with both the public interest and the outcomes that likely would have resulted from litigation.

2.2. Levelization of Rate Increase

The rate plans proposed in the JP also benefit customers by incorporating rate levelization that would not be possible in a one-year litigated proceeding. As discussed *supra*, under the JP, the base rate changes would be implemented in a manner designed to achieve overall increases of 15.9 percent, 6.9 percent and 5.3 percent for KEDNY and 13.4 percent, 7.3 percent and 4.7 percent for KEDLI gas business in Rate Years One, Two and Three, respectively; after levelization, the total bill rate increases experienced will be 10.5 percent in each of the Rate Years for KEDNY and 9.4 percent in each of the Rate Years for KEDLI.⁷¹ The bill impacts resulting from levelization

⁶⁹ As the Staff Policy Panel's testimony points out (at 12) Staff's recommended property tax levels in this case of \$287.105 million for KEDNY and \$271.708 million for KEDLI represented approximately 14 percent of Staff's revenue requirement increase for KEDNY and 33 percent of Staff's recommended revenue requirement increase for KEDLI.

⁷⁰ See Direct Testimony of the Companies' Policy Panel Testimony at 20-21.

⁷¹ JP Section IV.2.2; see also JP Appendix 1, Schedule 3 (KEDNY) and Appendix 2, Schedule 3 (KEDLI).

are shown in Appendix 3, Schedule 4 for KEDNY and Appendix 4, Schedule 4 for KEDLI. These provisions reflect a complex compromise among the Signatory Parties that moderates overall customer bill impacts while enabling the Companies to continue to both maintain their financial integrity and to provide safe and reliable utility service. The reasonable, levelized multi-year rate outcomes proposed in the JP are only possible in the context of a multi-year rate plan.

2.3. Make Whole Provision

Because Commission approval of the JP will occur after the beginning of Rate Year One, the JP provides for a make-whole provision whereby the Companies will recover shortfalls and refund over-collections such that the Companies and their customers will be in the same position had Rate Year One rates gone into effect on April 1, 2024.⁷² The make-whole provision protects both the Company and its customers and is a common provision adopted by the Commission when approving multi-year rate settlements.⁷³ In this case, the availability of make whole provisions permitted the parties to negotiate the complex compromises reflected in the JP over an extended period. The make-whole provision is clearly in the public interest and should be adopted as proposed.

3. Revenue Allocation and Rate Design

3.1. Revenue Forecast

The revenue forecasts reflected in the JP are \$2.101 billion in Rate Year One, \$2.173 billion in Rate Year Two, and \$2.196 billion in Rate Year Three for KEDNY, and \$1.406 billion in Rate Year One, \$1.457 billion in Rate Year Two, and \$1.476 billion in Rate Year Three for KEDLI.

⁷² JP Section IV.2.3.

⁷³ See, e.g., 2023 NYSEG/RGE Rate Order at 21-22 and Joint Proposal § V.D; 2023 Con Edison Rate Order at 59; 2022 O&R Rate Order at 29, footnote 71 and Joint Proposal Appendix 17, § 6.

Details regarding the revenue forecasts for KEDNY and KEDLI can be found in JP Appendix 3, Schedule 1 and Appendix 4, Schedule 1, respectively.

The Companies developed their revenue forecasts using the forecast average number of customers and deliveries for firm and non-firm sales and transportation service classifications. Deliveries were allocated to the usage blocks within each service class using the three-year average percentage of actual billed block usage to allocate sales.⁷⁴ Staff developed its revenue price-out using the same methodology, adjusted to reflect its own sales and customer forecasts.⁷⁵

The gas revenue forecasts adopted by the JP are the products of a compromise of conflicting interests, as they take both the Companies' and Staff's sales forecasts into account and use the agreed-upon historical price-out methodology. The Companies submit that the revenue forecasts in the JP are supported by the record and reflect a reasonable compromise between the Company and Staff on the modeling approach.

3.2. Revenue Allocation

The revenue allocation proposed in the JP reflects a balancing of interests, including bringing the service classes closer to the system average rate of return while mitigating significant impacts to any one group. The revenue allocations are shown on Appendix 3, Schedule 2.1 for KEDNY and Appendix 4, Schedule 2.1 for KEDLI. The revenue allocations are not intended to establish precedent in support of the use of any embedded cost of service methodology or any revenue allocation approach in any future rate proceeding.⁷⁶

⁷⁴ Direct Testimony of KEDNY Rate Design Panel at 13-15; Direct Testimony of KEDLI Rate Design Panel at 13-15.

⁷⁵ Testimony of Staff Gas Rates Panel at 12-13.

⁷⁶ JP Section IV.3.2.

The Companies held several meetings to discuss revenue allocation and rate design methodology with Staff and the other parties. The revenue allocation proposed in the JP is a result of those discussions and is reasonable because it is a negotiated outcome that balances the interests of all stakeholders while producing the agreed-upon revenue, moving service classes closer to the system average rate of return, and mitigating significant impacts to any one group. The Companies submit that the proposed revenue allocation falls within the range of results that could have resulted from litigation and should be adopted by the Commission.

3.3. Rate Design – Firm Service Classifications

In their initial filings, the Companies proposed to increase the minimum charges for all firm service classes to move closer to customer-related costs.⁷⁷ The Companies also proposed to flatten the declining block rates for certain service classifications.⁷⁸ Staff agreed with the Companies' adjustments for customer charges, but disagreed with the Companies' proposal to flatten declining block rates.⁷⁹ Although Staff generally supports block flattening as a means to promote energy conservation and support CLCPA goals, Staff did not support the Companies' proposal in this case due to its concern with bill impacts.⁸⁰ UIU generally accepted the Companies' proposed rate design, but recommended that the Commission consider reducing fixed monthly charges and exploring further movement to eliminating declining blocks if lower revenue

⁷⁷ Direct Testimony of KEDNY Rate Design Panel at 37-43; Direct Testimony of KEDLI Rate Design Panel at 38-44.

⁷⁸ Direct Testimony of KEDNY Rate Design Panel at 37-43; Direct Testimony of KEDLI Rate Design Panel at 38-44.

⁷⁹ Testimony of Staff Gas Rates Panel at 38-40.

⁸⁰ *Id.* at 40-41.

requirements were approved.⁸¹ PULP recommended that the Companies explore freezing their fixed monthly charges to promote conservation.⁸²

The rates for each service classification are set forth in Appendix 3, Schedule 3 for KEDNY and in Appendix 4, Schedule 3 for KEDLI. Bill impacts resulting from this rate design are set forth in Appendix 3, Schedule 4 for KEDNY and in Appendix 4, Schedule 4 for KEDLI. The rates and bill impacts included in these schedules include levelization adjustments over the term of the rate plan. The rate design reflects some movement to reduce the slope of declining blocks for Residential Non-heat (SC1A), Commercial Heat (SC2-2 for KEDNY and SC2B for KEDLI) and SC-3 Multi-Family customers. However, due to concerns with bill impacts for Residential Heating customers, the Signatory Parties agreed to not modify the declining block structure for SC1B. The rate design proposed in the JP reflects the result of complex negotiations among the parties regarding the equitable distribution of rate increases among the Companies' service classifications and the consideration of bill impacts on different customers. The resulting rate design is reasonable and is within the range of outcomes of litigation that could have been obtained in these proceedings. Therefore, the firm rate design proposed in the JP should be adopted.

3.4. Rate Design – Non-Firm Demand Response

To promote customer participation in the Companies' non-firm demand response ("NFDR") program, the Companies proposed to increase discounts for NFDR customers from 50 percent to 55 percent of otherwise applicable tail block rates for Tier 1 customers and 60 percent to 65 percent of otherwise applicable tail block rates for Tier 2 customers.⁸³ Additionally, in

⁸¹ Direct Testimony of Danielle Panko (UIU) at 6, 29-30.

⁸² Direct Testimony of William D. Yates, CPA (PULP) at 17.

⁸³ Direct Testimony of KEDNY Rate Design Panel at 42; Direct Testimony of KEDLI Rate Design Panel at 43.

compliance with the JP adopted in the 2021 KEDNY/KEDLI Rate Order, the Companies proposed a NFDR gas cost reconciliation.⁸⁴

The JP reflects the Companies' increased discounts for NFDR customers to approximately 55 percent for Tier 1 and 65 percent for Tier 2.⁸⁵ The JP also provides that NFDR gas costs will be reconciled through the Gas Adjustment Clause ("GAC"), with a corresponding adjustment to the System Performance Adjustment ("SPA").⁸⁶ These provisions are reasonable and within the range of likely outcomes of litigation in these proceedings. They also are consistent with Commission policy, as they provide a greater incentive for NFDR service, which will benefit the Company's gas system and help reduce firm peak demand. Therefore, the NFDR discounts and reconciliation proposed in the JP should be adopted.

3.5. Lost and Unaccounted For Gas

In their initial filings, the Companies proposed to update the targets for their respective Lost and Unaccounted For Gas ("LAUF") incentive mechanisms using data from the five years beginning September 1, 2017 and ending August 31, 2022.⁸⁷ Neither Staff nor any other party recommended any changes to the Companies' proposal.⁸⁸

The JP reflects updated LAUF targets using data from the five years beginning September 1, 2018 and ending August 31, 2023, which will become effective at the beginning of the new GAC cycle beginning September 1, 2024 and will be reconciled on a GAC year basis with the

⁸⁴ Direct Testimony of KEDNY Rate Design Panel at 58-61; Direct Testimony of KEDLI Rate Design Panel at 57-60.

⁸⁵ JP Section IV.3.4.

⁸⁶ JP Section IV.3.4.1.

⁸⁷ Direct Testimony of KEDNY Rate Design Panel at 44-45 and, Exhibit __ (RDP-5); Direct Testimony of KEDLI Rate Design Panel at 45 and Exhibit __ (RDP-5).

⁸⁸ Testimony of Staff Rates Panel at 52.

GAC year ending August 31.⁸⁹ The JP also requires the Companies to make minor corrections to the LAUF language in their respective tariffs.⁹⁰ The LAUF proposal reflects a reasonable position that is mutually agreed to by Staff and the Companies and is not opposed by any party. Therefore, the terms of the JP concerning LAUF are within the range of results that could have resulted from litigation, are in the public interest, and should be adopted by the Commission.

3.6. Revenue Decoupling Mechanisms

KEDNY's revenue decoupling mechanism ("RDM") targets are set forth on Appendix 3, Schedule 7 and KEDLI's RDM targets are set forth on Appendix 4, Schedule 7.⁹¹ These RDM targets reflect the final revenue requirements proposed in the JP.

In their respective testimonies, both Staff and the Company proposed to update the Companies' RDM targets to reflect each party's respective proposed revenue requirements.⁹² Neither Staff nor the Companies proposed any other changes to the Companies' RDMs, and no other party commented on the RDMs.

The Companies and Staff are in agreement that the RDM targets should be updated to reflect the final revenue requirement adopted in this proceeding. Therefore, the terms of the JP concerning the RDMs reflect a mutually agreeable resolution of the parties and are in the public interest. As such, the Companies submit that the RDM provisions of the JP should be adopted.

⁸⁹ JP Section IV.3.5.

⁹⁰ JP Section IV.3.5.1.

⁹¹ JP Section IV.3.6.

⁹² Direct Testimony of KEDNY Rate Design Panel at 52; Direct Testimony of KEDLI Rate Design Panel at 53; Testimony of Staff Rates Panel at 50-51.

3.7. Paperless Billing Credit

The JP sets the updated Paperless Billing Credit at \$0.48 and \$0.52 per month for KEDNY and KEDLI, respectively.⁹³ In their initial testimony, the Companies proposed to update the paperless billing credits to \$0.48 and \$0.51 per month for KEDNY and KEDLI, respectively.⁹⁴ Staff did not take issue with the Companies' methodology but recommended that the credits be updated if there is a material change in inflation rates.⁹⁵ Consistent with this recommendation, the paperless billing credits proposed in the JP reflect updated data that has become available since the Companies' initial filing.

3.8. Merchant Function Charge

The JP does not change the calculation methodology for the Merchant Function Charge ("MFC") but updates targets for the MFC components as shown in Appendix 3, Schedule 6 for KEDNY and Appendix 4, Schedule 6 for KEDLI.⁹⁶ The JP also reflects the conversion of MFC annual expense targets from a Rate Year to a GAC year basis. An illustrative example showing the conversion from a Rate Year to GAC year is shown in Appendix 3, Schedule 6.4 for KEDNY and Appendix 4, Schedule 6.4 for KEDLI. The proposed MFC is not opposed by any party in these proceedings and is supported in the record by the Companies⁹⁷ and Staff.⁹⁸

⁹³ JP Section IV.3.7.

⁹⁴ Direct Testimony of KEDNY Rate Design Panel at 71; Direct Testimony of KEDLI Rate Design Panel at 70.

⁹⁵ Testimony of Staff Gas Rates Panel at 63-64.

⁹⁶ JP Section IV.3.8.

⁹⁷ Direct Testimony of KEDNY Rate Design Panel at 46-51; Direct Testimony of KEDLI Rate Design Panel at 47-52.

⁹⁸ Testimony of Staff Gas Rates Panel at 48-50.

3.9. Consolidated Billing Fees

Pursuant to the terms of the JP, KEDNY and KEDLI's consolidated billing fees will be updated from the current rate of \$1.31 and \$1.32 per bill, respectively, to \$1.18 per bill, except for Rate Year One. For Rate Year One, KEDNY and KEDLI's consolidated billing fee will be \$1.15 per bill, which accounts for the effect of Rate Year One rates becoming effective on June 1, 2024.⁹⁹ The consolidated billing fees proposed in the JP reflect the final revenue requirements included in the JP. The proposed fees reflect the current costs of performing consolidated billing services and were not opposed by any party. Therefore, the consolidated billing fees proposed in the JP are reasonable and reflect the likely outcome of litigation and, as such, should be adopted.

3.10. Miscellaneous KEDNY Fees

The JP updates KEDNY's fees for unproductive field visits, reconnection at the main, and reconnection at the meter to appropriately reflect the current cost of performing these services. No party contested these updated fees and they should therefore be found to be reasonable and be adopted.

3.11. Miscellaneous KEDLI Fees

The JP also updates KEDLI's fees for unproductive field visits and re-establishment charges to appropriately reflect the current cost of performing these services. No party contested these updated fees and they should therefore be found to be reasonable and adopted.

3.12. Economic Development Discount Program Rates

The JP reflects the Companies' proposal to extend the term of its Area Development Rate ("ADR") and Business Incentive Rate ("BIR") to the end of the Rate Year.¹⁰⁰ Staff supported this

⁹⁹ JP Section IV.3.9.

¹⁰⁰ JP Section IV.3.12; Direct Testimony of KEDNY Rate Design Panel at 70; Direct Testimony of KEDLI Rate Design Panel at 69.

proposal and no other party opposed it.¹⁰¹ Therefore, the extension of the ADR/BIR term is reasonable and should be adopted.

3.13. Tariff Provisions Applicable to Electric Generators

The JP acknowledges that issues related to existing tariffs for electric generators are being considered in a statewide proceeding, Case 17-G-0011, *In the Matter of a Review of Tariff Provisions Regarding Natural Gas Service to Electric Generators*, and requires that the Companies' delivery rates for electric generators remain in place until a determination is made in that proceeding.¹⁰² The JP also requires the Companies to update their tariff language to exclude electric generators from the \$25.00 per Dekatherm ("Dth") penalty, in addition to the incremental cost of gas, for excess usage during a curtailment period; electric generators will continue to be assessed the \$100 per Dth penalty for unauthorized use under KEDNY SC 20 and KEDLI SC 14. These provisions reflect Staff's position in testimony,¹⁰³ are within the range of reasonable outcomes that would result from litigation, and are reasonable. Therefore, the Companies submit that these provisions should be adopted.

3.14. Miscellaneous Tariff Changes

The JP proposes tariff changes to reflect the Signatory Parties' agreement to:

- (i) Eliminate the Demand Capacity Surcharge Mechanism effective July 1, 2024;
- (ii) Terminate the Gas Safety Reliability Surcharge as of July 1, 2025;
- (iii) Eliminate the Late Payment Charges and Other Waived Fees Surcharge effective July 1, 2025;

¹⁰¹ Testimony of Staff Gas Rates Panel at 62-63.

¹⁰² JP Section IV.3.13.

¹⁰³ Testimony of Staff Gas Rates Panel at 47.

- (iv) Revise the language regarding Missed Appointment Fees on Leaf 35 of KEDNY's Tariff and Leaf 50.1 of KEDLI's Tariff to require the Companies to arrive at the agreed upon location, date, and time for the appointment;
- (v) Update the tariff language regarding the Revenue Tax Surcharge to provide that the surcharge will be filed on not less than 15 days' notice prior to the effective date of the surcharge; and
- (vi) Update the definition of Normal Heating Degree Days on KEDNY Tariff Leaf 81 and KEDLI Tariff Leaf 78 to reflect a change in the average of degree days from a 30-year period to a ten-year period ending December 31, 2023.

Additionally, the JP requires the Companies to schedule a meeting with Staff and interested customers, including NYC, to address safety concerns arising from the unannounced system-wide tests of compliance with dual fuel equipment requirements, as mandated under the Companies' respective Tariffs, including whether reasonable notice of the tests can be given to minimize problems.

These tariff-related provisions are reasonable because they will permit the Companies to conform their tariffs to the agreements reflected in the JP.

3.15. The Rate Adjustment Mechanism

In their initial testimony, the Companies proposed to implement a Rate Adjustment Mechanism ("RAM") to recover or refund deferral balances on a timelier basis. The RAM proposed by the Companies would consolidate multiple deferral balances into a single surcharge for items authorized for recovery. The Companies proposed to include the Uncollectible Expense reconciliation, the Property Tax reconciliation mechanism, the EAP reconciliation, the Late

Payment Charge Revenue reconciliation, the No Fee Credit/Debit Card reconciliation, and the Long-Term Debt reconciliation, and incremental energy efficiency costs in the RAM.¹⁰⁴

Staff recommended that the RAM be limited to the existing property tax deferral, EAP deferral, and incremental energy efficiency program costs, as Staff opposed the Companies' proposal to implement reconciliation mechanisms for uncollectible expense, late payment charge revenues, no fee credit/debit card payments, and long term debt.¹⁰⁵ Staff further stated that, if the Commission implemented a cap on the RAM, a cap of 2.5 percent of total revenues would be reasonable.¹⁰⁶ NYC also opposed the RAM and several of the reconciliation mechanisms included therein. NYC further argued that, if the RAM were implemented, it should be subject to a cap that is commensurate with the balances permitted to be collected via the RAM.¹⁰⁷

The JP provides that the Company will implement a RAM that consolidates the following deferral balances into a single surcharge/credit for recovery from or refund to customers: (i) Property Taxes; (ii) Energy Affordability Program Costs; and (iii) Exogenous Clause Costs, excluding costs related to PHMSA rulemakings.¹⁰⁸ The RAM is subject to an annual cap of 2.00 percent of the Company's actual operating revenues for the prior year, excluding energy service company ("ESCO") commodity revenues, and will be recovered from July 1 through June 30 of the respective Rate Years and any costs recovered or pending recovery or refund through the RAM are subject to Staff audit.¹⁰⁹

¹⁰⁴ Direct Testimony of KEDNY Rate Design Panel at 63-64; Direct Testimony of KEDLI Rate Design Panel at 62-63.

¹⁰⁵ Testimony of Staff Policy Panel at 21.

¹⁰⁶ *Id.*

¹⁰⁷ Testimony of Michele Chait (NYC) at 31-37.

¹⁰⁸ JP Section IV.3.15.

¹⁰⁹ *Id.*

The RAM reflects a reasonable compromise among the parties, which was reached through extensive settlement negotiations. The RAM proposed by the JP is within the range of likely outcomes that would have resulted from litigation and is similar to mechanisms included in rate plans for nearly all major New York State utilities.¹¹⁰ The RAM is also in the public interest, as more timely reconciliation of deferral balances will avoid the accumulation of large credit or debit imbalances (including carrying charges) that would need to be addressed in future rate proceedings. The RAM provides customers with more timely recovery of funds where actual costs are lower than the allowance included in rates or exogenous events (*e.g.*, a change in law) occurs. The RAM also will help to improve the Companies' credit metrics and, as a consequence, potentially allow the Companies access to capital at more efficient rates. For the foregoing reasons, the Companies submit that the RAM should be adopted.

3.16. Newtown Creek Revenue Reconciliation

The JP provides that KEDNY's rates will reflect revenues from the Newtown Creek Project of \$4.657 million in Rate Year One, \$5.295 million in Rate Year Two, and \$5.705 million in Rate Year Three. If actual revenues in a Rate Year are above the amounts reflected in rates, KEDNY will defer the difference for refund to customers. If revenues are below the amount reflected in rates, KEDNY will defer, for future recovery, 100 percent of the difference up to \$1 million and 90 percent of the difference thereafter. The JP also provides that KEDNY will eliminate the

¹¹⁰ 2023 Con Edison Rate Order at Joint Proposal § B.1.b and B.2.c; 2023 NYSEG/RGE Rate Order at Joint Proposal, Appendix W; 2022 O&R Rate Order at Joint Proposal § E.1.b and E.2.d; Cases 20-E-0428 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service*, "Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan" (November 18, 2021) at 23 and Joint Proposal § XV and Appendix G.

existing Newtown Creek Revenue Reconciliation surcharge mechanism that was adopted in the 2021 KEDNY/KEDLI Rate Order.¹¹¹

The Newtown Creek Revenue Reconciliation proposed in the JP is reasonable, within the range of outcomes that could have resulted from a litigated case, and otherwise consistent with the public interest. No party challenges the forecast revenues from the sale of gas and environmental attributes generated by the facility, which lower the overall revenue requirement for KEDNY. Customers will also receive the benefit of any revenues in excess of the forecast through the proposed deferral mechanism. The mechanism also protects customers from revenue shortfalls, and incentivizes KEDNY to avoid such shortfalls, as KEDNY shareholders are required to bear 10 percent of any shortfall greater than \$1 million. The proposed Newtown Creek Revenue Reconciliation Mechanism promotes the efficient operation of the facility by the Company and benefits and protects customers, while at the same time supporting the continued development and evaluation of renewable natural gas (“RNG”) as a supply resource. Therefore, this provision of the JP is consistent with the public interest and should be adopted.

3.17. Next Base Rate Filing

The JP contains several requirements for the Companies’ next base rate filings, including:

- (i) an embedded cost of service (“ECOS”) study that classifies distribution main costs as 100 percent demand-related;
- (ii) one or more ECOS studies that classify distribution main costs as customer-related and demand-related by using a minimum system study; and

¹¹¹ JP Section IV.3.16. An illustration of the Newtown Creek Revenue Reconciliation is provided in Appendix 6, Schedule 15 of the JP.

- (iii) minimum system studies that utilize the most recent year and multi-year data to calculate the portion of the system that is customer-related.¹¹²

The JP provides that none of the results of these studies are intended to establish precedent in support of the use of any given methodology or study in any future rate proceedings, and that the Companies are free to propose their own recommended ECOS and minimum system study approaches as part of their next base rate filings. This provision is reasonable and should be adopted as part of the overall compromise concerning revenue allocation issues reflected in the JP.

3.18. Rate Adjustment Clause

The JP proposes to discontinue the Rate Adjustment Clause (“RAC”) adopted in the Companies’ previous rate cases to collect funds subject to disposition in Case 21-M-0351. Any funds owed to customers over and above those collected through the RAC under the current rate plans will be borne by the Companies’ shareholders and will not be considered retroactive ratemaking. The JP further provides that revenues, funds, costs, and penalties addressed in Case 21-M-0351 remain subject to audit and customer refund.¹¹³

This provision maintains protection for customers and ensures the Companies’ shareholders will bear the costs related to Case 21-M-0351. Therefore, this provision is reasonable and should be adopted.

4. Computation and Disposition of Excess Earnings

The JP proposes earnings sharing mechanisms under which the Companies will share with customers earnings, if any, above pre-established thresholds. The earnings sharing thresholds are as follows:¹¹⁴

¹¹² JP Section IV.3.17.

¹¹³ JP Section IV.3.18.

¹¹⁴ JP Section IV.4.3.

Customer/Shareholder	Earned ROE
50%/50%	> 9.85% and \leq 10.35%
75%/25%	> 10.35% and \leq 10.85%
90%/10%	> 10.85%

The JP further proposes that the Companies will use 50 percent of their share of any earnings in excess of 10.35 percent to reduce their regulatory asset balances associated with Site Investigation and Remediation (“SIR”) activities.¹¹⁵

Earnings sharing mechanisms benefit customers because they provide financial benefits in the event that the Companies are able to achieve earnings in excess of forecast levels. At the same time, such mechanisms encourage the Companies to achieve efficiencies that produce excess earnings. Such efficiencies, if obtained, would likely enable the Companies to reduce the size of future rate increases. Moreover, the Companies’ agreement to use a portion of future excess earnings to reduce SIR cost deferral balances provides an incremental benefit to customers. The tiered Earnings Sharing Mechanism thresholds are consistent with those included in other rate plans adopted by the Commission, including the 2023 Con Edison Rate Order¹¹⁶ and the 2023 NYSEG/RGE Rate Order.¹¹⁷ The JP’s earnings sharing provisions strike a balance among the interests of customers and investors that is in the public interest and should be adopted by the Commission.

5. Capital Investment Levels and Operations and Maintenance

5.1. Capital Investment Levels

In their respective filings, KEDNY and KEDLI provided a forecast of proposed direct capital expenditures in projects and programs designed to: (i) increase the safety and reliability of

¹¹⁵ *Id.*

¹¹⁶ 2023 Con Edison Rate Order at 80-83.

¹¹⁷ 2023 NYSEG/RGE Rate Order at 27 and Joint Proposal § VII.

the Company's gas network; (ii) modernize the Companies' gas transmission and distribution infrastructure; (iii) facilitate emissions reductions; and (iv) further Commission and state policy goals, including the goals of the CLCPA. The Companies also provided a forecast of indirect capital expenditures, including investments in inventory management/warehouse management, Information Technology, fleet, and facilities.¹¹⁸ Staff reviewed the Companies' proposed capital programs and recommended various adjustments to the proposed capital budgets.¹¹⁹ The tables below reflect the testimonial positions of the Companies, in their respective corrections and updates filings,¹²⁰ and Staff¹²¹ with respect to Fiscal Years ("FY") 2024 to 2028 capital expenditures, net of costs of removal:

	FY24	FY25	FY26	FY27	FY28
KEDNY	\$827,331,487	\$979,955,359	\$998,788,319	\$986,389,786	\$984,603,122
Staff	\$804,968,123	\$925,291,918	\$998,849,361	\$1,033,157,862	\$1,085,557,313
Difference	\$(22,363,364)	\$(54,663,441)	\$61,042	\$46,768,076	\$100,954,191

	FY24	FY25	FY26	FY27	FY28
KEDLI	\$510,378,762	\$651,750,409	\$706,808,542	\$714,695,711	\$638,505,624
Staff	\$501,023,648	\$599,800,981	\$663,901,362	\$680,290,398	\$608,048,283
Difference	\$(9,355,114)	\$(51,949,428)	\$(42,907,181)	\$(34,405,313)	\$(30,457,341)

Other parties also submitted testimony commenting on the Companies' proposed capital investment levels related to customer connections¹²² and the Greenpoint LNG Plant.¹²³

The JP provides total direct and indirect investments in capital programs (including cost-of-removal) for KEDNY of \$924.025 million in Rate Year One, \$966.042 million in Rate Year

¹¹⁸ Direct Testimony of KEDLI Gas Infrastructure and Operations Panel at 6-7; Direct Testimony of KEDLI Gas Infrastructure and Operations Panel at 6-7.

¹¹⁹ Testimony of Staff Gas Infrastructure and Operations Panel at 10.

¹²⁰ KEDNY Exhibit __ (GIOP-1CU), Schedule 1 and KEDLI Exhibit __ (GIOP-1CU), Schedule 1.

¹²¹ Exhibit __ (SGIOP-2).

¹²² Direct Testimony of John P. Sano (NYC) at 9-15.

¹²³ Direct Testimony of Mark D. Kleinginna (AGREE) at 17-24; Direct Testimony of Sane Energy Project at 12-17.

Two, and \$971.114 million in Rate Year Three.¹²⁴ For KEDLI, the JP provides total direct and indirect investment in capital programs (including cost-of-removal) of \$645.687 million in Rate Year One, \$705.264 million in Rate Year Two, and \$729.318 million in Rate Year Three.¹²⁵ The JP provides that the Companies will continue their existing Net Utility Plant and Depreciation Expense Reconciliation Mechanisms and City/State Construction deferral.¹²⁶ The Companies will also modify their deferral mechanism for Customer Connection capital expenditures to cap the Companies' deferrals at 90 percent of the revenue requirement differences to the extent that the Companies' actual capital expenditures for customer connections exceed specified thresholds.¹²⁷

The Companies will also implement a new downward-only reconciliation mechanism for their inside meter relocation programs during the term of the rate plans. This reconciliation will protect customers from any impact on meter relocation costs resulting from the Consolidated Edison Company of New York, Inc.'s ("Con Edison") pending petition for a declaratory ruling concerning, *inter alia*, the Commission's jurisdiction over gas service lines when indoor gas meters are being relocated outdoors.¹²⁸

The JP's capital expenditure levels and associated reconciliation mechanisms were refined over the course of these proceedings through testimony, discovery, and settlement negotiations and represent a careful compromise of the scope, need, and benefit of these projects and programs. The proposed capital levels will allow the Company to update and modernize its gas infrastructure, comply with the CLCPA and federal and state mandates and policy changes, and maintain safe

¹²⁴ JP Appendix 1, Schedule 4.

¹²⁵ JP Appendix 2, Schedule 4.

¹²⁶ JP Sections IV.5.1.1 and IV.5.1.2.

¹²⁷ JP Section IV.5.1.3.

¹²⁸ JP Section IV.5.1.4. Con Edison's petition for declaratory ruling was filed on October 20, 2023 in Case 22-G-0065.

and adequate service to customers. The JP achieves a reasonable balance between these objectives and therefore should be adopted.

5.2. Review of Operation of KEDNY's Greenpoint Energy Center

The Greenpoint LNG plant was the subject of a significant amount of testimony, discovery, and settlement negotiations among the parties. The Greenpoint LNG plant is a critical component of KEDNY's gas supply portfolio and gas operating network and plays a critical role in meeting peak demand. The plant has been in operation since 1968 and is capable of supplying 290 million cubic feet of gas per day, providing a cost-effective means to meet peak demand and ensure reliability.¹²⁹ In its initial filing, KEDNY proposed several capital investments at its Greenpoint LNG plant, as it requires upgrades to support the continued safe and reliable operation of the facility.¹³⁰ New York City supported the proposed investments at the Greenpoint LNG plant¹³¹ and Staff supported most of the proposed investments, with some modifications.¹³² Sane Energy Project and Alliance for a Green Economy ("AGREE") both submitted testimony opposing the proposed investments in the Greenpoint LNG plant, and recommended that the Companies develop alternatives to meet the peak day supply needs supplied by the facility.¹³³

The Signatory Parties acknowledge that the Long-Term Plan that the Companies will file no later than May 31, 2024 in accordance with the Gas Planning Order necessarily must consider the role for the Greenpoint LNG plant through 2044, including how long it must be or is expected to be operated to support gas system reliability. To facilitate that analysis, the Companies

¹²⁹ Direct Testimony of KEDNY Gas Infrastructure and Operations Panel at 68-69.

¹³⁰ *Id.* at 68-71.

¹³¹ Direct Testimony of John P. Sano at 30-31, 42.

¹³² Testimony of Staff Gas Infrastructure and Operations Panel at 88-95.

¹³³ Direct Testimony of Sane Energy Project at 12-17; Direct Testimony of Mark D. Kleinginna (AGREE) at 17-24.

committed in the JP to include a specific chapter in their initial Long-Term Plan filing, addressing KEDNY's Greenpoint LNG plant and providing certain information regarding the operation, future plans, and potential alternatives for the facility. The Signatory Parties further agreed that they expect the consultant selected to assist Staff in its review of the Companies' Long-Term Plan to include a specific chapter regarding the Greenpoint LNG plant in its report, including an evaluation of the Companies' analysis concerning the plant based on the information set forth in the JP. Finally, the Signatory Parties acknowledge that the Commission, in its order addressing the Companies' Long-Term Plan may consider the record of that case and take appropriate action, including requiring the Companies to defer the revenue requirement associated with any unspent capital investment and related O&M expense that the Companies can reasonably avoid if the Commission determines that the investment is not needed.¹³⁴

These provisions of the JP provide a reasonable framework to address the issues raised during these proceedings with respect to the Greenpoint LNG plant. The JP requires the Company to undertake a close evaluation of the costs and benefits of the Greenpoint LNG plant and potential alternatives to its current and future operations. Including this evaluation will allow the Companies, Staff, and interested stakeholders to consider the need for the facility in the context of the Long-Term Plan within the scope of the Companies' overall gas system and gas supply portfolio and take a holistic approach to long-term planning for the Greenpoint LNG plant and the rest of the Companies' systems. This process will ensure that the Commission is provided with the necessary information and stakeholder positions needed to determine the role of the Greenpoint

¹³⁴ JP Section IV.5.2.

LNG plant within the Companies' system. Therefore, this provision of the JP is reasonable and in the public interest, and should be adopted.

5.3. Capitalization Changes

In their initial filings, KEDNY and KEDLI proposed to capitalize all joint repairs on large diameter cast iron pipes that are 16 inches and larger. The Companies stated that this proposed change would align the Companies' accounting treatment of these repairs, which often involve encapsulation and extend the useful life and integrity of the assets, with the treatment in other jurisdictions.¹³⁵ Staff supported this proposal and no other party commented on it.¹³⁶ Therefore, the Companies submit that the JP provision adopting this change in accounting treatment¹³⁷ is reasonable and should be adopted by the Commission.

5.4. Relocation of Inside Gas Meters

Under the Joint Proposals adopted in the 2016 and 2019 Rate Cases, the Companies performed inside meter relocations in conjunction with their Proactive Main and Services Replacement Programs. In these proceedings, the Companies proposed to expand their existing inside meter relocations through a standalone Meter Relocation Program, through which the Companies would proactively reach out to customers with inside meters when conducting other field work in an area or at a premise, such as service renewals, regulator replacements, and leak repairs, providing additional opportunities to relocate inside meters. Relocation of inside meters provides several benefits to the Companies and customers, including allowing periodic inspections and meter work without needing to coordinate with a customer to provide access and providing

¹³⁵ Direct Testimony of KEDNY Gas Infrastructure and Operations Panel at 86-87; Direct Testimony of KEDLI Gas Infrastructure and Operations Panel at 87.

¹³⁶ Testimony of Staff Gas Infrastructure and Operations Panel at 95-96.

¹³⁷ JP Section IV.5.3.

unimpeded access for emergency response personnel in the event of a safety issue.¹³⁸ Staff supported the Companies' proposed new Meter Relocation Program.¹³⁹

The JP requires the Companies to relocate meters that are located inside a customer's premises and install them outside when performing any planned service line replacements, new service installations, and other opportunities where work can feasibly be performed, subject to certain exceptions. Customers that refuse to relocate their meters outside will be asked to sign a form explaining the reasons for such refusal and stating that they are aware of the benefits of relocation, and will be subject to future survey/inspection charges in accordance with applicable provisions of the Company's tariff. The JP also maintains the reporting requirements for Inside Meter Relocations that were adopted in the previous rate cases.¹⁴⁰ As discussed in Section IV.5.1 above, the Companies will implement a downward-only reconciliation mechanism for the Meter Relocation Program to protect customers from any impact on meter relocation costs resulting from Con Edison's pending petition for declaratory ruling in Case 22-G-0065.

The Meter Relocation Program proposed in the JP is reasonable and consistent with the public interest. The program was supported by both the Companies and Staff in their testimony, and was not opposed by any party. The relocation of meters to outside a customer's premises has several benefits for the Companies and customers, including facilitating reading and inspection of meters and providing ready access to gas meters to address emergencies. For these reasons, the provisions of the JP setting forth the Meter Relocation Program should be adopted.

¹³⁸ Direct Testimony of Gas Safety Panel at 19-21.

¹³⁹ Testimony of Staff Pipeline Safety Panel at 70-71.

¹⁴⁰ JP IV.5.4.

5.5. Supplemental Leak Surveys

The JP proposes that the Companies will implement a leak survey program in which the Companies will survey the LPP mains on their systems using advanced leak detection technology (cavity ring down spectroscopy with GPS and wind measurement technology) or other new Commission-approved leak detection device or methodology not previously approved by the Commission or Staff that is capable of measuring or determining leak flow rate to find high emitting leaks (leaks emitting 10 standard cubic feet per hour or more or equivalent). The Companies will repair any leaks emitting 10 standard cubic feet per hour or more within 180 days of detection and will file an annual report as part of the Gas Safety Report filing by April 30 each year, reviewing the results of the program.¹⁴¹ This program is reasonable and in the public interest as it will target high emitting leaks for removal from the Company's system, thereby supporting CLCPA goals and reducing methane emissions, improving system performance, and enhancing public safety.

5.6. Gas Safety Public Awareness Program

In its initial filing, KEDNY proposed to implement a direct mail campaign to increase pipeline safety public awareness in its service territory. The proposed program would target multi-dwelling locations to reach stakeholders that currently use gas service but may not receive KEDNY service bills and, therefore, may not be receiving important gas safety information included as part of KEDNY's current bill-insert messaging.¹⁴² Staff recommended that the Commission reject this program for several reasons, including Staff's assessment that the same content and materials are included in KEDNY's 2023 Outreach and Education Plan.¹⁴³ In its rebuttal testimony, KEDNY

¹⁴¹ JP Section IV.5.5.

¹⁴² Direct Testimony of Gas Safety Panel at 34-35.

¹⁴³ Testimony of Staff Consumer Services Panel at 103-07.

maintained that this program was needed to ensure non-customer stakeholders in multi-family dwellings received important gas safety information.¹⁴⁴

The JP proposes that the Companies will file an enhanced Gas Safety Outreach Program within 60 days of a Commission order in this proceeding that includes a plan for enhanced outreach to landlords to ensure that they have sufficient gas safety outreach materials to provide to their tenants as required by New York City Local Law 153 of 2016.¹⁴⁵ KEDNY and NYC will collaborate on implementing solutions to increase KEDNY's reach rate by leveraging New York City Department of Housing Preservation and Development's ("HPD") existing outreach to landlords.¹⁴⁶

This enhanced outreach program will help to address the issues identified in the Companies' testimony regarding access to gas safety information. At the same time, the program proposed in the JP reflects Staff's concerns regarding duplicative efforts and costs by leveraging the existing outreach and education programs from KEDNY and NYC. Therefore, the proposed program is reasonable, in the public interest, and within the range of outcomes that would likely result from litigation of these proceedings.

5.7. Gas Capital Reporting Requirements

The JP requires the Companies to file several quarterly and annual reports containing information regarding the Companies' capital expenditures, variance explanations, LPP prioritization summaries, Type 3 leak and leak inventories, capital project and planning information, and the approved five-year capital plan. The quarterly reports will be filed within 45 days after the end of each calendar year quarter and the annual report will be filed no later than 60

¹⁴⁴ Rebuttal Testimony of Gas Safety Panel at 26-27.

¹⁴⁵ N.Y.C. Admin. Code § 27-2005(f).

¹⁴⁶ JP Section IV.5.6.

days after the last quarter of each rate year. Annual LPP prioritization and Type 3 leak reports are to be filed prior to Rate Year Two and Rate Year Three.¹⁴⁷ These reporting requirements are consistent with the reports currently provided in accordance with the Companies' prior two rate plans and will provide the Commission and other parties with visibility to the Companies' capital performance and projects throughout the term of the rate plans.

5.8. Connected Remote Methane Detection Pilot Program

Pursuant to the JP, the Companies will implement a Connected Remote Methane Detection ("RMD") Pilot Program to install RMD devices that use cellular technology to provide data. The Companies will use negative revenue adjustments ("NRAs") related to the Gas Safety Metrics and the \$500,000 regulatory liability established pursuant to the settlement approved by the Commission in Case 22-G-0064 to reduce the expenditures for this pilot. The Companies will file annual reports regarding the progress and spending for this program.¹⁴⁸ Deployment of connected RMDs was supported by both the Companies and Staff in their respective testimonies. Connected RMDs provide safety and reliability benefits for customers and the Companies by providing real time methane detection data to the Companies, which allows for timely leak repair to mitigate the potential safety environmental issues that may result from an undetected leak.¹⁴⁹ Using NRAs and the regulatory liability established in Case 22-G-0064 to offset the revenue requirement for this program will further benefit customers.

5.9. Voluntary Integrity Management Program

In their initial filings, the Companies proposed to implement a Voluntary Integrity Management Program ("VIMP") to inspect each year five miles of pipelines operating at greater

¹⁴⁷ JP Section IV.5.7.

¹⁴⁸ JP Section IV.5.8.

¹⁴⁹ Direct Testimony of Gas Safety Panel at 17-19; Testimony of Staff Pipeline Safety Panel at 65-66.

than 125 pounds per square inch gauge (“psig”) but below a specified minimum yield strength (“SMYS”) of 20 percent. The Companies testified that this program would reduce system risk and improve system safety by giving the Companies the ability to provide continuous, safe, and reliable natural gas to customers, and the ability to monitor external corrosion and third-party damages on pipelines.¹⁵⁰ Staff supported this program.¹⁵¹ The JP proposes to implement the VIMP as proposed by the Companies in their direct testimony.¹⁵² This program provides safety and reliability benefits for customers and the Companies, was supported by Staff and the Companies, and was not opposed by any party. Therefore, the Companies submit that the VIMP is reasonable and in the public interest and should be adopted by the Commission.

6. Information Technology & Digital

6.1. Information Technology and Digital Capital Investments Level

The revenue requirements proposed in the JP include costs associated with Information Technology and Digital (“IT&D”) capital investments that are owned by National Grid USA Service Company, Inc. (“Service Company”) and allocated to the Companies in the form of rent expense, which includes the return on, and amortization or depreciation of, current IT&D capital investments as well as incremental IT&D investments that are forecast for the Rate Years. The JP provides for incremental IT&D capital investment of \$240.2 million, \$246.6 million, and \$243.8 million in Rate Year One, Rate Year Two, and Rate Year Three, respectively.¹⁵³

¹⁵⁰ Direct Testimony of Gas Safety Panel at 28-29.

¹⁵¹ Testimony of Staff Pipeline Safety Panel at 77-81. Staff argued that the pipelines covered by the VIMP should be classified as transmission lines and, as such, included in the Companies’ Transmission Integrity Management Programs. *Id.*

¹⁵² JP Section IV.5.9.

¹⁵³ JP Section IV.6.1, Appendix 1, Schedule 5 (KEDNY), and Appendix 2, Schedule 5 (KEDLI).

The level of IT&D capital spending reflects a reasonable compromise of the positions advocated by the Companies and Staff.¹⁵⁴ Moreover, the level of IT&D capital investment reflected in the JP will permit the Companies to develop IT&D projects that will enable the Companies to continue to provide safe, adequate and secure service by providing funding for the Companies' baseline technology, technology modernization, and cyber and physical security projects. The levels of IT&D capital spending reflected in the proposed revenue requirements are within the range that would likely have resulted from a litigated proceeding and are otherwise reasonable and should therefore be adopted by the Commission.

6.2. Service Company Rent: IT&D Net Utility Plant and Depreciation Expense Reconciliation Mechanism

The JP provides that the Companies will implement a downward-only IT&D Net Utility Plant and Depreciation Expense Reconciliation Mechanism.¹⁵⁵ This mechanism will ensure that the Companies complete the IT&D investment program that is funded in the proposed revenue requirement while affording the Companies the flexibility to adjust various categories of IT investment as needed within the total amount. This mechanism ensures that customers will receive the benefit of the IT&D capital spending amounts included in rates. Agreement to this provision represents a significant concession by the Companies and provides further support for a finding that the JP as a whole is clearly in the public interest.

6.3. Core IT and Backoffice Refresh Reconciliation Mechanisms

The JP provides that the Companies will implement separate downward-only net utility plant and depreciation expense reconciliations for each of the Core IT and Backoffice Refresh

¹⁵⁴ The Companies proposed a Rate Year One IT capital investment amount of \$307.9 million, while Staff proposed a Rate Year One amount of \$115.1 million. *See* Rebuttal Testimony of Information Technology & Digital Panel at 6.

¹⁵⁵ JP Section VI.6.2.

categories of IT&D capital investments.¹⁵⁶ These mechanisms are intended to operate similarly to the overall IT&D Net Utility Plant and Depreciation Expense Reconciliation Mechanism and in conjunction with that mechanism. Each Rate Year, the Companies will reconcile their respective capital IT average net utility plant and depreciation expense revenue requirements for the Core IT and Backoffice Refresh categories to the forecast revenue requirements.¹⁵⁷ Further, the difference between the actual and target average net utility plant and depreciation revenue requirements for the Core IT and Backoffice Refresh categories will carry forward each Rate Year and be summed at the end of Rate Year Three for KEDNY and KEDLI, respectively.¹⁵⁸ Finally, the JP provides that, notwithstanding the specified program-level spending amounts and investments, nothing in the JP is intended to limit the Companies' flexibility during the term of the rate plan to substitute, change, or modify IT&D capital investments within the Core IT or Backoffice Refresh categories.¹⁵⁹ The Core IT and Backoffice Refresh Reconciliation Mechanism is in the public interest and should be adopted.

6.4. IT&D Reporting

The JP provides for a collaborative process for the Companies, Staff, and other interested parties to develop an annual and quarterly reporting process that is intended to permit easy monitoring and understanding of any individual IT projects and enable full comprehension of the entire IT portfolio.¹⁶⁰ The collaborative process is intended to develop improved IT reporting formats during Rate Year One that contain strategic actionable, executive-level information

¹⁵⁶ JP Section VI.6.3.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ JP Section VI.6.4.

concerning the status of major IT projects and initiatives.¹⁶¹ The JP further provides that both quarterly and annual reports should provide information concerning the status and explanation of any variances for the following IT project elements: (i) schedule, (ii) scope, (iii) budget, (iv) delivery of benefits, and (v) reductions in costs and/or realization of savings.¹⁶²

The JP further provides that the collaborative will aim to develop a quarterly reporting framework for an appropriate subset of the Companies' IT&D projects that make up at least 50 percent of the New York IT spending which includes: (i) a risk register showing any changes since the previous report; (ii) an issues log; (iii) a change log; (iv) a lessons learned register; (v) identification of project milestones since the previous report; (vi) details on project governance, including any changes; and (vii) any updates to the previous project management plan.¹⁶³

Finally, the JP provides that with respect to annual reporting, the goal of the collaborative is to develop annual reports that provide a more detailed and actionable description of the status of the projects including elements addressed in the quarterly reports as well as information concerning (i) the lead project staff; (ii) the percentage of projects completed and expected project completion dates for projects in progress; (iii) actual project expenditures for the year, and categorization of project performance compared to budget; (iv) an explanation of how issues with respect to projects were addressed and the steps taken to ensure that issues do not recur; and (v) lessons learned.¹⁶⁴ This process should ensure greater understanding of the Companies' IT&D investments and will benefit all interested parties.

¹⁶¹ Before such improved formats are determined by the collaborative, the Companies will continue to file quarterly and annual reports in their current format. *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

7. Future of Heat

The JP contains several commitments by the Companies intended to assist the State of New York in achieving the environmental goals embedded in CLCPA and other laws. These far-reaching commitments build upon and enhance the Future of Heat commitments adopted in the Joint Proposal approved in the 2019 KEDNY/KEDLI Rate Cases and would not be achievable outside of a settlement. These provisions, discussed in greater detail below, both demonstrate the Companies' commitment to achieving the State's environmental goals and support a finding that the JP reflects outcomes that are consistent with the CLCPA's objectives and are otherwise in the public interest.

7.1. Commitment to Non-Pipe Alternatives

In testimony, several parties, including the Companies, generally advocated for the development and incorporation of NPAs in the Companies' capital portfolio and planning process.¹⁶⁵ Similar to the JP approved in the 2021 KEDNY/KEDLI Rate Order, the JP provides that, where possible, the Companies will incorporate evaluations of NPAs as a standard item before proceeding with new or replacement transmission and distribution projects, subject to certain exceptions for compliance requirements and emergencies. The JP builds upon the Companies' prior NPA commitments by including specific commitments to pursue NPAs in certain circumstances, including in connection with LPP Replacements, System Reinforcements, Main Extensions, and Service Line installations, replacements, and relocations, which are discussed in greater detail below. The JP further incentivizes the Companies to pursue NPAs by requiring the

¹⁶⁵ See, e.g., Direct Testimony of KEDNY Gas Infrastructure and Operations Panel at 18; Direct Testimony of KEDLI Gas Infrastructure and Operations Panel at 18; Testimony of Staff Policy Panel at 31-35; Direct Testimony of Alice Napoleon (NRDC) at 9, 37; Direct Testimony of Sonal Jessel (WE ACT) at 48-54; Direct Testimony of John P. Sano (NYC) at 20-21, 23.

Companies to propose a mechanism to retain a percentage of the difference between the cost of a traditional investment in facilities and the proposed cost of the NPA adjusted for other net benefits at the time that the Companies submit their first filing for approval of an NPA. Finally, the JP requires the Companies to retain an implementation contractor with the planning, engineering, and marketing expertise needed to execute the Companies' commitments to NPAs.

The Companies commitment to NPAs under the JP will promote the State's energy policy goals, including the objectives of the CLCPA. These provisions are a significant step forward in the Companies' NPA implementation efforts from the prior rate plans and reflect significant input from many parties in this proceeding. Therefore, the commitments to NPAs under the JP are reasonable and should be adopted.

7.1.1. NPAs in Connection with LPP Replacements

The Companies initial filing proposed to continue their efforts to look for opportunities to implement NPAs, including identifying LPP projects that could be replaced with NPAs.¹⁶⁶ In its testimony, NYC stated that it generally supports the Companies' efforts to pursue NPAs, but recommended that the Companies take a more proactive approach to implementing NPAs, including revising the existing LPP program to advance NPAs.¹⁶⁷

The JP requires the Companies to continue and enhance their existing efforts to implement NPAs to avoid replacement of LPP, including a commitment to annually identify at least five segments of LPP in each Company's service territory that could be abandoned if customers' natural gas loads were met with NPAs. The JP further requires the Companies to conduct outreach to customers serviced by the identified LPP segments, to determine customer interest in NPAs and

¹⁶⁶ Direct Testimony of CLCPA Panel at 14.

¹⁶⁷ Direct Testimony of NYC Policy Panel at 8-12.

issue requests for proposals (“RFPs”) for contractors and vendors to support the potential NPA projects. In accordance with the CLCPA, these NPA efforts will prioritize projects in disadvantaged communities.¹⁶⁸

The JP also requires several enhancements to the LPP NPA program, including: (i) prioritizing low risk LPP and areas of high LPP concentration for NPAs; (ii) attempting to replicate successful methodologies to target customers for NPA participation; (iii) undertaking efforts to engage the New York City Housing Authority for a potential large scale NPA; (iv) endeavoring to operate the NPA program under a corresponding timeline to the LPP program; and (v) assessing NPAs on a five year cycle. The Companies will file an NPA implementation plan within 120 days of a Commission order in this proceeding, which will be subject to stakeholder review and comment, and will convene a stakeholder engagement meeting to review the progress of the program.¹⁶⁹

The commitments to implement NPAs in connection with LPP replacement in the JP are a significant step forward in the Companies’ NPA implementation efforts. The JP includes specific, actionable commitments for the Companies that reflect input from and compromise by many parties in these proceedings and are supportive of New York’s CLCPA objectives. As such, the LPP NPA program is reasonable and in the public interest and should be adopted.

7.1.2. NPAs in Connection with System Reinforcements

The JP also requires the Companies to pursue NPAs to reduce gas system firm demand and avoid the need for future system reinforcements, including targeted incentives for energy efficiency, demand response, and electrification. The Companies will develop a prioritization list

¹⁶⁸ JP Section IV.7.1.1.

¹⁶⁹ *Id.*

for constrained portions of their service areas where these NPAs may be implemented, and will issue period RFPs for projects and programs that could avoid future system reinforcements.¹⁷⁰

These commitments to NPAs support the CLCPA by potentially avoiding or mitigating the need for future investments in gas infrastructure. This is a significant commitment by the Companies, which would not be available outside of a settlement. Therefore, this provision is reasonable and in the public interest and should be adopted.

7.1.3. NPAs in Connection with Main Extensions

For gas service requests involving a main extension of more than 100 feet, the JP requires the Companies to perform an analysis of the potential to meet the prospective customer's needs through a non-gas NPA. If the preliminary analysis shows that serving the customer with an NPA is feasible and beneficial for customers from a cost perspective and will lead to reduced GHG emissions, the Companies will contact the customer to present alternatives to gas service, including presently available electrification measures. Where NPAs are not feasible or cost beneficial for the customer, the Companies will provide a justification for this finding in their annual NPA Opportunities and Programmatic Success reports.¹⁷¹

This provision promotes New York State's CLCPA goals by encouraging customers to adopt NPA measures rather than connecting to the Companies' gas system. This commitment would not be achievable outside of a settlement. This provision is reasonable and in the public interest and should be adopted.

¹⁷⁰ JP Section IV.7.1.2.

¹⁷¹ JP Section IV.7.1.3.

7.1.4. Service Line NPAs

The JP requires the Companies to develop an NPA proposal focused on new gas service line installation and replacements or relocations under the NPA Framework, including a plan to conduct outreach and education to customers on the benefits of non-fossil alternatives. The Companies will hold a stakeholder engagement meeting before the end of Rate Year One to discuss progress related to this effort, including a discussion of what strategies have been successful, which have not, and what the Companies plan to modify going forward.¹⁷² This commitment is consistent with and furthers the objectives of the CLCPA by promoting outreach and education to customers on the availability of non-fossil alternatives to gas service. Further, this effort is reasonable, is in the public interest, and would not be achievable in the absence of a settlement. This provision of the JP should be adopted.

7.1.5. NPA Customer Outreach

Several parties in these proceedings criticized the Companies' promotion and implementation of NPAs under the prior rate plans.¹⁷³ In response to these criticisms, the JP provides that the Companies will increase efforts to inform customers of NPA project opportunities and increase customer education and outreach, including ensuring upcoming NPA opportunities are available on the Companies' website and in promotional materials in a timely fashion. The Companies also commit to use internal resources and contractors to inform customers that could utilize an NPA by email, phone, bill insert or marketing material, at local/public events, and through in-person engagement by knocking on doors. The Companies will make note of the effectiveness of customer outreach efforts, customer feedback, and disposition of gas alternatives

¹⁷² JP Section IV.7.1.4.

¹⁷³ Direct Testimony of Sonal Jessel (WE ACT) at 48-57; Direct Testimony of Alice Napoleon (NRDC) at 13, 35-37; Direct Testimony of Sane Energy Project at 17, 27.

as part of participation in an NPA project for each NPA opportunity. The Companies will report on these efforts and the success of the program in their annual NPA Opportunities and Programmatic Success reports.¹⁷⁴ This program will benefit customers and supports the CLCPA by promoting awareness and providing information of the Companies' NPA programs. This provision is reasonable and in the public interest and should be adopted.

7.1.6. NPA Reporting

Beginning in Rate Year Two, the Companies will file an annual report no later than July 31, setting forth in detail NPA Opportunities and Programmatic Success, which will report on the Companies' efforts to pursue NPAs under the different programs discussed above, as well as the retention of an NPA implementation contractor and the contractor's impact on the Companies' NPA efforts.¹⁷⁵ The NPA Opportunities and Programmatic Success Report will give the Commission, Staff, and other interested stakeholders the opportunity and information needed to evaluate the Companies' success in pursuing and implementing NPAs, consider any issues or impediments to implementing NPAs, and propose improvements to the Companies' NPA programs. This provision obviously benefits all stakeholders and should be adopted.

7.1.7. NPA Requests for Proposals

The Companies will annually issue at least one RFP for cost effective NPAs. At least 60 days prior to issuing the first RFP each year, the Companies will provide the RFP to Staff for review and comments, and will consult with Staff prior to making a decision to abandon or reject

¹⁷⁴ JP Section IV.7.1.5.

¹⁷⁵ JP Section IV.7.1.6. To the extent a similar report is required by the Commission in the Gas Planning Proceeding, the Companies' obligation to provide information in the NPA Opportunities and Programmatic Success report will be limited to information that is not required by the Gas Planning Proceeding reporting requirements.

a potential NPA.¹⁷⁶ This provision requires the Companies to take specific, actionable steps to pursue NPAs and allows for Staff to review the Companies' efforts to pursue NPAs. This provision is reasonable and should be adopted.

7.2. CLCPA and DAC Report

The JP requires the Companies to file an annual report, the CLCPA and DAC Report, within 120 days of the end of each Rate Year. The report will provide information regarding the Companies' performance with respect to programs, initiatives, and spending related to CLCPA programs and DACs, including energy efficiency spending, demand response, main replacement, leak repairs, customer operations, and clean energy jobs.¹⁷⁷ To the extent the report identifies instances where the Companies are not achieving targets or a program is not meeting goals related to the level of benefits targeted for DACs, the Companies will include an action plan for improving performance in those areas.¹⁷⁸ The Companies will convene a meeting with interested stakeholders to discuss and provide feedback on the report within 60 days of the filing.¹⁷⁹

The CLCPA and DAC Report required by the JP is substantially similar to those adopted by the Commission in its orders approving Con Edison's and NYSEG/RGE's rate plans.¹⁸⁰ The Commission found that the CLCPA and DAC Reports "will be helpful in assisting the State's agencies and authorities in determining compliance with [the CLCPA]" and "will help in ensuring that Con Edison customers are being treated equitably whether residing in a disadvantaged or other community."¹⁸¹ The CLCPA and DAC Report proposed in the JP here will similarly provide and

¹⁷⁶ JP Section IV.7.1.7.

¹⁷⁷ JP Section IV.7.2.2.

¹⁷⁸ JP Section IV.7.2.

¹⁷⁹ JP Section IV.7.2.1.

¹⁸⁰ 2023 Con Ed Rate Order at 144-45; 2023 NYSEG/RGE Order at Attachment 1, Joint Proposal § IV.A.

¹⁸¹ 2023 Con Edison Rate Order at 144-45.

allow review of information needed to evaluate the effectiveness of the Companies' programs in supporting CLCPA goals and providing benefits for disadvantaged communities. Therefore, this provision is consistent with the CLCPA, is reasonable, and should be adopted.

7.3. DAC Analysis for Next Rate Case

The JP requires the Companies to provide data related to GHG and co-pollutant emissions and project design for any capital project with an estimated cost of \$1 million or greater that is located in or reasonably expected to impact a disadvantaged community in their next rate cases.¹⁸² This provision will facilitate the review of the Companies' capital projects and their impacts on disadvantaged communities during future rate proceedings, and ensures that the Commission has the data needed to determine whether the projects have a disproportionate impact on disadvantaged communities. Therefore, this provision is in the public interest and should be adopted.

7.4. Capacity Demand Metrics

The JP requires the Companies to continue reporting on the Capacity Demand Metrics adopted in the 2019 KEDNY/KEDLI Rate Cases for informational purposes, and will provide quarterly updates on the progress of program implementation and success.¹⁸³ The Capacity Demand Metrics measure the Companies' performance in promoting non-infrastructure solutions and offsetting the need for additional gas supply infrastructure through non-traditional solutions. The Capacity Demand Metrics will be included in the Companies' annual CLCPA and DAC Report, and will include:

¹⁸² JP Section IV.7.3.

¹⁸³ JP Section IV.7.4.

- (a) Energy Efficiency. The Companies will report on their efforts to meet the targets established by the Commission in the NE:NY Proceeding for energy efficiency.¹⁸⁴
- (b) Demand Response. The Companies will endeavor to meet or exceed peak demand reduction targets from customers enrolled in the Companies' Demand Response programs. The Companies' performance will be measured on an aggregate basis across both Companies' service territories and will separately track performance against targets for the Load Shedding program, the Load Shifting program, and the Bring Your Own Thermostat program.
- (c) Non-Pipes/Third Party Solutions. The Companies will report on their efforts to each annually issue at least one RFP seeking non-traditional, cost-effective peak supply alternatives.
- (d) Electrification. The Companies will continue to collaborate with Con Edison and PSEG Long Island ("PSEG LI") and the Long Island Power Authority ("LIPA") regarding prospective customers who are potential candidates for electrification. The Companies will report the number of referrals made and describe the referral process, including providing call center scripts. The Companies will undertake reasonable efforts to determine whether Con Edison or LIPA/PSEG LI connected with the customer and, to the extent available, include that data in the report.
- (e) LPP-NPAs. As discussed in Section IV.7.1.1 above, the Companies will annually identify at least five segments of LPP in each of the Companies' service territories that

¹⁸⁴ Case 18-M-0084, *In the Matter of a Comprehensive Energy Efficiency Initiative* (the "NE:NY Proceeding").

could be abandoned if all customers' natural gas loads are met with cost-effective NPAs.

This provision ensures that the Commission, Staff, and other interested stakeholders will continue to have access to the data needed to evaluate the Companies' progress related to initiatives and programs designed to manage capacity demand on the Companies' system and allow the Companies to continue to support New York's energy transition goals, while at the same time maintaining safe and reliable service to customers. This provision is supportive of the CLCPA and in the public interest and should be adopted.

7.5. Gas Marketing

Extending a commitment adopted in the 2019 KEDNY/KEDLI Rate Cases, the JP requires that the Companies will not market new gas connections or conversions, including rebates for oil-to-gas conversions or new gas customers, during the term of the rate plans. The Companies will encourage applicants for new or expanded gas service to consider electrification options, and require new gas customers to acknowledge in writing that they have been provided information on non-fossil alternatives. When marketing energy efficiency programs, the Companies will encourage customers to explore electrification options.¹⁸⁵ These commitments will assist customers in exploring alternative heating options in the Companies' service territories, while providing customers with valuable information on Energy Efficiency programs and the state/city's clean energy goals. This provision is consistent with the public interest and should be adopted.

¹⁸⁵ JP Section IV.7.5.

7.6. Utility Thermal Energy Network Providers

The JP requires the Companies to continue their active participation in the ongoing Utility Thermal Energy Network Proceeding, Case 22-M-0429.¹⁸⁶ The provision evinces the Companies' commitment to continue pursuing CLCPA-supportive programs and initiatives at the Commission and to continue their active role in New York's energy transition.

7.7. Gas Transition Changes

Under the JP, Companies may file a petition within 12 months of a Commission order in these proceedings to request a waiver of the Commission's regulations in 16 NYCRR §§230.2 and 230.3 to eliminate customer incentives for connecting to the Companies' system, including the provision of main and service piping at no cost to the customer (*i.e.*, the 100-foot rule), and the ability to apply a "revenue test" to allow the customer to avoid paying for piping in excess of the 100 foot allotment.¹⁸⁷ This provision will afford the Commission the latitude to undertake actions that would support alternatives needed to achieve the goals of the CLCPA.

7.8. Biomethane Supply Interconnections

In their initial filings, the Companies proposed four projects to interconnect gas supply developed from food waste or wastewater at third-party facilities in the Companies' service territories.¹⁸⁸ Staff supported the Companies planned biomethane supply interconnection projects, finding that the projects offered both reliability and emissions reduction benefits for the Companies and their customers.¹⁸⁹ Although Staff supported the projects, Staff recommended that costs for the projects be recovered through a surcharge, rather than in base rates, to account for Staff's

¹⁸⁶ JP Section IV.7.6.

¹⁸⁷ JP Section IV.7.7.

¹⁸⁸ Direct Testimony of KEDNY Gas Infrastructure and Operations Panel at 79-80; Direct Testimony of KEDLI Gas Infrastructure and Operations Panel at 76-77.

¹⁸⁹ Testimony of Staff Gas Reliability and Supply Panel at 12.

concern over potential delays to the in-service date for the projects.¹⁹⁰ Staff also recommended that the Companies be required to file a report 90 days prior to the construction of a biomethane supply interconnection facility, providing information on estimated costs, reliability benefits, source materials, and avoided emissions from the project.¹⁹¹ Staff further recommended that recovery of supply costs for biomethane should be accomplished through the GAC, as are all other gas supply costs, that biomethane pricing should not be at a premium, and that the Companies should not purchase environmental attributes associated with the biomethane.¹⁹²

NYC noted that biomethane has potential environmental benefits for surrounding communities,¹⁹³ and supported the use of biomethane to target buildings and end uses that are hard to electrify.¹⁹⁴ Several parties opposed the biomethane supply interconnection projects.¹⁹⁵

The JP requires the Companies to file a report with the Commission at least 90 days prior to the construction of a biomethane supply interconnection facility, that provides the following information:

- (i) a cost estimate for the interconnection project;
- (ii) a summary of the benefits to the reliability of the gas system in the vicinity of the interconnection project and in the Company's service territory in general;
- (iii) a detailed description of the source materials that will be used at the interconnected facility to produce the biomethane; and

¹⁹⁰ *Id.* at 15-16.

¹⁹¹ *Id.* at 17-18.

¹⁹² *Id.* at 18-19.

¹⁹³ Direct Testimony of John P. Sano (NYC) at 34-35.

¹⁹⁴ Direct Testimony of NYC Policy Panel at 34-36.

¹⁹⁵ Direct Testimony of Sonal Jessel (WE ACT) at 80-81; Direct Testimony of Ilissa Ocko (EDF) at 47-52; Direct Testimony of Alice Napoleon (NRDC) at 48-49.

(iv) a detailed accounting of the upstream greenhouse gas emissions avoided by the biomethane that the Companies' will procure as a result of the interconnection.¹⁹⁶

The JP proposes to authorize the Company to defer the revenue requirement impact of the interconnection facilities for future recovery, up to a cap of \$13.195 million for KEDNY and \$9.868 million for KEDLI. Prices for biomethane supply shall be consistent with the market price of natural gas supplies purchased at similar locations and consistent with the Companies' existing gas supply portfolio, and no greater than prices of other gas supplies purchased at the Companies' city gates. The JP also requires the Companies to engage with the project developers to discuss options for the developers to monetize and sell credits for the environmental attributes associated with the biomethane projects that are (1) voluntary (*e.g.*, not credits that are registered for regulatory compliance with U.S. EPA Renewable Fuel Standard or California LCFS), and (2) sold to an entity located in New York State.¹⁹⁷

The JP is consistent with Commission precedent with respect to the development of biomethane,¹⁹⁸ and, therefore, is within the range of outcomes that would result from full litigation of this proceeding. The JP allows the Companies to go forward with projects to interconnect biomethane supply sources to their systems, thereby providing reliability and emissions benefits for customers, the State, and the Companies' systems. As noted by Staff in testimony, these projects "can help offset the need for additional upstream pipeline capacity and provide additional localized supply within the distribution system" and also "have the potential to reduce methane

¹⁹⁶ JP Section IV.7.8.

¹⁹⁷ *Id.*

¹⁹⁸ See 2023 Con Edison Rate Order at 124-129 (concluding that an RNG interconnection project "will allow Con Edison to investigate the use of RNG in its system as a means of reducing GHG emissions in the State. Accordingly, we find this project beneficial and approve its funding").

emissions, which would help to achieve the CLCPA’s goals.”¹⁹⁹ The integration of biomethane into the Companies’ supply portfolio is also consistent with the Climate Action Council’s Final Scoping Plan, which found that biomethane (called “renewable natural gas” in the Final Scoping Plan) may have a role to meet customer needs for space heating or process use where electrification is not yet feasible, or to decarbonize the gas system as it transitions.²⁰⁰ The JP also addresses any uncertainty surrounding the projects’ in-service dates, and minimizes its impact on customers, by removing the revenue requirement impact of the projects from the Companies’ base rates and permitting deferral of the revenue requirement impacts for future recovery. Finally, the JP addresses intervenors’ concerns regarding the use of environmental attributes by requiring the Companies to explore available options to sell credits to entities on a voluntary basis and to parties that are located in New York State. For these reasons, the JP provisions related to biomethane supply interconnections are reasonable, in the public interest, and supportive of the CLCPA. These provisions should be adopted without modification.

7.9. Newtown Creek Reporting Requirements and Other Provisions

In its initial filing, KEDNY included costs and revenues related to its Newtown Creek RNG Project. The Project captures the biogas generated from the wastewater treatment plant (which consists of approximately 60 percent methane and 40 percent carbon dioxide), conditions the gas through a pressure swing adsorption system, and injects the gas via an RNG interconnection into KEDNY’s distribution system as pipeline quality natural gas. The Project reduces GHG emissions while promoting RNG as a long-term supply source.²⁰¹

¹⁹⁹ Staff Gas Reliability and Supply Panel at 12.

²⁰⁰ New York Climate Action Council, *Final Scoping Plan* at 351 (December 2022), <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>.

²⁰¹ Direct Testimony of KEDNY Gas Infrastructure and Operations Panel at 81-84.

The JP requires KEDNY to provide new reporting with respect to the operation of Newtown Creek Project.²⁰² No later than 120 days from the end of a Rate Year, the Company will file a report providing information regarding: revenues from the sale of gas and environmental attributes; the quantity of biomethane produced; the number of days and hours that the Project was offline; the number of environmental attributes sold each month, the value of credits sold and associated revenues; estimated GHG reductions to KEDNY's system; and the number and nature of formal complaints received by National Grid regarding the Project.²⁰³ KEDNY will also engage with Con Edison and other difficult-to-electrify customers to discuss the potential purchase and sale of biomethane and environmental attributes produced by the Newtown Creek Project, and will file semi-annual reports describing the progress of such discussions. Finally, the JP requires KEDNY to negotiate a mutually agreeable Service Level Agreement with the NYC Department of Environmental Protection ("DEP") addressing notifications of outages at the Newtown Creek Project that requires automated notifications of system outages to the DEP within one hour of the outage occurring, and setting outage response times for KEDNY personnel.

This provision will provide the Commission, Staff, NYC, and other interested stakeholders information and insight into the operation of the Newtown Creek Project, which will ensure interested stakeholders have the ability and opportunity to review and evaluate the Project's operations. This represents a reasonable resolution of concerns expressed about the Newtown Creek Project. Therefore, the Company submits that this provision is reasonable and should be adopted.

²⁰² JP Section IV.7.9.

²⁰³ 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. *Id.*

7.10. Hydrogen Pilot

In its initial filing, KEDLI proposed to implement a project to blend hydrogen into a portion of the Company's service territory in the Town of Hempstead, New York.²⁰⁴ Staff acknowledged that the CAC's Final Scoping Plan highlights the need to further study the use of hydrogen as an alternate fuel to help decarbonize difficult sectors, but expressed concerns related to safety and pipeline integrity related to hydrogen blending.²⁰⁵ Natural Resources Defense Council ("NRDC") and WE ACT for Environmental Justice ("WE ACT"), opposed the project and hydrogen blending.²⁰⁶ EDF stated that the Commission should not approve the HyGrid Project in this rate case, but should require the Company to resubmit the HyGrid proposal in a separate, statewide proceeding, to allow statewide evaluation of standards for hydrogen blending projects.²⁰⁷

As part of the JP, the Companies agree not to proceed with any project that injects hydrogen into its distribution system or serves any customer with hydrogen until it has (i) filed a proposal with the Commission, and (ii) received authorization from the Commission to proceed with hydrogen injection and service. In addition, the Companies shall file a copy of any such proposal in these dockets during the term of the rate plan.²⁰⁸ This provision provides the Commission, Staff, and interested stakeholders with the opportunity to consider potential hydrogen projects in a proceeding before any such project is implemented. This will allow all interested parties to consider issues related to hydrogen blending, including those raised by the parties in this

²⁰⁴ Direct Testimony of KEDLI Gas Infrastructure and Operations Panel at 81-84.

²⁰⁵ Testimony of Staff Gas Reliability and Supply Panel at 29-31.

²⁰⁶ Direct Testimony of Sonal Jessel (WE ACT) at 81; Direct Testimony of Alice Napoleon (NRDC) at 44-48.

²⁰⁷ Direct Testimony of Ilissa Ocko (EDF) at 41.

²⁰⁸ JP Section IV.7.10.

proceeding. These provisions preserve all parties' rights concerning the future development of hydrogen projects and should therefore be found to be consistent with the public interest.

7.11. System Energy Efficiency Earnings Adjustment Mechanism – Gas Demand Response

In their initial filings, the Companies proposed four earnings adjustment mechanisms (“EAMs”): continuation of the existing Energy Efficiency (“EE”) Share the Savings EAM and EE LMI EAM and new EAMs for Gas Demand Response metric and EAP Enrollment.²⁰⁹ Staff opposed all of the EAMs proposed by the Companies, arguing that the EAMs were inconsistent with current Commission policies regarding EAMs.²¹⁰

The JP includes a Gas Demand Response EAM, as set forth in JP at Appendix 8. The EAM proposed in the JP will measure the Companies' demand response performance against a historical baseline, calculated as described in Appendix 8. The EAM establishes three tiers of targets and incentives, similar to the Companies' proposal, but requires greater performance and lesser incentives than proposed by the Companies.²¹¹

This provision reflects a reasonable compromise between the positions of the parties. This EAM will incentivize the Companies to both increase enrollment in their demand response programs, and seek innovative solutions to further improve demand response performance above historical baselines. This provision is consistent with the public interest and should be adopted.

²⁰⁹ Direct Testimony of CLCPA Panel at 54-70.

²¹⁰ Testimony of Staff Efficiency Panel at 66-84.

²¹¹ JP Section IV.7.11 and Appendix 8.

8. Reconciliation, Deferrals, and True-Ups

8.1. Existing Reconciliations, Deferrals, and True-Ups

Appendix 6, Schedule 1 of the JP sets forth KEDNY's deferral accounts and other regulatory assets and liabilities balances as of December 31, 2022. Appendix 7, Schedule 1 sets forth KEDLI's deferral accounts and other regulatory assets and liabilities balances as of December 31, 2022. With the exception of the deferral accounts and other regulatory assets and liabilities identified as "Discontinued" on Schedule 1, the JP proposes that the Companies are authorized to continue the use of reconciliation mechanisms and/or deferral accounting (with certain modifications) with respect to the expenses set forth in Schedules 1 of Appendix 6 and Appendix 7.²¹² The existing deferral mechanisms that will be continued in their current or modified form include:

- (i) Pension and other post-employment benefits;²¹³
- (ii) EAP costs;²¹⁴
- (iii) Exogenous costs;²¹⁵
- (iv) SIR Expenses;²¹⁶

²¹² The deferral accounts and other regulatory assets and liabilities identified as "Discontinued" on Schedule 1 of Appendices 6 and 7 will be discontinued as of the Effective Date. These accounts contain balances as of December 31, 2022, which are set forth in the Schedules. The discontinuance of these accounts is not intended to preclude the Companies from returning to or recovering from customers the balances as of December 31, 2022 plus any applicable carrying charges.

²¹³ JP Section IV.8.1.1.

²¹⁴ JP Section IV.8.1.2.

²¹⁵ JP Section IV.8.1.3. The JP proposes to modify the Exogenous Clause reconciliation mechanism by authorizing the Companies to implement a surcharge to recover incremental costs related to pending Pipeline and Hazardous Materials Safety Administration rulemakings limited to an annual recovery threshold of 2.0 percent of the Company's prior year's operating revenues (excluding ESCO commodity revenues). *Id.*

²¹⁶ JP Section IV.8.1.4. The JP proposes to continue the SIR surcharge mechanism for KEDNY's SIR expense.

- (v) Property and special franchise taxes;²¹⁷
- (vi) Negative or positive revenue adjustments;²¹⁸
- (vii) Variable pay;²¹⁹
- (viii) Electric generator revenues;²²⁰
- (ix) Net utility plant and depreciation expense;²²¹
- (x) City/state construction capital costs;²²²
- (xi) Customer connections;²²³ and
- (xii) Energy Efficiency costs.²²⁴

Except where otherwise noted, the Companies will accrue carrying charges on all deferral accounts and other regulatory assets and liabilities, net of deferred taxes, calculated using the pre-tax weighted average cost of capital for the respective Rate Year. An example of the calculation of carrying charges is set forth in Appendices 6 and 7, Schedule 1 of the JP. The continuation of these deferrals is consistent with Commission practice and precedent²²⁵ and is therefore in the public interest.

8.2. New Reconciliations, Deferrals, and True-Ups

The JP proposes new reconciliations, deferrals and true-ups as set forth below.²²⁶ The Companies will accrue carrying charges on the new deferral account balances calculated using the

²¹⁷ JP Section IV.8.1.5.

²¹⁸ JP Section IV.8.1.6.

²¹⁹ JP Section IV.8.1.7.

²²⁰ JP Section IV.8.1.8.

²²¹ JP Section IV.5.1.1.

²²² JP Section IV.5.1.2.

²²³ JP Section IV.5.1.3.

²²⁴ JP Section IV.11.10.3.

²²⁵ 2021 KEDNY/KEDLI Rate Order at 192-200.

²²⁶ In addition to the new reconciliations, deferrals, and true-ups described in this section, the JP also proposes a new reconciliation mechanism for Inside Meter Relocations, discussed in Section IV.5.1, above.

pre-tax weighted average cost of capital for the respective Rate Year. Each of these deferrals will ensure that customers will pay no more and no less than the Companies' actual costs in situations where the costs actually incurred by the Companies are difficult to forecast and largely beyond their control. These deferral mechanisms are reasonable and in the public interest.

8.2.1. Management Audit

The Signatory Parties recognize that future management and operations audit costs have not been included in any of the Rate Years of the Rate Plan because the timing of the next comprehensive management and operations audit is unknown. If the Commission were to initiate a future comprehensive management or operations audit, KEDNY and/or KEDLI will defer the costs related to such audit(s) for future recovery.²²⁷ This deferral will keep KEDNY and/or KEDLI whole in the event that an audit of either or both Companies is instituted during the term of the rate plans. The provision is reasonable and should be adopted.

8.2.2. Uncollectible Expense

The Companies proposed to implement a two-way uncollectible expense reconciliation mechanism to reconcile uncollectible expense recovered in rates against actual write-offs, with the balance recovered from or refunded to customers through the RAM.²²⁸ The proposed uncollectible reconciliation mechanism, and its recovery through the RAM, was opposed by Staff²²⁹ and NYC.²³⁰

See JP Section IV.5.1.4.

²²⁷ JP Section IV.8.2.1.

²²⁸ Direct Testimony of Customer Panel at 68-70; Direct Testimony of KEDNY Rate Design Panel at 64; Direct Testimony of KEDLI Rate Design Panel at 63.

²²⁹ Testimony of Staff Revenue Requirements Panel at 79-82.

²³⁰ Direct Testimony of Michelle Chait (NYC) at 32.

The JP proposes to authorize the Companies to reconcile actual uncollectible expense (*i.e.*, net write-offs) to the amounts recovered in base rates in Rate Year One and Rate Year Two only, and defer the balance for future recovery from or refund to customers.²³¹ This reconciliation protects both customers and the Companies from any uncertainty and volatility in uncollectible expense in the first two years of the rate plan, and represents a compromise between the litigation positions of the Companies, Staff, and NYC. It also establishes an uncollectible reconciliation mechanism for a period similar to that for which a comparable reconciliation mechanism was adopted in the 2023 Con Edison Order.²³² This provision is reasonable and should be adopted.

8.2.3. Gas Planning Proceeding

Pursuant to the JP, the Companies will comply with any directives from the Commission related to their Long-Term Plans in the Gas Planning Proceeding to ensure the Companies reflect and adopt any policy direction from the Commission.

8.3. Additional Reconciliations, Deferrals, and True-Ups

Nothing in the JP prevents the Companies from implementing additional reconciliations or deferral mechanisms if approved by the Commission.

9. Customer Service Performance Indicators

Customer Service Performance Indicators (“CSPIs”) are intended to align shareholder and customer interests by providing earnings consequences to shareholders for declines in the quality of service provided to customers. The Signatory Parties agree that the Companies will maintain

²³¹ JP Section IV.8.2.2. Examples of the reconciliation are provided in Appendix 6, Schedule 12 for KEDNY and Appendix 7, Schedule 12 for KEDLI.

²³² See 2023 Con Edison Rate Order at 25-26. Con Edison’s uncollectible mechanism extends through December 31, 2025. The mechanism proposed in the JP would apply through March 31, 2026.

their existing CSPIs with certain modifications discussed below.²³³ In their direct testimony, the Companies proposed to continue their existing CSPI metrics and targets and NRAs for the PSC Complaint Rate, Percent of Adjusted Bills, and Call Answer Rate.²³⁴

Staff recommended that the CSPIs be modified to reflected tiered targets and NRAs for all CSPIs.²³⁵ Staff further proposed that the NRAs associated with the CSPIs be set using pre-tax basis points, rather than flat dollar amounts, with each metric being subject to a maximum NRA of 15 basis points.²³⁶ UIU recommended increasing the targets for all CSPIs, as well as converting associated NRAs to basis points, with each CSPI subject to a maximum NRA of 15 basis points.²³⁷

The Joint Proposal reflects more stringent targets for all CSPIs using a tiered approach to CSPI targets, as discussed in more detail below. The Joint Proposal also converts the NRA levels for each CSPI from a flat dollar amount to basis points. Each Company will be subject to total pre-tax potential NRA equal to forty basis points in Rate Year One, forty-eight basis points in Rate Year Two, and sixty basis points in Rate Year Three. The CSPI provisions reflect a reasonable compromise among the parties and fall within the range of potential outcomes that could have resulted from litigation in these proceedings. Indeed, the potential NRAs by Rate Year Three are double the amount at risk under the Companies' current rate plan, and significantly higher than the 35 basis points recently approved by the Commission for Con Edison.²³⁸ Therefore, these provisions are reasonable and should be adopted by the Commission.

²³³ JP Section IV.9. The CSPIs were previously referred to as Customer Service Quality Measures. To standardize with other investor-owned utilities how these measures are referred to and tracked, the Companies' will use Customer Service Performance Indicators or CSPIs to refer to all of their Customer Service Quality Program Measures and any CSQMs therein. *Id.*

²³⁴ Direct Testimony of Customer Panel at 42.

²³⁵ Testimony of Staff Consumer Services Panel at 57-58.

²³⁶ *Id.* at 57 and Exhibit __ (SCSP-2).

²³⁷ Direct Testimony of Gregg C. Collar (UIU) at 4.

²³⁸ 2023 Con Edison Rate Order at 40.

9.1. PSC Complaint Rate

A PSC complaint is initiated with a dispute being filed by, or on behalf of, a customer or prospective customer seeking gas service with the Commission. The Companies proposed a PSC Complaint Rate target of 1.0 complaint(s) per 100,000 customers.²³⁹ Staff proposed that the Companies retain the current 1.0 minimum target, while modifying the target ranges from two tiers to four.²⁴⁰ UIU proposed to retain KEDNY's PSC Complaint Rate target, and adjust KEDLI's to a more stringent target of 0.6 complaints per 100,000 customers.²⁴¹ The JP provides an adjustment to the PSC Complaint Rate tiers.²⁴² The PSC Complaint Rate targets are a reasonable compromise of competing positions that is not opposed by any party and should therefore be adopted..

9.2. Customer Satisfaction Survey

Staff proposed to increase the targets for customer satisfaction and adopt the target tiers for the Residential Customer Satisfaction Survey.²⁴³ The JP provides an adjustment to the target tiers for the Customer Satisfaction Survey.²⁴⁴ The Customer Satisfaction Survey Targets represent a reasonable compromise of competing positions that is not opposed by any party and should therefore be adopted.

9.3 Call Answer Rate

This is a measure of the proportion of customer service calls answered by the Companies' customer service representative ("CSR") within 30 seconds, expressed as a percentage of the total calls answered.²⁴⁵ The JP provides an adjustment to the Call Answer Rate targets to establish four

²³⁹ Direct Testimony of Customer Panel at 41-42.

²⁴⁰ Testimony of Staff Consumer Services Panel at 61.

²⁴¹ Testimony of Gregg C. Collar (UIU) at 8-10.

²⁴² JP Section IV.9.1.

²⁴³ Testimony of Staff Consumer Services Panel at 63.

²⁴⁴ JP Section IV.9.2.

²⁴⁵ Direct Testimony of Customer Panel at 40.

tiers of targets with increasing NRAs.²⁴⁶ The revised targets are not opposed and should be adopted.

9.4 Percent of Adjusted Bills

This is a measure of the proportion of customer bills that require later adjustment as a result of errors by the Companies, expressed as a percentage of total customer bills. KEDNY and KEDLI proposed to retain the existing targets of 0.62 percent and 1.50 percent, respectively.²⁴⁷ Staff proposed to retain KEDNY's current minimum target and reduce KEDLI's current minimum target of 1.50 percent to 0.62 percent, which is in line with KEDNY's minimum target.²⁴⁸ UIU proposed that KEDLI's Adjusted Customer Bills target be adjusted to 0.20 percent, because its five year average of 0.15 percent was well below the current service target level of 1.50 percent.²⁴⁹ The JP provides an adjustment to the percent of adjusted bills targets that is consistent with Staff's recommendation.²⁵⁰ These revised targets are a reasonable compromise of competing positions that is not opposed by any party and should be adopted.

10. Gas Safety Performance Metrics

The JP proposes to continue the gas safety performance metrics adopted by the Commission in the 2019 KEDNY/KEDLI Rate Cases, subject to certain modifications. The Companies' calendar year performance will continue to be measured against annual targets established in the areas of LPP removal, leak management, damage prevention, emergency response, and instances of non-compliance with the Commission's gas safety regulations. The JP proposes to maintain the cap on the amount at risk for each Company at 150 pre-tax basis points

²⁴⁶ JP Section IV.9.3.

²⁴⁷ Direct Testimony of Customer Panel at 41.

²⁴⁸ Testimony of Staff Consumer Services Panel at 69.

²⁴⁹ Testimony of UIU Witness Gregg C. Collar at 10.

²⁵⁰ JP Section IV.9.4.

as well as the current distribution of NRAs among the gas safety performance metrics.²⁵¹ The amount at risk and distribution of potential NRAs provide for significant penalties across all metrics and align the Companies' metrics with targets adopted as part of rate plans for other gas utilities in New York State.²⁵² The Companies will retain the ability to earn Positive Revenue Adjustments ("PRAs") to the extent their performance exceeds the targets and meets certain criteria for the Damage Prevention and emergency response metrics, but eliminates the current PRA for the leak management metric.

The metrics for LPP removal and leak backlog reduction proposed in the JP require the Companies to continue to accelerate removal of LPP and the reduction of the leak backlog, which will improve the safety of the system and assist with methane reductions.²⁵³ The JP also proposed new LPP removal metrics, with associated NRAs, to incentivize the Companies to prioritize high risk mileage and, for KEDNY, cast iron pipe.²⁵⁴ The JP also proposes stricter target thresholds for the Companies' damage prevention metric.²⁵⁵ Finally, although the JP proposes to maintain the total basis points at risk under the gas safety regulations metric, the JP also lowers the thresholds at which NRAs will be assessed for all types violations.²⁵⁶

In sum, the JP's proposed safety metrics are equal to or more stringent than those adopted in the 2019 KEDLI/KEDNY Rate Cases, establishing challenging targets that will be more difficult to achieve. These metrics will encourage improvement in the Companies' performance in these areas and provide for penalties where the Companies' performance falls below the

²⁵¹ JP Section IV.10.

²⁵² 2023 Con Edison Rate Order at 36 and Joint Proposal, Appendix 19; 2023 NYSEG/RGE Rate Order at 62 and Joint Proposal, Appendix L.

²⁵³ JP Section IV.10.1.1 and IV.10.2.

²⁵⁴ JP Section IV.10.1.2 and IV.10.1.3.

²⁵⁵ JP Section IV.10.3.

²⁵⁶ JP Section IV.10.5.

established targets. Agreement to these metrics represents a significant concession on the Companies' part and demonstrates their commitment to continue to enhance gas safety.

Finally, consistent with the rate plan adopted in the 2019 KEDNY/KEDLI Rate Cases, the JP provides that the Companies will submit an annual report to the Secretary to the Commission regarding the prior calendar year's performance under the Gas Safety Performance Metrics in Sections IV.10.1 to IV.10.5. The continued provision of annual reports will update Staff and other parties on the Companies' performance and provide the data required to calculate annual PRAs and NRAs.²⁵⁷ As part of settlement negotiations, the Companies agreed to change the submission date for the annual report from April 1 to March 15, to allow Staff and interested stakeholders earlier access to the information.

11. Customer Initiatives

11.1. Economic Development

For each Rate Year, economic development funding will be set at \$1.382 million for KEDNY and \$1.160 million for KEDLI. Economic development programs will be funded through the amortization of prior economic development deferral credits so that the net revenue requirement for each Company is \$0.²⁵⁸

In their direct testimony, the Companies proposed changes to their economic development offerings to help more closely align the available programs with the goals of the CLCPA and the CAC.²⁵⁹ Staff agreed with the Companies proposed modifications to their economic development

²⁵⁷ JP Section IV.10.6.

²⁵⁸ JP Section IV.11.1.

²⁵⁹ Direct Testimony of Customer Panel at 141-45.

offerings, finding that the Companies' proposals would support growth in disadvantaged communities and the clean energy industry to align with the goals of the CLCPA.²⁶⁰

Pursuant to the JP, the Companies will offer the following economic development programs during the term of the rate plans:

- (a) Economic Development and the Future of Heat;
- (b) Cooperative Business Recruitment Program;
- (c) Natural Gas Manufacturing Productivity Program;
- (d) Brownfield Redevelopment Assistance Program;
- (e) Clean Tech Incubation;
- (f) Cinderella Program; and
- (g) Sustainable Gas and Economic Development Program.

The economic development programs will be subject to a downward-only reconciliation mechanism, an example of which is shown in Appendix 6, Schedule 6 and Appendix 7, Schedule 6 for KEDNY and KEDLI, respectively. The Companies will file a report with the Commission on or before April 1 of each year regarding the program activity and results from the prior calendar year.²⁶¹

The economic development provisions of the JP are supported by the Companies and Staff and are not opposed by any party. Accordingly, they should be adopted.

11.2. Energy Affordability Program

The components of KEDNY and KEDLI's EAP costs included in the JP are set forth on Appendix 6, Schedule 3 for KEDNY and Appendix 7, Schedule 3 for KEDLI. The EAP discounts

²⁶⁰ Testimony of Staff Consumer Services Panel at 97.

²⁶¹ JP Section IV.11.1.

reflected in the JP were developed in accordance with the Commission's orders in Case 14-M-0565, as discussed in the testimony of the Companies and Staff.²⁶² As further required by the Commission's Case 14-M-0565 orders, the Companies will adjust the energy burden and benefit levels for each calendar year to align the annual rate allowance to the two percent budget cap, if necessary. EAP costs are subject to reconciliation, as discussed in Section 8.1.2, above. This provision is reasonable and in line with Commission orders and policy regarding low-income discounts,²⁶³ and should therefore be adopted.

11.3. Weather-Related Protection

Several parties recommended that the Companies implement enhanced weather-related protections for customers. PULP acknowledged that the Companies have several voluntary weather-related customer protections in place, but recommended that the Companies commit to follow these provisions as part of a settlement of these proceedings.²⁶⁴ NYC recommended that the Commission implement a ban on disconnections for residential customers when the wind chill temperatures are below 32 degrees Fahrenheit,²⁶⁵ and UIU recommended that the Companies refrain from scheduling residential terminations on days when the local weather forecast predicts a "feels like" temperature at or below 32 degrees for two or more consecutive days.²⁶⁶

The JP requires the Companies to implement several enhanced protections for customers during the "Cold Weather Period":²⁶⁷

²⁶² Direct Testimony of Customer Panel at 17-23; Testimony of Staff Consumer Services Panel at 21.

²⁶³ Case 14-M-0565, *Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers*, "Order Adopting Low Income Program Modifications and Directing Utility Filings" (May 20, 2016).

²⁶⁴ Direct Testimony of William D. Yates (PULP) at 71-73.

²⁶⁵ Direct Testimony of NYC Policy Panel at 27.

²⁶⁶ Direct Testimony of Gregg C. Collar (UIU) at 29.

²⁶⁷ "Cold Weather Period," as defined in 16 NYCRR § 11.5, is the period beginning November 1st and ending April 15th.

(a) The Companies will (i) accept all Home Energy Assistance Programs (“HEAP”) payments; and (ii) restore service and suspend full collections for residential customers that receive a HEAP payment, regardless of the amount due from the customers and/or the customer’s payment status.

(b) The Companies will offer DPAs to residential customers where a regular or emergency HEAP payment is received regardless of whether the customer has previously defaulted on a DPA or emergency DPA.

(c) The Companies will suspend terminations of residential gas heating customers on days when either the local weather forecast (National Weather Service) predicts temperatures below 32 degrees Fahrenheit, or the forecast high temperature, factoring in the local wind chill, does not exceed 32 degrees Fahrenheit for two or more consecutive days in the geographic operating region.

(d) The Companies will not terminate service to residential service accounts identified as elderly, blind or disabled.²⁶⁸

This provision reflects the input of parties to this proceeding, including parties who oppose the JP, and therefore, is within the range of likely outcomes that would result from litigation of these proceedings. This provision is also in the public interest as it will enhance cold weather protections for customers, and should therefore be adopted.

11.4. Domestic Violence Policy and Procedures

PULP proposed that the Companies implement domestic violence policy and procedures, including specific training materials, internal policy documents or other relevant communications involving situations in which customers indicate that they may have been the victims of domestic

²⁶⁸ JP Section IV.11.3.

violence.²⁶⁹ The JP provides that within six months of the effective date of the Joint Proposal, the Companies will develop and establish policies, procedures and employee training for identifying and addressing domestic violence situations involving customers.²⁷⁰ The JP's requirement for the Companies to adopt domestic violence policy and procedures is clearly in the public interest and should be adopted.

11.5. Deferred Payment Agreements

PULP recommended that the Companies enhance their procedures to promote DPAs for customers in arrears.²⁷¹

The JP reflects the Companies' commitment to offer non-standard payment terms to customers based on need, and further requires the Companies to implement the following enhancements to their processes for enrolling customers in DPAs:

- (a) Within 120 days of the Effective Date of the Joint Proposal, KEDNY will implement a procedure to allow call center representatives to take financial statements over the phone to determine eligibility for a non-standard DPA;
- (b) Customers will continue to sign/e-sign and return a DPA, as required by the Home Energy Fair Practices Act ("HEFPA") and Title 16 NYCRR § 11.10. Within 120 days of the Effective Date of the Joint Proposal, to assist customers with the DPA process, the Companies will (i) allow customers with the ability to execute an e-DPA to verbally agree to the terms of a DPA over the telephone, (ii) mail/email a written copy of the DPA to the customer requesting that it be signed/e-signed and returned, (iii) instruct customers that a signed/e-signed copy is required to activate

²⁶⁹ Testimony of William D. Yates (PULP) at 73-74.

²⁷⁰ JP Section IV.11.4.

²⁷¹ Direct Testimony of William D. Yates (PULP) at 66-67.

the DPA. Prior e-DPAs that have received a verbal agreement over the phone will not be subject to review unless a customer asserts that there was no intent to sign the DPA;

- (c) Within 120 days of the Effective Date of the Joint Proposal, the Companies will implement (i) text messaging to customers that default on DPAs in a manner that will permit the customer to make missing payments and re-establish the payment agreement; and (ii) enhance the Companies' existing Customer Rights and Protections outreach program to increase awareness about the DPA process; and
- (d) On or before December 31, 2024, the Companies will implement web enhancements to permit customers to provide digital signatures.²⁷²

The proposed modification to the Companies' DPA enrollment process will promote the adoption of DPAs and help customers manage their arrears balances. These requirements go beyond the requirements of HEFPA and the Commission's regulations and, as such, represent a substantial concession by the Companies that is responsive to the concerns raised by PULP. This provision is reasonable and in the public interest, and should be adopted.

11.6. Outreach and Education Reporting

The JP provides that the Companies will continue to file their annual outreach and education reports in Case 17-M-0475 by April 1 of the following year, and will use the modified budget template to prepare the reports and include separate budgets for each Company by program, with dollar amounts for each activity line item, including labor.²⁷³ Further, where the Companies identify the portion of their outreach and education budgets that are reflected in other sections of

²⁷² JP Section IV.11.5.

²⁷³ JP Section IV.11.6.

the reports, they will identify the page numbers on the document, the name of program budget, and the amount allocated to the relevant outreach program.²⁷⁴ This provision is consistent with Staff's recommendation in this case,²⁷⁵ and accordingly should be adopted.

11.7. Language Access

NYC recommended that the Companies provide outreach materials in the ten most commonly spoken languages in their service territory to ensure that customers are being informed and protected.²⁷⁶ In rebuttal, the Companies stated that they currently provide notices in English and Spanish, which are spoken by at least 20 percent of the population of any county served by the Companies, but expanding to ten different languages would be very burdensome on the Companies and would require additional funding.²⁷⁷

The JP reflects the Companies' commitment to expand the availability of translated customer assistance materials at in-person events and on the Companies' websites within the Companies' existing outreach and education budgets, including, at a minimum, communications regarding customer rights and responsibilities, safety, and bill assistance. The materials will be translated into Spanish, Russian, Chinese, Polish, Haitian Creole, Bengali, Yiddish, Urdu and/or Arabic, based on the Company's data and external data such as census data regarding language preferences in a given community. The Language data will be assessed annually, and language offerings will be adjusted, if necessary. The Companies will also translate key energy efficiency materials in accordance with the Energy Efficiency and Building Electrification Language Access filing in Case 18-M-0084.²⁷⁸

²⁷⁴ *Id.*

²⁷⁵ Testimony of Staff Consumer Services Panel at 30-31.

²⁷⁶ Testimony of New York City Policy Panel at 15.

²⁷⁷ Rebuttal Testimony of the Customer Panel at 23.

²⁷⁸ JP Section IV.11.7.

This provision is in the public interest because it will expand the availability of information regarding the Companies' services, programs, and initiatives for customers and enhance customers' ability to understand utility programs. Further, this provision reflects a compromise among the parties' positions that is within the range of outcomes that would likely result from litigation of these proceedings. Therefore, this provision should be adopted.

11.8. Special Protection Marketing

PULP recommended that the Companies increase promotion and marketing of their programs for special protection customers (*i.e.*, Elderly, Blind, Disabled and Life support customers).²⁷⁹ The JP reflects the Companies' commitment to enhance their marketing of special protection programs on their websites and at in-person events. The Companies also agreed to enhance training of call center representatives who have direct contact with customers that may be eligible for the programs.²⁸⁰ These commitments will increase awareness of special protection programs to customers and are in the public interest. Therefore, this provision should be adopted.

11.8.1. LMI Marketing and Outreach

The Companies proposed to implement an enhanced marketing and outreach program to increase awareness of HEAP, EAP, and the Companies' additional income-based offerings to customers who would be eligible for the programs. The Companies proposed to include a budget of \$0.5 million, split evenly between the Companies, for the enhanced LMI Marketing and Outreach Program.²⁸¹ The JP proposes to include funding for the LMI Marketing and Outreach program in the amounts of \$0.175 million for KEDNY and \$0.325 million for KEDLI. The Companies will file an LMI Marketing and Outreach program plan within 60 days of a

²⁷⁹ Testimony of William D. Yates (PULP) at 68.

²⁸⁰ JP Section IV.11.8.

²⁸¹ Direct Testimony of Customer Panel at 33-35.

Commission Order in these proceedings, that defines specific marketing and outreach activities, and describes the outreach methods and channels, expected timeline, and target areas and customers. The Companies will also track certain data related to customer awareness, engagement and reach to measure the success of the program.²⁸² These commitments reflect a reasonable compromise between the positions of the Companies and Staff and are within the range of outcomes that would likely result from litigation of these proceedings. Moreover, enhanced outreach to LMI customers is clearly consistent with the Commission's clean energy policy goals and should therefore be adopted.

11.8.2. Stakeholder Meetings

The JP also provides that the Companies will hold annual stakeholder meetings for the term of the rate plan to present their LMI plan and the results of the measures used to track LMI marketing and outreach,²⁸³ and that the Companies will convene their first stakeholder meeting to introduce the LMI Marketing Plan within 90 days of the Commission's issuance of an order adopting the terms of the Joint Proposal, to provide a platform for stakeholders to discuss and provide feedback to Companies regarding their planned marketing efforts and interactions with LMI customers.²⁸⁴ Finally, the JP provides that the Companies agree to modify their LMI Marketing and Outreach Plan to address stakeholder recommendations, within 60 days of each annual stakeholder meeting(s).²⁸⁵ This provision of the JP is aimed at increasing customer participation in assistance programs and providing a framework for stakeholder meetings to track and improve LMI marketing and outreach, and as such is in the public interest.

²⁸² JP Section IV.11.8.1.

²⁸³ JP Section IV.11.8.2.

²⁸⁴ *Id.*

²⁸⁵ *Id.*

11.9. Customer Service Full Time Equivalents

The JP explicitly sets forth the incremental full-time equivalents (“FTEs”) for customer service positions funded in the revenue requirements proposed in the JP.²⁸⁶ These incremental FTEs represent a compromise between the litigation positions of Staff and the Companies that is within the range of results that likely would have been achieved through litigation. Moreover, the proposed staffing levels are reasonable and should be adopted.

11.10. Energy Efficiency

11.10.1. Rate Year and Data Year Energy Efficiency Costs

The JP reflects the filed budgets for 2026 for the three Rate Years:

- Rate Year One - \$34.719 million of energy efficiency costs for KEDNY and \$27.816 million of such costs for KEDLI.
- Rate Year Two - \$42.257 million of non-LMI and \$9.081 million of LMI energy efficiency costs for KEDNY and \$30.463 million of non-LMI and \$7.286 million of LMI energy efficiency costs for KEDLI.
- Rate Year Three - \$31.489 million of LMI and \$11.518 million of LMI energy efficiency costs for KEDNY and \$23.071 million of non-LMI and \$9.824 million of LMI energy efficiency costs for KEDLI.

In addition, if the Commission issues a final order establishing energy efficiency costs for the post-2025 period prior to the issuance of a final order establishing rates in this proceeding, then the Rate Year Two and Three revenue requirements will be revised to reflect the budget amounts approved by the Commission.²⁸⁷

²⁸⁶ JP Section IV.11.9.

²⁸⁷ JP Section IV.11.10.1.

The energy efficiency funding proposed in the JP reflects the fact that energy efficiency programs are one of the primary means by which the Companies can enable customers to reduce their annual gas consumption and achieve New York State's policy goals. Sufficient funding of energy efficiency programs is clearly in the public interest. Accordingly, this provision of the JP should be adopted.

11.10.2. Incremental Energy Efficiency Surcharge Mechanism

The JP would authorize the Companies to establish a separate Incremental Energy Efficiency ("IEE") Surcharge mechanism to permit them to recover (i) any difference between the amount of energy efficiency costs reflected in rates and the energy efficiency budgets approved by the Commission, and (ii) any incremental energy efficiency costs approved by the Commission in the future.²⁸⁸ This provision will allow the Company to timely recover the difference between the provisional budgets included in the revenue requirement and the final budgets approved by the Commission in the NE:NY Proceeding, which will support the Companies' cash flow and its ability to meet its credit metrics. Taken together with the use of provisional NE:NY budgets, as recommended by Staff, the adoption of IEE Surcharge Mechanism reflects a reasonable compromise by the parties and is otherwise in the public interest.

11.10.3. Energy Efficiency Cost Reconciliation Mechanism

The JP proposes a downward-only reconciliation mechanism that would true-up energy efficiency costs recovered in base rates and the IEE Surcharge with the Companies' actual energy efficiency expenditures.²⁸⁹ At the end of Rate Year Three, the Companies will defer any

²⁸⁸ JP Section IV.11.10.2. An illustration of the IEE is set forth in Appendices 6 and 7, Schedule 11 for KEDNY and KEDLI, respectively.

²⁸⁹ JP Section IV.11.10.3.

cumulative unspent energy efficiency funds. The reconciliation applies to each of the Companies' aggregate total energy efficiency spending over the rate period, and permits the Companies to shift funds within their respective energy efficiency portfolios.²⁹⁰ This downward-only reconciliation protects customers in the event that actual energy efficiency costs are less than those reflected in the revenue requirement and therefore is in the public interest and should be adopted.

11.10.4. Energy Efficiency, Demand Response, NPAs and Strategic Account Management FTEs

The JP sets forth the incremental FTEs for energy efficiency, demand response, NPAs, and Strategic Account Management positions funded in the revenue requirements proposed in the JP.²⁹¹ The Companies believe that the agreed upon number of FTEs will allow them to implement their Energy Efficiency and Demand Response programs in accordance with the goals of the CLCPA, and fulfill the NPA and Strategy Account Management objectives. The number of FTEs added under the JP represents a compromise that is likely within the range or results that would have been achieved in litigation. Accordingly, this provision is in the public interest and should be adopted.

11.10.5. KEDLI HEAT Program

In its initial filing, KEDLI proposed to continue its KEDLI HEAT program with its associated funding of \$2.5 million per year.²⁹² Staff generally agreed with this proposal and supported continuing the KEDLI HEAT Program through the end of 2025, but recommended the Commission require the Companies to create and file a detailed transition plan to ensure a smooth

²⁹⁰ *Id.*

²⁹¹ JP Section IV.11.10.4.

²⁹² Direct Testimony of Customer Panel at 95.

handoff of responsibilities from the Company to NYSERDA at the end of 2025.²⁹³ Staff also recommended that KEDLI establish a program target for the HEAT Program.²⁹⁴

The JP reflects \$2.5 million in funding for the KEDLI HEAT Program and requires KEDLI to use reasonable efforts to complete all HEAT projects by the end of 2025. KEDLI will consult with Staff and NYSERDA to develop a transition plan addressing customer outreach, in order to inform affected customers of the transfer of responsibility for programs equivalent to the HEAT program to NYSERDA, planned periods reporting, processes to limit or avoid gaps in program offerings, and a timeframe for completing HEAT projects beyond 2025, if applicable. KEDLI will file such transition plan with the Commission no later than January 1, 2025. The Companies also agreed to set a program target of 7,737 MMBtus for the HEAT Program.²⁹⁵

This provision reflects a reasonable compromise among the parties to continue the HEAT Program through 2025 and takes steps towards a smooth transition of the program to NYSERDA in 2026. This provision also ensures that customers will continue to benefit from this program, which has been successful in providing low- to no-cost energy efficiency upgrades to customers while producing higher than planned savings. This provision is reasonable, in the public interest and should be adopted.

11.10.6. Weatherization Health and Safety Program

In its initial testimony, the Companies proposed funding of \$0.750 million per year in KEDNY and \$1.75 million per year for KEDLI to continue their Weatherization Health and Safety Program, which had previously been funded by National Grid shareholders.²⁹⁶ The Companies

²⁹³ Direct Testimony of Staff Efficiency Panel at 24-27.

²⁹⁴ *Id.* at 27-28.

²⁹⁵ JP Section IV.11.10.5.

²⁹⁶ Direct Testimony of the Customer Panel at 99-101.

testified that this program was successful at providing the Companies' LMI customers and customers located in disadvantaged communities with equitable access to weatherization services, by first removing or repairing any health and safety barriers (such as carbon monoxide hazards, insufficient wiring or ventilation, plumbing problems, and unsafe appliances or gas-lines) at no cost to the customer, before providing the actual weatherization.²⁹⁷

Although Staff acknowledged the importance of reducing barriers to LMI and increasing access to weatherization in disadvantaged communities, Staff recommended the Commission reject the Companies' proposal.²⁹⁸ The weatherization proposal was largely supported by the several intervenors, subject to certain modifications.²⁹⁹

The JP reflects the Companies' commitment to provide a 100 percent shareholder-funded, weatherization health and safety program, capped at \$2 million annually (i.e., \$6 million over the three-year rate plan).³⁰⁰ Moreover, following the term of the Rate Plan, the Companies agree to perform a reconciliation of program expenditures.³⁰¹ Additionally, the Companies will annually file an implementation plan no later than June 30 of each year, which will address the referral, enrollment, and selection or prioritization of customers for the program, as well as the roles, interests, and collaboration of the Companies and other stakeholders, such as NYSERDA, contractors, and other energy efficiency/building electrification program administrators. Beginning in Rate Year 2, the Companies will file an annual performance report providing data regarding the success of the program in relation to certain metrics. The Companies will commence

²⁹⁷ *Id.*

²⁹⁸ Staff Efficiency Panel at 34-38.

²⁹⁹ *See, e.g.*, Direct Testimony of Sonal Jessel (WE ACT) at 66-69.

³⁰⁰ JP Section IV.11.10.6.

³⁰¹ *Id.*

an annual conference to discuss the program performance and any planned changes to the program.³⁰²

This provision is clearly in the public interest, as customers will continue to receive the benefits of the Weatherization Health and Safety Program at no cost. Moreover, this provision is a significant concession by the Companies that provides an end result that could not be achieved in the absence of settlement. Accordingly, not only should this provision of the JP should be adopted, but this provision provides support for the JP as a whole.

12. Energy Service Company Issues

12.1. Demand Response Notification

NRG expressed concerns that the Companies do not inform a customer's ESCO when the customer is enrolled in the Demand Response Program; nor do the Companies notify ESCOs when they ask customers served by NRG or another ESCO to reduce or shift their demands.³⁰³ NRG recommended that the Companies' tariffs be amended to include a separate rate class for customers participating in the Demand Response Program, require customers to specify at which volumetric level they are participating, and provide ESCOs with specific details about the Demand Response Events, such as the date, time period, and volume reduction.³⁰⁴ Both the Companies and Staff opposed NRG's proposal, stating that establishment of a separate rate class for demand response customers would be administratively burdensome and would provide little benefit.³⁰⁵

The JP reflects the Companies' commitment to amend their Demand Response procedures to provide ESCOs with information regarding customer participation in the program, as well as

³⁰² *Id.*

³⁰³ Direct Testimony of Christopher Reyes (NRG) at 2-4.

³⁰⁴ *Id.*

³⁰⁵ Rebuttal Testimony of Customer Panel at 50; Rebuttal Testimony of Staff Efficiency Panel at 11-13.

develop a way for ESCOs and other interested parties to request notifications of Demand Response events and provide notification to the requesting parties within 24 hours after a Demand Response event.³⁰⁶ This provision represents a reasonable compromise that is supported by all parties that addressed the matter. Therefore, this provision should be adopted.

V. Conclusion

For all the foregoing reasons, KEDNY and KEDLI submit that the Joint Proposal is in the public interest and would achieve an end result that complies with all applicable legal requirements. Accordingly, the Companies respectfully request that the Commission adopt the terms of the JP.

Respectfully submitted,

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Dated: May 1, 2024

³⁰⁶ JP Section IV.12.1.

Comparison of Energy Affordability Program Rates

KEDNY	Commission-Accepted Method					Revised Methodology				
	Delivery				Total Bill	Delivery				Total Bill
	Current	Proposed	Difference	Change	Change	Current	Proposed	Difference	Change	Change
<u>Current vs. Proposed RY 1</u>										
SC 1AR - Residential Non Heat Reduced Rate (Tiers 1-4)	\$24.60	\$ 30.56	\$ 5.96	24.20%	21.27%	\$ 24.60	\$ 30.56	\$ 5.96	24.20%	21.27%
SC 1 BR - Residential Heat Reduced Rate (Tier 1)	\$71.72	\$ 90.47	\$ 18.75	26.14%	15.16%	\$ 71.72	\$ 95.22	\$ 23.50	32.77%	19.05%
SC 1 BR - Residential Heat Reduced Rate (Tier 2)	\$43.00	\$ 67.41	\$ 24.41	56.77%	25.88%	\$ 43.00	\$ 61.57	\$ 18.57	43.19%	19.63%
SC 1 BR - Residential Heat Reduced Rate (Tier 3)	\$21.34	\$ 50.02	\$ 28.68	134.41%	39.65%	\$ 21.34	\$ 36.09	\$ 14.75	69.13%	20.23%
SC 1 BR - Residential Heat Reduced Rate (Tier 4)	\$27.83	\$ 55.23	\$ 27.40	98.48%	34.73%	\$ 27.83	\$ 37.20	\$ 9.37	33.68%	11.68%
<u>RY 1 vs. RY 2</u>										
SC 1AR - Residential Non Heat Reduced Rate (Tiers 1-4)	Delivery				Total Bill	Delivery				Total Bill
	RY1	RY2	Difference	Change	Change	RY1	RY2	Difference	Change	Change
SC 1AR - Residential Non Heat Reduced Rate (Tiers 1-4)	\$30.56	\$ 33.72	\$ 3.16	10.33%	9.25%	\$ 30.56	\$ 33.72	\$ 3.16	10.33%	9.25%
SC 1 BR - Residential Heat Reduced Rate (Tier 1)	\$90.47	\$ 94.13	\$ 3.66	4.04%	2.53%	\$ 95.22	\$100.62	\$ 5.40	5.67%	3.61%
SC 1 BR - Residential Heat Reduced Rate (Tier 2)	\$67.41	\$ 72.50	\$ 5.08	7.54%	4.17%	\$ 61.57	\$ 64.54	\$ 2.97	4.82%	2.56%
SC 1 BR - Residential Heat Reduced Rate (Tier 3)	\$50.02	\$ 56.17	\$ 6.15	12.29%	5.89%	\$ 36.09	\$ 37.19	\$ 1.10	3.06%	1.22%
SC 1 BR - Residential Heat Reduced Rate (Tier 4)	\$55.23	\$ 61.06	\$ 5.82	10.55%	5.32%	\$ 37.20	\$ 36.45	\$ (0.75)	-2.01%	-0.82%
<u>RY 2 vs. RY 3</u>										
SC 1AR - Residential Non Heat Reduced Rate (Tiers 1-4)	Delivery				Total Bill	Delivery				Total Bill
	RY2	RY3	Difference	Change	Change	RY2	RY3	Difference	Change	Change
SC 1AR - Residential Non Heat Reduced Rate (Tiers 1-4)	\$33.72	\$ 39.62	\$ 5.90	17.50%	15.85%	\$ 33.72	\$ 39.62	\$ 5.90	17.50%	15.85%
SC 1 BR - Residential Heat Reduced Rate (Tier 1)	\$94.13	\$106.31	\$ 12.18	12.94%	8.27%	\$100.62	\$115.28	\$ 14.66	14.57%	9.53%
SC 1 BR - Residential Heat Reduced Rate (Tier 2)	\$72.50	\$ 86.41	\$ 13.91	19.19%	11.06%	\$ 64.54	\$ 75.42	\$ 10.87	16.85%	9.23%
SC 1 BR - Residential Heat Reduced Rate (Tier 3)	\$56.17	\$ 71.39	\$ 15.22	27.09%	13.91%	\$ 37.19	\$ 45.16	\$ 7.97	21.42%	8.81%
SC 1 BR - Residential Heat Reduced Rate (Tier 4)	\$61.06	\$ 75.89	\$ 14.83	24.29%	12.98%	\$ 36.45	\$ 41.51	\$ 5.06	13.87%	5.64%