STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

CASE 25-G-0378 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service

CASE 25-E-0375 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service

CASE 25-G-0380 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service

CASE 25-E-0379 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Electric Service

POST HEARING BRIEF OF ALLIANCE FOR A GREEN ECONOMY AND PEOPLE UNITED FOR SUSTAINABLE HOUSING BUFFALO

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I. INTRODUCTION

A. Overview

In accordance with the Ruling Adopting Briefing Schedule issued by Administrative Law Judges ("ALJs") Ashley Moreno and Tara Kersey on March 9, 2026, Alliance for a Green Economy ("AGREE") and People United for Sustainable Housing, Inc. ("PUSH Buffalo") hereby submit their Initial Post-Hearing Brief.

New York State's Climate Leadership and Community Protection Act ("CLCPA") requires the state to reduce carbon emissions to 60% of 1990 levels by the year 2030—less than four years from today—and to reduce carbon emissions to 15% of 1990 levels by 2050. The Public Service Commission ("Commission," or "PSC") is tasked with overseeing the transformation of our state's energy sector to meet these and other mandates of the CLCPA. It is abundantly clear that the gas distribution system in New York is a major contributor to our overall greenhouse gas footprint.[1] Any Commission Order arising out of these cases must therefore anticipate substantial cuts in the use of fossil fuels, alongside assurances that the electric grid is prepared to meet increasing demand. At the very least, approving a Recommended Decision that permits additional investments in new fossil fuel infrastructure without serious consideration of alternatives and mitigation, and without evaluating the impacts on Disadvantaged Communities ("DACs") caused by those investments, would run afoul of the mandates of the CLCPA.

Together, New York State Electric & Gas Corporation and Rochester Gas & Electric ("NYSEG and RG&E," or the "Companies") have submitted testimony from eighteen panels of

[1] Evidentiary Hearing Transcript (March 6, 2026) at 124:17–125:7 (citing NYS Climate Action Council, Scoping Plan at 350 (Dec. 2022) ("Scoping Plan")).

witnesses to support their request for $850 million dollars in new revenue for the rate term.[2] Despite dozens of hours of testimony and the efforts of several parties, including AGREE and PUSH Buffalo, to elicit additional information through discovery, the Companies have failed to justify much of their proposed gas capital expenditures. At the same time, as the Companies are looking to expand their gas system, they are not doing nearly enough to educate and conduct outreach to their customers about the options and potential benefits of transitioning off gas. Finally, and most troubling, testimony elicited during the Evidentiary Hearing for these cases suggests that the record cannot support an approval of the Companies' proposed rate increase in its current form without violating Sections 7(2) and 7(3) of the CLCPA.

This Initial Brief includes several proposed modifications to the Companies' tariff for the ALJs consideration in drafting their Recommended Decision in these cases. These modifications would: (1) Add a downward reconciliation mechanism to the Companies' Customer Connections Budget to account for the impact of the 100-foot rule repeal; (2) Reduce the Companies' Customer Connections Budget by 25% to account for the impact of the 100-Foot Rule repeal; (3) Direct the Companies to track the costs and drivers of Non-Leak Prone Service Replacements during the rate year; (4) Reduce the Companies' Non-Leak Prone Service Replacement Program budget by 50% to account for the Companies' inability to justify the Program's costs; (5) Reduce the Companies' Leak Prone Pipe Replacement budget and reduce the target mileage replacement; (6) Deny cost recovery to NYSEG for the proposed Pendleton Reliability Project and the Goshen Semi-Permanent LNG Supply Injection Tap; (7) Expand the scope of the Companies' LPP Whole Home Electrification Program to all customer classes; (8) Require the Companies to submit

[2] *See* Proposed Major Revenue Increase for Rate Year Ending April 30, 2027, NY PSC Case Nos. 25-E-0375 et al. (Jun. 30, 2025).

semi-annual reports to the Commission on the status of their NPA program; (9) Place guardrails on the Companies' capital expenditures practices by imposing a net plant downward reconciliation without carryover and curtailing the Companies' flexibility to modify their project budgets; (10) Require the Companies to expand their Annual DAC Report to match those of other New York regulated utilities; (11) Improve the Companies' efforts to decarbonize their industrial customer base; (12) Disallow cost recovery for the purchase of environmental attributes associated with Renewable Natural Gas; and (13) Maintain the Companies' Non-Residential Geothermal and Air Source Heat Pump Program.

B. Procedural History

On June 30, 2025, the Companies filed a new tariff filing and testimony with the PSC in support of proposed increases to their electric and gas delivery revenues for electric and gas service, effective May 1, 2026. On July 17, 2025, ALJs Moreno and Kersey held a procedural conference and issued a procedural schedule.[3] On September 15, 2025 and September 26, 2025, the Companies filed Corrections and Updates to the testimonies of several of their witness panels. Department of Public Service Staff ("Staff"), AGREE and PUSH Buffalo, and other parties[4] filed direct testimony on November 7, 2025, and several parties including Staff and the Companies filed rebuttal testimony on December 5, 2025.

The parties engaged in two settlement meetings in these cases—the first on December 18, 2025, and the second on January 8, 2026. These meetings resulted in no settlement agreement.

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[3] Ruling Concerning Procedural and Technical Conferences, NY PSC Case Nos. 25-E-0375 et al. (Jul. 8, 2025).
[4] Parties filing direct testimony included the Offices of New York State Assemblymembers Paula Kay, Chris Burdick, and Anna Kelles, the Offices of New York State Senators Shelley Mayer and Jeremy Cooney, the City of Ithaca, Westchester County, Tompkins County, Nucor Steel, Multiple Intervenors, Walmart, the Public Utility Law Project, Climate Solutions Accelerator of the Genesee-Finger Lakes Region, Vote Solar, the New York Solar Energy Industries Association, the Utility Intervention Unit, Ratepayer and Community Advocates, and Richard Caiazza.

On January 28, 2026, the ALJs issued a Notice of Evidentiary Hearing, alerting the parties that the Evidentiary Hearing would begin on February 9, 2026. The Evidentiary Hearing commenced on February 9, 2026, and continued through March 6, 2026. On March 9, 2026, the ALJs issued a Ruling Adopting Briefing Schedule and Uniform Table of Contents that required initial and reply post-hearing briefs to be filed on April 2, 2026, and April 17, 2026, respectively.

F. Legal Overview

Rate Recovery is Only Permissible for Prudent Investments.

As detailed below, AGREE and PUSH Buffalo urge the Commission to deny rate recovery or reduce the Companies' budgets for several proposed capital investments because they are not prudent and would not serve ratepayers. Courts in New York have held that "the specific function of the rate-making power is to protect the utility's ratepayers."[5] Under the Public Service Law, a utility is not permitted "to include negligent or wasteful expenditures in its operating expenses," and the PSC "may review the operating expenses of a utility and thereby prevent unreasonable costs for materials and services from being passed on to rate payers."[6] A determination that "a utility may recover certain costs . . . necessarily include[s] assessment of the prudence of a utility's actions as those actions impact upon the ratepayers."[7] "Prudence is determined by judging whether the utility acted reasonably, under the circumstances at the time,

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[5] *Matter of Niagara Mohawk Power Corp. v. Public. Serv. Commn. of State of N.Y.*, 69 N.Y.2d 365, 369 (1987) (citation omitted).
[6] *Id*.
[7] *Matter of National Fuel Gas Distrib. Corp. v. Pub. Serv. Commn. of State of N.Y.,* 71 A.D.3d 62, 66 (3d Dept 2009), *aff'd,* 16 N.Y.3d 360 (2011) (citations omitted); *see also* Direct Testimony of Alice Napoleon and Asa Hopkins on Behalf of NRDC at 25, NY PSC Case Nos. 22-E-0064 & 22-G-0065 (May 20, 2022) ("Utilities have an obligation to demonstrate that an investment is prudent.").

considering that the Company had to solve its problems prospectively rather than in reliance on hindsight."[8]

Case law suggests that investments in assets that a utility can reasonably expect to become stranded are not prudent investments. For example, in *Abrams v. Public Service Commission*, petitioners in an Article 78 action challenged "the PSC's determination which allowed the amortization over an eight-year period of approximately $41 million in expenses relating to a discontinued pumped-storage project" by Con Edison.[9] Petitioners opposed cost recovery on the grounds that customers should not be on the hook for an asset that was no longer used and useful.[10] However, the PSC found that the Company should be allowed to recover costs for the abandoned project because Con Edison made prudent investments up until the point that the assets became stranded.[11] The court agreed with the PSC and found that the determination that Con Edison had acted prudently had a rational basis because the Company made the investments after reasonably "anticipat[ing] a progressively greater demand for electricity in the New York City area serviced" and because "[t]he pumped-storage concept was specifically suited for anticipated demands."[12] By contrast, here, the Companies act imprudently by making investments that they have not shown to be needed or cost-effective and that are likely to become stranded assets, and by failing to properly estimate and track project costs.

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[8] *Matter of National Fuel Gas Distrib. Corp.*, 71 A.D.3d at 66 (citation omitted).
[9] *Matter of Abrams v. Public Serv. Commn. of State of N.Y.,* 104 A.D.2d 135, 136 (3d Dept 1984), *aff'd*, d67 N.Y.2d 205 (1986).
[10] *Id*.
[11] *Id.*
[12] *Id.* at 138.

The Commission's Order in this Case Must Comply with Both the Public Service Law and the Climate Leadership and Community Protection Act.

In evaluating a Recommended Decision arising from a litigated proceeding, the Commission must determine whether the recommendations contained therein are in the public interest.[13] In doing so, the Commission must evaluate whether the Order adopting such recommendations: (1) complies with Sections 7(2) and 7(3) of the CLCPA;[14] (2) will provide safe and adequate service at just and reasonable rates;[15] and (3) is consistent with sound environmental, social, and economic policies of the Commission and New York State.

As will be expanded upon later in Section V, the Commission is bound by both the Public Service Law and the CLCPA, and in reviewing the record in this case it must ensure that any Order complies with the requirements of both sets of laws and ensure that one set of laws is not subsumed by the other.

IV. RATE BASE ITEMS

B. Gas Capital

2. Mandatory Projects and Programs

The Customer Connections Budget Must Be Amended and Subject to a Downward Reconciliation Mechanism to Protect Ratepayers and Account for the 100-Foot Rule Repeal.

The Companies erroneously assume that their gas system will expand at 2024 levels[16] despite the repeal of the 100-Foot Rule, which is likely to curtail new customer connections and

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[13] Notice of Schedule for Filing Exceptions and Recommended Decision at 542, NY PSC Case Nos. 23-E-0418 & 23-G-0419 (May 1, 2024).
[14] Order Establishing Rates for Electric and Gas Service at 63, NY PSC Case Nos. 23-E-0418 & 23-G-0419 (Jul. 18, 2024). Case law confirms that the PSC must comply with the CLCPA in addition to the PSL. *See Matter of Clean Air Coalition of W. N.Y., Inc. v. New York State Pub. Serv. Commn.*, 85 Misc.3d 665 (Sup. Ct. Albany Cnty. 2024).
[15] PSL § 65(1).
[16] Hearing Exhibit 256, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-07) at PDF 155 or 143 of 665 ("The Companies have maintained the number of services being installed from 2024 levels."); *id*. at PDF 186 or 174

decrease the cost recovery for customer connections. Moreover, the Companies have not provided a basis for their cost estimates for main extensions and new service lines. The Commission should amend the customer connections budget to avoid overcharging ratepayers.

In June 2025, the Legislature enacted, and in December 2025, the Governor signed, legislation to repeal the requirement that utilities cover the costs of new residential gas hookups within 100 feet of an existing gas line.[17] The repeal comes into effect on December 19, 2026,[18] about two-thirds of the way through the rate term.[19] The repeal of the 100-Foot Rule removes an incentive for new gas applications and is likely to curtail gas system expansion. Moreover, even if customer connections continue at the same rate, the legislation will reduce the Companies' costs associated with new connections by shifting those costs onto applicants, rather than ratepayers. The Companies' rate request does not account for this change in the law, and they did not file an amended rate request after the Governor signed the legislation.[20] As a result, ratepayers will be charged more than necessary for customer connections unless the Commission reduces the Companies' budget.

When cross-examined about the 100-Foot Rule repeal, the Companies' Gas Capital Expenditures Panel did not justify the failure to account for the new legislation. Instead, the Panel first stated that the Companies did not propose changes to their customer connections budget because they are waiting to see Department of Public Service regulations under the new

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of 665 ("The Companies have maintained the number [and] length of main extensions being installed from 2024 levels.").

[17] PSL § 31(4-a); S.8417/A.8888.

[18] Press Release, NY Governor's Press Office, Governor Hochul Signs Legislation to Eliminate Unfair Utility Subsidy That Passes the Buck for New Residential Gas Hookups to All Customers (Dec. 19, 2025), https://www.governor.ny.gov/news/governor-hochul-signs-legislation-eliminate-unfair-utility-subsidy-passes-buck-new-residential.

[19] Notice of Further Suspension of the Effective Date of Major Rate Changes, NY PSC Case Nos. 25-E-0375 et al. (Nov. 4, 2025) (suspending effective date of rate amendments until May 26, 2026).

[20] Evidentiary Hearing Transcript (Mar. 3, 2026) at 205:18–24, 356:11–14.

law.[21] However, the Department will simply issue regulations that are necessary to give effect to the legislation,[22] and will therefore not shed any light on the impacts the Companies should expect on new business. The Panel also observed that the Companies agreed with a Staff recommendation that customer connections be subjected to a downward reconciliation mechanism.[23] Nonetheless, Staff made that recommendation—and the Companies accepted it—to account for the All-Electric Building Act, which prohibits gas in new buildings but has been put on hold due to litigation.[24]

Accordingly, the Commission should clarify that the downward reconciliation mechanism applies to the customer connections budget regardless of whether the All-Electric Building Act comes into effect during the rate term. However, while in principle a downward reconciliation will make ratepayers whole, if ratepayers are paying more than they need to earlier than they need to, many who already struggle to pay their bills or who are in arrears will be overcharged and unnecessarily burdened in the meantime. The Commission should therefore also reduce the Companies' new customer connections budget. The Companies have not provided an analysis or projections of the reductions in customer connections that will result from the 100-Foot Rule repeal. Recognizing that the costs of new connections may not decrease proportionally to the number of new customers during the rate year, AGREE and PUSH Buffalo submit that a 25% reduction in the customer connections budget is reasonable when paired with a downward reconciliation mechanism to compensate ratepayers if the actual costs are lower.

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[21] *Id*. at 356:21–357:6.
[22] Approval Memorandum – No. 84 Ch. 709, Memorandum filed with SB 8417 ("[T]he immediate effective date in the bill passed by the legislature did not provide any time for the Public Service Commission to adopt necessary regulations to implement the legislative change. I have reached an agreement with the Legislature to change the effective date to one year from today, thus giving time for the PSC to issue the necessary regulations.") (attached as Exhibit 1).
[23] Evidentiary Hearing Transcript (Mar. 3, 2026) at 357:6–10.
[24] *Id*. at 142:2–13.

Amending the Companies' customer connections budget is especially critical because the Companies consistently budget far more than they actually spend. For example, in 2024, NYSEG's actual costs for new mains was approximately 60%, or $1.3 million below, the estimated budget.[25] Additionally, the budget for new mains exceeded actual expenditures in four out of the last five years for both Companies.[26] In the past five years, budgets for new service lines exceeded actual expenditures every year for NYSEG and three years for RG&E.[27] These overestimates indicate that the Companies' capital expenditures forecasts for new gas mains and services are likely too high, even if they were to expand gas service at 2024 rates. The risks to ratepayers are even more acute given the Companies' practice of using excess funds from projects that are under-budget for other capital projects, including projects that have not been approved for rate recovery, discussed in Section IV(E)(1).

The Companies Have Not Justified Their Non-Leak Prone Service Replacement Budget.

The Companies have not justified their budget for replacing non-leak prone services, and therefore, have not demonstrated that the program is a prudent use of ratepayer money. The Companies' non-leak prone service replacement program involves both replacement and relocation of non-leak prone services.[28] The Companies replace non-leak prone service lines that are attached to a leak-prone main that is getting replaced and also replace non-leak prone services when relocating them to accommodate street reconstruction projects.[29] However, despite multiple discovery requests, AGREE and PUSH Buffalo never received a clear explanation from the Companies as to why they replace services that are not leak prone. The Companies

[25] Hearing Exhibit 843-C, Companies' Response to DPS IR 98, attach. 1.
[26] *Id*.
[27] *Id*.
[28] Hearing Exhibit 843-Q, Companies' Response to AGREE_PUSH IR 1.1 (2)(a).
[29] Hearing Exhibit 256, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-07) at PDF 165 or 153 of 665.

erroneously asserted in direct testimony that the non-leak prone service line replacement program was required by regulation,[30] but conceded in response to a discovery request that it is not.[31] The Companies' direct testimony also states that they replace non-leak prone service lines when replacing leak-prone gas mains in accordance with their Distribution Management Plan ("DIMP"),[32] but the Companies' DIMP simply states that when replacing leak-prone mains they also replace *leak-prone* service lines, and does not mention non-leak prone service lines at all.[33] The Companies also assert that non-leak prone service replacement is a recognized practice to mitigate risk and reduce greenhouse gas ("GHG") emissions, but they provide no support for this claim.[34]

In addition to lacking a clear rationale or basis, the non-leak prone service replacement program has not been demonstrated to be cost effective. The Companies do not conduct a benefit-cost analysis when deciding whether to retain or replace a non-leak prone service line that is connected to a leak-prone main that is being replaced.[35] Instead, they simply compare the construction costs of retention versus replacement,[36] which is not a recognized method to assess

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[30] *Id*. at PDF 165 or 153 of 665, PDF 205 or 193 of 665.
[31] Hearing Exhibit 843-Q, Companies' Response to AGREE_PUSH IR 1.1 (1), (7).
[32] Hearing Exhibit 256, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-07) at PDF 165 or 153 of 665, PDF 205 or 193 of 665.
[33] Hearing Exhibit 843-R, Companies' Response to AGREE_PUSH IR 3.1, attach. 2 at 49 ("In conjunction with Leak Prone Main replacement projects, both NYSEG and RG&E proactively replace service constructed of vintage type materials like those main materials that are considered leak prone.").
[34] Hearing Exhibit 256, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-07) at PDF 165–169 or 153–157 of 665, PDF 205–209 or 193–197 of 665.
[35] Hearing Exhibit 843-M, Companies' Response to AGREE-PUSH IR 3.1, Supp. 1 (18)(c). In its rebuttal testimony, the Capital Expenditures Panel claimed that this interrogatory response refers only to "non-leak prone pipe," which is distinct from "non-leak prone services." Evidentiary Hearing Transcript (Mar. 3, 2026) at 203:6–10. On cross examination, the panel acknowledged that "non-leak prone pipe" refers to both non-leak prone mains and services, including in the context of this interrogatory response. *Id*. at 361:14–362:8.
[36] Hearing Exhibit 843-M, Companies' Response to AGREE-PUSH IR 3.1, Supp. 1 (18)(c).

a project's cost-effectiveness[37] and does not ensure that the Companies are making a prudent investment or benefiting ratepayers. Simply comparing the construction costs of two projects, for example, does not account for property taxes,[38] which could be higher where a new asset is installed. Additionally, on cross examination the Companies' Gas Capital Expenditures Panel recognized that the Companies do sometimes replace non-leak prone services when retention would cost less, even under their simplistic cost analysis.[39]

Additionally, the Companies have stated that if the costs of non-leak prone service replacements increase, then they can offset the costs by deprioritizing some non-leak prone service replacement projects.[40] However, the Companies have also acknowledged that there is no prioritization or ranking system for such projects.[41] If the Companies are able to safely deprioritize non-leak prone service replacements, then those replacements are not needed during the rate term. If the new infrastructure is not needed, ratepayers should not pay for it. Ratepayers should not foot the bill for elective gas infrastructure projects.

Finally, while the Companies know the total cost of their non-leak prone service replacement program in 2024, they cannot provide the number of non-leak prone services that they replace each year or the average cost of a leak-prone service replacement and they do not track the drivers of non-leak prone service replacements.[42] Without this information, it is

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[37] *See* Natural Gas Benefit Cost Analysis (BCA) Handbook at 11, NY PSC Case No. 23-G-0437 (July 14, 2025) (explaining that the relevant cost-effectiveness tests are the societal cost test, the utility cost test, and the ratepayer impact measure according to the PSC's BCA Order).
[38] Evidentiary Hearing Transcript (Mar. 3, 2026) at 364:17–22 (acknowledging that cost comparison does not account for property taxes).
[39] *Id*. at 363:12–21 ("The Companies never replace a non[-]leak [] prone service when doing so costs more than retaining it?" . . . "I wouldn't say that in absolute terms. No.").
[40] Hearing Exhibit 843-Q, Companies' Response to AGREE_PUSH IR 1.1 (5), (11).
[41] *Id*.
[42] Hearing Exhibit 843-T, Companies' Response to DPS 325; Hearing Exhibit 843-U, Companies' Response to DPS 1088; Hearing Exhibit-Q, Companies' Response to AGREE_PUSH 1.1 (6)(b); Evidentiary Hearing Transcript (Mar. 3, 2026) at 369:24–370:3.

impossible for the Commission or stakeholders to determine the program's need or assess the basis of the Companies' cost estimates, or to discern whether the program is a prudent use of ratepayer money.

Given the lack of transparency and justification for the program, AGREE and PUSH Buffalo urge the Commission to direct the Companies to begin tracking the costs and drivers of non-leak prone service replacements beginning in the rate year, and to conduct a cost-benefit analysis of each replacement project using a methodology recognized by the Commission.[43] Because the Companies have not demonstrated that the program is a prudent use of ratepayer money, AGREE and PUSH Buffalo further ask the Commission to reduce the program budget by 50%.

3. Reliability Projects and Programs

The Commission Should Reduce the Companies' Leak Prone Pipe Replacement Budget and Require More Strategic Coordination to Advance NPAs.

The Companies have not justified their leak prone pipe ("LPP") replacement budget or mileage target for LPP replacement. As a preliminary matter, AGREE and PUSH Buffalo support Staff's testimonial position that the Companies should not seek to remove non-traditional LPP that is not cost-effective to replace.[44]

AGREE and PUSH Buffalo also urge the Commission to reduce the Companies' mileage target in the rate year to give them more time to develop alternatives to LPP replacement. Non-pipeline alternatives ("NPAs") could allow the Companies to retire, rather than replace, LPP,

[43] AGREE and PUSH Buffalo submit that the societal cost test is the most appropriate BCA test because it accounts for the cost of externalities such as GHG emissions. Natural Gas Benefit Cost Analysis (BCA) Handbook at 11, NY PSC Case No. 23-G-0437 (July 14, 2025).
[44] Evidentiary Hearing Transcript (Feb. 27, 2026) at 89:7–24, 91:21–92:1.

reducing GHG emissions and local pollution and often saving ratepayers money.[45] However, developing NPAs can be challenging and requires advanced outreach and education.[46] The Commission should reject the Companies' proposed mileage for LPP removal and instead direct the Companies to only replace LPP when doing so is necessary to ensure public safety, which will allow the Companies to take additional time to pursue NPAs, including by addressing the barriers that the Companies have identified.[47]

NPAs should allow for LPP to be decommissioned so that the Companies can, over time, prune their gas system and engage in a managed downsizing. The Commission has encouraged utilities to take a "neighborhood approach" and develop comprehensive programs to undertake NPAs that allow them to *remove* LPPs rather than simply replacing them.[48] However, AGREE and PUSH Buffalo are concerned that the Companies are not sufficiently engaged in strategic decision-making about where LPP can be retired rather than replaced or ensuring coordination between the LPP and NPAs programs. Requiring the Companies to only replace LPP when doing so is necessary will provide more time for necessary planning and coordination. The Companies propose to replace or retire 24 miles of LPP per Company per year,[49] but they have not provided a rationale for that target other than claiming, incorrectly, that it is legally required. The Companies' Gas Capital Expenditures Panel has asserted that the Companies' 2023 rate order requires them to replace or retire 24 miles of LPP per Company per year,[50] but acknowledged on

[45] Evidentiary Hearing Transcript (Mar. 6, 2026) at 142:15–18.
[46] Evidentiary Hearing Transcript (Mar. 3, 2026) at 179:8–14.
[47] *See* Evidentiary Hearing Transcript (Mar. 6, 2026) at 152:15–154:4 (listing barriers that Companies have identified).
[48] Order Adopting Gas System Planning Process at 39, NY PSC Case No. 20-G-0131 (May 12, 2022) ("Gas Planning Order").
[49] Evidentiary Hearing Transcript (Mar. 3, 2026) at 79:19–21.
[50] *Id*. at 201:3–10.

cross examination that the Commission could set a different target for the rate year.[51] The Panel has also claimed that the 24-mile target is consistent with a 2015 Commission order opening a proceeding to consider the use of a recovery mechanism to accelerate LPP replacement,[52] but that order merely articulates a statewide goal of removing LPP by 2035 and does not impose any deadlines on the Companies.[53] If the 24-mile target is not mandatory, then the Companies simply seek to set their own pace of replacement without providing a justification, at a high cost to ratepayers.

Additionally, it is not at all clear that the Companies prioritize the highest-risk LPP for removal, meaning that the Companies appear to be removing LPP earlier than is needed to protect consumers and burdening ratepayers in the process. In 2025, the Department of Public Service completed a management audit of the Companies, and the Companies subsequently filed an implementation plan to explain how they will address the audit's recommendations.[54] The audit concluded that Avangrid, Inc., the Companies' parent company, "may not systematically replace the highest-risk leak-prone pipe" and recommended that the Companies "prioritize, plan, and address [the] risks of greatest concern first" in the NYSEG/RG&E pipeline system replacement program.[55] Rather than address this concern, the Companies' Implementation Plan

[51] *Id*. at 381:16–18.
[52] *Id*. at 201:3–19.
[53] *See generally* Order Instituting Proceeding for a Recovery Mechanism to Accelerate the Replacement of Leak Prone Pipe, NY PSC Case No. 15-G-0151 (Apr. 17, 2015).
[54] *See* Order Releasing Audit Report, NY PSC Case No. 23-M-0103 (May 19, 2025); Implementation Plans, NY PSC Case No. 23-M-0103 (June 18, 2025).
[55] Order Releasing Audit Report at 15, NY PSC Case No. 23-M-0103 (May 19, 2025).

simply states that the Companies already comply with the recommendation[56]—but if that were true, then the audit report would not have included it.[57]

Finally, the Commission should order the Companies to fully pursue options that would safely extend the life of LPP and delay the need for removal in order to allow more time to develop NPAs. AGREE and PUSH Buffalo are pleased that the Companies proposed a new and expanded cathodic protection program which will delay replacement of at least 16 total miles of LPP.[58] The cost of cathodic protection is a fraction of the cost of replacing LPP: $117,172 per mile for both Companies compared to $1.3 million per mile for NYSEG and $939,221 per mile for RG&E.[59] However, the Companies should account for the cathodic protection program in their LPP replacement targets, and aim to expand the program in order to maximize savings to ratepayers. Additionally, the Companies do not screen LPP for relining and the Companies' Gas Capital Expenditures Panel is unaware of whether the Companies have researched potential relining measures for their remaining LPP.[60] It is possible that considering relining options could also safely extend the life of LPP and improve the success rate of NPAs.

The Record Cannot Support a Finding That all the Companies' Reliability Projects Are Necessary to Provide Safe and Reliable Service and Therefore, the PSC Should Deny Cost Recovery for Specific Projects.

The Companies contend that their reliability projects and programs are necessary to maintain system pressures at levels that provide for the safe, adequate, and reliable delivery of gas to customers.[61] The Companies' Gas Capital Expenditures Panel asserts that reliability

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[56] Implementation Plans at 6.8 at 2, NY PSC Case No. 23-M-0103 (June 18, 2025).
[57] In rebuttal testimony the capital expenditures panel acknowledged that the Companies consider factors other than risk in prioritizing LPP replacement and incorrectly stated that their Implementation Plan lists the benefits of their approach. Evidentiary Hearing Transcript (Mar. 3, 2026) at 190:4-24.
[58] *Id*. at 86:15–20.
[59] Hearing Exhibit 843-O, Companies' Response to AGREE_PUSH IR 4.1 (35).
[60] Evidentiary Hearing Transcript (Mar. 3, 2026) at 388:18–389:13.
[61] *Id*. at 78:19–22

projects, which include some regulator station projects, are needed to safely deliver and provide gas to certain vulnerable locations within the Companies' service territories.[62] Evidence elicited at the Evidentiary Hearing confirms that in July of 2020, the Companies identified several vulnerable locations, including the towns of Pendleton and Goshen, where there are portions of the system where gas may not be able to be delivered safely and reliably within the next five years.[63] As currently proposed, the Pendleton and Goshen projects in NYSEG's service territory are not just and reasonable because they would needlessly create stranded assets and would result in cost recovery for new fossil fuel infrastructure where the same reliability and supply constraints could have been achieved, had the Companies, in 2020, begun to conduct outreach, educate and even deploy NPA tools such as energy efficiency ("EE"), demand response and electrification.

i. Pendleton

The Companies have not demonstrated – and could not demonstrate – that it would be prudent and necessary to pursue the Pendleton Reliability Project to address reliability concerns during this rate term. The proposed project will cost rate payers an estimated $3.88 million and includes the installation of a new district regulator station in the Town of Pendleton.[64] In addition to the regulator station, the Companies propose installing approximately 17,000 linear feet of six-inch high-density polyethylene ("HDPE") distribution main and installing 2,200 linear feet of four-inch HDPE main.[65]

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[62] *Id*. at 88:5–15.
[63] *Id*.
[64] Hearing Exhibit 359, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-7CU) at PDF 28–30 or 391–392 of 665.
[65] *Id*. at PDF 28 or 391 of 665.

Evidence elicited at the Evidentiary Hearing confirms that the Companies have provided conflicting assertions regarding actual growth in demand in the specific geographic area and insufficient considerations of project alternatives to justify this project. The Companies' testimony during cross-examination of the Gas Capital Expenditures Panel reveals that beginning in July of 2020, the Companies identified significant portions of the Town of Pendleton that were located in a "vulnerable location," meaning that there were clear and obvious concerns regarding the ability for the Companies to serve incremental load.[66] In lieu of determining the level of demand reduction on a design day that would be required to avoid the Pendleton Reliability Project and pursuing those energy efficiency and demand reduction projects over the last five years, the Companies simply evaluated three business as usual projects which all included the construction of additional gas infrastructure.[67] The Companies missed the opportunity to avoid or delay costly capital investments that burden ratepayers by being shortsighted and turning a blind eye to measures that could have effectively reduced demand.

The inconsistencies in the record regarding demand growth in the town of Pendleton further calls into question whether this project is needed during the rate term. As previously explained, the Companies noted several vulnerable locations in their July of 2020 filing in the Long-Term Gas Planning Proceeding[68] and on direct examination, the Companies' Gas Capital Expenditures Panel testified that the Town of Pendleton had exhibited an increase in residential housing developments that have decreased system operating pressures.[69] However, perplexingly,

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[66] Evidentiary Hearing Transcript (Mar. 3, 2026) at 88:5–15, 325:16–326:12.
[67] Hearing Exhibit 359, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-7CU) at PDF 34–35 or 393d–393e of 665.
[68] Evidentiary Hearing Transcript (Mar. 3, 2026) at 88:5–15; NYSEG and RG&E Supply and Demand Analysis Related to Service Areas with Known Supply Constraint Vulnerabilities, NY PSC Case No. 20-G-0131 (July 17, 2020).
[69] Evidentiary Hearing Transcript (Mar. 3, 2026) at 91:10–12

one year prior to the filing of their rate request, the Companies identified the town of Pendleton (and several additional towns) in their Final Long-Term Gas Plan and stated "there is minimal growth in the area" and "no imminent action [is] required."[70] Yet, on cross examination, the Companies testified that there has not been an increase in residential housing developments, rather there has been an increase in *requests* for residential housing developments which would result in additional load that would be added to the system.[71] Even if all of those housing developments are built, given the recent passage of the 100-Foot Rule and the All-Electric Building Act, it is extremely likely that not all of them would connect to the gas system, and therefore, any associated load is purely speculative. The Companies' testimony and filings before the PSC demonstrate their failure to provide a clear and consistent forecast on customer growth – or lack thereof – to justify the need for the Pendleton Reliability Project.

The record also demonstrates that the Companies failed to adequately pursue alternatives to traditional fossil fuel investments when attempting to resolve the existing reliability concerns in the Pendleton area. Despite allowing a significant portion of Pendleton to remain in a vulnerable location for five years, neither the Companies' testimony, hearing exhibits, nor filings in the past rate case, identify any attempts or plans to specifically target this location and expand their outreach and education for NPAs, EE or demand response to resolve any reliability concerns. Yet the Companies' testimony makes clear that the projects in the identified vulnerable locations could possibly be resolved or deferred with the implementation of an NPA.[72] Here, the Companies had determined in 2025 that an NPA is suitable for the Pendleton Reliability Project,

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[70] NYSEG and RG&E Final Gas Long-Term Plan at 30, NY PSC Case No. 23-G-0437 (Apr. 26, 2024) ("Final Gas Long-Term Plan").
[71] Evidentiary Hearing Transcript (Mar. 3, 2026) at 326:13–328:4 (emphasis added).
[72] *Id*. at 91:18–23.

yet a Request for Proposal ("RFP") has not been solicited.[73] It appears that the Companies grand plan simply consisted of identifying vulnerable locations in their service territories, monitoring for five years, underinvesting in energy reducing measures such as EE, demand response and electrification, and then ultimately pursuing business as usual. Until the Companies can determine there is a legitimate and real increase in residential growth and have solicited an RFP for an NPA and determine whether an NPA can resolve the Companies' concerns, the Commission should not allow cost recovery for the Pendleton Reliability Project.

ii. Goshen Semi-Permanent LNG Supply Injection Tap

The Commission should not authorize cost recovery for the Goshen Semi-Permanent Injection Site ("Goshen Project") until the Companies have sufficiently pursued and evaluated an NPA and established methods to minimize and or mitigate the disproportionate burdens on DACs. The Goshen Project includes "the land acquisition, permitting and construction of a semi-permanent LNG Supply injection tap into the NYSEG Goshen 120-psig pressure system."[74] The project "development site will consist of a Metering & Regulation (M&R) building; gas odorization equipment; overpressure protection equipment; a connection point to the LNG vaporizer outlet; a pad surface suitable to stage 2-3 tractor-trailers and associated LNG equipment; security measures (fencing, lighting, SCADA) and a back-up generator."[75] Because the Companies seek to construct a new LNG facility, the Department of Environmental Protection must issue various permits found in the New York State Codes Rules and Regulations (CRR) Title 6 Chapter V Subchapter B Part 570. Given the glaring outstanding issues, such as the land acquisition, permit approval, inadequate alternatives analysis and insufficient DAC

[73] Hearing Exhibit 360, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-13CU) at PDF 55.
[74] Hearing Exhibit 256, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-07) at PDF 211 or 416 of 665.
[75] *Id*.

analysis, it is premature for the Commission to grant cost recovery for the Goshen Project for this rate term.

Much like the Pendleton Reliability Project, the Companies identified the Goshen area as a vulnerable location in July of 2020[76] and claimed that the economic growth of an amusement park, food processing facilities, warehouses, and residential developments[77] placed supply constraints on the existing system during peak days.[78] The Companies' testimony not only disclosed how they missed the opportunity to avoid or delay the need for new capital infrastructure with an NPA or a suite of NPAs but also demonstrates the importance of collaborating across teams within the Companies to slow growth and to consider NPAs immediately after identifying vulnerable locations.

Testimony elicited during cross examination revealed that the Companies failed to conduct any outreach or engage in any education on NPAs in the last five years and did not pursue an NPA solution until October of 2025.[79] This directly contradicts the Companies' earlier testimony, which claimed that the Companies will continue to actively pursue NPA solicitations in load growth scenarios.[80] Yet here, demand increased over the last five years while the Companies chose to keep their heads in the sand. Instead of conducting outreach and educating their customers on load reduction methods such as an NPA to reduce the demand and to possibly delay the project, the Companies pursued an expensive semi-permanent fossil fuel project in a DAC.

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[76] Evidentiary Hearing Transcript (Mar. 3, 2026) at 329:15–18, 331:16–22.
[77] *Id*. at 331:23–332:20.
[78] *Id.* at 333:4–19.
[79] *Id.* at 337:22–338:2, 340:4–8.
[80] *Id.* at 210:1–5.

The Companies may argue that it is only appropriate to solicit an NPA via an RFP once the traditional capital infrastructure project has been finalized in order to conduct a thorough benefit-cost analysis. The Commission should reject this argument. The Companies take a narrow-minded approach when evaluating infrastructure options to address reliability, capacity constraints, load growth, and supply constraints, and only solicit a third-party vendor or RFP for an NPA once the Companies are requesting cost recovery for a specific capital investment. As the Companies testified, they currently solicit the marketplace for NPA proposals to address each individual vulnerable location, and if the proposals meet the NPA standards, are technically feasible, and cost effective, the Companies will proceed with the NPA proposal in lieu of the proposed infrastructure project.[81] The Companies also rely on their own Suitability Criteria screening and evaluate the size of the project, (small vs large), timing, and exclusions, such as imminent construction and or threat to public safety.[82] As the Companies testified, implementing NPAs is challenging[83] but to have a successful NPA, addressing suitability and soliciting RFPs are only two pieces of the larger puzzle.

To ensure cost savings for their customers and avoid unnecessary gas capital investments, it is imperative for the Companies to engage in outreach and education as soon as a reliability concern, capacity constraint or aging infrastructure is identified. Multiple teams within the Companies[84] must engage in outreach and education on all existing technology-agnostic methods for energy savings and load reductions. As explained in the Testimony of Jessica Azulay, the

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[81] *Id.* at 91:21–92:3.
[82] NYSEG and RG&E Proposal for Non-Pipe Alternative Screening and Suitability Criteria, NY PSC Case No. 20-G-0131 (Aug. 10, 2022).
[83] Evidentiary Hearing Transcript (Mar. 3, 2026) at 277:20–25.
[84] Such as Customer Service, Account Managers, the NPA Team, the Clean Energy Implementation Team, the Gas Capital Expenditure Team.

Companies have tracked and gathered information as to why customers decline to participate in NPAs and learned in 2023 that more proactive outreach for NPAs was needed.[85] Yet, the Companies failed to update and modify their behavior around NPAs. Even more, the Companies' Gas Capital Expenditures Panel testified that all projects on the capital projects lists are evaluated at least annually against the Suitability Criteria and projects are then prioritized by their time of need requirements.[86] It is perplexing how the Goshen Project was presumably annually screened for an NPA but zero action was taken.

When the Companies fail to engage in proactive gas planning and customer engagement[87] they miss opportunities to avoid costly infrastructure, such as the Goshen Project. The Commission should deny cost recovery for the project until the Companies can demonstrate that they sufficiently engaged with the community and conducted outreach and education on the underlying issue and potential solutions and alternatives.

Specifically, the Companies failed to act prudently by neglecting to allow enough time to develop and implement an NPA that could obviate the need for the Goshen Project. Staff expressed concern that completing the project in 2026 "leaves very little time to engage stakeholders and local municipalities and develop a thorough RFP process that will maximize the potential for successful NPA solutions."[88] As a result, Staff recommends delaying the project for one year specifically so that the Companies can have additional time to assess the viability of an NPA solution.[89]

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[85] Evidentiary Hearing Transcript (Mar. 6, 2026) at 152:15–154:6; Hearing Exhibit 843-K, Companies' Response to AGREE_PUSH IR 3.1.
[86] Evidentiary Hearing Transcript (Mar. 3, 2026) at 102:17–103:5.
[87] *See* Sections IV(C)(1), VI(I).
[88] Evidentiary Hearing Transcript (Feb. 27, 2026) at 119:1–5.
[89] *Id.* at 119:8–12.

The Companies, moreover, should also not be entitled to cost recovery for the Goshen Project because they have not provided sufficient emissions estimates to allow for a proper CLCPA Section 7(3) analysis and they should be required to allow additional time to consider a proper NPA proposal. The Goshen Project is located in a DAC[90] and as a result, co-pollutant emissions from the Goshen Project's construction and operation, such as trucking LNG to the site, will impact a DAC. The Companies have not provided sufficient information to allow the Commission to determine whether the Goshen Project will disproportionately burden DACs or proposed mitigation measures to avoid such a burden, as Section 7(3) requires. As Staff acknowledged on cross-examination, Staff's 7(3) analysis "does not include a discrete quantification of the prioritization of impacts of greenhouse gases and co-pollutants."[91] Additionally, Staff does not know how often the Goshen Project's generator will run once the Goshen Project is completed,[92] nor did they recall what type of fuel the generator would be running on.[93] The type of fuel and how often the generator would run are critical factors for analyzing co-pollutant emissions and the impacts on the DAC in which it is located. For these reasons and the reasons discussed in Sections IV(B)(3) and (V), the Commission should deny rate recovery for the Goshen Project.

C. Non-Pipes Alternatives

Ratepayers Should Not be Required to Fully Fund the Companies' Gas Expansion Projects Unless the Companies Establish a Clear and Comprehensive NPA Program That is Universally Applied to All Capital Investments and Implemented Throughout the Companies' Internal Facing Teams.

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[90] *Id.* at 233:21–24.
[91] Evidentiary Hearing Transcript (Mar. 2, 2026) at 141:20–22.
[92] Evidentiary Hearing Transcript (Feb. 27, 2026) at 235:18–20.
[93] *Id.* at 236:20–237:4.

New York is shifting decisively away from fossil fuels. As the Commission explained in its 2020 Gas Planning Order, gas utilities need to adopt an improved long-term gas plan that minimizes gas infrastructure investments while ensuring safe and reliable service that is consistent with the CLCPA.[94] The Commission additionally directed all utilities to identify the locations of specific segments of their LPP that "could be abandoned in favor of NPAs and where infrastructure projects may be needed in the near future to maintain reliability."[95] The Commission encouraged utilities to take a "neighborhood approach" and develop "a comprehensive program that simultaneously removes leaking or leak-prone infrastructure and employs programs such as weatherization and demand response along with electrification."[96]

The Climate Action Council, Staff, and the Commission have all emphasized the importance of identifying strategic opportunities to retire existing pipelines as demand declines, instead of continuing to spend ratepayer money repairing and replacing LPP.[97] AGREE and PUSH Buffalo acknowledge that the Companies are one of the few utilities in the state that have successfully implemented NPAs[98] and have developed the LPP Whole Home Electrification Program.[99] Furthermore, AGREE and PUSH Buffalo generally support the Companies' efforts to expand and enhance their NPA offerings, however the Companies electrification, gas transition and execution of the various NPA programs seem disjointed, unorganized, and uncoordinated. As such, the Commission should require the Companies to improve their internal coordination

[94] Order Instituting Proceeding at 2–3, NY PSC Case No. 20-G-0131 (Mar. 19, 2020).
[95] Gas Planning Order at 39.
[96] *Id*.
[97] Scoping Plan at 358; Gas Planning Order at 39.
[98] Evidentiary Hearing Transcript (Mar. 3, 2026) at 104:18–105:12.
[99] Evidentiary Hearing Transcript (Mar. 2, 2026) at 108:20–109:5.

between their NPA, customer service, and energy efficiency teams and to enhance their tracking of NPA projects.

1. The Companies Must Improve and Expand Their LPP Whole Home Electrification Program.

In an attempt to electrify and transition their customers off gas and onto electric, the Companies developed the LPP Whole Home Electrification Program in 2022.[100] Currently, the Companies identify segments of LPP that should be screened through the LPP Whole Home Electrification Program and the Companies track information such as the project, the proposed LPP in feet to be replaced, customer count, NPA viability, the current status of the project, the decision and next steps.[101] To qualify as a viable project, the Companies will only consider segments of LPP with twenty or fewer metered customers, because they "really want to focus on areas that may show success with the program, as far as outreach and manageable education."[102] For a project to be successful – meaning the Companies do not replace the LPP but electrify customers on the segment of pipe – one hundred percent of the metered customers on the targeted segment must agree to electrify.[103] Since the Program's inception in 2022, the Companies screened 657 LPP projects between 2022 and 2024, 43 projects have been pursued and only three homes were electrified.[104] Given these discouraging results, AGREE and PUSH Buffalo urge the Commission to require the Companies to meet biannually with stakeholders to

[100] Evidentiary Hearing (Mar. 3, 2026) at 180:11–15.
[101] *Id*. at 107:21–24; Hearing Exhibit 261, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-12).
[102] Evidentiary Hearing Transcript (Mar. 3, 2026) at 317:23–318:8
[103] *Id*. at 319:12–17.
[104] *Id.* at 107:3–109:3.

revise their criteria, expand the program to all customers and report the Companies' criteria for the LPP Whole Home Electrification Program in order to see more progress.

Currently, the LPP Whole Home Electrification Program is comprised of two full time employees dedicated to the NPA Program and Process, a manager who oversees both NPA and Non-Wire Alternatives ("NWA"), and an analyst who provides support for both the NWA and NPA programs.[105] These four individuals on the NPA team identify, screen and pursue potential projects but there is no clear standardized process for how much time the Companies can spend on outreach or identifying customers who would be good candidates for an NPA.[106] The Companies testified that even though the Customer Service team navigates calls[107] and responds to requests from customers on electrification and EE,[108] it is the NPA team which conducts the outreach and shares education materials to customers who reside on viable segments via mailers and phone-calls.[109]

To improve their success rate within the LPP Whole Home Electrification Program, the Companies must implement better internal coordination between the NPA Team, the Customer Service Team and the Energy Efficiency Team. All three departments routinely engage with customers on a variety of energy saving measures, such as electrification, EE and demand response but thus far, information sharing between the departments is limited,[110] and they do not track the same information pertaining to NPAs and electrification.[111] With the aim of electrifying

[105] *Id*. at 178:20–179:7.
[106] Hearing Exhibit 843-M, Companies' Response to AGREE_PUSH IR 3.1, Supp. 1.
[107] Evidentiary Hearing Transcript (Feb. 11, 2026) at 645:17–19.
[108] Evidentiary Hearing Transcript (Feb. 20, 2026) at 453:3–13.
[109] Evidentiary Hearing Transcript (Mar. 3, 2026) at 289:11–290:6.
[110] *Infra* Section VI(I).
[111] Evidentiary Hearing Transcript (Mar. 3, 2026) at 233:14–234:9, 302:6–303:5, 320:12–322:19.

more customers, the Companies must substantially upgrade their internal coordination and communication among external, customer facing teams.

Moreover, while the LPP Whole Home Electrification Program is relatively new, the Companies have limited the program to residential customers.[112] To accelerate the program's success rate and to avoid missing opportunities to reduce demand and delay costly capital projects, the Companies should expand the program to all customer classes, specifically commercial and industrial customers. Since the Companies are not proposing any new or additional pilot NPA programs, [113] the Commission should urge them to apply their lessons learned from working with residential customers and begin proactive engagement with different customer classes. Reducing demand and energy use by larger energy consumers with such tools as electrotechnology, will have a meaningful impact on the Companies' system. Currently, the Companies' initial screening process of NPAs does not specifically distinguish projects serving industrial customers versus those serving residential customers.[114] As explained in Section VI(I), the Companies must improve their outreach and education to larger energy consumers on energy reducing technologies and relevant state rebates and incentives through NYSERDA.

2. The PSC Should Require the Companies to Broaden Their NPA Tracking and Require the Companies to Submit Semi-Annual NPA Reports.

In addition to expanding the Companies' current LPP Whole Home Electrification Program, the Commission should impose conditions, including filing a semi-annual NPA report in the docket, on the Companies to ensure that they track and create a comprehensive record or

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[112] *Id*. at 267:23–268:6.
[113] *Id*. at 242:18–24.
[114] Evidentiary Hearing Transcript (Mar. 6, 2026) at 195:3–11; Hearing Exhibit 843-FF, Companies' Response to AGREE_PUSH IR 15.1 (63).

tool that captures not only the success cases with the educational materials shared with customers but also records the specific challenges and barriers as well as identifies what measures the Companies took to overcome such challenges and barriers.

The Companies track the barriers as to why customers do not participate in the program, but that information is not included in the List of Leak Prone Pipe Projects Screened for Whole Home Electrification.[115] As previously explained above, the Companies track such information as the (1) number of customers on an identified segment (and if it exceeds twenty customers), (2) the viability of the segment and (3) the current status, such as NPAs canceled, threat to public safety or construction imminent.[116] But on cross examination, the Companies revealed that list of Leak Prone Pipe Projects Screened for Whole Home Electrification does not include the information that is provided to each customer or how the Companies tailor their outreach to meet customer needs.[117] In fact, the Companies rely on third-party implementation vendors to provide reports to help the Companies improve their NPA efforts but those reports are submitted in the Long-Term Gas Planning Proceeding, rather than the current rate case.[118]

Furthermore, the Companies separate their NPA efforts and use different third-party vendors for the LPP Whole Home Electrification Program and the Lansing NPA portfolios. Despite the Companies assertion that they have seen success with their selected outreach vendor in promoting NPA programs and engaging the community,[119] there is no coordination, sharing of success stories or tackling challenges between vendors. One third-party implementation vendor

[115] Evidentiary Hearing Transcript (Mar. 3, 2026) at 321:3–18.
[116] Hearing Exhibit 261, Companies' Gas Capital Expenditures Panel Exhibit_(GCE-12).
[117] Evidentiary Hearing Transcript (Mar. 3, 2026) at 321:19–24.
[118] *Id*. at 322:10–19.
[119] *Id.* at 234:15–24.

and the Companies may incorporate lessons learned to reduce barriers, [120] but these measured metrics are not clearly memorialized and recorded let alone shared with other teams or stakeholders. Based on feedback gathered from some customers, the Companies identified several reasons as to why customers declined to participate in a NPA program, which include insufficient lead time,[121] cooking preferences, recent gas equipment investments, technology distrust and cost uncertainty.[122] While helpful, this information only sheds light on part of the problem – it would be more useful if the reasons for non-participation were contextualized with: a specific project, the methods of engagement, the number of times the Companies attempted contact, the information shared, whether incentive materials were provided, and the amount of lead time. Recording, tracking, and sharing these metrics are crucial when evaluating why a project was successful or unsuccessful, and for the Companies to avoid repeating the same mistakes and replicate accomplishments. The Commission must require the Companies to provide more visibility to their NPA process, by filing a semi-annual report in the docket, otherwise information silos and communication gaps will continue to thwart the Companies' success rate with their NPAs.

[120] *Id.* at 233:20–234:9.
[121] *Id.* at 210:7–10.
[122] Evidentiary Hearing Transcript (Mar. 6, 2026) at 152:17–154:4; Hearing Exhibit 843-K, Companies' Response to AGREE_PUSH IR 3.1 (23).

E. Net Plant Reconciliation Mechanism

1. Overall Net Plant Reconciliation Mechanism

The Commission Should Impose a Net Plant Downward Reconciliation Without Carryover and Not Allow the Companies Flexibility to Modify Project Budgets.

AGREE and PUSH Buffalo have a number of concerns regarding the Companies' cost estimating and net plant reconciliation practices and urge the Commission to place guardrails on the Companies' capital expenditures in the rate term. The Companies' last Joint Proposal, which the Commission adopted in 2023, gave them "flexibility over the term of the Rate Plan to modify the type, timing, identity, priority, nature, and scope of capital projects."[123] The Joint Proposal also directs the Companies to defer the revenue requirement impact if their cumulative costs are under the overall budget for the rate term.[124]

As a result, under the 2023 Joint Proposal, "[t]here's not a Commission approval for individual project budgets," but instead, the Commission set an overall capital expenditures budget and the Companies set individual project budgets under that cap, including expending ratepayer money on projects that have not yet been approved for rate recovery.[125] AGREE and PUSH Buffalo are concerned that this practice renders the ratemaking process opaque. Intervenors submit testimony, seek discovery, may sign or oppose a Joint Proposal, and submit briefing based on a set of proposed projects and project budgets. If, following the rate case, the Companies pursue different projects at different budgets, then intervenors have not truly participated in the process of determining how the Companies may spend ratepayer money. Although the Companies submit quarterly reports to the Commission, they do not seek

[123] Joint Proposal at 55, NY PSC Case Nos. 22-E-0317 et al. (June 14, 2023).
[124] *Id*.; Evidentiary Hearing Transcript (Mar. 3, 2026) at 353:13–17.
[125] Evidentiary Hearing Transcript (Mar. 3, 2026) at 346:11–16, 348:20–350:6.

Commission approval before changing project budgets or pursuing new projects that have not yet been approved for rate recovery, and other stakeholders have no opportunity to provide feedback.[126] Moreover, the Companies' flexibility during the course of a rate term to alter project budgets—or begin new projects that have not already been approved—disincentivizes the Companies to make capital expenditures as cost-effective as possible and to engage in the managed downsizing of the gas system that is necessary to comply with New York climate mandates. In essence, this practice allows the Companies to use their own discretion to decide what investments are needed rather than being bound by the Commission's determinations.

Furthermore, as discussed in Section V, under the CLCPA the Commission must determine whether the Companies' projects and programs would disproportionately burden disadvantaged communities and whether they are inconsistent with or would interfere with attainment of New York's GHG gas reduction requirements.[127] If the Commission performs this analysis on a proposed set of projects and then the Companies pursue other, different projects, the analysis is meaningless. As a result, AGREE and PUSH Buffalo urge the Commission to provide that in the rate term, the Companies do not have flexibility to shift project funding around without prior express approval.

Putting guardrails on the Companies' capital expenditures spending is even more critical given the serious concerns raised by NorthStar in the 2025 Management Audit. The audit report concluded that:

> Avangrid does not follow its own cost-estimating policies, produce detailed cost estimates for NYSEG and RG&E capital projects, or analyze estimating accuracy. NorthStar found that Avangrid's records management is deficient. NorthStar observed that plant accounting records contain inaccurate cost information, which prohibits the

[126] *Id*. at 346:8–11, 347:21–25, 352:5–15.
[127] CLCPA § 7(2), 7(3).

> analysis of capital projects. Without these project management artifacts, the Consultant states there is no assurance that capital funds were expended appropriately.[128]

Given the deficiencies identified with the Companies' cost estimating and records management processes, the Companies should not have the discretion to shift unspent funds without approval or oversight from the Commission.

Additionally, AGREE and PUSH Buffalo are concerned that the Companies' deferral of revenue requirement impacts allows them to charge ratepayers more and earlier than needed, which imposes real burdens on customers who struggle to pay their monthly bills or are in arrears. Additionally, the deferral mechanism could make a Companies' rate request appear less significant than it really is if the request is offset by unspent funds from the previous rate term. If the Companies' costs are cumulatively lower than their budget in a rate term, they should return the unspent funds to ratepayers with interest.

3. Discrete Downward Only Net Plant Reconciliation Mechanism (Gas New Business)

For the reasons discussed in Section IV(B)(2), AGREE and PUSH Buffalo support the downward only net plant reconciliation mechanism for gas new business and urge the Commission to clarify that the mechanism is in place regardless of statute of the All-Electric Building Act.

[128] Order Releasing Audit Report at 11–12, NY PSC Case No. 23-M-0103 (May 19, 2025).

V. COMPLIANCE WITH CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT SECTIONS 7(2) AND 7(3)

A. The PSC's Rate Orders Must Comply with CLCPA Sections 7(2) and 7(3).

In 2019, New York enacted the CLCPA, recognizing that climate change is adversely affecting New York and finding that a statewide reduction in GHG emissions will reduce those adverse effects.[129] To this end, the CLCPA requires cutting economy-wide state GHG emissions to 60% of 1990 levels by 2030 and 15% of 1990 levels by 2050,[130] mandates that a minimum of 70% of statewide electric generation be served by renewable energy by 2030, and requires all statewide electrical demand be served by zero-emissions generation by 2040.[131] The legislation also calls for the adoption of measures to reduce GHG emissions from transportation and gas-fired appliances.[132] These aggressive and binding mandates to reduce GHG emissions and the legislative push for measures to address the buildings sector all demand a dramatic shift away from the business-as-usual operations of the utilities in this state.

In addition to the CLCPA's GHG emissions mandates, the statute also includes provisions specifically addressing the disproportionate burdens that DACs experience. The CLCPA broadly defines DACs as "communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households."[133] The State

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[129] CLCPA § 1(2)(a).
[130] ECL §§ 75-0107, 75-0109(4)(a)–(b), (f).
[131] PSL § 66-p(2).
[132] ECL § 75-0103(13)(f), (g).
[133] ECL § 75-0101(5); *see also* New York State, *Draft Disadvantaged Communities Criteria Overview* (2020), https://climate.ny.gov/-/media/project/climate/files/Summary-Documentation-on-Disadvantaged-Community-Criteria.pdf.

identified communities that qualify as DACs in a multi-year process.[134] The CLCPA protects DACs from further discrimination through two key statutory provisions. CLCPA Section 7(3) requires all state agencies, including the PSC, to avoid taking administrative actions that disproportionately burden DACs. This subsection of the CLCPA also requires agencies to ensure that their administrative actions prioritize emissions reductions in DACs.[135] A separate section of the CLCPA requires agencies to fairly distribute the benefits of the energy transition mandated by the statute.[136] The statute states that agencies are required to ensure DACs receive a target of 40%, and no less than 35% "of the overall benefits of spending on clean energy and EE programs, projects or investments."[137] The PSC has acknowledged this duty, stating that the CLCPA requires the agency to design programs "in a manner to provide substantial benefits for Disadvantaged Communities, including low to moderate income customers, at a reasonable cost while ensuring safe and reliable electric service."[138] The PSC has also undertaken generic proceedings designed to implement the CLCPA in long-term utility planning.[139]

The New York State Legislature intended for all state agencies to begin cutting emissions, while protecting DACs, immediately upon the enactment of the statute.[140] These immediate duties upon state agencies are enshrined in Section 7 of the CLCPA, which binds the PSC in this

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[134] New York State, *Disadvantaged Communities Criteria*, https://climate.ny.gov/Resources/Disadvantaged-Communities-Criteria (last visited Mar. 30, 2026).
[135] CLCPA § 7(3).
[136] ECL § 75-0117.
[137] *Id*.
[138] Order on Implementation of the Climate Leadership and Community Protection Act at 5, NY PSC Case No. 22-M-0149 (May 12, 2022) ("CLCPA Order").
[139] *See* CLCPA Order; Gas Planning Order.
[140] *See Danskammer Energy, LLC v. N.Y. State Dep't of Env't Conservation*, 76 Misc. 3d 196, 248–49 (Sup. Ct. N.Y. Cnty. 2022) (holding that the lack of implementing regulations for the CLCPA does not relegate agencies to waiting for promulgation of the implementing regulations in order to comply with the CLCPA) ("the Legislature identified a currently existing, urgent problem that was worsening; not a developing or potential problem that might arise if appropriate action was not taken in the future.").

rate case.[141] The Commission has acknowledged that its rate orders are "administrative approvals" within the meaning of Section 7, and that rate cases therefore are subject to both Section 7(2) and 7(3) of the CLCPA.[142]

B. Approving the Companies' Rate Request Would Violate CLCPA Section 7(3) Because the PSC Does Not Have Sufficient Information in the Record to Conduct the Required Analysis.

In this case, the PSC lacks sufficient information to satisfy the requirements of Section 7(3) of the CLCPA. As discussed above, Section 7(3) mandates that the PSC "not disproportionately burden" DACs and affirmatively "prioritize reductions of [GHG] emissions and co-pollutants in [DACs]."[143] These twin analyses support the Legislature's intent to address the cumulative historical harm to people in DACs by requiring agencies, like the PSC, to both reduce pollution and ensure that additional pollution is not created in DACs.[144] Staff confirmed their understanding of these twin analyses by testifying that "Section 7(3) provides that…State agencies…shall not disproportionately burden disadvantaged communities and must also prioritize reductions of GHG emissions and co-pollutants in disadvantaged communities."[145]

There is insufficient information in the record for the Commission to determine whether the Companies' rate request will or will not disproportionately burden DACs or if it will prioritize reductions of GHG emissions and co-pollutants. Staff explained that their Section 7(3) analysis methodology consisted of reviewing the Companies' proposed capital projects that were

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[141] *See* Order Approving Joint Proposal, as Modified, and Imposing Additional Requirements at 69, NY PSC Case Nos. 19-G-0309, 19-G-0310 & 18-M-0270 (Aug. 12, 2021) ("Having considered the matter at great length, we are persuaded that Sections 7(2) and 7(3) are applicable to the Commission's actions [in approving rate orders].").
[142] *Id.* at 61, 70.
[143] CLCPA § 7(3); *see also* Evidentiary Hearing Transcript (Mar. 2, 2026) at 46:1–3 ("Yes, CLCPA Sections 7(2) and 7(3) apply to determinations the Commission makes, including decisions in rate proceedings.").
[144] *See* Evidentiary Hearing Transcript (Mar. 6, 2026) at 71:9–14.
[145] Evidentiary Hearing Transcript (Mar. 2, 2026) at 48:14–20.

planned to occur in DACs and the projects' positive and negative impacts,[146] while also reviewing information about impacts that the Companies provided in whitepapers and in their response to Staff's discovery requests.[147] Staff also stated that they understood "burdens" to include GHG emissions and co-pollutants under Section 7(3).[148] Additionally, Staff also conceded that many of the Companies' proposed infrastructure projects would cause negative impacts in DACs as a result of increases in air pollutants, noise, dust, and road closures or restrictions.[149] Troublingly, Staff admitted, however, that the Companies' response to Staff's discovery requests did not identify whether specific capital expenditure projects were located in, or partly in, a DAC[150] and that the Companies' whitepapers did not provide any measurements of emissions, nor measurements of co-pollutants, nor any quantification of any emission.[151] Staff also acknowledged that the Companies have not provided any estimate for co-pollutants related to their proposed LPP replacements, nor have they provided any proposals for reducing pollution and other construction related impacts from LPP and other infrastructure projects.[152] Finally, Staff confirmed that "[t]he emissions analyses that the Company provided were not provided on a locational basis or with reference to disadvantaged communities specifically. They're provided territory-wide"[153] and that Staff did not have any measurement of co-pollutant levels in DACs in the Companies' service territory.[154]

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[146] *Id.* at 72:20–23.
[147] *Id.* at 73:17–4:4.
[148] *Id.* at 142:3–23.
[149] *Id.* at 76:22–77:6, 81:17–23, 84:12–14 ("Yes, we are concerned that the Companies did not include means of reducing the construction impacts toward disadvantaged communities.").
[150] *Id.* at 147:10–15.
[151] *Id.* at 160:9–17.
[152] *Id.* at 161:6–10, 161:17–162:7.
[153] *Id.* at 165:5–9.
[154] *Id.* at 167:2–8.

Staff acknowledges that "the Companies didn't provide any specific measurements of emission or particulate matter for proposed projects in disadvantaged communities."[155] When further probed on cross-examination, Staff testified that its analysis of emissions "was not locational" and therefore Staff could not tie specific co-pollutants to specific DACs.[156] Staff recognizes that pollution could disproportionately burden DACs, but they lack any emissions projections or information about other impacts for LPP replacement projects and other infrastructure projects.

Additionally, as the Staff CLCPA Panel acknowledged on cross-examination, they perform no additional analysis of projected GHG or co-pollutant emissions for proposed projects in DACs.[157] As a result, the record cannot support a determination that the Companies' rate request would not disproportionately burden disadvantaged communities or that it would address pollution in DACs as required by CLCPA Section 7(3).

Moreover, Staff has demonstrated that they know how to request information from a company in order to perform the proper analysis under Section 7(3). Following a successful legal challenge to a PSC decision approving the sale of a gas plant that failed to conduct any analysis under CLCPA Section 7(2) or 7(3), PSC Staff subsequently requested relevant information from the project proponents that would allow the Commission to assess potential disproportionate burdens on DACs, including: projected GHG and co-pollutant emissions from the gas plant; the plant's distance from the closest DAC; any anticipated impacts on DACs; mitigation measures to

[155] *Id.* at 153:12–16.
[156] *Id.* at 154:7–9.
[157] *Id.* at 153:17–21.

address GHG emissions, co-pollutants, and other burdens; and the extent of those mitigation measures and whether they would eliminate potential burdens.[158]

Even though this record does not contain sufficient information, the sparse emissions data, and Staff's own observations about potential impacts, raise serious concerns that the Companies' proposals would in fact disproportionately burden DACs in contravention of Section 7(3). Staff testified that they have concerns "that the Companies did not include means of reducing the construction impacts toward disadvantaged communities" which include emissions and noise.[159] Staff also recommended rejecting the proposed customer service office closures because of a fear that customers in DACs will have limited services.[160] Finally, as discussed further in Section IV(B)(3), the Goshen Project would be located in a DAC and is likely to create disproportionate burdens though ongoing pollution and construction impacts that the Companies have not proposed to mitigate.[161] These are just some of the examples of impacts on DACs stemming from the proposed rate order that call into question compliance with Section 7(3).

The PSC may not abdicate its statutory responsibility under the CLCPA solely because the Public Service Law requires it to provide "safe and reliable and adequate service."[162] In attempting to justify the lack of data regarding potential burdens in DACs, Staff turned to the PSC's "core responsibility,"[163] but that does not vitiate the concern that this record is bereft of sufficient information about pollution and other burdens to comply with the CLCPA's statutory mandate. For decades, New York utilities have been required to provide safe and reliable service

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[158] *See Matter of Clean Air Coalition of W. N.Y., Inc.*, 85 Misc.3d 665; New York State Department of Public Service Department Staff Directive for Clarification and Documents, NY PSC Case No. 21-M-0238 (Jan. 30, 2025).
[159] Evidentiary Hearing Transcript (Mar. 2, 2026) at 84:12–21.
[160] *Id.* at 83:5–12.
[161] Evidentiary Hearing Transcript (Mar. 3, 2026) at 265:13–17.
[162] PSL § 66-p.
[163] Evidentiary Hearing Transcript (Mar. 2, 2026) at 111:4–6, 156:21–157:3.

to all New Yorkers, including DACs.[164] The Public Service Law provides that "[n]o gas corporation, electric corporation or municipality shall . . . subject any particular person . . . to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."[165] When enacting Section 7(3) of the CLCPA, the Legislature sought to impose additional duties on agencies, beyond those which are already present in preexisting statutes, to protect New York's most vulnerable residents throughout the climate transition. To hold otherwise would render Section 7(3) and other DAC provisions of the CLCPA toothless.[166] Where the PSC is bound by both the PSL and Section 7(3) of the CLCPA, the PSC must conduct the analyses required by both statutes, and it must have a full record upon which to do so. Because the record does not provide the necessary evidence, the Companies and the Commission are out of compliance with Section 7(3).

The Commission should direct the Companies to provide the requisite information in their next rate request that would allow for a proper Section 7(3) analysis, including locational GHG and co-pollutant emissions projections for individual projects, projects' proximity to DACs, and information about other potential burdens including noise, dust, and traffic impacts. Precedent exists for the Commission to require an analysis of potential burdens on DACs resulting from rate recovery for a project; in the last KEDNY/KEDLI case, the Commission directed the Companies to report to the Commission about potential impacts on DACs of

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[164] PSL § 65(1).
[165] *Id*. § 65(3).
[166] *Cf. Matter of Lemma v. Nassau County Police Officer Indem. Bd.*, 31 N.Y.3d 523, 528 (2018) ("[S]tatutory language should be harmonized, giving effect to each component and avoiding a construction that treats a word or phrase as superfluous.").

proposed biomethane facilities prior to construction.[167] The Commission should also direct Staff in the next rate case to request necessary information if the Companies do not provide it.

Additionally, this rate case underscores the need for PSC guidance regarding how Section 7(3) applies to rate cases. The Commission should commence a new proceeding to propose guidance, accept public input, and finalize guidance so that utilities and Staff understand the information and analysis that is required to comply with Section 7(3).

C. Approving the Proposed Rate Order Would Violate CLCPA Section 7(2) Because the Record Cannot Support a Finding that the Companies' Proposals are Consistent with the CLCPA Emissions Reduction Targets and the Companies Have Not Identified Alternatives or Mitigation Measures.

As discussed, CLCPA Section 7(2) requires the PSC to consider whether its "decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits," and if so, to issue a detailed statement of justification and identify alternatives or mitigation measures.[168] The record cannot support a finding that the rate request complies with Section 7(2) both because (1) the Companies' proposal would expand the gas distribution system when instead, New York must engage in a reduction of gas use to comply with the CLCPA mandates, and (2) the Companies have not provided the information that would be needed to assess the rate proposal's GHG consequences.

As the State makes the investments required for CLCPA compliance, demand for gas should drop in the service territory over the coming decades. The Companies are familiar with

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[167] Order Approving Terms of Joint Proposal and Establishing Gas Rate Plans, with Minor Modification and Corrections at 111, NY PSC Case No. 23-G-0225, et al. (Aug. 15, 2024).
[168] CLCPA § 7(2).

the GHG reduction mandates of the CLCPA,[169] which will incentivize many customers to disconnect from the gas system and to begin heating their homes with heat pumps and cooking with electric or induction stoves.[170] Furthermore, the PSC has already accepted that rationally, "meeting the CLCPA's emissions reductions targets for the entire economy will require emissions reductions from the gas distribution system."[171] Similarly, the Climate Action Council's Scoping Plan recommends utility-specific forecasts for reducing gas sales and decreasing the number of gas customers over time, and calls for applying greater scrutiny to investments in the gas distribution system to ensure that investments do not result in stranded assets that make it even more expensive to reduce GHG emissions in the future.[172] Nonetheless, the Companies have proposed to spend millions of dollars in new customer connections and massive gas infrastructure projects such as the Goshen Project and Pendleton Project, and have failed to justify those projects or identify sufficient alternatives or mitigation measures, as detailed in Section IV.

Additionally, the Companies have not provided the information that would allow the PSC to perform an accurate account of the rate request's GHG consequences. Staff understands its role under Section 7(2) to be the review of the rate proposal along with Staff's recommendations to make "a record on which the Commission could determine compliance with the CLCPA or whether the suggested rate proposal would interfere with the attainment of CLCPA goals."[173] As an initial matter, Staff's decision to not make a recommendation under Section 7(2), despite

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[169] Evidentiary Hearing Transcript (Feb. 27, 2026) at 361:1–8.
[170] *See* Michael J. Walsh & Michael E. Bloomberg, Building Decarbonization Coal., *The Future of Gas in New York State* at 16 (Mar. 2023), https://buildingdecarb.org/wp-content/uploads/BDC-The-Future-of-Gas-in-NYS.pdf.
[171] Gas Planning Order at 4.
[172] Scoping Plan at 350, 353, 360, 362.
[173] Evidentiary Hearing Transcript (Mar. 2, 2026) at 116:18–25.

understanding that the Commission is bound by the provision, is puzzling and concerning. As discussed above, Staff has demonstrated that it can ask a company for additional information when needed to comply with Section 7(2), including GHG emissions projections for specific years, potential justifications, and information about mitigations and alternatives.[174] Moreover, "[a]lthough a Commission rate order approves only an overall capital expenditure plan and not the specific projects that were reviewed to provide evidentiary support for the utility's rate recovery, absent Commission approval of that rate recovery, such projects would likely not be pursued by the utility."[175] Because "absent Commission approval of that rate recovery"[176] the Companies would be unlikely to pursue the projects proposed in the rate request, the Commission should also review those projects' potential GHG impacts. However, the Companies have not provided sufficient information about the GHG emissions associated with their specific proposed projects,[177] such as the Goshen Project discussed above. In another example, when asked about the Meyer Substation on cross-examination Staff's CLCPA Panel acknowledged both that the Companies did not provide specific emissions estimates of their proposal and that Staff did no additional analysis.[178] The use of inconsistent accounting methodologies, including the use of federal emissions factors that Staff recognize are not CLCPA-compliant, to calculate emissions reductions are another example of the factual record's lack of support for any determination under Section 7(2).[179] While Staff is correct that there are pending proposals

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[174] *See Matter of Clean Air Coalition of W. N.Y., Inc.*, 85 Misc.3d 665; New York State Department of Public Service Department Staff Directive for Clarification and Documents, NY PSC Case No. 21-M-0238 (Jan. 30, 2025).
[175] Order Approving the Joint Proposal, as Modified, and Imposing Additional Requirements at 70, NY PSC Case Nos. 19-G-0309, 19-G-0310 & 18-M-0270 (Aug. 12, 2021).
[176] *Id.*
[177] Evidentiary Hearing Transcript (Mar. 2, 2026) at 130:12–19 ("So Staff's consideration was based upon the Companies' analysis, yes, and we did not do significant additional analysis beyond determining what the changes were in emissions from modifications that were recommended by other panels.").
[178] *Id.* at 119:3–10.
[179] *Id.* at 59:8–10.

regarding CLCPA compliance at the PSC that will assist in determining compliance with Section 7(2), putting insufficient emissions data into the record in this case renders it impossible to credibly hold that this rate proposal would be consistent with the statewide emissions targets. The Companies' rate proposal paves the way to expand and reinforce the gas distribution system at the exact time Section 7(2) of the CLCPA requires strategically downsizing the state's gas distribution system and therefore cannot be consistent with Section 7(2) on the record in this case.[180]

D. The PSC Should Require the Companies to Provide the Same Information Other Utilities Provide in their Annual DAC Report in Order to Track Potential Burdens on DACs.

The Companies already gather and publish some information about clean energy investments in DACs, and in the rate term and going forward, the Companies should also track burdens in DACs. The PSC's October 12, 2023 Order Adopting Joint Proposal in the Companies' 2022 Rate Cases requires the Companies to file a Disadvantaged Communities Report ("DAC Report") comprised of information on the Companies' Clean Energy Spending, EV Make-Ready Program, Demand Response, and Distributed Energy Resources.[181] On August 23, 2024, the Companies filed their first report,[182] which provides information on clean energy spending broken down by DAC and non-DAC census tracts.[183] On cross examination, the Companies'

[180] *See* Evidentiary Hearing Transcript (Mar. 6, 2026) at 80:1-10 discussing the Climate Action Council's Scoping Plan that concluded New York must strategically downsize its gas distribution system.
[181] Order Adopting Joint Proposal at 97, NY PSC Case Nos. 22-E-0317 et el., (Oct. 12, 2023).
[182] Evidentiary Hearing Transcript (Feb. 27, 2026) at 371:5–7.
[183] *Id.* at 445:21–446:10.

Climate Action Panel explained that they can use technology, like ArcGIS, to track investments and specifically tie that to locations in disadvantaged communities.[184]

For the DAC Report to assist the Companies, Staff, and the PSC in evaluating compliance with the CLCPA, the Companies should also be required to include specific information that is relevant to analyzing whether the Companies' projects and programs will disproportionately burden DACs. Specifically, the Companies should include information about the number of main replacements, leak repairs, customer outages, and strategic capital investments that occur in DACs, consistent with DAC reports filed by other utilities. [185] Expanding the report will bring the Companies in line with their sister utilities with whom they already collaborate closely with on statewide climate initiatives.[186] Finally, the Companies should engage in a participatory process together with customers in DACs to create this Report. Requiring the Companies to share the data contained in this Report, which is a publicly available document,[187] with customers who live and work in their service territories prior to publication will increase the Report's ability to influence both the Companies' practices in DACs and the Companies' contribution towards attainment of the statewide climate goals.

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[184] *Id.* at 446:3–10; *see also* 445:10–17 ("I do know that … the report required a significant amount of [] research and geocoding of customers…").
[185] *See* Order Adopting Terms of Joint Proposal and Establishing Rate Plans, NY PSC Case Nos. 24-E-0322 & 24-G-0323 (Aug. 14, 2025); Order Approving Terms of Joint Proposal and Establishing Gas Rate Plans, With Minor Modification and Corrections, attach. 1 (Joint Proposal) at Section 7.2, NY PSC Case Nos. 23-G-0225 & 23-G-0226 (Aug. 15, 2024); Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements, attach. 1 (Joint Proposal) at 118–128, NY PSC Case Nos. 22-E-0064 & 22-G-0065 (July 20, 2023).
[186] Evidentiary Hearing Transcript (Feb. 27, 2026) at 454:3–6.
[187] *Id.* at 449:7–8.

VI. CLEAN ENERGY IMPLEMENTATION

H. Investments in DACs

In addition to tracking and including information about burdens, the Companies should expand their DAC Report to include additional information about clean energy spending to align with other utilities in New York State and to assist the PSC in determining compliance with the CLCPA's mandate to invest clean energy spending in DACs. The CLCPA requires that DACs receive at least 35% of the benefits of clean energy and EE spending, with a goal of 40%.[188] The Companies already track investments in DACs with their DAC Report and propose to continue filing these reports moving forward.[189]

The Companies confirmed that this Report is shared to the highest levels of leadership and informs how they understand compliance with statewide climate goals.[190] In their testimony, the Companies acknowledged that the DAC Report could help the Companies in evaluating whether they are meeting the clean energy investment goals of the CLCPA,[191] and that the process of creating the report could be used to identify opportunities for improvement in complying with their obligations.[192]

In this next Rate Order, the PSC should direct the Companies to include in their DAC Reports going forward information on the siting of clean energy infrastructure in DACs.[193] Additionally reporting on the Companies' main replacements, leak repairs, customer outages, customer operations data, clean energy jobs, and strategic capital investments will assist the PSC

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[188] ECL § 75-0117.
[189] Hearing Exhibit 843-II, Companies' Response to AGREE_PUSH IR 18.1 (81)(a).
[190] Evidentiary Hearing Transcript (Feb. 27, 2026) at 451:13–17.
[191] *Id.* at 451:21–452:5.
[192] *Id.* at 452:6–14.
[193] Evidentiary Hearing Transcript (Mar. 6, 2026) at 211:7–18.

in evaluating CLCPA compliance and consistency with attainment of the statewide climate goals. The Companies already collect much of this data and testified that they have the ability to overlay existing data with New York's DAC maps. Adding this information to the DAC Report will assist in the PSC's and the Companies' own analysis of their activities and is in line with what other utilities in New York State already report in their own DAC reports.[194]

I. Industrial Electrification

As referenced above, the CLCPA requires steep reductions in GHGs starting this decade and the Companies support the CLCPA's GHG reduction targets.[195] While the Companies operate certain EE programs designed to reduce energy consumption, testimony elicited during cross-examination revealed that the Companies can be doing much more to encourage EE and decrease pollution from their non-residential customer classes. Specifically, the Companies have the technical expertise, capacity, and resources necessary to expand their EE programming to include rebates for customers who purchase industrial electrification/decarbonization equipment such as industrial heat pumps and batteries. Moreover, while the Companies employ subject matter experts ("SME") who are knowledgeable of certain issues relating to industrial electrification—whether from past work experience or from internal training provided by the Companies—testimony from the Companies' witnesses showed that there are gaps in what these SMEs are expected to know. The Companies should therefore expand rebates and other assistance to support industrial customers in electrifying and provide additional training for their

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[194] *See* Order Adopting Terms of Joint Proposal and Establishing Rate Plans, NY PSC Case Nos. 24-E-0322 & 24-G-0323 (Aug. 14, 2025); Order Approving Terms of Joint Proposal and Establishing Gas Rate Plans, With Minor Modification and Corrections, attach. 1 (Joint Proposal) at Section 7.2, NY PSC Case Nos. 23-G-0225 & 23-G-0226 (Aug. 15, 2024); Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements, attach. 1 (Joint Proposal) at 118–128, NY PSC Case Nos. 22-E-0064 & 22-G-0065 (July 20, 2023).

[195] Evidentiary Hearing Transcript (Feb. 20, 2026) at 448:2–11.

SMEs to ensure that they remain up to date on existing and viable electrification options for the Companies' industrial customers. Before turning to these proposed solutions, we first want to address the issue of internal communication and coordination within the Companies and the need for the Companies to improve on this measure as an initial step in conducting stronger outreach to their customers. This issue is particularly relevant as it relates to industrial electrification, though it is also relevant to the Companies' efforts on NPAs.

The Companies Should Improve Their Internal Communication and Collaboration Practices to Facilitate Better Customer Outreach Relating to Industrial Electrification.

AGREE and PUSH Buffalo's cross examination of the Companies' Customer Service, Clean Energy Implementation, and Gas Capital Expenditures Panels revealed that the Companies have a wealth of knowledge regarding their existing customer base, the current market for electrification solutions, and the needs and challenges associated with large-scale electrification efforts. Unfortunately, the Panels' testimony also revealed significant gaps in communication and collaboration amongst the disparate teams that possess this knowledge within the Companies. In order to ensure that the Companies continue to provide safe and reliable service to their customers as the Companies continue to implement solutions in line with the State's policy objectives under the CLCPA, the Commission should require the Companies to develop a plan to improve internal communication that addresses the issues highlighted below, and to submit that plan to the Commission for approval.

The Companies' Clean Energy Implementation Panel provided extensive testimony on what their EE SMEs know about industrial electrification solutions.[196] The Panel also testified that SMEs will even make site visits to industrial and commercial customer facilities to discuss

[196] *Id*. at 457:18–458:9, 460:15–461:24.

EE issues in-person.[197] But, to the Panel's knowledge, SMEs have never made these site visits together with members of the Companies' Municipal, Community, and Business Relations ("MCBR") Department.[198] This is significant because the Key Account Managers in the MCBR Department functions as, among other things, specialized customer service representatives for the Companies' large and complex commercial and industrial customers.[199] As will be discussed further on in Section XII, the Companies' Key Account Managers also make site visits to industrial customers where they can learn about the daily operations of the customer's specific business. In sum, two separate Company Panels testified that members of two separate teams—one which has in-depth knowledge about individual customer needs and another that has in-depth knowledge about industrial electrification solutions—both make site visits to customers where they can learn about customer operations and needs, but the two teams do not coordinate to make these visits together. Making these visits together would foster greater communication between the two departments, which in turn would facilitate more knowledge sharing, all to the benefit of the Companies' large and complex commercial and industrial customers.

Similarly, cross-examination of the Companies' Gas Capital Expenditures Panel revealed areas in which the Companies could improve their internal communication and collaboration regarding NPAs, particularly those NPAs that implicate the Companies' large and complex commercial and industrial customers. As discussed above, the Companies employ Key Account Managers to foster close relationships with their large and complex commercial and industrial

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[197] *Id*. at 494:24–495:18.
[198] *Id*. at 494:19–23.
[199] *See* Evidentiary Hearing Transcript (Feb. 11, 2026) at 568:22–569:8 ("A key account is an internal term … for large industrial or complex accounts that have needs that surpass what could be serviced by calling into the customer service number. Those individuals or those individual accounts are assigned to a business relations manager, which is our account manager. Those are individuals throughout the organization that have a higher level of expertise and knowledge when dealing with these complex accounts."), 664:20–22 ("[I]deally, we would want [industrial customers] to go through their key account manager.").

customers. Presumably, then, a Key Account Manager would be expected to play an important role in outreach when the Companies want to discuss NPA solutions that could impact these customers. However, when asked about their outreach strategy during cross examination, the Companies' Gas Capital Expenditures Panel stated that their outreach was limited to sending out emails to alert the commercial and industrial customers about an upcoming pre-RFP bid conference.[200] Greater collaboration between the NPA team and the MCBR team would foster greater participation in the NPA process from large commercial and industrial customers by leveraging the trust built up between Key Account Managers and their customers. Greater collaboration would also provide the NPA team with a more in-depth understanding of the individual needs and concerns of each customer given the significant communication that occurs between Key Account Managers and their customers.[201]

The Companies Should Provide Rebates for the Purchase of Industrial Electrification Equipment.

Despite comprising less than half of one percent of the Companies' overall customers, industrial customers accounted for 21.6% of NYSEG's and 13.1% of RG&E's overall gas demand as of 2022, the most recent year for which data is available.[202] Each individual industrial customer therefore has an outsized impact on the Companies' overall gas demand as compared to the Companies' residential customers. This outsized impact makes the industrial sector an ideal target for decarbonization, as each industrial customer taken off the gas distribution system will make a meaningful impact on the overall reductions in GHG and co-pollutants generated from the Companies' operations. The types of incentive programs offered by the Companies to their

[200] Evidentiary Hearing Transcript (Mar. 3, 2026) at 297:2–299:6.
[201] *Infra* Section XII(D).
[202] Final Gas Long-Term Plan at 18–19.

industrial customers, however, do not take advantage of this opportunity—particularly in comparison to the attention paid by the Companies to their residential customers.

The Companies maintain several programs designed to provide residential customers with financial incentives to promote EE.[203] One of these programs—the Clean Heat Program—is intended to advance space heating electrification for residential customers.[204] Space heating is a sensible electrification target for the Companies' residential customers, as it makes up 69-70% of overall residential gas load by end use.[205] Comparatively, the Companies' industrial customer gas load is dominated by process heat—that is, the heat required for a given industrial customer to conduct its business. 60-61% of the Companies' industrial gas load is used for process heat, whereas only 15-16% is used for space heating.[206] For their large commercial and industrial customers, the Companies' Commercial and Industrial Rebate Program provides financial incentives for the purchase of natural gas boilers and new lighting and HVAC systems.[207] While these purchases can provide marginal improvements in the efficiency of a particular industrial customer's operations, purchasing a new, more efficient natural gas boiler does little to reduce the overall gas demand of the system when compared to electrification, and it further ties the customer to the gas system over the multi-decade life of the boiler at a time when the State needs to be aggressively moving away from reliance on natural gas.[208]

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[203] Hearing Exhibit 1103, Excerpt from Response to DPS-314 SUPP 1 attach. 7; Evidentiary Hearing Transcript (Feb. 20, 2026) at 323:9–18.
[204] Evidentiary Hearing Transcript (Feb. 20, 2026) at 328:21–329:5
[205] Final Gas Long-Term Plan at 19.
[206] *Id*. at 20.
[207] Hearing Exhibit 1103, Excerpt from Response to DPS-314 SUPP 1 attach. 7 at PDF 18 or 15 of 20.
[208] The Commercial and Industrial Rebate Program does allow customers to propose custom projects that could be eligible for rebates, and it is possible that electrification could be considered under this umbrella. This allowance for custom projects, however, still places the burden on customers to develop proposals. *See Id*. at PDF 19 or 16 of 20.

Rebates for industrial electrification equipment are important for two reasons. First, they can incentivize customers to transition off gas in furtherance of the mandates of the CLCPA. Indeed, as the Companies' Clean Energy Implementation Panel stated in their testimony, "[d]ecarbonizing [the building and industrial] sector is fundamental to achieving the CLCPA GHG emissions reduction targets."[209] Second, when the Companies' SMEs discuss EE and electrification options with customers, they focus on the Companies' active energy efficiency/electrification programs.[210] Because the Companies do not currently offer a program focused on industrial process heat electrification/decarbonization, the Companies' SMEs will not typically proactively discuss relevant industrial electrification technology or systems with a customer who might benefit from such technology or systems, unless the customer brings it up first. As a result, the Companies miss the opportunity to educate industrial customers about electrification options from which they might benefit.

The Companies Should Provide Additional Training to Their SMEs on the Industrial Electrification Landscape.

Similar to their focus on residential rebate programs, the Companies' collaboration with NYSERDA appears to primarily focus on solutions for their residential customers compared to their large commercial and industrial customers. The Companies' Clean Energy Implementation Panel testified that the SMEs on the Companies' Energy Efficiency Team have regular meetings with NYSERDA, and that the Team collaborates with NYSERDA "on a multitude of topics, including Clean Heat,"[211] which as noted above is a program targeted to the Companies' residential customers. When asked about other programs administered by NYSERDA that are

[209] Evidentiary Hearing Transcript (Feb. 20, 2026) at 329:22–24.
[210] *Id*. at 468:9–14.
[211] *Id*. at 472:11–12.

beneficial to the Companies' customers, the Panel pointed to the Empower+ Program,[212] which, like Clean Heat, is also limited to residential customers. Yet the Panel, which oversees an Energy Efficiency Team that meets "three, four, five times a week" with NYSERDA,[213] was unfamiliar with the Commercial & Industrial Carbon Challenge--a NYSERDA-administered grant program directed at large commercial and industrial customers that wish to decarbonize their work processes.[214] While the Companies may not need to increase the frequency with which they meet with NYSERDA, the Companies should be encouraged to expand the universe of potential agenda items at these meetings to include all NYSERDA-administered programs that could benefit each of the Companies' customer classes.

In addition to meeting regularly and collaborating with NYSERDA, the Companies' Energy Efficiency SMEs design materials for internal employee training,[215] interact with customers,[216] and collaborate on policy issues like EE and beneficial electrification with other employees of the Companies.[217] They are also expected to be knowledgeable about several issues relating to industrial electrification. As the Clean Energy Implementation Panel testified during the Evidentiary Hearing, the SMEs come to the Companies with a knowledge base built from past experience,[218] and the Companies foster learning opportunities for all employees to continue learning about relevant clean energy topics.[219] Nevertheless, the Panel's testimony also revealed gaps in what the Companies' Clean Energy SMEs are expected to know—in addition to

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[212] *Id*. at 470:22–23.
[213] *Id*. at 472:6–12.
[214] *Id*. at 471:8–11; *See* REDC, Available CFA Resources at 152 (2025), https://regionalcouncils.ny.gov/sites/default/files/2025-04/2025-CFA-Resources-Available.pdf.
[215] Evidentiary Hearing Transcript (Feb. 20, 2026) at 458:12–15.
[216] *Id*. at 453:3–13.
[217] *Id*. at 451:10–20.
[218] *Id*. at 468:14–18.
[219] *Id*. at 491:5–9.

being unfamiliar with NYSERDA's Commercial & Industrial Carbon Challenge, the Panel was unfamiliar with existing industrial decarbonization and electrification solutions like thermal batteries.[220] The Commission should require the Companies to design and provide additional training for their SMEs on the current landscape of technological solutions and incentives for their large commercial and industrial customers to decarbonize their operations. The Commission should further require that the details of this proposed new training be included in the Companies' next rate filing.

VII. ELECTRIC AND GAS SUPPLY AND INTERCONNECTION

C. Renewable Natural Gas – Stipulation

The Commission Should Approve the Renewable Natural Gas Stipulation.

AGREE and PUSH Buffalo support the Stipulation Regarding Renewable Natural Gas, which will protect ratepayers from footing the bill for environmental attributes that do not provide any benefits. As explained in the Testimony of Jessica Azulay, replacing fossil natural gas with biomethane—also called renewable natural gas—does not necessarily result in lower GHG emissions.[221] Combusting biomethane creates the same amount of GHG emissions as combusting fossil natural gas.[222] The upstream emissions from biomethane—i.e. emissions resulting from production and transportation—are also significant and can be comparable to the upstream emissions associated with fossil natural gas.[223] Greenhouse gases are emitted during the transportation of the raw materials, or feedstocks, used to produce biomethane; the anaerobic digestion process that creates biogas from feedstocks; the purification process that creates

[220] *Id*. at 507:10–15.
[221] Evidentiary Hearing Transcript (Mar. 6, 2026) at 212–227.
[222] *Id*. at 213:12–14.
[223] *Id*. at 213–216.

biomethane from biogas; and the transportation of finished biomethane.[224] However, the Companies do not have information about the GHG emissions generated during the production and transportation of the biomethane that they purchase.[225] Without that information, it is impossible to compare the emissions associated with biomethane to the emissions associated with fossil natural gas.[226]

Because the Companies cannot show that the environmental attributes would represent any avoided GHG emissions, the attributes would not provide any benefit to ratepayers. For these reasons, the Commission should approve the Stipulation Regarding Renewable Natural Gas.

XII. CUSTOMER SERVICE

D. Consumer Outreach

The Companies Should be Required to Develop a Proactive Outreach Plan to Their Key Account Customers to Discuss Electrification Options.

The Companies have demonstrated through their testimony that they are not conducting adequate outreach to their "Key Account" customers on the topic of electrification and that doing this additional outreach would not require a significant increase in capacity. The Companies use the term "Key Account" to refer to large industrial or complex accounts that have needs that surpass what could be serviced by calling into the Companies' main customer service line,[227] which is staffed by traditional Customer Service Representatives who handle typical customer service issues like billing.[228] In recognition that these customers may require additional attention

[224] *Id*. at 213–217.
[225] *Id*. at 223:2–18.
[226] *Id*. 224:2–7.
[227] Evidentiary Hearing Transcript, (Feb. 11, 2026) at 568:22–569:2.
[228] *Id*. at 645:20–23.

to their needs, the Companies employ Account Managers to manage the Companies' relationship with their Key Account customers.[229] As discussed above in Section VI(I), these Key Account customers are attractive candidates for electrification given their outsized impact on the Companies' overall gas demand. As will be expanded upon below, the Commission should require the Companies to leverage these existing relationships, as well as the internal knowledge of the SMEs discussed above in Section VI(I) and further below, and proactively discuss electrification options with Key Account customers.

There are certain prerequisite conditions for the Companies to be able to successfully engage with their Key Account customers regarding electrification solutions. These prerequisites are: (1) an ability to work with Key Account customers on an individualized basis to identify solutions to unique problems, and (2) a sufficient knowledge base regarding electrification solutions and the Companies' own customer base to identify potentially successful candidates. As will be demonstrated below, the Companies are already meeting these conditions.

The Companies' Customer Service Panel stated during cross-examination that, depending on the nature of the relationship, Account Managers can have daily or weekly interactions or "touch point[s]" with their Key Account customers.[230] In addition, the Companies will hold annual "executive to executive" meetings with certain Key Account customers, wherein the Companies' leadership will join the Account Manager to "meet with [Key Account] customers and discuss any of their potential needs, either any challenges they believe they're facing or any expansion plans they may have."[231] When asked to provide an example of the sorts of challenges

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[229] The Companies have variously referred to these employees as "Account Managers," "Key Account Managers," and "Business Relations Managers." *See Id*. at 649:2–8.
[230] *Id*. at 569:15–21.
[231] *Id*. at 569:21–570:4.

that are discussed at these "executive to executive" meetings, Panel Witness Patricia Nilsen stated:

> I'm thinking of a couple in particular where we brought in our engineering team to help a customer who wished to expand their facility, but we were limited in terms of capacity because of the available connectivity into our system. So we'll bring an engineering group in, go to a site visit with a customer, determine what their needs are, perhaps bring in other agency experts from the State or municipal or others and see if we can come up with solutions for them. That's a fairly common example that can happen.[232]

Witness Nilsen also stated that it can happen that the Companies are provided visibility into a Key Account Customer's daily operations during these "executive to executive" meetings.[233]

These responses from the Companies' witnesses suggest that the Companies' Account Managers are well-versed in the needs of their Key Account customers, and are often provided detailed insight into the challenges these customers face. Moreover, the Companies have demonstrated both the ability to identify creative solutions to the problems faced by these customers, and a willingness to bring Company resources to bear in an attempt to solve them.

Not every Key Account customer is going to have a gas account with the Companies, and among those that do, not every customer is going to be an ideal candidate for electrification. Thankfully, the Companies have demonstrated that (1) they understand what types of industrial processes are more suited to electrification compared to others, and (2) they can determine, without expending significant resources, which of their Key Account customers fits that profile of electrification suitability. First, witnesses on the Companies' Clean Energy Implementation Panel stated that they "would generally agree with" the assertion that industrial processes that

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[232] *Id*. at 688:13–23.
[233] *Id*. at 689:23–670:2.

require lower process heat are more easily electrified than industrial processes that require higher process heat, and that "[t]here are electrification solutions available on the market right now" for businesses involved in food production.[234] Second, pursuant to a Commission order in the Companies' Gas Long-Term Plan Docket, in early 2025 the Companies sent a survey to 138 of their large commercial and industrial customers to gauge their interest in the use of hydrogen and renewable natural gas as alternative fuel sources.[235] The survey asked, among other things, what type of "hard to electrify equipment" the respondents have.[236] The survey did not ask for the type of business that the respondent operated, but the Companies were nevertheless able to sort respondents by their type of business.[237] The Companies' actions relating to this survey demonstrate that they already possess data on some of their customers that will allow them to specifically target their outreach on industrial electrification to business types that are most amenable to electrification, and even more, the Companies are able to collect additional data when necessary by surveying their Key Account customers.

In sum, the Companies have demonstrated (1) a willingness and ability to engage with their Key Account customers to solve unique problems and (2) internal knowledge regarding the current landscape of industrial electrification, including which industries are more amenable to electrification than others and which of their customers fit that profile. By meeting these prerequisites, the Companies have demonstrated that they can engage in meaningful outreach with relevant Key Account customers that could result in those customers moving off natural gas and electrifying their operations, all without hiring additional FTEs or requiring their existing

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[234] Evidentiary Hearing Transcript (Feb. 20, 2026) at 505:21–506:2, 508:15–21.
[235] *Id*. at 502:13–17.
[236] Hearing Exhibit 1104, Companies' Response to AGREE_PUSH IR 29.3 attach. 1 at 14.
[237] *Id*. at 15.

employees to work beyond the scope of their current roles. The Commission should therefore require the Companies to develop a proactive outreach plan to Key Account customers regarding electrification and to include this plan in their next rate filing.

E. Economic Development

The Non-Residential Geothermal and Air Source Heat Pump Program Should Be Continued.

The Companies currently operate twelve non-rate assistance economic development programs for the benefit of their customers, one of which is the Non-Residential Geothermal and Air Source Heat Pump Program.[238] These programs are targeted to assist companies seeking to expand or establish operations within the Companies' service territories.[239] For this rate plan, the Companies are proposing to maintain eleven of their current economic development programs, and are proposing to eliminate the Non-Residential Geothermal and Air Source Heat Pump Program.[240] Staff supports the Companies' proposal to eliminate the program because, in Staff's view, the program is "duplicative of incentives offered through the New York Clean Heat Program."[241]

In spite of this alignment between the Companies and Staff, AGREE and PUSH Buffalo maintain their testimonial position that the program should not only remain in place, but that the Companies should engage in more proactive outreach to their industrial customers who could benefit from the program. As discussed above, industrial customers should be viewed as attractive candidates for electrification by the Companies given each customer's relatively large

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[238] Evidentiary Hearing Transcript, (Feb. 11, 2026) at 312:12–313:6.
[239] Hearing Exhibit 626, Staff's Consumer Services Panel Exhibit_(SCSP-4) at 1083.
[240] Evidentiary Hearing Transcript, (Feb. 11, 2026) at 313:17–22.
[241] Evidentiary Hearing Transcript, (Feb. 10, 2026) at 225:5–10.

gas load profile and the related potential emissions savings from transitioning these customers off gas. Rather than eliminating programs designed to decarbonize this sector, the Companies should increase their efforts to engage with their industrial customers.

XVII. CONCLUSION

Seven years ago, the Legislature established aggressive mandates for greenhouse gas emissions reductions, which require New York to shift away from the business-as-usual regulation of utilities. Achieving the CLCPA goals requires planning ahead for a managed downsizing of the gas system including electrification across customer segments and robust outreach and education to assist ratepayers in moving away from gas. The CLCPA also enshrines protections for disadvantaged communities to ensure that they enjoy the benefits of New York's transition to a clean energy economy and to reverse and begin to remedy the environmental and public health disparities resulting from placement of legacy energy infrastructure in low-income communities and communities of color. The CLCPA imposed new statutory obligations on the PSC in addition to the requirements to provide safe and reliable service at just and reasonable rates provided by the Public Service Law.

Unfortunately, the Companies' rate request flies in the face of the CLCPA's mandates and, in many aspects, is also unsupportable under the Public Service Law. The Companies' capital budget request contains a number of infirmities including unexplained project budgets and programs that have no clear purpose or justification. Rather than continuing to overburden customers by building out the gas distribution system and constructing new projects that are likely to become stranded assets, the Companies should invest more time and resources in planning, outreach, and education for NPAs that will allow them to address customer needs without costly capital expenditures. The Pendleton Reliability Project and the Goshen Semi-

Permanent LNG Supply Injection Tap exemplify the Companies' failure to plan ahead, missing the opportunity to avoid expensive gas projects if the Companies had thoughtfully pursued and implemented an NPA. The Companies have similarly missed the chance to electrify industrial customers, who represent a disproportionately large share of the gas demand and GHG emissions in the Companies' service territory, and going forward should take affirmative steps to assist those customers in moving away from gas.

Finally, the record cannot support a conclusion that approving the Companies' rate request would comply with Section 7(2) and 7(3) of the CLCPA. The Companies failed to provide the information needed to assess the GHG consequences or potential impacts on DACs of their proposals, and in fact, the minimal information that is in the record about local impacts indicates that the Companies' plans will in fact disproportionately burden DACs. The Commission must require the Companies and Staff to do better going forward, both in the Companies' next rate filing and in future rate cases. For these reasons, AGREE and PUSH Buffalo respectfully urge the Commission to implement the recommendations discussed above.