

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 20-G-0131 - Proceeding on Motion of the Commission in  
Regard to Gas Planning Procedures.

CASE 12-G-0297 - Proceeding on Motion of the Commission to  
Examine Policies Regarding the Expansion of  
Natural Gas Service.

ORDER ADOPTING GAS SYSTEM PLANNING PROCESS

Issued and Effective: May 12, 2022

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STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on May 12, 2022

COMMISSIONERS PRESENT:

Rory M. Christian, Chair  
Diane X. Burman, concurring in part and dissenting in part  
James S. Alesi  
Tracey A. Edwards  
John B. Howard  
David J. Valesky  
John B. Maggiore

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ORDER ADOPTING GAS SYSTEM PLANNING PROCESS

(Issued and Effective May 12, 2022)

BY THE COMMISSION:

INTRODUCTION

On February 12, 2021, Staff of the Department of Public Service (Staff) submitted a Gas System Planning Process Proposal (Planning Proposal) in Case 20-G-0131 (the Gas Planning Proceeding). By this Order, the Public Service Commission (Commission) adopts the natural gas system planning process set forth in the Planning Proposal, as modified in the discussion below. Accordingly, through this Order, the Commission adopts modernized long-term natural gas planning procedures to ensure that the State, customers, stakeholders, and all other

interested entities have the opportunity to understand and engage in the future of natural gas infrastructure in the State.

#### BACKGROUND

Gas utilities in the State, also referred to as Local Distribution Companies (LDCs), have recently claimed natural gas supply constraints that prevent or otherwise create a concern about the ability to accept applications for new firm gas service in several regions of New York State. These constraints are generally location specific, can be limited to one or several municipalities, and do not apply to non-firm customer load.<sup>1</sup> Certain LDCs have also invoked moratoria on new service connections in specific locations, leading, in some cases, to customer hardships. For example, New York State Electric & Gas Corporation (NYSEG) invoked a moratorium in the Town of Lansing in Tompkins County in 2015, which remains in effect today.<sup>2</sup> Additionally, on January 17, 2019, Consolidated Edison Company of New York, Inc. (Con Edison) notified the Commission of a moratorium on new firm gas service in most of Westchester County, commencing March 15, 2019. That moratorium also remains in effect.

Finally, beginning in November 2018, The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), serving Brooklyn and parts of Queens, and KeySpan Gas East Corporation d/b/a National Grid (KEDLI) (collectively, National Grid) began

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<sup>1</sup> Non-firm service, also known as interruptible service, is the provision of natural gas service subject to interruption for situations such as high demand, emergencies, or where system reliability is threatened, and is only available to very large customers. In comparison, firm service is intended to be available at all times during an agreed period.

<sup>2</sup> Case 17-G-0432, Petition of NYSEG Regarding a Natural Gas Compressor Pilot Project in Tompkins County (filed July 19, 2017), Appendix A to Petition, p. 2.

informing large applicants for new service that National Grid would be unable to provide firm service unless a pending supply project was approved. On or about May 15, 2019, National Grid stated that it would not fulfill applications for new firm service connections, or requests for additional firm load from existing customers in the part of its service area that includes Long Island, Queens and Brooklyn. Based on a settlement adopted and approved by the Commission, National Grid ended its moratorium as of November 26, 2019.<sup>3</sup> However, National Grid retained discretion, subject to Commission review, to reimpose the moratorium after September 1, 2021, if it determines that extension of service to new customers, or expanded use by existing customers, would create an unacceptable risk to its ability to continue providing safe and reliable service.<sup>4</sup>

As seen from the recent utility activity, moratoria can create adverse customer impacts because, by their very nature, they prevent applicants from receiving new or expanded firm gas service. While some types of development projects and customers may have access to viable alternatives to firm gas service, others may have more difficulty without it. Reliance on alternatives can also have positive or adverse emissions impacts. Reduced emissions may result where the alternative to natural gas is efficient use of clean electricity, while

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<sup>3</sup> Case 19-G-0678, Proceeding on Motion of the Commission to investigate Denials of Service by National Grid, Order Adopting and Approving Settlement (issued November 26, 2019); Case 19-G-0678, supra, Confirming Order (issued December 12, 2019).

<sup>4</sup> Case 19-G-0678, supra, Order Adopting and Approving Settlement (issued November 26, 2019), Exhibit A, §2(b). The settlement also required KEDNY and KEDLI to develop a "Long-Term Capacity Report" to address the long-term capacity constraints affecting their operations. Id., §4.

increased emissions may result where the alternative to natural gas is oil or propane.

These invocations of moratoria demonstrate that natural gas planning and operational practices need to adapt to recent developments and demands on energy systems. The Commission directed Staff to propose a modernized gas planning process to build on recent experience and adopt improved planning and operational practices to enable the LDCs to meet current and future customer needs and expectations in a transparent and equitable way, while minimizing infrastructure investments, maintaining safe and reliable service, and, where necessary, implement, maintain, and revoke moratoria in a fair and consistent manner.

Additionally, planning must be conducted in a manner consistent with the recently enacted Climate Leadership and Community Protection Act (CLCPA).<sup>5</sup> On December 30, 2021, the New York State Climate Action Council (CAC) released its Draft Scoping Plan. The Draft Scoping Plan states that "emission reductions are needed from all sectors of the economy to achieve the goals and requirements of the [CLCPA]."<sup>6</sup> While the CLCPA does not impose specific requirements on the State's gas distribution system, rationally, meeting the CLCPA's emissions reductions targets for the entire economy will require emissions reductions from the gas distribution system. Indeed, the CAC's Draft Scoping Plan includes a chapter focused on gas system transition.<sup>7</sup> Further, the Draft Scoping Plan also discusses the gas system in the chapters dealing with Buildings and Electricity. The CAC states that its final Scoping Plan will

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<sup>5</sup> Chapter 106 of the Laws of 2019.

<sup>6</sup> Draft Scoping Plan, p. 22.

<sup>7</sup> Draft Scoping Plan, Ch. 18 Gas System Transition, pp. 264-271.

identify and make recommendations on regulatory measures and other state actions that will ensure the attainment of the CLCPA's requirements. The Commission recognizes the role of natural gas in greenhouse gas (GHG) emissions and takes action in this proceeding to prepare for the CAC recommendations to the benefit of all New Yorkers.

To ensure that residents of New York can continue to meet their energy needs, the public interest demands that gas utilities provide information to and communicate with customers in a way that promotes effective customer planning, reduces confusion, and avoids inequities or the appearance of inequities. Similarly, the public interest requires that gas utilities provide information to the Department, other government entities and agencies, and stakeholders related to the promotion of effective planning and consideration of gas alternatives, thereby reducing costs and emissions while minimizing impacts upon economic development.

More broadly, incomplete or insufficiently transparent planning can lead to adverse consequences beyond moratoria. They can lead to infrastructure expenditures that are costly to customers; unneeded, misplaced, or misaligned capital development; and use of fuel choices both at odds with State energy policies and that results in increased emissions.

Based upon the above, and in furtherance of the Commission's statutory mandates, the Commission issued an Order on March 19, 2020, directing: (1) LDCs to file locational supply and demand analyses; (2) LDCs to file proposals for moratorium management issues within 120 days; (3) Staff to file a proposal for modernizing gas system planning processes within 150 days;



and (4) LDCs to file status reports and any useful proposals to address areas of supply/demand imbalance within 150 days.<sup>8</sup>

#### Order Instituting Proceeding

In the Order Instituting Proceeding, the Commission noted the ongoing concerns with moratoria and associated planning issues, expressed its concerns related to these issues, and established eight multi-point issues for consideration as follows:

- First, the Order required the utilities to conduct a locational constraint analysis, so that the utilities, stakeholders, Staff, and the Commission are aware of and can focus planning efforts on areas with immediate or potential constraints.
- Second, the Order required Staff to propose a modernized gas system planning process. It emphasized that the modernized process will enable alignment with the State's policies, including the emergence of new and modified technologies and the impact and importance of the CLCPA.
- Third, the Order encouraged the use of non-pipe alternatives (NPAs) to potentially reduce or eliminate the need for gas infrastructure and investments. Examples of NPAs include temporary supply, energy efficiency, electrification, and clean demand response. The Order provided that LDCs should integrate NPAs into their standard gas system planning processes, both in the context of specific avoidable projects in a particular area of the distribution system, and system-wide to reduce overall demand and the need for infrastructure investment.
- Fourth, the Order required that the LDCs to propose criteria for reliance on peaking services, such as compressed natural gas and delivered services. The LDCs currently rely on peaking services to varying degrees and would need to increase that reliance to serve new load in the near term in the absence of other solutions.

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<sup>8</sup> Case 20-G-0131, Order Instituting Proceeding (issued March 19, 2020) (Order Instituting Proceeding).

- Fifth, the Order required the utilities to propose standards governing moratoria. In doing so, the Commission noted that recent experience has shown that the specific manner in which moratoria are declared and managed can itself create or mitigate hardship and inequity. Following the LDCs' filing, Staff issued in this case a Moratorium Management Proposal on February 12, 2021. The Commission will address this proposal by a separate order.
- Sixth, the Order identified the need to explore methods of demand response and peak reduction. The Order noted the LDCs' use of interruptible rates as the principal historical method of reducing peak demand. Customers on interruptible rates generally rely on alternative fuels, such as oil, when their gas service is interrupted. The Order emphasized the need to develop other methods of demand response that do not rely on oil, can avoid emissions, and decrease the need for new infrastructure.
- Seventh, the Order recognized the need to avoid or mitigate emissions of criteria pollutants. Where oil or propane are combusted in place of gas, for example, these emissions can have material local impacts.
- Eighth, the Order recognized that some of the issues raised in the proceeding may require revisions to LDCs' tariffs, the adoption of new tariffs, or revisions of 16 New York Codes, Rules and Regulations (NYCRR) Part 230. Part 230 sets forth the rights, requirements, and responsibilities of the LDCs and applicants for gas service, including the provision of some amount of main and/or service line extension at no direct cost to the applicant.

In sum, the Order Instituting Proceeding set forth a broad array of issues for consideration, often interrelated, and noted that the Gas Planning Proceeding may address additional issues. Recognizing the foundational importance of a modernized gas system planning process, the Commission prioritized its creation by directing Staff to issue a proposal on that issue in particular. Additionally, given recent experience with moratoria, the Commission required the LDCs to file locational constraint analyses and proposals for moratoria management.

Joint Local Distribution Companies 2020 Filing

The Joint LDCs (JLDCs) include nine gas utilities who have made some joint filings in the Gas Planning Proceeding.<sup>9</sup> On July 17, 2020, the JLDCs submitted a filing addressing standards for reliance on peaking services and moratoria management as required by the Order Initiating Proceeding.<sup>10</sup> In its 2020 Report, the JLDCs also offered a set of “design principles” to guide the evolution of the long-term gas system planning process. The JLDCs state that any gas system planning process should continue to enable LDCs to provide safe and reliable gas delivery service at just and reasonable rates, while supporting New York’s environmental, economic development, and other policy goals as cost-effectively as possible. Additionally, the JLDCs recognize that the gas system planning process should be understandable to stakeholders and enable meaningful stakeholder participation. At the same time, the JLDCs assert that certain information that may be discussed in the planning process would require confidential treatment for security and procurement purposes. Further, the JLDCs assert that gas system planning should enable LDCs to meet the anticipated demand for natural gas by customers through all viable supply-side and demand-side resources, such as electrification, energy efficiency, and demand response initiatives.

Recognizing the importance of tracking areas vulnerable to locational constraints, the JLDC recommend that

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<sup>9</sup> The JLDCs comprise Central Hudson Gas & Electric Corporation (Central Hudson); Con Edison; Orange and Rockland Utilities, Inc. (O&R); KEDNY; KEDLI; Niagara Mohawk Power Corporation d/b/a National Grid (NMPC); National Fuel Gas Corporation (NFG); NYSEG; and Rochester Gas and Electric Corporation (RG&E).

<sup>10</sup> Case 20-G-0131, Modernized Gas Planning Process: Standards for Reliance on Peaking Services and Moratorium Management (submitted July 17, 2020) (2020 Report).

the planning process include identification of and updates regarding the status of vulnerable locations, including the status of NPAs and other efforts to address supply/demand imbalances. Furthermore, they recommend that the system planning process should reflect uncertainty regarding the future by including sensitivity and scenario analyses where appropriate. Accordingly, the JLDCs recommended addressing these issues by having each of the LDCs file a long-term plan approximately every third year, generally in coordination with each of their rate filings.

STAFF GAS SYSTEM PLANNING PROCESS PROPOSAL

On February 12, 2021, Staff issued both its Planning Proposal and its Moratorium Management Proposal in the Gas Planning Proceeding.<sup>11</sup> The discussion in this Order is generally limited to issues related to the Planning Proposal. As noted, the Commission will address the Staff Moratorium Management Proposal in a separate order.

Staff's comprehensive Planning Proposal addresses our directive in the Order Instituting Proceeding that Staff "issue a proposal for a modernized gas planning process that is comprehensive, suited to forward-looking system and policy needs, designed to minimize total lifetime costs, and inclusive of stakeholders." The Planning Proposal would apply to New York State's 11 largest LDCs and would serve as the overall foundation for individual LDC filings.<sup>12</sup>

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<sup>11</sup> Case 20-G-0131, Staff Moratorium Management Proposal (issued February 12, 2021).

<sup>12</sup> The Planning Proposal would apply to the nine LDCs that comprise the JLDCs (Con Edison, O&R, KEDNY, KEDLI, NMPC, Central Hudson, NYSEG, RG&E, and NFG) as well as Liberty Utilities (St. Lawrence Gas) Corp. (SLG) and Corning Natural Gas Corporation (Corning).

Proposed Procedural Process

The Planning Proposal recommends that the Commission require the LDCs to file long-term plans on a three-year cycle. Within one year, the LDCs would file comprehensive long-term system plans and engage in a robust stakeholder engagement process. In years two and three of the planning cycle, the LDCs would file annual plans providing updates to their long-term system plans and information about emerging circumstances.

Stakeholder engagement would begin with the LDC hosting a technical conference within three to four weeks of the initial filing. Additionally, stakeholders would be able to request information from the LDC. Stakeholders would then have the opportunity to submit comments on the LDC's initial plan. The LDC would then host one or more stakeholder meetings to discuss and reconcile differences, as necessary. No more than 30 days after the end of the comment process, the LDC would file a revised long-term plan.

Stakeholders would have an additional 30 days to file comments and explain any disagreement(s) with the LDC's long-term plan. The LDC would host a final stakeholder meeting to discuss areas of disagreement or any comments regarding the revised long-term plan. If there are disputed issues, the Commission has the option to decide whether to approve the revised long-term plan as filed by the utility or to direct modifications. Where there are no disputed issues, the Commission would have the option to issue an order regarding the revised long-term plan, which could adopt, reject, or modify the revised plan, in whole or in part. The proposal also provided that the plan could go into effect automatically if the Commission did not take any action on an undisputed revised plan.

To assist in the assessment of the LDCs' long-term system plans, the Planning Proposal recommends engaging an independent third-party consultant evaluate the plans. The Planning Proposal suggests that the consultant, though chosen by Staff or the Commission, could be compensated by the LDCs themselves. Such an arrangement is akin to the compensation structure for an independent auditor performing a management and operations audit pursuant to Public Service Law (PSL) §66(19).

Proposed Substantive Requirements for Long-Term Plan Filings

The Planning Proposal made recommendations for what information the Commission should require the LDCs to include in their initial long-term plans. The proposed requirements included forecasts of demand and supply with a 20-year horizon. The supply forecast would include the LDC's planned composition of the supply portfolio, including firm pipeline contracts, gas storage, peaking supplies, demand response, energy efficiency, electrification, and contingency supplies (e.g., compressed natural gas).

In addition to the forecasts, the Planning Proposal also recommended that the initial long-term plan filing identify the methodology and metrics to be used to forecast and measure reliability and identify potential future reliability issues. The Planning Proposal recognized that the initial round of long-term plans should examine and validate each LDC's design day standards and propose a frequency for re-examination and re-validation of design day standards.

With regard to scenarios of how to meet forecasted reliability needs, including the retirement of leak-prone pipe segments, the Planning Proposal allows the LDC to propose traditional capital projects, but requires that the LDC include an entirely "no infrastructure option" and other scenarios relying on alternatives to traditional capital projects. The

LDC would be required to show how other scenarios would meet the forecasted need, in the entirety or in part, through demand response, electrification, and energy efficiency programs. The Planning Proposal emphasizes the need for LDCs to consider such demand management programs as an integral part of their planning processes. The Planning Proposal recognizes that some projects may address conditions that pose an immediate threat to system reliability and/or public safety, which would be exempted from consideration for these NPAs. To further the LDCs' consideration of NPAs, the Planning Proposal recommends that each LDC include a proposal for NPA suitability criteria when it files its long-term plan.

#### Comparison of Alternatives

The Planning Proposal recognized that the LDCs will need to provide clear quantitative and qualitative explanations for why they have made a particular choice between traditional capital projects and any NPAs. These include benefit-cost analyses (BCAs) and, for each alternative considered, an evaluation of estimated bill impacts, the net present value of estimated costs, and emissions impacts.

The Planning Proposal recommended adhering to the Commission's BCA Framework Order,<sup>13</sup> which designated the Societal Cost test (SCT) as the primary BCA method and adopted certain foundational principles. Among the sensitivity analysis that LDCs can present in their SCTs, the Planning Proposal recommends requiring that LDCs include a scenario that assumes the full value of any new gas assets would be depreciated by 2050.

Moreover, the Planning Proposal notes that LDCs have already adapted the BCA Framework to develop BCA Handbooks for

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<sup>13</sup> Case 14-M-0101, Reforming the Energy Vision, Order Establishing the Benefit Cost Analysis Framework (issued January 21, 2016).

NPAs. The Planning Proposal identifies certain aspects of the LDCs' existing BCA Handbook that could be refined, including estimates of avoidable upstream fixed and variable gas costs, avoided distribution costs, standards that could apply to renewable gas (RNG) or biogas. The Planning Proposal recommends that the LDCs, Staff, and stakeholders address these refinements through an avoided cost of gas "best practices" working group.

#### Additional Issues

##### 1. NPA Framework

The Planning Proposal recognized that wholistic consideration of NPAs requires that the LDCs have a three-part NPA Framework. As explained above, the Planning Proposal recommended addressing the first part of this NPA Framework - NPA suitability criteria - in each LDC's initial long-term system plan. The Planning Proposal recommends addressing the remaining two parts of the three-part NPA Framework - NPA cost recovery and incentive mechanisms - consistently across the LDCs. To that end, the Planning Proposal recommends that the Commission require the LDCs to file, jointly if possible, proposed NPA cost recovery procedures and an NPA incentive mechanism within 90 days of the date the Commission acts on the Planning Proposal.

##### 2. Incentive Mechanisms

The Planning Proposal reviews existing incentive mechanisms available to the LDCs and suggests that others could be considered, including ones addressing reductions to GHG emissions and sourcing RNG/biogas. The Planning Proposal also identified as an issue, whether and how gas-only LDCs can or should be incentivized to encourage electrification measures.



3. Peaking Services

The Order Instituting Proceeding required the LDCs to propose criteria for reliance on peaking services. The JLDCs did so in the 2020 Report. In the Planning Proposal, Staff explained that the JLDCs' proposed peaking services criteria were insufficient. Staff explained that it would gather data on the subject and make recommendations to the Commission in the future. Unless and until the Commission sets generic standards for reliance on peaking services, the Planning Proposal recommended that each LDC be required to state how much it would rely on peaking services to meet peak day load and how the LDC justifies that reliance.

4. Other Topics

a. Summary Investment Plan

The Planning Proposal recommended that the Commission require each long-term plan filing to include the LDCs' likely and preferred portfolios of investments, summaries of the cost and bill impacts and emissions impacts from the preferred options, no-infrastructure options, and any other options suggested in the long-term plan.

b. Public Availability of Information

The Planning Proposal explained that, under the Freedom of Information Law (FOIL), entities, including LDCs, can seek confidential treatment for information they file with the Commission or Department. The Planning Proposal noted that the LDCs should seek to avoid requesting confidential treatment for portions of their long-term system plans unless necessary. Further, the Planning Proposal asked that, if the LDCs anticipate that they need to seek confidential treatment with respect to information provided as part of their long-term plans, they should identify the types of information in their comments on this proposal.

c. Affiliate Transactions

The Order Instituting Proceeding stated that Staff should review the transparency of LDCs' affiliate relationships. In the Planning Proposal Staff examined the strictures in place regarding LDCs' procurement of pipeline supply and capacity from affiliated companies to assess whether there are incentives that do not align with state policies. The Planning Proposal explained that the LDCs are subject to individual affiliate transaction rules approved by the Commission through various proceedings. Additionally, the Planning Proposal explained that the Federal Energy Regulatory Commission also has rules that address the potential for affiliate abuse by transmission providers and affiliates. Finally, the Planning Proposal explained that all gas capacity and supply contracts entered into by LDCs must be filed with the Secretary to the Commission pursuant to 16 NYCRR Part 720-1.4. Redacted versions of the contracts are available to the public and the contracts are subject to a prudence review.

Stakeholder Outreach on the Planning Proposal

Staff hosted a Stakeholder Forum on March 25, 2021. Though not part of the record in this proceeding, the Stakeholder Forum provided an opportunity for interested entities to ask questions of Staff prior to submitting their comments on the Planning Proposal.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on March 3, 2021 [SAPA No. 20-G-0131SP1]. The time for submission of comments pursuant to the Notice expired on May 3, 2021. Additionally, in a Notice of Stakeholder Forum and Soliciting Comments, comments were

solicited, due May 3, 2021, with replies due June 4, 2021. Moreover, virtual public statement hearings were held on May 12, 2021, and May 13, 2021.<sup>14</sup> The comments received are addressed below.

COMMENTS

Comments were received from the Business Council of New York State, Inc.; Charles River Associates; City of New York (the City); Coalition for Renewable Natural Gas (RNG Coalition); Consumer Energy Alliance (CEA); Corning; Environmental Defense Fund (EDF); Fossil Free Tompkins; Grassroots Environmental Education; Institute for Policy Integrity at NYU School of Law (the Institute); the JLDCs; SLG; Manufacturers Association; Multiple Intervenors (MI); National Fuel Cell Research Center; New Yorkers for Affordable Energy; Pace Energy and Climate Center (Pace); jointly from Natural Resources Defense Council, Sierra Club, Regional Plan Association, Association for Energy Affordability, and New Yorkers for Clean Power as the self-styled Public Interest Organizations (PIOs); Queens Chamber of Commerce; Renewable Heat Now (RHN); Steuben Foods; Williams Companies, Inc. (Williams). Additionally, members of the public have submitted over 2,500 comments and approximately 40 individuals and group representatives provided comments at the two virtual public statement hearings.

The comments received included opinions critical of, suggesting modifications to, and supporting specific aspects of the Planning Proposal. Additionally, some commentators asserted that the Planning Proposal should be wholly rejected or that it should be augmented to include additional issues. Another common theme was the need to address the impacts of gas system

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<sup>14</sup> Case 20-G-0131, Notice of Virtual Public Statement Hearings (issued April 19, 2021).

planning on low- and moderate-income (LMI) customers and disadvantaged communities.

In adopting this Order, the Commission has considered all of the comments received regarding the Planning Proposal. A complete summary of the comments received is included in the appendix to this Order. Particular comments are addressed where relevant in the discussion section below.

#### LEGAL AUTHORITY

Section 5(1)(b) of the PSL provides the Commission with broad authority over "the manufacture, conveying, transportation, sale or distribution of gas... for light, heat or power, to gas plants... and to the persons or corporations owning, leasing or operating the same." Of particular importance to the Commission's action in this Order, PSL §65 requires that LDCs provide "service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable." PSL §66(1) states that the Commission has general supervision of all gas corporations. Further, PSL §66(1-a) provides that the Commission may order "such improvement in the manufacture, conveying, transportation, distribution or supply of gas... or in the methods employed by such corporation as in the commission's judgment is adequate, just and reasonable."

#### DISCUSSION

The Planning Proposal presents a modernized gas system planning process, as required by the Order Instituting Proceeding. The Commission adopts the Planning Proposal, with modifications as discussed below. The gas system planning process we adopt in this Order will ensure that the Commission has the necessary information to consider the LDCs' long-term plans and alternative solutions to ensure that New York's

residents can continue to have safe, adequate, and reliable gas service as we transition to alternative energy sources to reduce GHG emissions. Further, the process we adopt in this Order creates a transparent process with significant stakeholder participation.

The Commission recognizes, however, that this new process now needs to be placed into practice. We expect to learn from the experience we, Staff, the LDCs, and stakeholders will gain as the LDCs' long-term plans are reviewed pursuant to this new process. Those lessons learned can inform modifications to this process as we proceed through the review of 11 LDCs' long-term plans.

As summarized above and discussed in detail below, many stakeholders provided comments in response to the Planning Proposal. Many offered recommendations on specific issues addressed in the Planning Proposal. Others, however, request that the Commission take actions that exceed the scope set forth in the Order Initiating Proceeding and available for action at this time. For example, Fossil Free Tompkins stated that "Staff should be directed to develop a new proposal that explicitly states clear goals for gas reduction." The PIOs recommend that the Commission establish GHG goals for each LDC and should direct Staff and NYSERDA to lead a stakeholder process to develop a statewide transition plan to identify an integrated, least-cost, least-risk path for decarbonizing the State's gas system as a whole, as well as for each LDC's system. In contrast, MI states in its reply comments that "(m)erely because some parties choose to raise arguments on issues beyond the scope of the Proposals and the Commission's Notice does not mean that those arguments should be addressed on the merits at this time." The Queens Chamber of Commerce stresses the need for a thoughtful, structured transition that ensures our businesses

can continue to have their energy needs met, and endorses the creation of a detailed, long-term plan that moves us toward a carbon-free goal in a manner that does not damage businesses or hamper job creation.

Many comments request actions that fall outside the scope of the Order Initiating Proceeding's directive to Staff to propose a modernized gas system planning process. Furthermore, as recognized in the Order Initiating Proceeding, "planning must be conducted in a manner consistent with the recently enacted Climate Leadership and Community Protection Act (CLCPA)."<sup>15</sup> The CAC, empowered by the CLCPA, is tasked with developing recommendations to accomplish the goals of CLCPA.

In the Draft Scoping Plan, the CAC acknowledges that "[d]uring the transition to the decarbonized systems, some investments in traditional infrastructure may still be necessary to maintain reliability and safety for remaining fossil gas customers, but greater scrutiny of such investments is warranted to ensure that utilities do not exacerbate the problem of stranded assets and make it more expensive to fully decarbonize the fossil gas sector."<sup>16</sup> The gas planning process we adopt in this Order aligns with this statement. Moreover, The CAC's recommendations will not be finalized for many months. In this Order, we set up a flexible planning process that can incorporate the CAC recommendations when they are finalized, while requiring LDCs to develop plans to limit infrastructure build. We discuss below how Staff's Proposal should be modified to reflect stakeholder input.

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<sup>15</sup> Order Initiating Proceeding, p. 3.

<sup>16</sup> CAC Draft Scoping Plan, pp. 264-265.

Procedural Process

1. Cadence of Utility Filings

The Planning Proposal envisions a long-term planning process that begins with a utility filing. Staff suggests each LDC should file a long-term plan on a three-year cycle, with nine staggered filings over the cycle. Staff had proposed the following filing cycle:

Year One: KEDNY, KEDLI, Con Edison, SLG

Year Two: NYSEG, RG&E, O&R, Corning

Year Three: Central Hudson, NMPC, NFG

Fossil Free Tompkins commented that the proposed three-year planning process will result in inconsistencies between LDCs. The Commission notes that each of the State's LDCs is unique, meaning there will necessarily be a different mix of assets in each service territory. Further, as noted above, by addressing one LDC at a time, it provides an opportunity for Staff, the Commission, and Stakeholders to learn from experience and improve the process.

Corning states in its comments that it should not be treated like larger utilities and should not have to make annual filings. SLG states that being included in the first year of long-term plans would be difficult considering its size and resources, and therefore respectfully requests that the Commission adopt a filing deadline further in the future than proposed by Staff. We also note that KEDNY and KEDLI filed an updated long-term plan on June 30, 2021, which would meet many of the requirements suggested by Staff in the Planning Proposal, including having an independent consultant review the plan. Finally, we also note that NFG has not filed a rate case in several years. In light of these facts, we adopt the following filing schedule:

Year One: Con Edison, O&R, NFG  
Year Two: NYSEG, RG&E, Central Hudson  
Year Three: KEDNY, KEDLI, NMPC, Corning, SLG

This order has some advantages. First, it allows Con Edison and O&R, who operate a joint capacity asset portfolio, to plan together. Second, it allows the National Grid companies to plan together to meet long-term demand across their three service territories. Finally, it allows Corning and SLG to learn and benefit from the filings made by the larger LDCs and will hopefully improve their filings. The utilities shall make their respective initial long-term gas system plan filings as follows:

NFG	December 15, 2022
Con Edison/O&R	May 31, 2023
NYSEG/RG&E	September 30, 2023
Central Hudson	January 15, 2024
KEDLI/KEDNY/NMPC	May 31, 2024
Corning	September 30, 2024
St. Lawrence	January 31, 2025

## 2. Annual Reports

The Planning Proposal recommended that LDCs file annual reports to help stakeholders, Staff, and the Commission continue to develop and maintain their awareness and understanding of the LDC's long-term plan. Staff recommended that these annual reports be due by May 31 of each year to provide data from the previous winter, including throughput, customer load and peak day load for various customer types. The annual report should include an explanation of the progress on the LDC's most recent long-term plan, detail plans for implementing any changes to gas operations and supply, identify information that can be used by stakeholders to help them understand system needs, and describe how the LDC's planning and implementation efforts are organized and managed. Additionally,



Staff proposed that LDCs should provide the information necessary to allow clean heat developers to target programs at areas where there are leak prone pipe (LPP) segments or where infrastructure improvements may be needed to maintain reliable service.

EDF provided the only specific comment regarding the annual reports. EDF stated that the annual reports should include EDF's proposed requiring that the LDCs provide the all-in costs for design day and per estimated use in their annual reports.

The Commission finds that annual reports will be required and provide a useful check-in on the LDC's progress in implementing its long-term plan. The annual reports shall conform to the requirements set forth in the Planning Proposal. Regarding EDF's proposed all-in cost analysis, we decline to adopt it at this time. The Commission has an established process for comparing the benefits and costs of different portfolio elements in an LDC's peak day asset mix, including supply side and demand side elements, which is outlined in the BCA Framework Order. We will not deviate from that at this time.

### 3. Stakeholder Participation

The Planning Proposal recommends robust stakeholder participation in the review of each LDC's long-term plan. As described above, that process includes multiple stakeholder meetings, opportunities for stakeholders to request information of the subject LDC, and multiple opportunities to provide written comments.

In response to the proposed process, New York City and others assert that stakeholders should be allowed to issue requests for information akin to the formal discovery process used in other proceedings before the Commission. The PIOs state

that it is essential for the Commission to provide sufficient time for several rounds of information requests and for additional modeling before stakeholder comments on the Resource Plans are due. The PIOs also state that stakeholders should have the opportunity to respond to the comments made by other stakeholders. In addition, the PIOs request that the independent third-party consultant host open-source and collaborative modelling platforms so that stakeholders can test different assumptions or run their own scenarios. Pace asserts that confining stakeholder input to a public comment period on an already drafted document is insufficient, and that stakeholders must be engaged in prioritizing, defining, and accounting for the many costs and benefits of avoided gas investment.

In their reply comments, the JLDCs state that it is crucial that stakeholder participation be effective in engaging interested entities but also efficient in terms of supporting, finalizing and implementing the plan in a way that enables the LDC to continue providing safe, adequate, and reliable service. Additionally, the JLDCs suggest holding stakeholder informational sessions prior to filing their initial long-term plans. These informational sessions would address topics such as design day and design hour planning. The JLDCs recommend against the inclusion of formal discovery. They also point out that certain planning software is proprietary in nature and cannot be made public due to licensing and security restrictions. Additionally, states the JLDCs, stakeholders can ask questions in real time and follow-up as necessary to seek clarification, obviating the need for formal discovery and making the process less adversarial.

As described in the Planning Proposal, the stakeholder engagement process allows for multiple stakeholder meetings and

rounds of comments over approximately six months. In that time period, there is built in up-front four weeks prior to the technical conference for stakeholders to seek information from the LDC. Stakeholders can continue to interact with the LDC and request additional information after this initial stakeholder meeting.

This long-term planning process should be collaborative, and the Commission expects that the LDCs will be forthcoming with information and stakeholders will be reasonable in their requests. This should allow for a more fluid and timely exchange of information than occurs with formal discovery requests pursuant to 16 NYCRR Part 5. In contrast, the formal discovery process set forth in 16 NYCRR Part 5 is designed for proceedings in which parties will present their position through direct testimony and cross examination at an evidentiary hearing.<sup>17</sup> The gas system planning process we adopt in this Order will not involve the presentation of direct testimony or the cross-examination of witnesses. Accordingly, at this time, we do not anticipate formal discovery between stakeholders and the LDC. Further, we expect Staff to facilitate the meetings and assist in resolving disputes regarding requests for information. Finally, as noted above, we anticipate that all participants will learn from experience through the initial reviews conducted under this process. The Commission may modify the process to reflect such lessons learned.

The Commission augments the Planning Proposal's stakeholder engagement plan in two ways. First, we require that each LDC hold at least one informational session approximately 30 days prior to the date the LDC will file its initial long-term plan. Through these sessions interested stakeholders can

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<sup>17</sup> 16 NYCRR §5.8(a).

learn background information about the LDC's particular gas system to enable stakeholders' effective participation in the long-term planning process. Second, the Commission recognizes the value in providing for reply comments so that stakeholders may respond to the positions of each other. Accordingly, we adopt a stakeholder engagement process as follows:

Event/Deadline	Approximate Number of Days from Prior Event	Approximate Number of Days from LDC's Initial Filing
Pre-filing Educational Technical Conference		-30
LDC filing of Initial Long-Term Plan	30	0
Technical Conference	28	28
Initial Comments Due	47	75
Reply Comments Due	15	90
Stakeholder meeting(s) to reconcile different proposed solutions as necessary		
LDC filing of Revised Long-Term Plan	55	145
Stakeholder filing of Comments/Disagreement with Revised Plan	30	175
Stakeholder meeting(s) to resolve differences	25	180
LDC filing of Final Revised Plan	15	205

Following the filing of the LDC's final revised plan, the Commission has the option to take action through an order, on the plan, adopting, modifying, or rejecting it, in whole or in part. Where there is disagreement between the LDC and stakeholders regarding aspects of the final revised plan, the Commission will resolve such disagreements. Where there are no disagreements and if Commission action is not anticipated, the Director of the Office of Electric, Gas and Water will issue a letter to the LDC advising that the final revised plan is considered to be in effect.

4. Independent Third-Party Consultant

The Staff proposal included a provision for independent third-party consultant review of utility filings, to test the assumptions used by the LDCs, check calculations and analysis, suggest other solutions adopted in other States or countries, and possibly even resolve disputes between stakeholders and the LDCs related to long term plans.

The JLDCs stated that the consultant engaged to review the long-term plans should not have dispute resolution authority and that it is not clear that dispute resolution serves a purpose here. They also point out that Staff did not discuss how the costs of the consultant review would be recovered, suggesting that the long-term planning process be designated as an operational audit pursuant to PSL Section 66(19). The JLDCs claim that they may need to hire additional staff and consultants to perform advanced modelling. In their reply comments, the JLDCs add that the engagement of the consultant should be consistent with the "independent auditor" role, with the consultant reporting to Staff and subject to appropriate non-disclosure agreements to protect confidential information. In addition, the PIOs request that the independent third-party consultant host open-source and collaborative modelling platforms so that stakeholders can test different assumptions or run their own scenarios.

The Commission agrees with having a consultant independent of the LDC provide analysis of the LDC's filings. The consultant will work at the direction of DPS Staff, with appropriate non-disclosure agreements. We expect that the consultant will participate in stakeholder meetings and be able to make requests of the LDC and stakeholders participating in the long-term planning process. This will ensure that the consultant, Staff, and the Commission have a complete

understanding of any proposals. We expect that the consultant will help evaluate the economic and environmental tradeoffs associated with different pathways. Additionally, the consultant will work with the LDC to run a reasonable number of versions of the LDC's hydraulic modelling, based on the consultant's independent analysis and based on its assessment of stakeholder input. Further, the Commission finds that the consultant should not be tasked with resolving disputes between the LDC and stakeholders. We expect that Staff will facilitate stakeholder meetings and the long-term planning process in general. Staff will work with the subject LDC, stakeholders, and the consultant to encourage a productive process.

The Commission finds that the consultant selection process will generally be similar to the hiring of a consultant for operational or management audits. The process will begin with Staff issuing a request for proposals (RFP) for the review of each LDC's filing when appropriate, followed by a review of bidders and interviews. Staff will base its selection on a weighting of proposals, including the expertise of consultant staff, interviews, and costs. Unlike the process for operational and management audits, the Commission will not separately approve each consultant selection.

While the consultant will work at the direction of Staff, the costs will be paid by the LDC. Costs associated with the consultant can be deferred with recovery addressed in future rate cases. With regard to the JLDCs' statements regarding additional staffing or consultants, the Commission notes that, if an LDC considers such staffing or consultants are needed, the LDC can provide detailed information and request cost recovery in a rate proceeding.

Substantive Requirements for Long-Term Plan Filings

1. Demand Forecast

Staff proposed that the long-term plans include a 20-year horizon, including annual and peak day load and any peak hour considerations. Also, the analysis would include scenarios based on different sales forecasts, varying economic indicators, and the impact of non-traditional alternatives. Staff specified that sources of any demand increases be attributed to contributing factors like increased use from existing customers, new customers, and conversions from other heating fuels. Staff also suggested that a weather-adjusted back cast using actual weather conditions be included, to assess the load that would have been experienced under design weather conditions, and that the forecast contain geographical analysis with enough granularity to clearly identify locations of anticipated localized demand growth to allow for adequate planning. Further, Staff recommends requiring that the LDCs explicitly state the level of demand management and energy efficiency programs included in their respective baseline demand forecasts.

In its comments, Williams supports the Planning Proposal's demand forecast recommendations because they will provide a greater degree of certainty among stakeholders and facilitate a more thoughtful process.

EDF recommends that the Commission provide more specific guidance to the LDCs regarding what information should be incorporated into demand and supply forecasts to ensure that the LDCs include all internal and external programs that may influence demand and needed supply such as energy efficiency, demand response, and electrification programs that are implemented by utilities, NYSEERDA, or local governments and that these inputs be updated accordingly. EDF also recommend that

the LDCs should reflect known building electrification objectives and policies in demand and supply forecasts.

Corning highlights that the shift in load to electric heating will impact the need for winter-load following electricity assets and believes the 20-year long-term plans are too speculative and recommend a 3-year plan horizon be used. Additionally, Corning recommends that the scope and processes for smaller companies like itself should be smaller than the larger utilities. SLG believes, similar to Corning, that the 20-year long-term plans is too onerous and unlikely to produce realistic results.

The PIOs and other parties, such as Synapse, recommend that the Commission adopt their respective distinct planning processes that include and recommend updating gas load forecasting practices. Additionally, the PIOs recommend that certain criteria be included as part of demand forecasting and that the LDCs be required to "consider load forecasts that are compatible with climate mandate and current load trajectories." The JLDCs propose that a qualitative discussion of the expected sources of growth will be sufficient if quantification of the sources of growth is not available. The City suggested that LDCs be required to collect and report data on the reduction in peak demand resulting from demand-side investments.

We adopt Staff's proposed demand forecasting requirements. The proposed requirements appropriately balance the criteria that impact demand with the need to provide data to stakeholders. Our requirement that utilities include adjustments to demand forecast scenarios that include energy efficiency, electrification, demand response, NPAs, and other external impacts, will address the concern that demand forecasts reflect load trajectories that may include demand side programs taking the place of infrastructure. We appreciate the planning



processes developed by Synapse, PIOs and others, but these entities do not have an obligation to ensure reliability when an LDC's system experiences peak demand conditions. Stakeholders will be offered a process to test and question LDC planning methods. LDCs are directed to provide estimates of the expected sources of growth and/or reduction in peak demand resulting from demand-side investments; qualitative discussion is not sufficient for stakeholders who are attempting to develop options to traditional infrastructure. Additionally, as the LDCs, Staff, and stakeholders gain experience over time with these modeling processes, further changes can be considered.

## 2. Supply Forecast

Staff proposed that the supply forecast align with the demand forecast, include a 20-year horizon, and include components such as firm pipeline contracts, gas storage, peaking supplies, demand response, energy efficiency, electrification, and contingency supplies such as trucked compressed natural gas. In addition, Staff suggested that the supply forecast include enough granularity to identify geographical locations to allow for adequate transparent planning and a margin of error around forecasting to encompass changes in load growth or availability of supply. Vulnerabilities due to critical points of existing supply or delay or cancellation of new supply should be identified, as well as what levels of demand response, energy efficiency and electrification are reflected in the baseline. Lastly, Staff proposed that LDCs propose portfolios of demand response programs that include novel approaches such as rate design changes and that the LDCs quantify the amount of RNG or biogas that may be available in their service territories.

MI stated that planning analyses should address not only an LDC's ability to meet the supply needs of its firm sales customers but also the needs of its firm transportation

customers, and cautions against the potential, sudden and dramatic declines in the availability of interruptible gas service. Williams states that visibility into the composition of the supply portfolio can enable planning for potential supply gaps and system pressure constraints years earlier than the current planning process allows.

We accept Staff's proposal related to the supply forecast contained in each long-term plan. We emphasize that the LDCs' supply forecasts must be explicit regarding the level of demand-side programs included and contain demand response programs, and we encourage LDCs to pursue novel approaches such as innovative rate designs.

a. Demand Response Programs

The LDCs operating natural gas systems in New York have well-established demand response programs through the use of interruptible customers. On peak winter days the distribution system would not be able to fully support all customers, including interruptible customers. To address this, interruptible customers either stop their process loads or switch to alternate fuels. The City requests clarification that the LDCs should prioritize clean demand response programs, as opposed to demand response programs that employ alternative fossil fuels. The Commission agrees with the City's emphasis on ensuring that, when assessing a particular project's value to society, emitting resources, though novel, should not be treated as offsetting existing emitting resources. The continued presence of low-carbon fuels, themselves an emitting resource, and the role those resources play in New York's overall strategy to decarbonize is too broad to appropriately address here. We agree that lower-carbon fuels should be considered where possible. Multiple Intervenors recommends that the Commission guard against potential, sudden and dramatic declines in the

availability of interruptible gas service. We recognize the importance of interruptible customer service classes in maintaining the reliability of the gas system on peak winter days. LDCs should continue to consider the use of this demand response program to minimize the needed to build new infrastructure. However, the Commission agrees that LDCs should prioritize developing innovative clean demand response programs.

b. Availability of RNG

RNG, or biogas is still relatively new in scale and an evolving conversation in decarbonizing the natural gas system. In addition, it may have added reliability and GHG benefits if it is methane captured locally and did not have to be transported to the end user over long distances. RNG Coalition suggested the primary goal should be to ensure that renewable gases provide GHG emissions benefits compared to geologic natural gas and do so at a reasonable cost. SLG explained that RNG production from agricultural waste serves as a waste-management solution, actively sequestering methane emissions while strengthening the economic outlook for the dairy industry, which drives the North County's economy.

RNG Coalition further described the ability of all available RNG feedstocks to cover roughly 13 percent of existing U.S. gas demand as suggested by Pace, and state-specific estimates which show that 10 percent of New York's existing gas demand can be met with RNG derived from in-state organic waste feedstocks. This, according to the RNG Coalition, represents a significant decarbonization potential that should be pursued based on the system benefits provided by the alternatively sourced fuel, as well as the GHG and other environmental benefits facilitated by RNG in both the waste and energy sectors. The RNG coalition further argued that LDCs should analyze RNG supply based on a continuously updating Life Cycle

Analysis methodology, which could ultimately be employed as a standard for RNG in New York across a variety of programs.

Pace stated that while RNG may play some type of role in decarbonizing carbon intensive industrial processes or heavier categories of transportation, RNG has limited potential to decarbonize the natural gas system due to its limited resource potential, its high costs, and its environmental and human health impacts. Pace further stated the capital and operating costs associated with capturing and processing biogas, as well as the cost of delivering RNG to the end-users pose significant economic barriers to RNG.

In reply comments, the JLDCs reiterate that a statewide study examining the potential availability of low- and zero-carbon fuels both within New York State and a wider supply region would provide greater insight than having individual LDCs examine the potential for low-carbon supplies in their service territories. However, Pace opined that the LDCs have not provided any justification as to how a joint study at the state level would provide greater insight than a more detailed territory-specific assessment of RNG's resource potential. Pace further stated that, while the LDCs should each conduct their own assessments, they should employ a standardized methodology developed in conjunction with stakeholders and Staff. Pace states that stakeholders should also be afforded the opportunity to comment on both a draft and final version of the assessments. Pace also opined the total resource potential should only include RNG that is economic, and that provides environmental benefits by reducing greenhouse gas emissions as well as local air pollution.

As reflected in the many varied comments regarding the use, extent of emissions accounting, and availability of RNG, this remains a developing issue. Since this option continues to

evolve and guidance is expected from the CAC, it should remain a consideration in planning. The final recommendations from the CAC will guide how RNG will be part of the LDC's supply portfolio.

### 3. Reliability Standards

Staff proposed that the LDCs' respective long-term plans identify the methodology by which reliability will be forecast and measured, including metrics that will be tracked to identify future reliability issues. Staff also proposed that design day standards be considered in each long-term plan and re-validated in a frequency proposed by the LDC. In its comments, the City cautioned against leaving reliability standards solely to the discretion of LDCs.

The Commission notes that natural gas remains part of the State's energy mix for the time being. The CAC recognized that, during the transition from fossil fuels, the LDCs "have an obligation to continue to provide safe and reliable service..."<sup>18</sup> Regarding reliability standards, since they will be part of the long-term plans, stakeholders, including the City, will have the opportunity to question the reliability standards and suggest alternatives. Accordingly, we accept Staff's proposals related to reliability standards.

### 4. Proposed Solutions to Reliability and Meeting Demand

Staff proposed that the LDCs include capital projects necessary to remedy gaps between forecasted demand and supply in their long-term plans, as well as any reasonable NPAs, such as demand response programs, energy efficiency, and/or electrification to address gaps.

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<sup>18</sup> CAC Draft Scoping Plan, p. 266.

a. No Infrastructure Option and Non-Pipe Alternatives

Staff proposed that each utility filing contain a “no infrastructure option” in addition to any others identified by the LDCs, in which the utility would include a mix of demand response measures and other non-pipes alternatives (NPA) needed to close the gap between demand and supply. It also called for at least one contingency solution to be called upon if necessary.

In comments, Corning stated that it is interested in exploring seasonal and peak day rates as NPAs. EDF recommended that an RFP process could ensure that LDCs do not mischaracterize projects as urgent to avoid pursuing NPAs or break larger projects into smaller chunks to avoid using NPAs. EDF also suggested that long-term plans include information on RFPs issued in the last two years, pending RFPs, and anticipated upcoming RFPs. Similarly, the Institute adds that identifying issues before they become urgent should ensure they are addressed with NPAs rather than expanded fossil gas consumption. Pace suggests that LDCs target developers and customers early in the development process to consider NPAs, and that LDCs should examine existing programs that provide incentives to encourage use of natural gas to repurpose them to NPAs and work with developers to ensure that any gas-using technology is as efficient as possible.

SLG asserts that thermal energy solutions that make sense for New York City will often be inadequate to keep North Country families and businesses warm in the winter and that the high percentage of home ownership in its service territory combined with the difficult economy make it difficult to make progress toward electrification of heating in its territory. SLG also supports a full “cradle to grave” review comparing NPAs to pipeline projects which ultimately provides a total picture

of all the environmental, economic, and societal costs. MI states that NPAs may result in diminished reliability and/or increased costs to customers, and the Commission should adhere to cost causation principles in the allocation and recovery of NPA investments. New Yorkers for Affordable Energy states that prohibiting LDCs from increasing supplies while requiring them to accommodate an increase in demand is counterintuitive, and states that suggesting that NPAs can manage the supply issue is unreasonable.

We recognize that the use of NPAs instead of building new infrastructure is preferable in light of CLCPA targets. However, suggesting all new infrastructure needs or the continued maintenance of the gas system could be met with NPAs may not be possible. Potential NPAs should recognize the specific and often unique problems those solutions are intended to address. As recognized in the Commission's order in Case 17-G-0432, NPAs were unable to satisfy the full load serving capability of the traditional compressor pilot program, nor enable NYSEG to lift the moratorium in the Lansing area.<sup>19</sup> Ultimately, however, NPAs could satisfy only the immediate reliability concerns. Case 17-G-0432 is instructive of the challenges faced when transitioning away from traditional gas service. Companies will have to seek out NPAs with enough lead time to ensure meaningful market participation, and with enough detail in their requests for information or RFPs so that market participants clearly understand the needs of the customers.

Therefore, the Commission modifies the Planning Proposal with regard to the requirement that LDCs provide a "no infrastructure" scenario in their long-term plans. We require

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<sup>19</sup> Case 17-G-0432, NYSEG - Petition Regarding Tompkins County, Order Approving Petition for Non-Pipe Alternative Projects, with Modifications (issued June 21, 2021).

that LDCs shall be expected to include a "no infrastructure" scenario in their long-term plans. However, we will allow an LDC to assert that a no infrastructure scenario is not feasible for a particular project, or portion of its long-term plan. Should an LDC choose to make such an assertion, the LDC shall include sufficient documentation in its initial long-term plan filing to support that assertion. We expect Staff, the selected consultant, and stakeholders to vigorously test such assertions and the entirety of the LDCs' long-term plans.

b. NPA Screening Process

In the Planning Proposal, Staff also identified a two-prong screening approach for NPA evaluation in place of traditional capital projects. Projects that address immediate threats to public safety or system reliability or where construction is expected to commence in less than 12 months would be exempted from consideration for an NPA. Staff encouraged merging retirement of leak-prone pipe with NPAs. Staff also suggested that a comprehensive review be performed for larger projects, costing more than \$2 million, with a full-scale solicitation of NPA followed by a BCA of potential solutions. Less costly projects would utilize an expedited standardized review approach with a streamlined economic and technical analysis and take advantage of known alternative solutions with identifiable costs. Staff recommended that the dollar threshold between the two tracks be adjusted accordingly for each LDC, and that the LDCs should propose the dollar threshold they recommend as appropriate for their operations in their comments.

In its comments, Pace expressed concern that the streamlined process may lack transparency and be based on cost assumptions that will ultimately serve as an impediment to NPA



deployment. Consequently, Pace recommends that the monetary threshold be lowered.

Creating a streamlined process for smaller projects is meant to address low-hanging fruit with market-tested solutions. This could be in the form of targeted demand response measures or beneficial electrification in new home construction. These types of projects would never be allowed to bypass traditional reliability and resiliency standards or relieve the LDCs of their obligation to be transparent when spending ratepayer funds. However, the Commission finds that a uniform capital cost demarcation between small and large projects likely oversimplifies the complexities of engineering traditional solutions in disparate geographic locations and for myriad customer classes. Therefore, the Commission directs each LDC to file, within 90 days of the date of this Order, its proposed definition of what constitutes a large or small project with respect to costs. The LDCs shall clearly explain their reasoning and show how they would apply such criteria to their long-term plans.

c. Leak Prone Pipe

Many comments addressed the issue of LPP replacement. The City requests that the Commission require LDCs to go beyond identifying NPA opportunities for LPP retirement and propose opportunities to strategically retire gas assets in their long-term plans in a way that allows for a managed and cost-effective reduction in gas use. The City suggests that the LDCs make public areas of the remaining gas system suitable for private and public development of district geothermal alternatives. The PIOs believe that a portfolio approach should include funding for geographically targeted beneficial electrification to strategically decommission sections of the LDCs' gas systems. The PIOs also support requiring LDCs to identify and make

available to clean heat developers the necessary data to enable them to develop demand-side solutions. This information would include identifying specific areas where LPP segments exist that could be targeted for retirement and electrification of customer load and locations where infrastructure projects may be needed.

EDF recommended the formation of a stakeholder collaborative to identify segments of LPP that can be decommissioned. The JLDCs disagree that a stakeholder collaborative is the appropriate venue for safety-related operational and reliability decisions, and state that they will continue to make specific proposals regarding these matters in their respective rate cases.

The Commission agrees with Staff's proposal and requires that LDCs identify, in the annual reports required by this Order, the locations of specific segments of LPP that could be abandoned in favor of NPAs and where infrastructure projects may be needed in the near future to maintain reliability. The Commission encourages LDCs to take a "neighborhood approach" and work with local groups and State agencies on a comprehensive program that simultaneously removes leaking or leak-prone infrastructure and employs programs such as weatherization and demand response along with electrification. We further encourage the LDCs to combine this effort with special programs for LMI customers or disadvantaged communities. We agree that LDCs should be strategic when planning the removal of LPP and plan in a cost-effective manner that reduces unnecessary investments.

d. Impacts on LMI Customers and Disadvantaged Communities

A number of commenters addressed LMI customers and disadvantaged communities. EDF states that unmanaged contraction of the gas system would be especially bad for low-income customers. RHN explains the indoor air pollution

associated with natural gas combustion and that low-income populations and communities of color may be disproportionately disadvantaged by it. The City and others mention the possibility of customers leaving the gas system and increasing cost burdens on remaining gas customers. The City adds that investments identified in long-term plans should document impacts on LMI customers/disadvantaged communities. Corning and Consumer Energy Alliance stated that some customers cannot afford to electrify their heating load. EDF suggests electrification of entire blocks or subdivisions may be a "better bang for the buck."

These comments raise important points. Accordingly, in their long-term plans, LDCs shall identify the disadvantaged communities in their service territories, explain the impacts to disadvantaged communities of any proposed projects, and explain how the LDC will ensure that an appropriate portion of the benefits of any proposed NPAs such as energy efficiency, demand response, and electrification accrue to disadvantaged communities.

#### NPA Framework

Staff proposed that the LDCs have an NPA Framework within which to consider potential NPAs, which would have three components: (1) NPA suitability criteria; (2) an NPA cost recovery procedure; and (3) an NPA incentive mechanism.

##### 1. NPA Suitability Criteria

The Planning Proposal recommended that each LDC file suitability criteria with its initial long-term plan. These criteria would then be reviewed every three years, when the LDC files a new long-term plan.

The PIOs commented that the suitability criteria should be consistent across utilities to the extent practicable,

and should presume suitability for NPAs absent a compelling demonstration that NPAs are infeasible for a particular category of projects. Pace adds that evaluation criteria for NPAs should include their ability to cost effectively correct reliability issues or address risks in the distribution system without adding to system capacity or unreasonably extending the useful life of infrastructure assets.

Though consistency across utilities is a laudable goal, it does not reflect the uniqueness of the LDCs' service territories. We require the LDCs to adopt a consistent lead time for NPAs, or time between the identification of the need and when a traditional solution would be in service. Other more LDC-specific considerations, such as the size and cost of the traditional solution, are more likely to vary across service territories. Moreover, consistency for consistency's sake may not benefit ratepayers. Therefore, the Commission directs each LDC to submit proposed NPA suitability criteria within 90 days of the effective date of this Order.

## 2. NPA Shareholder Incentive Mechanism

The Planning Proposal recommended that the Commission require the LDCs to file, jointly if possible, a proposed NPA incentive mechanism. In comments, MI argued that insofar as the Commission does employ incentives, they should be very constrained in magnitude to minimize potential customer rate impacts and be limited to rewarding performance that truly is exceptional or superior. MI further stated if an NPA that would satisfy the identified system need is found to be demonstrably more beneficial than a comparable infrastructure project, it is not clear why the LDCs should require, or be entitled to, customer-funded financial incentives to pursue the more beneficial option. If financial incentives are adopted for superior performance, MI suggested the Commission also adopt

financial penalties for unsatisfactory performance. Further, MI stated that incentive costs, if any, should be included in any BCA analysis and rate impact calculation. In reply comments, MI opposed the proliferation of shareholder incentives because of the high potential for negative consequences to customers, and the current regulatory cost model already ensures that LDCs receive adequate compensation for investments through existing rate recovery mechanisms. To the extent the Commission deems it undesirable to penalize shareholders for outcomes arguably beyond an LDC's control, then forcing customers to fund incentives using the same outcome-based criteria similarly should be undesirable. Pace in reply comments supports a share of the savings mechanism for NPAs, but encourages the Commission to limit it to performance above and beyond performance the Commission mandates for the LDCs, matched with penalties for not meeting performance mandates. MI recommends capping the shareholder portion of the shared savings, as savings from NPAs could be quite substantial.

Incentives necessarily play a role in utility regulation and has many proven successes over the years. In the BCA Framework Order, the Commission already identified that the costs to ratepayers of utility shareholder incentives that are tied to projects evaluated using the BCA framework should be considered when determining the cost effectiveness of such projects and programs.<sup>20</sup> The Commission will not modify that requirement here, nor will it institute additional performance penalties. We note that performance penalties are largely covered through long-standing reliability and resiliency metrics. The Commission reaffirms here that if an LDC reduces its traditional plant-in-service through an NPA, and the project

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<sup>20</sup> BCA Framework Order, Appendix C, p. 19.

or portfolio is BCA positive using the SCT, shareholders are afforded the opportunity to retain a share of the net benefits. The Commission shares Pace's concerns that a strict cap on the amount is needed, especially if the majority of benefits result from emissions reductions. To allow for further consideration of an appropriate NPA incentive mechanism, the Commission directs the LDCs to file, jointly if possible, a proposed NPA incentive mechanism within 90 days of the effective date of this Order.

3. NPA Cost Recovery Procedures

The Planning Proposal recommends that the Commission require the LDCs to file, jointly if possible, proposed NPA cost recovery procedures. Currently the LDCs set cost recovery procedures through the rate case process or as part of separately petitioned NPA case. No comments addressed this specific issue. Accordingly, we require the LDCs, jointly if possible, to file proposed NPA cost recovery procedures within 90 days of the effective date of this Order.

Comparison of Alternatives

1. Benefit Cost Analysis

Several comments suggested revisiting the BCA Framework Order, which we will address here. The Institute contends that a reexamination of the BCA Framework Order would allow direct comparison of electric and gas options, which presently occupy different regulatory silos. The PIOs argue the BCA should include three additional items in the list of benefits and costs: (1) the wholesale gas market price suppression effects, (2) the impacts of increased or decreased risks, and (3) the costs and benefits of indoor air quality. Conversely, the JLDCs in their reply comments stated they did not believe that there is a need to reopen the BCA Framework

Order or to establish a separate proceeding to develop a gas BCA framework. MI opines that a BCA ratio with some margin above 1.0 should be considered to the extent feasible, and the cost of NPAs should be recovered over time periods reasonably comparable to the alternative infrastructure projects. In reply comments, Pace argues that analyzing NPAs at the portfolio level through the lens of an SCT will provide greater insight as to the benefits of NPAs. Pace also explains that the current planning process greatly understates the negative externalities associated with gas investments. Pace stresses the importance of developing a robust BCA that considers not only economic and environmental concerns associated with any new infrastructure investments, but also the health and equity impacts to realize the true cost effectiveness of NPAs.

This proceeding does not seek to modify previous Commission orders related to benefit cost analyses. To the extent commenters seek to expand the scope of the conclusions of the BCA Framework Order, or modify the principles laid out therein, the Commission rejects such proposals. The Commission finds persuasive the reply comments of the JLDCs, who oppose the modification of the conclusions of the BCA Framework Order through this Order or establishing a separate generic proceeding at this time. The Commission recognizes that some of the metrics discussed in the BCA Framework Order, such as forecasted electricity and capacity prices, do not have a clear corollary in the gas industry. Therefore, the Commission suggests that all interested stakeholders participate in the Avoided Cost of Gas (ACG) "best practices" working group discussed later in this Order.

2. Estimated Bill Impacts and Net Present Value of Costs of Each Alternative

The Planning Proposal recommend that the LDCs present an annual bill impact and net present value for both a traditional solution and any alternatives. Staff provided a list of items to be considered in bill impact analyses. Further, Staff recommended that the LDCs provide bill impacts should be provided for various customer groups. Staff also recommended requiring the LDCs provide an alternative bill impact analysis that assumes that the full value of any new gas assets is depreciated by 2050.

The PIOs state that the bill impact analyses should properly account for the costs of complying with CLCPA. The PIOs disagree with Staff's proposal that the LDCs use their weighted average cost of capital as a discount rate for NPV analysis. Instead, the PIOs recommend using a societal discount rate. In reply comments, Pace states that screening decisions would be weighed heavily against pursuing NPAs if the LDCs assign benefits beyond 2050 to infrastructure projects. Pace expresses concern with the use of a net present value as a pre-screener for a full BCA. The JLDCs state that bill impact analyses for small projects may not provide meaningful insight. Additionally, the JLDCs assert that Planning Proposal includes a specific weighted average cost of capital for use in their bill impact and NPV calculations that is inconsistent with the BCA Framework Order.

The Commission finds that the Planning Proposal recommended a reasonable approach. It is important that, when reviewing an LDC's long-term plan, stakeholders will have information on the costs to be imposed on ratepayers by various alternative solutions to reliability issues. Regarding the JLDCs' objection to using the pre-tax weighted average cost of capital (WACC) is to be used as the discount rate, it is



incorrect. The BCA Framework Order explains out how to treat transfer payments such as taxes. This results in using the pre-tax WACC for SCT and the post-tax WACC for the Utility Cost Test and the Ratepayer Impact Measure.

### 3. Emissions Impacts

The Planning Proposal noted that there might be a stringent test for new infrastructure, given its long service life and its apparent contradiction with meeting GHG emission reduction goals. Staff proposed requiring that the LDCs report the GHG emissions associated with all proposed solutions in their long-term plans to ensure transparency when considering choices among alternative solutions.

EDF commented that all LDCs should use a common methodology to calculate GHG emissions and should project overall GHG emissions out to 2050. In addition, EDF offers a tool for the calculations, which could also be used by those responding to RFPs to calculate the emissions from their projects. EDF proposed that the LDC would justify choosing any options that are not among the lowest GHG emitters. Regarding leaks on the LDCs' distribution systems, EDF suggests that the Commission develop a "Super Emitter Program" aimed at reducing leaks, and also guide the design of leak incentive metrics to facilitate the use of best available technologies.

The Institute goes further to say that the LDCs should be required to consider indoor emissions and improved air quality resulting from reduction or elimination of natural gas usage. Pace suggests that, to meet CLCPA targets, gas LDCs must start reducing their GHG emissions by about six percent per year to meet the 2030 target of a 40 percent reduction against 1990 levels and about three percent per year to meet the 2050 target of an 85 percent reduction against 1990 levels. RHN asserts that, because of methane leaks, the true climate impact of

burning gas is double the emissions at the flame tip, and that customers who convert from oil to gas often “de-electrify” other uses such as hot water or cooking, which exacerbates the GHG impact of oil-to-gas conversions.

The JLDCs deny the need for stand-alone analysis of GHG emissions, since emissions impacts of NPAs are already part of the BCA. SLG states that, since a higher percentage of the residents in St. Lawrence County heat their homes with wood, oil, and kerosene than the State average, including natural gas as a potential solution could reduce the carbon footprint. MI states that if manufacturers leave New York State for places with less stringent environmental regulations, it might result in certain GHG emissions increasing.<sup>21</sup> The RNG Coalition states that the primary goal should be to ensure that renewable gases provide GHG benefits compared to geologic natural gas and do so at reasonable cost.

The Commission adopts Staff’s proposal that the LDCs report the GHG emissions from all solutions, both supply-side and demand-side. This is necessary for transparency when considering choices among alternative solutions. While the amount of GHG emissions is not the only criteria to be considered when comparing alternative solutions, it is an important one. The LDCs must provide a calculation of the GHG emissions from each scenario they submit in addition to including carbon emissions in the BCA analysis as proscribed in the BCA Framework Order. In addition, we reiterate that each LDC’s long-term plans must contain at least one scenario that

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<sup>21</sup> The CAC notes this as well on page 181 of the Draft Scoping Plan.

addresses reliability and demand needs through a no infrastructure option.<sup>22</sup>

#### Utility Incentive Mechanisms

The Planning Proposal listed several existing and potential incentive mechanisms, including: the share the net societal benefits incentive for NPAs; earnings adjustment mechanisms (EAMs) such as share the savings of energy efficiency; peak heating load reduction; per customer and per-class revenue decoupling mechanisms; and incentives for GHG emission reductions or for sourcing RNG/biogas. Staff also noted an issue regarding whether and how gas-only LDCs can be incentivized to encourage electrification measures.

MI addressed EAMs in its reply comments, suggesting EAMs should be limited to rewarding exemplary performance and to encourage actions the Commission could not otherwise order LDCs to take. Rather than offering LDCs greater incentives at customer expense, MI argues, it would be more equitable to utilize penalties for that purpose because if the unsatisfactory performance exists, MI contends the penalties would compensate customers for a level of service paid for in base rates that the LDC did not provide. The PIOs strongly caution against over creating incentives or EAMs for GHG emission reductions. Furthermore, the PIOs argue, the Commission should establish a core set of EAMs in a generic docket, to be adopted by all the utilities, but individual utilities should be able to propose additional EAMs if warranted. The PIOs also recommend that the Commission establish an annual process to review all the utility EAMs on a statewide basis.

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<sup>22</sup> As discussed above, if an LDC asserts that it cannot provide a no infrastructure option for a particular need, the LDC must provide sufficient information to support that assertion.

With respect to RNG incentives, the JLDCs comment that an LDC that develops RNG projects should be eligible for incentives comparable to those for NPAs. The JLDCs also advocate for EAMs for achieving targets related to reduced carbon gas supplies, state that the Commission should continue to support performance incentives for achieving targets such as GHG emission reductions and gas peak reductions, and should develop principles for EAM incentives, with specifics worked out in individual rate cases. In reply comments, the JLDCs repeat their contention that efforts to facilitate the development of RNG and other low-carbon fuel resources should, at a minimum, be eligible for incentives comparable to those offered for other non-traditional solutions. These incentives, JLDCs argue, should be considered in the context of each LDC's rate cases.

The Commission has employed incentive mechanisms in many areas of regulation. For example, positive revenue adjustments associated with LPP removal, reducing leak backlogs, and improving damage prevention have led to significant statewide improvements in these metrics. The Commission will not establish a separate generic docket to address EAMs at this time. EAMs can continue to be considered in individual rate cases.

#### Peaking Services

Some LDCs rely heavily on peaking, or delivered, services to meet peak day load. That strategy carries an associated risk, given that such services rely on assets controlled by third parties with no obligation to continue to offer them to New York's LDCs. Accordingly, the Order Initiating Proceeding required the LDCs to propose criteria for reliance on peaking services.

In the 2020 Report, the JLDCs proposed a derating schedule that would rate peak day assets based on historical

data and other relevant information. They suggest that, as part of individual LDC long-term plans, the LDC would propose a derating assumption within the relevant range that reflects their circumstances and particular attributes of each supply-side and demand-side resource.

In the Planning Proposal, Staff explained that the JLDCs' peaking services proposal in the 2020 Report lacked sufficient detail. Thus, Staff proposed to gather data on this subject and make recommendations for establishing generic standards in the future. Finally, Staff recommended that, until the Commission establishes generic standards, each LDC should be required to state how much it will rely on delivered services and other peaking assets and justify those decisions.

Williams commented that it concurs with Staff's assessment that reliance on peaking services can have certain risks and often leads to higher costs to the end user.

Staff's proposal is reasonable, and we direct the LDCs to state in their respective long-term plans how much they rely on delivered services or peaking assets and the justification supporting the need for and reasonableness of such supply solutions.

#### Summary Investment Plan

Staff proposed that each long-term plan include the likely and preferred portfolios of investments, summarizing the cost and bill impacts and the emissions impacts from the preferred option, the no-infrastructure option, and any other options suggested in the long-term plan. No comments addressed this proposal. We find it reasonable and direct that each LDC include a summary investment plan in its long-term plan filings.

Public Availability of Information

Staff suggests that utilities can file their long-term plans without the need to seek confidential treatment or make redactions, noting that KEDNY and KEDLI filed their recent long-term plans in Case 19-G-0678 without seeking confidential treatment for any portions of them.<sup>23</sup>

EDF comments that LDCs should limit the amount of data for which they request confidential treatment in their long-term plans. Further, EDF recommends allowing stakeholders to execute non-disclosure agreements to gain access to confidential data. The PIOs agree that all stakeholders would benefit from maximizing transparency and minimizing the disputes regarding the confidentiality of information. The PIOs also recommend requiring the LDCs to use open-source and collaborative modeling platforms, as well as open data platforms so that stakeholders can test different assumptions or run their own scenarios. In their comments, the JLDCs state that certain information related to procurement may need to be kept confidential to ensure future procurements remain competitive. The JLDCs also note that their long-term plan filings may include customer specific data.

As explained in the Order Initiating Proceeding, the current natural gas planning process employed by the State's LDCs is opaque. Stakeholders have access to very little information. At the same time, we recognize that the LDCs' systems contain information, such as that regarding critical infrastructure, for which confidential treatment is appropriate for security reasons. Accordingly, we will not require the LDCs to use open-source or collaborative modeling platforms or allow stakeholders to model scenarios of their systems. Additionally,

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<sup>23</sup> See Case 19-G-0678, supra, Natural Gas Long-Term Capacity - Second Supplemental Report (filed June 30, 2021).

the Commission recognizes that the LDCs have the ability to request confidential treatment for certain information.

The Commission finds, however, that successfully engaging with stakeholders in this gas system planning progress requires the LDCs to provide as much information as possible without requests for confidentiality. Further, we note that non-disclosure agreements between the LDCs and stakeholders may provide a reasonable avenue to allow stakeholders access to information that may require confidential treatment. As discussed above, Staff will facilitate the gas system planning process. Any issues regarding confidential treatment of information will be addressed by the appropriate Staff and the Department Records Access Officer.

#### Affiliate Transactions

In the Planning Proposal, Staff notes that the issue of whether an LDC should contract for capacity with an affiliate in the future is different than whether they have done so in the past, and that, going forward, such arrangements should receive more scrutiny. Staff proposed that LDCs should present alternatives to all infrastructure projects, whether they are affiliated with the LDC or not. Staff points out that all gas capacity and supply contracts entered into by LDCs must be filed with the Secretary to the Commission, which allows for a prudence review of the contract.

EDF comments that the Planning Proposal does not sufficiently address the potential for affiliate abuse. EDF requests that the Commission enhance its before-the-fact review of interstate capacity contracts to ensure prudence before they are signed. EDF also believes this would help FERC decide whether there exists a true need for interstate pipeline projects. Further, EDF continues, the Commission should update its filing and review process for affiliate contracts, and, at a

minimum, should require that an LDC disclose whether it has an affiliated relationship with a contracting party. If so, the Commission should open a new docket to examine the contract.

The PIOs suggest that the Commission have an affiliate relationship docket for each LDC, in which the LDC discloses all of its affiliates and files any contract for which it has a relationship with the contracting party. The PIOs also point out that LDCs enter into precedent agreements, used to justify new pipelines to FERC, years in advance of any transportation costs being passed on to ratepayers.

The JLDCs state that existing controls protect against affiliate abuse. Further, the JLDCs assert that any changes made to existing controls only apply prospectively to new contracts.

Many of the pipelines that serve New York State were built decades ago, by companies that provided bundled supply and capacity services to LDCs, and in many cases the same corporation owned the assets from the wells to the city gate. In some instances, they also owned the distribution companies. In the late 1990s, FERC unbundled the natural gas industry and the pipelines became open access transportation companies, with affiliates that included distribution companies. These affiliate relationships were created by FERC's unbundling of the natural gas markets, and in many cases they still exist today. Both FERC and this Commission have protections in place to ensure that these affiliate relationships do not harm customers.

In addition to protections already in place, we require the LDCs to identify any affiliate relationships with any developer of new pipeline capacity, prior to entering into a precedent agreement, as part of each long-term plan filing or annual report. This additional requirement, together with the robust examination we expect of the LDCs' long-term plans should



appropriately guard against unreasonable effects of any affiliate relationships.

Alternative Energy Sources

In the Planning Proposal, Staff recommended that LDCs quantify the availability of RNG or biogas in their service territories as part of the supply forecast in their respective long-term plans, either existing or potential, including sources such as landfills, wastewater treatment plants, and anaerobic digestion of waste or manure.

Many comments favored including RNG as part of a LDC supply portfolio. The Business Council states that alternative energy sources, including RNG and hydrogen, should have a place in the mix. The Consumer Energy Alliance states that an "all of the above" energy mix assures safe, reliable, cost-effective service. Corning states it is exploring RNG. SLG asserts that use of RNG and hydrogen will enable deeper and faster decarbonization, especially for hard-to-decarbonize sectors, than electrification alone. SLG also states that RNG production from agricultural waste sequesters methane emissions while strengthening the economic outlook for the dairy industry in the North Country. The RNG Coalition adds that RNG can serve in tandem with technologies that require time to scale and achieve production cost reductions, such as electrolytic hydrogen, or that involve the turnover of long-lived capital stock, like electrification. The RNG Coalition also states that some RNG projects capture and destroy a greater amount of GHG than are emitted during the fuel's combustion, making it a fuel with a carbon-negative impact. The JLDCs comment that, in the same way that the electric grid allows transporting increasingly low-carbon electrons, the gas systems should be viewed as a way to enable transporting increasingly low-carbon molecules.

In their reply comments, the RNG Coalition states that there may be alternatives that utilize portions of the existing gas systems, thereby obviating the need to depreciate certain assets by 2050. Additionally, explains the RNG Coalition, a diverse fuel mix would send positive market signals to existing and prospective businesses while stimulating investment. They add that estimates show that 10 percent of New York's existing gas demand can be met with RNG derived from in-state organic waste feedstocks. In addition, the RNG Coalition states that RNG can be cost-effective, especially if the social cost of carbon is incorporated due to the abatement of methane emissions. They refer to studies that claim that landfill gas collection systems are highly inefficient, with uncontrolled emissions in the range of 15 to 25 percent of biogas produced, but seek to clarify that if carbon capture technologies are employed, RNG can be carbon neutral or even carbon negative. The JLDCs suggest that a wider supply region may be more beneficial than just determining what is available in each service territory.

Many other commenters expressed concern regarding RNG and biogas. The PIOs mentioned the risk that environmental attributes would be double counted. The PIOs also state that if an LDC incorporates RNG into its distribution system but does not retain the environmental attributes, that should be considered the same as fossil gas for purposes of a BCA. Pace suggests the need to establish separate standardized requirements for synthetic gas proposals. EDF comments that LDCs must procure renewable energy credits to claim GHG emission reductions from nontraditional methane. Pace recommends that RNG should be reserved for difficult to electrify sectors only, which the PIOs support, further stating that the cost of delivering RNG poses significant economic barriers to RNG.

Multiple parties suggested that the Commission or other state agencies should form technical working groups to consider a definition of RNG and related issues, including the JLDCs and PIOs. The RNG Coalition recommends requiring a registry to track environmental attributes. The JLDCs support the establishment of an attributes trading program, and the RNG Coalition supports the procurement of environmental attributes as a necessary step for claiming the environmental benefits from RNG use.

Williams noted the potential use of hydrogen in the future and asserted that the existing pipeline network could transport it to keep costs low for customers. The RNG Coalition states in reply comments that RNG and green hydrogen are renewable thermal energy sources by definition.

RNG was one of the most commented on topics in the Planning Proposal. We note that KEDNY has accepted RNG from the Fresh Kills landfill on Staten Island for many years and is currently developing a project to produce RNG at the Newtown Creek wastewater treatment plant. Other LDCs are developing projects or have recently allowed RNG, especially from dairy farms upstate, to be incorporated into their distribution systems. To date, none of these LDCs have retained the environmental attributes. We recognize that revenues from the federal and California programs that encourage RNG use in the transportation sector can be a significant new income source for dairy farms. At this time, RNG projects do not provide a significant source of natural gas to help meet peak day needs in New York State. RNG cannot currently compete with fossil natural gas in terms of price and the concern about affordability is real. However, if RNG could be introduced into the distribution system at a point of constraint and help preserve reliability, it may be entitled to a price similar to

that paid for peaking/delivered services, which are generally more expensive than baseload supplies. We adopt the provision of the Planning Proposal that each LDC should identify the potential for use of RNG in its long-term plan, and will defer, for now, the larger questions of studies or trading programs for a future phase of this proceeding.

Compliance with CLCPA §7

CLCPA §7(2) requires that the Commission consider whether its decisions are inconsistent with or will interfere with the attainment of the statewide GHG emissions limits established in Environmental Conservation Law Article 75. Additionally, CLCPA §7(3) requires that the Commission ensure that its decisions do not disproportionately burden disadvantaged communities. Further, CLCPA §7(3) requires that the Commission prioritize reductions of GHG emission and co-pollutants in disadvantaged communities.

This Order complies with CLCPA §§7(2) and (3). With regard to §7(2), this Order establishes a foundational process through which the Commission can act to ensure that the LDCs reduce GHG emissions in accord with the CLCPA and in contemplation of the CAC's additional work product. The gas system planning process adopted by this Order will ensure that the Commission, Staff, and stakeholders have the information necessary to appropriately evaluate the potential GHG emissions of LDCs' long-term plans and alternatives. With regard to §7(3), the gas system planning process adopted by this Order will provide the Commission with the necessary information to assess the potential impacts of LDCs' long-term plans and alternatives, both benefits and burdens, on disadvantaged communities.

Next Steps

The Order Initiating Proceeding identified issues that remain to be addressed in the Gas Planning Proceeding. Additionally, several commenters offered suggestions for actions that were outside the scope of the Planning Proposal or for additional issues that the Commission could consider within the Gas Planning Proceeding. Below, we provide guidance on the next steps we expect to occur in the Gas Planning Proceeding.

1. Case 12-G-0297 - Gas Expansion Proceeding

In 2012, the Commission instituted a proceeding to “examine our policies concerning the use of natural gas and consider whether we should take steps to foster its use through expansion of the natural gas delivery system or otherwise.”<sup>24</sup> On June 5, 2013, Staff released a proposal regarding the “100-foot rule,” to clarify what facilities new natural gas customers are entitled to pursuant to 16 NYCRR Part 230 and asking LDCs to provide information on aspects of new gas customer attachments. In the ensuing months, it became clear that New York would be taking steps to address climate change and reduce GHG emissions which would not include perpetuating the use of fossil fuels. As a result, Staff’s proposal in that case was never acted upon.

EDF, among other commenters in the Gas Planning Proceeding, has requested in this proceeding that we close Case 12-G-0297. EDF’s request is granted, and Case 12-G-0297 is closed.

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<sup>24</sup> Case 12-G-0297, Proceeding on Motion of the Commission to Examine Policies Regarding the Expansion of Natural Gas Service, Order Instituting Proceeding and Establishing Further Procedures (issued November 30, 2012).

2. Regulations Regarding the Extension of Gas Service

Sixteen NYCRR Part 230 sets forth the rights and responsibilities of gas utilities and applicants for gas service regarding the extension of facilities. Specifically, Part 230 addresses what facilities new natural gas customers are entitled to receive at no charge (entitlements) and how the charges should be calculated for facilities in excess of the entitlements. Sometimes colloquially referred to as the "100-foot rule," it provides that residential customers are entitled to 100 feet of natural gas service line and 100 feet of main extension, while non-residential customers are entitled to 100 feet of main extension and any portion of their service line which lies within a public right-of-way.

Several commenters have suggested modifying Part 230 to eliminate the entitlement, including EDF and RHN. The latter also asks that we require utilities to report the costs of the 100-foot rule to ratepayers in an accessible format.

We recognize that continued extension of natural gas mains may be contrary to achievement of GHG emission reduction targets. Accordingly, we direct each LDC to file a report on the costs of the 100-foot rule within 90 days of the issuance of this Order. The reports shall include the following information: how many natural gas service lines were installed for new customers each year for the last five years (2017-2021); the average length of new service lines, broken down by residential and non-residential customers, for each of those years; and the average per foot cost of installation for residential and non-residential natural gas service lines for each of those years. In addition, the LDCs shall provide the number of new customers were attached in each of the five years, distinguishing between residential and non-residential customers, and the annual dekatherm load increase those customer

additions represent. We expect that Staff will develop a proposal for revisions to Part 230 within 60 days of receipt of the LDCs' reports regarding the costs of the 100-foot rule.

### 3. Depreciation

The Staff Proposal recommends that the LDCs provide an alternative bill impact analysis that assumes the full value of any new gas assets is depreciated by 2050 as part of the long-term plan filing. EDF urged the Commission to require each utility to do a new depreciation study that accounts for CLCPA on average service lives, to be filed in a rate case or the long-term plan. The City requests that we initiate a generic statewide depreciation study to inform gas planning. The City's proposed study would reflect the CLCPA's emission objectives, look at methods used in other jurisdictions and sectors, and identify novel approaches being developed and analyzed within academic or industry settings. RHN states that the Commission should take on depreciation issues in a much more comprehensive and direct way. Pace comments that accelerating depreciation would likely increase the BCA results of NPAs. Pace further states that assuming full depreciation of new gas infrastructure by 2050 should be the default. The PIOs state that depreciation schedules that are longer than the actual operating life of an asset will unduly reduce the cost of that asset and result in a skewed BCA result in favor of that asset.

Conversely, the Business Council states that there may yet be a future role for infrastructure that currently carries pipeline gas. MI and the JLDCs urge the Commission to limit any consideration of the accelerated depreciation of gas assets to informational purposes only. MI adds that infrastructure projects fully depreciated by 2050 will appear more costly than currently is the case, thereby improving the relative performance of NPAs in such evaluation. The JLDCs add that the

Commission should continue to use rate cases to act on matters related to depreciation, noting that the CAC has not addressed the issue of early or accelerated depreciation of natural gas infrastructure.

We recognize that the role of natural gas infrastructure in a low-carbon future has yet to be determined. NYSEG and RG&E recently filed an analogous depreciation study in compliance with their most recent rate plans.<sup>25</sup> Their study featured various scenarios to modify depreciation, including a business-as-usual case, an updated study that does not incorporate the impacts of CLCPA, shortening the average service lives of certain plant accounts by five years, shortening those lives by ten years, an equal life group procedure, and recovering the costs of all assets by 2050. Rate impacts for the latter scenario are the highest, resulting in increases of between nine and 15 percent.

We recognize that failure to fully depreciate assets in a timely fashion while LDCs still have robust customer bases may lead to stranded costs. The Commission thus agrees with those commenters calling for a study that examines both the structure of accelerated depreciation and its potential impacts on ratepayers. The Commission thus directs the LDCs to file depreciation studies with the following scenarios: (1) a scenario that fully depreciates all new gas plant installed beginning in 2022 by 2050; (2) a scenario that fully depreciates all gas plant by 2050; and (3) a scenario that assumes 50 percent of gas customers exit the gas system by 2040 and that 10 percent of gas customers remain after 2050. For each scenario, the LDCs shall include the revenue requirement impact and

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<sup>25</sup> Cases 19-G-0379 and 19-G-0381, NYSEG and RG&E - Rates, Depreciation Study: Potential Impacts of Climate Change Policies and Laws (filed March 15, 2022).



approximate bill impacts for residential and commercial customers. The LDCs shall file 180 days after the issuance of this Order. These studies will be able to inform future discussions of how best to recover the costs of assets and reduce potential stranded costs in the LDCs' respective rate proceedings. The Commission is sensitive to imposing burdensome requirements on Corning and SLG, which have fewer resources than the other larger LDCs, and they are exempt from filing these depreciation studies. We expect that, if Corning and SLG are required to conduct such studies in the future, they will be able to apply lessons learned from the studies filed by the other LDCs and from subsequent related actions.

4. Avoided Cost of Gas Working Group

The Planning Proposal recommended that the Commission establish an ACG "best practices" working group, open to all interested stakeholders but requiring participation of the LDCs, Staff and NYSERDA. The Planning Proposal identified several of the known differences between electric and gas BCAs but maintained that the current BCA Framework Order applies wholly to NPAs, and that there should not be new cost or benefit categories. The Planning Proposal also acknowledged the need for more work in refining how certain indices are calculated, but also explained that work around demand response, energy efficiency, and NPAs has already utilized the BCA Framework Order to arrive at reasonable cost and benefit estimates. Principally, the Planning Proposal identified the lack of a centralized or transparent clearing house for commodity or capacity similar to what is done at the New York Independent System Operator, the lack of sufficiently disaggregated marginal cost of service studies, and what environmental or other factors should be applied to nontraditional methane to qualify a source

as "renewable gas." The Staff Proposal recommended addressing these issues through the ACG "best practices" working group.

Many comments addressed this recommendation, representing a wide array of viewpoints proffering many solutions. While comments were at many times at odds with each other regarding specific calculations, no party suggested that an ACG working group would not be beneficial. The JDLCs in their reply comments suggested that Staff issuing a proposal on this subject would be more beneficial than a working group.

This uniformity in acknowledging the need for continued work regarding avoided gas costs reinforces the need to address these issues in a deliberative fashion. Accordingly, the Commission finds that establishing an ACG working group, and leveraging the significant work done to date, will be integral to producing accurate estimates of costs and benefits going forward. The Commission directs Staff to convene this group within 60 days of the issuance of this Order. This working group will address many of the aforementioned issues including, but not limited to: commodity, peaking, and pipeline capacity costs; the marginal cost of gas related to transmission and distribution facilities; gas for company use; and system losses. The Commission expects the ACG working group to produce a report outlining settled issues and, if necessary, recommendations regarding future work. The Commission expects that the working group will produce a report describing recommended calculations and specific elements for each LDC, which will then be issued for comment from stakeholders.

##### 5. Topics for Future Phases

The Commission recognizes that there are issues, such as the role of hydrogen in decarbonizing the natural gas distribution system, rate design that can contribute to demand response, and the cost of electrification of heating load for

residential and commercial customers that warrant further investigation. The CAC is expected to finalize its recommendations by 2023, and some of the CAC's work will necessarily inform this proceeding. For that and other reasons we will consider future phases of this proceeding when more guidance is available.

#### CONCLUSION

By this Order, the Commission adopts a modernized gas system planning process. This new process encourages and enables stakeholder participation. Further it provides a foundation upon which we can take further actions to ensure that New York continues to reduce GHG emissions in the face of climate change. Further this new paradigm improves the Commission's, Staff's, and stakeholders' ability to scrutinize LDCs' long-term gas system plans to ensure those plans are cost-effective for ratepayers and consistent with state policies. By this Order we also direct the next steps in this proceeding, including assessing potential changes to regulations regarding the extension of gas facilities to new customers and the depreciation of gas infrastructure.

#### The Commission orders:

1. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; Liberty Utilities (St. Lawrence Gas) Corp.; and Corning Natural Gas Corporation shall comply with the gas system planning process

set forth in the Department of Public Service Staff proposal dated February 12, 2021, consistent with the modifications and discussion in the body of this Order.

2. National Fuel Gas Distribution Corporation shall file its initial long-term plan by December 15, 2022.

3. Consolidated Edison Company of New York, Inc. shall file its initial long-term plan by May 31, 2023.

4. Orange and Rockland Utilities, Inc. shall file its initial long-term plan by May 31, 2023.

5. New York State Electric & Gas Corporation shall file its initial long-term plan by September 30, 2023.

6. Rochester Gas and Electric Corporation shall file its initial long-term plan by September 30, 2023.

7. Central Hudson Gas & Electric Corporation shall file its initial long-term plan by January 15, 2024.

8. KeySpan Gas East Corporation d/b/a National Grid shall file its initial long-term plan by May 31, 2024.

9. The Brooklyn Union Gas Company d/b/a National Grid NY shall file its initial long-term plan by May 31, 2024.

10. Niagara Mohawk Power Corporation d/b/a National Grid shall file its initial long-term plan by May 31, 2024.

11. Corning Natural Gas Corporation shall file its initial long-term plan by September 30, 2024.

12. Liberty Utilities (St. Lawrence Gas) Corp. shall file its initial long-term plan by January 31, 2025.

13. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; Liberty

Utilities (St. Lawrence Gas) Corp.; and Corning Natural Gas Corporation shall file with the Secretary to the Commission, within 90 days of the date of this Order, proposals for Non-Pipe Alternative Screening Criteria and Non-Pipe Alternative Suitability Criteria, consistent with the discussion in the body of this Order.

14. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; Liberty Utilities (St. Lawrence Gas) Corp.; and Corning Natural Gas Corporation shall file with the Secretary to the Commission, within 90 days of the date of this Order, proposals for Non-Pipe Alternative cost recovery procedures and a Non-Pipe Alternative Incentive Mechanism, consistent with the discussion in the body of this Order.

15. Case 12-G-0297, Proceeding on Motion of the Commission to Examine Policies Regarding the Expansion of Natural Gas Service, is closed.

16. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; Liberty Utilities (St. Lawrence Gas) Corp.; and Corning Natural Gas Corporation shall file with the Secretary to the Commission, within 90 days of the date of this Order, reports on the costs

of extending service to new customers, consistent with the discussion in the body of this Order.

17. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; and National Fuel Gas Distribution Corporation, shall file with the Secretary to the Commission, within 180 days of the date of this Order, depreciation studies, consistent with the discussion in the body of this Order.

18. Department of Public Service Staff shall convene the Avoided Cost of Gas Working Group within 60 days of the date of this Order.

19. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

20. Case 20-G-0131 is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary

CASE 20-G-0131 - Proceeding on Motion of the Commission in  
Regard to Gas Planning Procedures.

CASE 12-G-0297 - Proceeding on Motion of the Commission to  
Examine Policies Regarding the Expansion of  
Natural Gas Service.

APPENDIX TO ORDER ADOPTING GAS SYSTEM PLANNING PROCESS

SUMMARY OF COMMENTS

Business Council of New York State

The Business Council recommends an "all of the above approach," including developing and deploying renewable resources in addition to renewable natural gas (RNG), hydrogen, biofuels, and natural gas. The Business Council states the current planning process is too narrow and should consider the long-term transition to renewable energy, beyond only managing seasonal peak demand. This process should be developed using collaborative efforts between the state government, stakeholders, and regulators.

The Business Counsel argues against making modifications to depreciations that may cause stranded assets, increase rates, and negatively impact New York State's economy. Likewise, using the current infrastructure pipelines for RNG or hydrogen instead of natural gas should be incorporated into the State's overall climate strategy.

Charles River Associates

Charles River Associates supports a process which uses sound data and analysis and results in the ultimate decisions being implemented in a timely manner. In keeping with that position, Charles River Associates proposes a system that assures the assumptions and analysis underlying proposals by all parties, not just the utilities, are properly vetted; that

recognizes the importance of consumers and ratepayers as a stakeholder in the process; that involves an efficient process with a beginning and a definitive end to ensure that approved plans can be implemented in a timeframe necessary to avoid any undesirable consumer impacts; and that independent consultant should provide similar vetting of assumptions and analysis for any and all proposals that might be submitted by other stakeholders. This proposed planning process explicitly envisions that those stakeholders will be allowed to present proposals for alternative solutions.

Charles River Associates calls upon any program to be based upon an accurate and fully vetted future cost of electricity that considers electrification alternatives, compliance with the Climate Leadership and Community Protection Act (CLCPA), and supports Staff's proposal to understand the cost implications of the various alternatives being proposed. The State's Division of Consumer Protection should be an active participant in any process, and once a plan is approved, it should be supported by the various state agencies and local jurisdictions.

Charles River Associates asserts that compliance with CLCPA for new natural gas infrastructure can be accomplished by imposing a depreciation schedule whereby any new gas asset is fully depreciated by 2050. Under this approach, LDC supply contracts with diverse expiration dates can allow the utility to properly manage changes in supply and demand over time. Overall, Charles River Associates believes that natural gas assets should not be dismissed out of hand but should be evaluated with all other proposals in an unbiased and transparent process.



City of New York

The City of New York has taken significant steps to achieve its objectives of creating clean and resilient energy supply, improving air quality, and achieving carbon neutrality by 2050. Local Law 97 is landmark decarbonization legislation that sets greenhouse gas emission caps on large buildings in the City and ratchets them down over time, driving efficiency and electrification investment. The City remains committed to non-infrastructure and demand-side management solutions to gas planning, and as such supports a robust planning approach. While the City supports the Planning Proposal, it believes that the Proposal should go further to maximize the contribution of clean energy and energy efficiency, work to limit and fix historic inequalities associated with fossil fuel infrastructure, retire gas assets as appropriate, incorporate resiliency and reliability into the transition away from gas, increase transparency and accessibility to the planning process, conduct a generic depreciation study to document impacts of accelerate depreciation for gas infrastructure, and include a social cost of carbon into gas planning. By adding these elements into the process, the City believes that the Planning Process can be successful.

Coalition for Renewable Natural Gas

The Coalition thanks the Commission for starting this process, and notes the need for forward-looking, long-term gas system planning process as an essential first step towards the realization of New York's decarbonization goals. With its interest in renewable natural gas (RNG), the Coalition advocates for the sustainable development, deployment, and utilization of RNG as a domestic, renewable, clean source of fuel and energy. With 157 operational facilities, and over 150 more in the development stage throughout the country, RNG has been a

successful method for decarbonization, and the industry looks forward to seeing the same success in New York. Likewise, the production of RNG from biological waste have excellent greenhouse gas performance, and some RNG projects actually function as carbon-negative over their full lifespans. In light of the existing landfills, wastewater treatment plants, and livestock operations where biogas is being flared or uncollected, collection and use of RNG is an important near-term decarbonization strategy. Using RNG in conjunction with electrification is an effective and necessary step, and thus RNG should be included in long-run integrated resource plans, should be defined in simple and transparent terms, should be procured based upon lifecycle greenhouse gas analysis for RNG, and should be both incentivized and tracked for its environmental attributes. Using RNG will allow the decarbonization of the industry to move forward and will help New York meet its requirements.

#### Coalition for Renewable Natural Gas - Reply Comments

The Coalition agrees with the comments of many that support use of RNG, including Consumer Energy Alliance, Multiple Intervenors, and the Business Council. The use of renewable gases represents a significant opportunity if New York wishes to develop an energy system which provides both climate and other environmental benefits, minimizes the impact of material extraction and land use change required to implement other resources, and seeks to fully employ a hierarchy which uses circular resources. The Coalition has consistently supported the procurement of environmental attributes as a necessary step for claiming the environmental benefits from RNG use, as mentioned in the joint comments filed by the self-described Public Interest Organizations. This aligns with the long-standing, widely accepted principles of GHG accounting.

The ability of all available RNG feedstocks to cover roughly 13 percent of existing U.S. gas demand as suggested by Pace Energy and Climate Center (Pace), and state-specific estimates which show that 10 percent of New York's existing gas demand can be met with RNG derived from in-state organic waste feedstocks represents a significant decarbonization potential, and should be pursued based on the system benefits provided by gaseous fuels, as well as the GHG and other environmental benefits facilitated by RNG in both the waste and energy sectors. The cost-effectiveness of RNG on a \$/ton CO<sub>2e</sub> basis is quite attractive for the waste and energy sectors. This cost-effectiveness would be amplified significantly if the social cost of carbon were incorporated due to the abatement of methane emissions. A closer look at the Grubert et. al. study cited by Pace shows that the higher end of possible leakage rates are not applicable to the vast majority of RNG facilities. Similarly, carbon intensity analyses conducted by the California Air Resources Board further exemplify the beneficial GHG performance of RNG, while the assertion that "landfill gas collection systems are highly inefficient, with uncontrolled emissions in the range of 15 to 25 percent of biogas produced" is also incorrectly cited as a disbenefit of RNG production. These values correspond not to RNG facilities, but to landfill gas collection systems, which therefore should be improved regardless of whether there is an RNG facility present—the reality being that implementing an RNG production facility would provide an impetus to make these improvements with the gas being captured for beneficial use.

It is also worth considering the extent to which electricity-based applications may also carry a high carbon intensity score depending on similar carbon intensity inputs as New York's electricity grid sees an increased amount of zero-

carbon electricity generation, the carbon intensity for all RNG pathways which utilize grid electricity will decrease. This means that the RNG pathways which are currently low-carbon can be virtually carbon-neutral from a lifecycle standpoint (carbon-negative if carbon capture technologies are employed), and that those which are currently carbon-negative will have an even larger carbon benefit. The characterization of RNG as a “dead-end strategy for decarbonizing the gas distribution system” and the notion that “biogas is not inherently an environmental solution” is completely contradictory to our industry’s long history and widespread use as an environmental solution for a wide range of waste management and energy issues. Similarly, the statement that “we must replace [methane gas] with renewable thermal energy resources” ignores certain renewable resources such as RNG and green hydrogen which are renewable thermal energy resources by definition

#### Consumer Energy Alliance

The Consumer Energy Alliance advocates for the use of an “all of the above” energy mix to ensure that uninterrupted gas service for families and households does not become a luxury item, because it touches every aspect of our lives and the economy of the State. As the Department undertakes its planning process, the Consumer Energy Alliance notes that it is important to clearly state and respect the vital role that natural gas plays in the daily lives of New Yorkers by providing affordable and reliable energy service to all customers. The reliance and demand for natural gas service will only grow with the closure of the Indian Point Nuclear Power Plant, which provided nearly one-third of the New York City region’s electricity needs.

The Consumer Energy Alliance notes that the expanded use of natural gas has helped to drive down emissions, and that carbon emissions specifically have dropped over 24 percent since

1990. Similarly, natural gas compliments the ramp-up and optimization of increasing renewable energy projects, and the “low hanging fruit” associated with converting home heating from less carbon-intensive fuels to natural gas is a benefit. Requiring electrification in the New York City area could cost over \$25,600 per household in appliance replacements, wiring, installation, duct work and labor, causing significant financial hardship.

With New York’s non-hydro renewable power generation in December 2020 at only six percent, the Consumer Energy Alliance urges the Commission to maintain a thoughtful energy balance that ensures customers continue to have access to the natural gas service they want and need.

Corning Natural Gas Corp. (Corning)

Corning notes its unique situation, in that it has no peaking supplies, no interruptible customers, a lost and unaccounted for gas measurement of virtually zero, buys a significant quantity of its supply from local producers, and is directly connected to local storage. As such, Corning has no supply acquisition constraints now or in the foreseeable future and no plans or need for additional pipeline capacity.

Corning is not a combination (electric and gas) company. In the Corning service area, the electric system peaks during the winter rather than the summer, and thus moving to electric heating will substantially increase the need for winter load-following electricity assets. Large-scale conversion to electricity would be financially burdensome to customers, especially in the late fall, winter, and early spring. Currently, the price in the Corning service area for electric heat and hot water is between two and four times higher than natural gas.

Corning is exploring several options to augment its gas supplies with RNG, further reducing its carbon footprint and enhance its supply portfolio. Corning believes that the Commission should view it differently than most other New York gas utilities based on the above.

Corning states that gas utility service is not only crucial to the economic well-being of its residential and commercial customers but has been instrumental in the maintenance and expansion of Corning's local manufacturing base. As such, any long-term planning process should consider the financial and economic impacts on all customers. With that in mind, the 20-year horizon for long-term plans is too speculative and Corning instead recommends a three-year cycle. The scope and process for smaller companies like Corning should be smaller than for the larger gas utilities.

Corning asks that annual reporting not be required because of the unnecessary costs on Corning and its customers. A three-year cycle would be as effective at a lower cost. Demand forecasts of 20 years, including annual, daily, and peak hours, seems illogical to apply to Corning as the company does not face the supply/demand issues of downstate utilities.

#### Environmental Defense Fund (EDF)

EDF claims that the CLCPA creates several new imperatives for the Commission, including the need to update Commission policies and regulations to support GHG emission reductions within the existing law, and to identify and root out standards that conflict with the CLCPA mandates, such as 16 NYCRR Part 230 governing the requirements for residential natural gas service buildouts at no cost (the "100-foot" rule).

The Commission should also provide guidance and clarity regarding the future role of gas utilities to determine if they are entitled to meet customers' and prospective

customers' thermal needs through technologies that do not rely directly on the combustion of methane. The Commission should address methane leakage from the existing gas system by directing utilities to deploy Super Emitter Programs to remedy the largest leaks and remove barriers to advanced leak detection technology adoption, and the Commission should evaluate its generator pricing rules so gas generators have access to gas supplies and capacity services for daily load variations. As such, new balancing tariff services should be explored to ensure that the future electric grid is accurately priced and flexible.

In order to provide true and realistic comparison of alternatives, "all-in" cost metrics and additional information are needed. Utilities should be required to calculate and report the all-in cost of different proposals and be required to provide additional supply and demand information beyond what is in the Planning Proposal, and the Commission should require the use of the all-in cost metric to compare the true costs of different supply and demand options to help stakeholders compare options and ensure minimal ratepayer impact. The all-in cost should be determined by looking at the annual facilities' fixed costs plus commodity/O&M cost per unit of demand met taking into account the load factor of the annual demand to be met, or of the Design Day demand to be met.

The Non-Pipes Alternative (NPA) Framework proposed by Staff would be used to compare alternative project options, including to assess opportunities for the deferral or elimination of traditional gas distribution infrastructure. If EDF's recommendation to expand this framework into an open RFP process is adopted, the all-in cost metrics should be required in all proposals and detailed in the utility's selection process. If, instead, Staff's NPA Framework proposal is adopted, assuming the yet-to-be-developed NPA suitability

criteria will assess project costs, utilities should be required to report both of the all-in cost metrics for each option.

EDF notes that the Planning Proposal contemplates that a utility's long-term plan must detail each identified supply need and include a "no infrastructure option." Utilities should be required to calculate and report the all-in cost metric for each current or proposed source of supply, including the no infrastructure option under consideration. This is particularly valuable when stakeholders have the opportunity to comment on the initial long-term plan and present alternatives, allowing for an "apples-to-apples" comparison of each option using the all-in cost metrics.

With regard to Annual Plans, the utilities should provide additional information for a comprehensive assessment of demand and supply options and their utilization by the utility to the Commission, Staff, and stakeholders. The utilities should be required to present winter period (November-March) and non-winter period (April-October) hourly as well as daily load duration curves with the resources identified as serving those load durations (i.e., the resource stacks). These load duration curves and resource stacks should cover both the historic previous five-year periods and project the future load duration. In the long-term plan filings, the future daily and hourly load duration curves should be presented both as systemwide and by geography using the same geographic regions as those presented above to enable utilities, regulators, and stakeholders to identify current and future geographic areas in need.

EDF asserts that depreciation methodologies must be updated, to relieve the current disconnect between the depreciation analysis used by many gas utilities and State's current climate policy. While the State's clean energy future significantly reduces reliance on natural gas, many gas



utilities continue to rely on traditional assumptions that they will maintain and expand their existing gas distribution systems and depreciate assets at historic rates. EDF's testimony in the recent Niagara Mohawk rate case, 20-G-0381, stresses the need to update depreciation analyses: a gas utility under currently proposed depreciation rates would recover costs of existing plant until 2086 and will have an undepreciated balance of \$186 million in 2050. The testimony presents an illustrative scenario under which the remaining service lives of all mains and services on the company's system would end by 2050, such that the plant would be fully depreciated at that time. This depreciation scenario does not assume that all mains and services will be retired by 2050 but that parts of the distribution system could still be in operation, but the company would have fully recovered the costs.

The Commission should provide state-wide guidance going forward and require each gas utility to undertake a new depreciation study that accounts for the effect of the CLCPA and climate policy on the company's service life and net salvage expectations. Depreciation studies should assess the effect of climate law and policy and establish appropriate survivor curves for use in base rate filings. The Commission could require these depreciation studies in each gas utility's first Long-Term Plan or in its next rate case. The Commission and Staff should develop guidance for utility depreciation studies to ensure that climate policy is appropriately considered and that any new costs are allocated in the most equitable way. Finally, the Commission should consider how to mitigate bill impacts for communities that already experience disproportionate energy burdens—such as low-income, African American, Latino, and renters who pay up to three times more than the average household on home energy costs.

EDF supports the proposed changes to annual plan filings and gas cost reconciliation process. Specifically, EDF agrees with Staff that utilities should be required to submit the information identified at pages 11-12 of the Planning Proposal in their Annual Plan filings. In addition, a utility's Annual Plan should provide a direct comparison to the projections set out in the most recent Long-Term Plan, and the Annual Plan process should be explicitly tied to the annual gas cost reconciliation process. Currently, each gas utility engages in annual gas cost reconciliation before the Commission, in which the utility submits a reconciliation of actual gas cost recoveries with actual gas expenses each year and computes a surcharge accordingly. The computation is to be filed with the Commission by October 15 each year, addressing the preceding 12-month period ending August 31. This process is a limited proceeding where utilities submit cost information for Staff review and the Staff issues a summary report, but the Commission does not approve the individual filings or rules directly on the Staff report.

For New York, EDF recommends each Annual Plan present both the projection for peak and annual gas use from the last filed Long-Term Plan for the coming year, alongside the updated projection (of peak and annual gas use) for the same year as a variance from the Long-Term Plan. This variance is an updated projection of the year ahead, which should be used as the baseline against which the recovery of actual costs is benchmarked. This Long-Term Plan process and subsequent Annual Plan filings would provide the Commission, Staff, and stakeholders with an explicit way to gauge the degree to which "plans" converge with "actual" as well as depict the degree to which "actuals" diverge from "plan. EDF similarly supports proposed changes to annual look-back (May 31) filings, the

Annual Winter Preparedness Review, and the Supply and Demand Forecasts.

EDF supports an Avoided Cost of Gas Working Group that will develop accurate metrics in consultation with the utilities, Staff, and other stakeholders.

EDF calls upon the Commission to ensure that the NPA Screening Process is broadened to allow for a more systemized approach to compare all alternatives. EDF proposes implementing an RFP Framework where a retail gas utility would issue RFPs for solutions that either provide natural gas or demand relief, as it would incentivize Capacity Service Providers to develop solutions that would have reduced costs, reduce GHG emissions, and lessen impacts on communities and environments. In the event of an emergency, a bypass system would be in effect that can still ensure compliance with the needs of the State. Similarly, the Commission should adopt a standard method for assessing the GHG emissions attributable to specific projects and overall gas utility operations, and EDF encourages the Commission to develop planning process requirements, so that gas utilities have a common methodology for calculating GHG emissions for each proposed project. One proposal for this Framework would include focus on the lifecycle of a project, and is based on six principles:

1. Account for all combustion-related GHG emissions and fugitive methane emissions.
2. Account for supply and demand options to manage and meet gas demand.
3. Use the most recent, publicly available data.
4. Identify and incorporate significant uncertainties.
5. Align the analysis with economy wide GHG emission reduction targets under the CLCPA.

6. Monetize life cycle GHGs using the Social Cost of Carbon Dioxide, the Social Cost of Methane, and the Social Cost of Nitrous Oxide.

The Commission must revise 16 NYCRR Part 230 and provide clarity on the parameters of the public service law. EDF suggests that the Commission reverse its 1986 decision that some as-of-right free gas line extensions are good, more would be better. EDF recommends the Commission inform gas utilities that they alone will bear the risk of any stranded assets from gas expansions and encourage utilities to set bars for prospective customers, so that these customers are "reasonably permanent." The rules for new natural gas infrastructure should be amended to replace "reasonable permanent customers" with "customers until 2040" or another clear and specific threshold based on a certain date. EDF requests clarity from the Commission on the future role of gas utilities, as these utilities are entitled to meet current and prospective customers' thermal needs through technologies that do not rely directly on the combustion of methane. If the Commission concludes that gas corporations cannot have a role in meeting customers' thermal needs, the State will need to prepare for economic, labor, and equity ramifications, according to EDF.

EDF asserts that the Gas Utility Planning Process must integrate known building electrification objectives. The Planning Proposal did not explicitly address the need to transition to heat pumps and other non-fossil heating options, and instead relies on utilities to develop proposals; there are no targets set by Staff or the Commission. EDF believes that Staff and the Commission are obligated to design a robust and thorough process that is aligned with the objectives of the CLCPA, and it durable enough to accommodate the electrification plans by NYC. At a minimum, demand and supply forecasts should be updated to reflect electrification policies.

Finally, EDF notes a number of elements that the Commission should consider in any and all decisions on this process. For example, EDF states that an unmanaged contraction of the gas system would be costly, particularly for low-income ratepayers, and that if this occurs the small customer base and stranded assets must be adequately planned for. If electrification efforts obviate the need for gas in certain areas, the plant will no longer be "used and useful", which can lead to the "utility death spiral" where electrification conversions accelerate and rates for remaining customers increase, disproportionately impacting low- and moderate-income customers. EDF claims that remaining gas customers' bills will increase by 71 percent by 2040. To address this, the Commission should require that all utilities in the state submit a Joint Feasibility Assessment to address the challenges, opportunities, and regulatory barriers in achieving a high electrification scenario, such as those presented in the NYSERDA E3 study and forthcoming Building Electrification Roadmap. The Joint Feasibility Assessment should consider hard-to-electrify buildings and industrial applications that are the most likely to continue relying on gas molecules instead of electrification, and conversely should consider the low-hanging fruit areas for electrification. A Joint Feasibility Assessment early in the energy transition, can provide greater regulatory certainty to both gas and electric utilities, accelerate the adoption of clean energy technologies, and reduce costs to customers associated with an unmanaged transition. Likewise, the Commission should direct utilities to engage in a stakeholder collaborative to develop a process for strategic decommissioning portions of the distribution system, especially the accelerated retirement of leak-prone pipe. As the decision to transition the gas system to an alternative energy approach such as

electrification will require a thorough assessment of costs, customer acceptance, needs of low-income and disproportionately impacted communities, GHG emission reductions, site feasibility, gas infrastructure topology, and other issues, the Commission should direct all gas utilities in the state to engage in a stakeholder collaborative to study this issue in each gas service territory. The Commission should direct utilities to deploy super-emitter programs to address gas leaks and remove barriers to advanced leak detection technology, and the Commission should evaluate generator pricing rules in light of New York State's evolving policy and regulatory environment.

#### Environmental Defense Fund (EDF) - Reply Comments

An essential step in reducing GHG emissions to achieve the CLCPA targets is to quantify and understand the emission associated with any given proposal, and the overall operations of each gas company. As such, EDF recommends that each utility's long-term plan include a systemwide calculation of lifecycle GHG emission from present to 2050, as well as GHG calculations for individual projects, and the annual filings should include those changes. In a similar manner, EDF recommends that the gas utilities be required to consider NPAs through Requests for Proposals open to all possible solutions, to ensure that a utility is open to all options. This level of community outreach and inclusion will ensure the best possible solutions through the process.

#### Fossil Free Tompkins

Fossil Free Tompkins asserts that the Staff Proposal misses the mark, as it fails to set targets or goals to signal the need for gas reduction - there is only process. In not providing clear emissions reductions targets - nor even a statement that gas growth cannot continue - the Staff Proposal

fails to send the signals needed to bring immediate and effective solutions. For the Commission to not take more definitive action and clearly state that gas use must be reduced is an abdication of its responsibility. What efforts were made to engage municipalities in this proceeding so that the interests of their residents and businesses would be served? Absent clear gas reduction goals municipalities, developers and utilities are left with mixed messages and confusion about where things are headed.

The proposed three-year planning cycle per utility will result in inconsistent plans across utilities, and combined with the uncertainty of BCA outcomes, will leave municipalities and developers in a quandary. Likewise, the six-month timeframe for non-pipe alternatives is not long enough and does not provide enough resources to allow for full review. Instead, Staff should be directed to develop a new gas planning proposal that starts by explicitly stating clear goals for gas reduction and orders the utilities to undertake planning studies that will help guide an orderly transition to an affordable, equitable, renewable heating future.

#### Grassroots Environmental Education

Grassroots Environmental Education asserts that the Commission has failed to provide a comprehensive plan for an orderly, equitable, and rapid phase out of the gas system in this state. Accordingly, Grassroots Environmental Education asserts that this violates New York's climate law. In order to fix this, the Commission must halt new fossil fuel infrastructure, impose measurable emission restriction, and require steps to ensure affordability and electric grid resilience. The Commission must also stop incentives for conversion from oil to gas. Finally, the AIM pipeline currently

operating at the Indian Point nuclear facility should be shut down.

Institute for Policy Integrity at NYU Law School

The Institute for Policy Integrity identifies as a non-partisan think tank trying to “improve the quality of government decision making.” It supports the overall proposal, with the addition of “several minor requirements,” including clarification on how thresholds that define reliability standards differ from the requirements that allow for an exemption from a non-pipes alternative (NPA) review and requiring that emission impacts are fully considered in reviews of proposed NPAs.

The Institute for Policy Integrity Calls upon the Commission to better reflect the legal and policy of the CLCPA and asks the Commission to specifically address open questions and legal limitations that stop the Commission from “taking decisive action on key issues now,” such as the identified different standards in the CLCPA as opposed to the Public Service Law (PSL) and the Transportation Corporations Law (TCL). Beyond this, it identifies three key ambiguities: How will the DEC’s 2024 regulation allow for continued reliance on fossil gas in 2030 and beyond; will gas utilities receive incentive payments to support electrification; and will investments in biogenic or synthetic gas qualify as NPAs.

The Institute for Policy Integrity indicates that the Commission should direct utilities to set thresholds for both urgent and non-urgent reliability issues, to allow non-urgent issues to be treated as NPA opportunities. Likewise, utilities should consider the potential benefit of improved indoor and outdoor air quality for particulate matter and carbon monoxide as well as NO<sub>x</sub> in any review, and utilities should exchange the “net avoided CO2 value” with one that applies \$125/ton value for



the social cost of carbon in their sensitivity analysis, and likewise should add the estimated value of methane to these reviews. These reviews and analyses should require that emission calculation and reporting include upstream emissions that arise from extraction and transmission of fossil gas from outside of New York state as well as within the State borders.

While acknowledging that the scope of the proceeding is not the alignment of the gas sector with the CLCPA decarbonization agenda, the Institute for Policy Integrity nonetheless requests that the review be broadened to include more CLCPA compliance. Finally, the Commission should describe the entities, information, and prerequisites required for the Commission to move forward in support of the CLCPA.

#### Joint Local Distribution Companies (JLDCs)

Seven of the natural gas local distribution companies (LDCs) joined together to file comments. The JLDCs agree about the importance of filing with the Commission and agree with the idea of three reports - the Long-Term Plan, the LTP Annual Update Report, and the Winter Preparedness Plan. The JLDCs assert that the first design principle of this process must be the assurance of continued safe and reliable gas service, while supporting other policy goals. Towards that end, a 20-year outlook is appropriate in the Long-Term Plans. While the JLDCs understand Staff's desire to understand the sources of new growth, it may not always be possible to identify, and the JLDCs will collect data on these issues. They also propose to set the boundaries for granular reporting to the LDC's distribution system, rather than geographic locations.

Long-Term planning will need to capture each resource's contribution to the reliability of the overall system, and not just for peaking services. This portfolio

approach will handle uncertainty and changes over time and be a foundation for evaluating potential resources in the event of discrepancies.

The JLDCs have concerns about the public availability of all information and call upon Staff to ensure confidential treatment of appropriate information. The JLDCs agree that RNG may be of benefit to the system and to the State, and hope for a joint study and a technical working group on definitions and other recommendations. The JLDCs also believe that incentives should be offered.

The JLDCs agree to promote demand-side options when they are practical and reliable. They identify three categories of long-term gas planning: system-wide supply/demand imbalances; local transmission & distribution supply/demand imbalance; and local distribution projects. The JLDCs see the "no-infrastructure option" as relevant to the first of these categories, with NPAs reasonable in certain situations. NPAs present challenges, including the willingness of 100 percent of customers to replace their gas-fired equipment. Once an NPA is deemed appropriate, the project will follow a set path for review and award.

The JLDCs agree on the importance of benefit cost analysis as part of any NPA process. Likewise, depreciation is a key element of the NPAs and the benefits cost analysis, and thus needs to be set before any analysis should be used to require NPAs. Additionally, the JLDCs believe that Staff should prepare a White Paper on stakeholder input proceedings for the avoided cost of gas components. Finally, the JLDCs agree that the benefit cost analysis is not the only foundation for deciding to move ahead with an NPA, but that a bill impact analysis is not meaningful or necessary. Instead, a net present value analysis would be more beneficial.

The JLDCs also call upon Staff to develop the appropriate stakeholder input and participation process, including technical conferences, working groups, as well as a full process for reviewing, developing, and evaluation, as well as dispute resolution. The JLDCs also call upon the Commission to ensure cost recovery in a clear and concise manner.

Joint Local Distribution Companies (JLDCs) - Reply Comments

The JLDCs recognize the requests from other stakeholders in this proceeding, but call upon the Commissions reject the extension of this case beyond the development of improved planning and operational practices and into the strategic decommissioning of gas facilities. The JLDCs recommend the rejection of formal discovery processes, but do see value in a third-party consultant with a level of independence taking a role in reviewing utility filings.

The Long-Term plans from each LDC will include one or more scenarios with an assumed level of demand that is aligned with the achievement of the CLCPA's objectives, and the JLDCs will continue to review empirical evidence but do not yet have a scientific consensus on the impact of climate change on the coldest hours or days of the year. The JLDCs agree to consider modifying design day and design hour standards and criteria.

The JLDCs assert that they should be permitted and encouraged to consider all potential resources that can be used to provide safe, reliable, and affordable service, including RNG, hydrogen, and other low-carbon natural gas alternatives. Towards that end, development of RNG and other low-carbon fuels should be eligible for incentives.

The existing benefits-cost analysis is robust and effective enough that no new system need be developed.

Liberty Utilities (St. Lawrence Gas) Corp. (St. Lawrence)

St. Lawrence notes that the Staff Proposals have merit but asserts they are contradictory and premature given the uncertainty in how goals of CLCPA can be met with current technologies. Emerging technologies like RNG and hydrogen are not yet recognized by the Climate Action Council as pathways to achieving the goals of the CLCPA. This is particularly challenging for St. Lawrence's North Country service territory. RNG and hydrogen will enable deeper and faster decarbonization, especially for hard to decarbonize sectors like heavy industry and building heat in cold climates. St. Lawrence asserts that it is neither prudent nor wise to have a "no new infrastructure" approach. Expansion of the gas system in the North Country is critical to achieving CLCPA carbon reduction goals.

St. Lawrence indicates that the Commission needs to consider climate differences in New York State. What works in New York City may be completely different, and inadequate, in the North Country. Older building stock makes it more difficult to convert to electricity as a thermal source, and any such change must balance these aggressive climate targets against supporting the North Country's fragile economy. The cost of conversion to electrification is a significant barrier for older housing stock in economically disadvantaged communities, and with a cost of \$15,000 - \$20,000 to improve a house's envelope and nearly \$15,000 to install heat pump systems. This cost is in excess of two-thirds of the annual median salary in the region. Likewise, a higher percentage of homes in the area are heated by carbon intensive fuel oil, kerosene, wood, or propane than state average. Couple this with the North Country residents being one of the older populations and having higher rates of health issues than rest of state, and St. Lawrence asserts that it becomes clear that while carbon reduction is

important, the best and most cost-effective way to achieve these reductions is to expand the use of natural gas, an existing low-carbon alternative to other fuels used in the area.

St. Lawrence also believes carbon footprint of natural gas system should be reduced in the North Country and suggests using RNG and hydrogen as tools. Reliable utility service is critical and RNG and hydrogen from local sources can provide sustainable fuel for the heating and transportation sectors. St. Lawrence fully supports utility incentive mechanisms as proposed in the Gas Planning Proposal, as they are critical to the success of decarbonizing gas only LDCs. Finally, St. Lawrence believes that the 20-year demand forecast is onerous and unlikely to produce results reflective of reality, as it involves too many variables.

#### The Manufacturers Association

While supporting the need to transition to less support on natural gas, the organization calls upon the Commission to preserve economic and reliable gas service to its manufacturing members.

#### Multiple Intervenors

The Multiple Intervenors, an unincorporated association of approximately 60 large industrial, commercial, and industrial energy consumers, note that, absent safe, reliable, and economic gas service or other viable alternatives, many facilities in New York will close and relocate manufacturing and other production to other states and countries. A failure to implement the transition in a manner that preserves reliable and economic gas service could result in certain GHG emissions increasing if manufacturing operations leave New York and relocate to other states and countries with less stringent environmental laws and regulations.

Planning analyses should address, in equal measure, not only a Local Distribution Company's (LDC's) ability to meet the supply needs of firm sales customers but also the LDC's ability to meet the delivery needs (behind the city gate) of firm transportation customers. The Multiple Intervenors also recommends that the Commission take all necessary steps to ensure against potential, sudden, and dramatic declines in the availability of interruptible gas service as well.

NPAs are not always appropriate or viable alternatives to all necessary gas infrastructure investments and in some circumstances their pursuit could result in diminished reliability and/or increased costs to consumers. It is important for the Commission to adhere to cost causation principles in the allocation and the recovery of NPA investments, and they further urge the Commission to limit any consideration of the accelerated depreciation of gas assets to informational purposes only, as modifying depreciation schedules and policies at this time would be premature.

If the Commission employs incentives, they should be constrained in magnitude to minimize potential customer rate impacts and be limited to rewarding performance that truly is exceptional or superior. Similarly, if financial incentives are adopted for superior performance, financial penalties for unsatisfactory performance should also be adopted. Likewise, implementing NPAs where the costs exceed the benefits appears contrary to customer interests, as the resulting customer cost impacts must be considered carefully before either NPAs or traditional infrastructure projects are approved. For example, requiring a benefit cost ratio with some margin above 1.0 should be considered, and to the extent feasible, the cost of NPAs should be recovered over time periods reasonably comparable to similar, pipes-based infrastructure projects.

The Multiple Intervenors note that, at the time of their comments, the Climate Action Council has yet to issue its scoping plan for public comment, which itself will initiate a lengthy review process. Yet by proposing that infrastructure projects be evaluated assuming full depreciation by 2050, they will appear more costly than currently is the case, thereby improving the relative performance of NPAs in such evaluation. If an NPA that would satisfy the identified system need is found to be demonstrably more beneficial than a comparable infrastructure project, it is not clear why utilities should require or be entitled to customer funded financial incentives to pursue the more beneficial option.

#### Multiple Intervenors - Reply Comments

Merely because some parties choose to raise arguments on issues beyond the scope of the Proposals and the Commission's Notice does not mean that those arguments should be addressed on the merits at this time. Instead, the Commission should avoid and discourage "scope creep."

Multiple Intervenors opposes the proliferation of shareholder incentives because of the high potential for negative consequences to customers. The current regulatory cost model already ensures that LDCs receive adequate compensation for investments through existing rate recovery mechanisms. To the extent the Commission deems it undesirable to penalize shareholders for outcomes arguably beyond an LDC's control, then forcing customers to fund incentives using the same outcome-based criteria similarly should be undesirable. EAMs should be limited to rewarding exemplary performance and to encourage actions the Commission could not otherwise order LDCs to take. Rather than offering LDCs greater incentives at customer expense, it would be more equitable to utilize penalties for

such purpose because if the unsatisfactory performance exists, the penalties would compensate customers for a level of service paid for in base rates but which was not realized.

National Fuel Cell Research Center (NFCRC)

Stationary fuel cells are uniquely suited to providing clean, high-efficiency power with virtually zero GHG emissions. As such, it would be best to focus on the uses of fossil fuels and the development of renewable fuel sources rather than seeking to arbitrarily drive any one form of infrastructure from the marketplace. It is not the infrastructure, but the use, that creates environmental benefit or harm. Allowing for renewable hydrogen and biogas is necessary, and the continued use of natural gas until such time is the proper way to handle the transition.

New Yorkers for Affordable Energy (NYAE)

New Yorkers for Affordable Energy supports New York's long-term goal of expanding the use of zero carbon fuels but has concerns about the challenges these new gas planning procedures would create for utilities and the resulting impacts on consumers. Prohibiting utilities from increasing supply while requiring them to accommodate an increase in demand is not only counterintuitive, but irresponsible and dangerous. To suggest that "NPA's" can manage the supply issue is nothing more than deliberate avoidance of this problem and an effort to tee up utilities as the scapegoats. Lastly, NYAE asserts that the Commission must be mindful to ensure that utilities are capable of maintaining gas service to the 60 percent of New Yorkers who rely on it.

NYAE notes that a bipartisan report out of Columbia University finds that investing in the natural gas pipeline network could help reach net zero emissions goals more quickly



and less expensively because investing in gas infrastructure can support the transition to zero-carbon fuels while also bolstering immediate energy reliability.

Pace Energy and Climate Center

Pace filed a white paper entitled Zero Net Gas: A Near-Term Framework for Decarbonizing the Buildings and Gas Utility Sectors, as part of its submission. This white paper, produced in 2020, discusses a demand reduction framework to achieve decarbonization of the building sector. The framework is designed to reverse gas dependence in buildings through the capping of new gas demand coupled with reduction in existing inefficient use of gas through demand-side measures like energy efficiency, heat pumps, and demand response. The focus is two-fold: reducing peak demand as a way of stopping new gas infrastructure as well as reducing total gas usage.

At its core, this framework requires that any proposed increase in gas demand is balanced with a corresponding reduction in demand throughout the system, to first halt growth in gas infrastructure before ultimately reducing it. The framework envisions the following elements as part of stopping the growth of gas infrastructure:

1. Comprehensive integrated planning for gas infrastructure;
2. Implementing the netting requirement through an evaluation, monitoring, and verification process;
3. Changing the gas service application process to require the adoption of alternatives where feasible;
4. Requiring those new gas infrastructure deployments that do occur to be as efficient as possible;
5. Enabling large scale deployment of non-gas infrastructure;

6. Increasing access for low- and moderate-income communities to non-gas alternatives; and
7. Changing the current "business as usual" approach favoring gas in the building trades to embrace non-gas alternatives.

This framework is primarily concerned with the building sectors, and thus centers on the use of gas for heating, cooking, hot water, and the like. Additionally, it includes the use of any gas distributed via pipeline, including biogas.

In conjunction with this White Paper, Pace filed additional comments, centering on adoption of the proposed framework. Additionally, Pace noted that developers and consumers should be targeted earlier in the process for the consideration of non-gas alternatives, that incentive programs directed towards gas development should be modified to instead incent non-gas alternatives, that new gas infrastructure should be a "last-resort" resource only, that the Commission should initiate a statewide proceeding to develop a Benefit-Cost Analysis Framework for non-gas alternatives, and that renewable gas should be reserved for difficult to electrify situations.

#### Pace Energy and Climate Center - Reply Comments

In response to the recommendations filed, Pace notes that the burden of proving the usability of gas infrastructure should be put upon the utilities, and not simply be assumed. NPAs should be evaluated on a societal perspective at the portfolio level, and not on a strictly economic or rate impact basis. Pace continues to call for an open and transparent stakeholder process for the Benefit Cost Analysis for NPAs. Incentives for utilities should be limited to performance "above and beyond," and should be matched with penalties for not meeting mandates. The definition of "renewable gas" should be developed with stakeholder input and not simply be an umbrella category, and standards for RNC and synthetic gases should be

developed. Finally, each utility should conduct assessments of potential RNG that can be economically produced in a manner that has a net decrease in GHG emissions.

Public Interest Organizations (National Resource Defense Council, Sierra Club, Regional Plan Association, Association for Energy Affordability, New Yorkers for Clean Power)

A number of entities, describing themselves as the Public Interest Organizations, submitted joint comments. The Public Interest Organizations claim that the Staff proposal falls short of the Commission's directive for a "process that is comprehensive, suited to forward-looking system and policy needs, designed to minimize total lifetime costs" because it lacks mechanisms for developing a cost-effective decarbonization strategy for gas distribution systems consistent with CLCPA regulations, reporting of greenhouse gas emissions, and discussion/analysis of impacts on disadvantaged communities and low- and moderate-income customers. Instead, the Public Interest Organizations recommend that the Commission develop a statewide Gas System Transition Plan to identify the lowest-cost path for decarbonizing the state's gas distribution system as a whole and each fossil gas utility's system. The transition plan should be founded on State's goals and include the following: emissions reductions, service reliability, access to energy, reasonable rates and bills, customer equity, energy justice, and utility financial health. The plan should inform and guide the triennial gas system resource plans proposed by staff.

Furthermore, Public Interest Organizations recommend that both the statewide transition plan and the utility-specific resource plans adhere to the following principles and practices to ensure they meet the requirements of the CLCPA and other important regulatory objectives: design all scenarios to comply with the CLCPA; articulate greenhouse gas constraints; integrate

gas and electricity planning; assess impacts on gas and electricity sales; use appropriate asset lives and depreciation schedules; apply a high threshold for approving new gas infrastructure investments; assess multiple gas utility business models; develop comprehensive non-pipeline alternatives screening frameworks; adopt practices for strategic asset retirement; update gas load forecasting practices; account for customer actions; account for risk; consider equity implications; articulate an action plan; and update plans periodically.

The Public Interest Organizations assert that gas utilities' existing and new assets are at risk of becoming "stranded," creating hardship for both utility investors and customers, raising the question about whether and how to allow investors to recover their investments.

Generally, the Public Interest Organizations claim that the planning proposal is hindered by its attempt to achieve cross purposes currently embedded in law. The 20-year planning horizon is, however, sufficient to facilitate the utilities' planning, and each utility's resource plan should be considered ahead of its rate case so that there is sufficient time for the utility to factor in the Commission's feedback on the plan into the rate filing.

The Public Interest Organizations note that a portfolio approach should include funding for geographically targeted beneficial electrification to strategically decommission sections of the system, as informed by the transition plan, and recommend that suitability criteria should be consistent across utilities as well as each resource plan and should presume suitability for NPAs absent a reason that they are infeasible for a particular category of projects. These

suitability criteria should be established as part of the generic tracks for cost recovery and incentive mechanism.

As the process progresses, the Public Interest Organizations recommend that the utilities be required to use open-source and collaborative modeling platforms and open data platforms so that stakeholders can test different assumptions or run their own scenarios, and that the Commission have an independent third-party consultant host an open-source and collaborative modeling platform similar to what was done in California.

Certain criteria should be included for modernizing demand forecasting and utilities should be required to consider load forecast that are compatible with climate mandate and current load trajectories in any scenario. GHG emission reduction requirements in the CLCPA should be assumed as a constraint in designing scenarios to be analyzed in the long-term gas planning process and treated accordingly. The Value of Carbon Guidance from the New York State Department of Environmental Conservation should be used for estimating the value of reducing each ton of GHG emissions until limits are established for each utility but ultimately prefer an approach that internalizes the cost of CLCPA compliance and eliminates the need to monetize GHG emissions. Any BCA should recognize the full implications of compliance with CLCPA requirements, and the costs of compliance should be included in all elements of the BCA and bill impacts. The BCA should include: 1. Wholesale gas market price suppression effects; 2. Impacts of increased or decreased risks; 3. Costs and benefits of indoor air quality; 4. Option Value; 5. Societal discount rate instead of average cost of capital

Furthermore, in order to keep gas rates low enough to avoid mass defection, utilities should strategically retire

portions of the distribution system by targeting customers or clustering for electrification or offering other alternative energy services. The Bill Impact analysis should identify any changes in the number of gas customers as well as the number of customers who decide to switch to other fuels and also account for the number and types of customers that participate in distributed energy resource programs or install distributed energy resources

Finally, Public Interest Organizations recommend using the most accurate and realistic depreciation schedules and scenarios be included where some of the new gas assets may need to be phased out of retired before 2050 in light of CLCPA and GHG goals. The Public Interest Organizations believe that RNG use risks perpetuating fossil gas use and increasing stranded costs. Further, they believe a prerequisite to any biogas purchases must be a framework and plan for handling the environmental attributes and proposes robust environmental requirements. Similarly, RNG should be only considered as an NPA if attributes are retained for the benefit of utility customers, and if attributes are not retained it should be considered fossil gas for the purposes of the BCA and carbon accounting. The Public Interest Organizations recommend RNG be limited to on-site use where possible, with any excess directed to hard-to-electrify sectors.

Public Interest Organizations (National Resource Defense Council, Sierra Club, Regional Plan Association, Association for Energy Affordability, New Yorkers for Clean Power) - Reply Comments

The Public Interest Organizations note that the achievement of the CLCPA while maintaining safe and reliable service must be the primary objective of the gas system planning process. Both elements are key, and the CLCPA is law, so must

be included in any and all considerations, including in any Benefit Cost Analysis. Likewise, the NPA process must identify least-cost, least-risk solutions, and as such a "no new infrastructure" component should be included, despite commenters to the contrary. Additionally, the Benefit Cost Analysis must also account for the impacts on disadvantaged communities as part of the respect for the CLCPA. Finally, alternative fuels must be subject to a robust environmental requirement to review lifecycle carbon dioxide and methane emissions, and in the event these fuels are used, the environmental attributes should be retained.

#### Queens Chamber of Commerce

The Chamber supports the important transition to lower carbon energy sources, but remains clear about the need for a thoughtful, structured transition that ensures New York businesses can continue to have their energy needs met. The best answer to the very real concerns about the environment and climate change is the creation of a detailed, long-term plan that moves the State toward a carbon-free goal in a manner that does not damage businesses or hamper job creation.

#### Renewable Heat Now

Staff proposal falls short of a "modernized gas planning process" that would align utilities with the CLCPA. Staff's proposal fails to outline how the utilities should plan for widespread conversion of heating to renewable sources and the contraction and ultimate phase-out of the current utility gas distribution system. The current gas utility business model is directly at odds with New York's climate mandates and Commission intervention is needed now to restructure utility regulations, incentives, and plans in alignment with CLCPA. The Commission must set clear annual emissions reduction goals for

utilities to achieve. Without clear goals, an orderly planning process cannot and will not ensue. The Commission must design a gas planning process around the principles of transparency, affordability, environmental justice, public collaboration, a just transition for workers, and accountability.

The growth of gas use and gas infrastructure expansions must stop. Utilities are still investing money and charging ratepayers to expand their gas delivery networks in New York. This poses significant stranded asset risk for both utilities and ratepayers. The gas utility system as it stands today is designed and built to deliver methane gas. We must replace that gas with renewable thermal energy sources which will require a different delivery system. The Commission will need to work closely with the Climate Action Council, other agencies, and with the State Legislature to reconcile competing policies and laws and enable the needed transition. Finally, this transition from natural gas to electrified thermal energy services must be accompanied by comprehensive planning with the electric sector, such that electricity is renewable, affordable, and reliable.

Steuben Foods, Inc.

Steuben Foods, Inc. emphasized the role natural gas plays in its business, noting the reliability, safe and resilient underground infrastructure, and reasonable pricing. The savings associated with this low cost and high reliability fuel directly translates into reduced overhead and manufacturing costs, which in turn allows the company to remain competitive. As such, Steuben Foods calls on the Commission to consider the possibly prohibitive costs of energy conversion in any discussion.



Synapse Energy Economics, Inc.

While Staff's proposal recommends important improvements to the current process, the proposal's overall vision for achieving CLCPA and other state policy goals over the long term is far too limited. The Commission should initiate two overlapping yet independent types of plans: a statewide gas transition plan and a gas utility resource plan. The Statewide gas transition plan would establish a vision for how the industry must evolve over the long-term, while the gas utility resource plan would identify the specific actions, resource investments, and infrastructure investments that each utility will undertake to achieve that long-term vision. Both plans should adhere to the following principles and practices:

- o Design all scenarios to comply with the CLCPA
- o Integrate gas and electricity planning
- o Assess impacts on gas and electricity sales
- o Use appropriate asset lives and depreciation schedules
- o Articulate greenhouse gas (GHG) constraints
- o Apply a high threshold for approving new gas infrastructure investments
- o Assess multiple gas utility business models
- o Develop comprehensive non-pipeline alternatives (NPA) screening frameworks
- o Adopt practices for strategic asset retirement
- o Update gas load forecasting practices
- o Account for customer actions
- o Account for risk
- o Articulate an action plan
- o Update plans periodically.

The statewide transition plans should include the following elements:

- o BCAs to identify least cost and low risk ways of achieving the statewide transition plan and other regulatory goals
- o Rate and bill analyses of the gas and electricity utilities to identify how different strategies will affect different customer classes
- o Energy justice analyses to identify how low-income and moderate-income customers, captive customers, and

- disadvantaged communities will be affected by the transition plan
- o Utility financial analyses to identify how different transition scenarios will affect utility financial viability and ability to serve customers
  - o Macroeconomic analyses to identify how different transition scenarios will affect economic development in New York state

Synapse Energy asserts that the Staff Proposal lacks a long-term vision for how the New York fossil gas industry will need to evolve over time to ensure that the state can meet the goals of CLCPA, as well as other important goals such as availability of service and customer equity. The Staff Proposal does not recommend a planning process to develop a long-term vision for how the industry should evolve across the entire state. Instead, the DPS, Commission, and NYSERDA should lead a stakeholder process to develop a plan for transitioning from today's fossil gas industry to an industry that achieves New York's decarbonization goals, where fossil gas is completely phased out by 2050, which should incorporate sector-specific goals recommended by the Climate Action Council.

Concerning the 100-Foot Gas Connection rule, Synapse Energy asserts that it burdens other customers with the risk that the cost of the connection will not be fully recovered through the new customer's rates. Accordingly, the State should reconsider the obligation to serve in light of natural gas's high costs to health and the environment, as well as the socialized costs to customers. Finally, the Commission should require statewide, standard definitions and consistent reporting on interconnections, remove incentives to gas connections by minimizing socialized costs of new connections, remove or reduce the allowance of "free" line extension costs to new customers, consider shifting the risk of under-collection of the line costs from customers as a whole to the new customer, and weigh the

obligation to serve in light of socialized costs to customers, health impacts, and policy goals.

The Williams Companies, Inc. (Williams)

Williams transports more than 50 percent of the natural gas used by the New York's downstate LDCs, primarily serving Westchester, New York City and Long Island through the Transcontinental Gas Pipeline (Transco) system. Williams supports the stated intent of this proceeding in general, and specifically supports the recommendations proposed by Department of Public Service Staff related to enhanced supply and demand forecasting. The Transco system brings reliability to the U.S. electric power grid and allows for growth in renewable forms of energy, and studies point to continued use of natural gas for at least the next 30 years, even in scenarios where the country achieves net zero targets by midcentury, including through the use of possible replacements like zero-carbon gaseous fuels (e.g., hydrogen or biogas).

By requiring visibility into the planned composition of the supply portfolio on a long-term basis, potential supply gaps and system pressure constraints can be planned for and addressed years earlier than under the current gas planning process. The proposed requirement of re-examination and re-validation of each LDC's long term plan on a regular basis will provide a greater degree of certainty among stakeholders and will facilitate a more thoughtful process.

Williams also concurs with the DPS Staff's assessment that reliance on peaking services to meet peak day load can have certain risks and often leads to higher costs to the end user. It is important to note that with regards to the transition to zero carbon energy systems, one of the fuels that is expected to displace natural gas is hydrogen, which will also need to be

transported by pipeline in order to keep costs low for consumers.

#### PUBLIC COMMENTS

Of the more than 2,550 public comments submitted to the Secretary through the DMM system, nearly 99 percent of the submission were a version of either a form email or a form email with an individualized opening sentence or paragraph. All of these form email comments were in opposition to the continued use of natural gas and the building of natural gas infrastructure. Additionally, the comments fell into three major categories.

#### Staff Proposal February 12th Release Generic Email

This email was far and away the largest number, with nearly 80 percent of all comments consisting of either the form by itself or the form with a sentence or two at the top adding in a personal message. The form itself touched upon the belief that the February 12th Gas Planning White Paper was an "abdication" of the responsibilities of Staff and the regulator to require a comprehensive plan by gas utilities. The email further notes that the decision to limit the White Paper to narrow parameters was a failure, in that the decision results in a failure to recognize 11 issues, including:

1. The risks and harms of gas as an accelerate to climate change;
2. The input of community advocates and environmental groups;
3. The centering of marginalized communities and environmental justice;
4. The need to provide guidance to municipalities, developers, and contractors;
5. The emission reduction requirements for gas utilities in alignment with the CLCPA;
6. The affordability for clean energy alternatives to gas;

7. The guidance for an orderly and equitable phase out of the gas distribution infrastructure;
8. The end to current ratepayer funded subsidies for gas;
9. The pathway for renewable district thermal energy;
10. The halting of new investment in gas infrastructure; and
11. The need for affordable, reliable electric power to support building electrification.

The email further rejects "false solutions" to decarbonization, such as compressed natural gas, renewable natural gas, hydrogen, and biofuel. Instead, the email demands the Commission send Staff "back to the drawing board" for a comprehensive look at gas planning and usage.

#### Mothers Out Front Generic Email

This email consisted of a significant portion of the filed comments, second only to the Staff Proposal February 12th Release Generic Email noted above. In this case, the email identified the author as a member of "Mothers Out Front - a mother/caregiver powered organization fighting for climate justice for all children." The email expressed its disappointment with the narrow scope and recommendations of the White Paper. Instead, the email noted the need for regulators to ensure that the utilities recognized the risks and harms of gas, stopped making investment in gas infrastructure, funded renewable solutions, put forth a plan for the orderly and equitable dismantling of existing gas infrastructure, and centered marginalized communities. This call is based upon the need to combat impending climate change and to provide a livable climate for all of our children."

Thank the Public Service Commission Generic Email

This third generic email thanked the Commission for starting the process and noted that the science is clear - methane gas is a highly potent global warming agent, and New York must reduce its usage. While utilities can socialize the cost of methane gas infrastructure across all customers, the cost of household electrification is borne by the individual or property-owner. The transition away from gas and into electrification needs resources and planning at the utility scale, and through the repurposing of billions of dollars into renewable heating infrastructure and electrification. As such the email calls upon the Commission to work with all interested stakeholders to ensure that utilities stop investing in gas infrastructure and immediately pivot to investing in renewable energy and electrification.

PUBLIC STATEMENT HEARING COMMENTS

Administrative Law Judges of the Department of Public Service presided over two virtual public statement hearings, conducted via audio conference on May 12, 2021, and May 13, 2021. Approximately 40 individuals provided comments. Some commenters spoke as members of, or on behalf of, organizations, including the New York Geothermal Energy Organization (NY-GEO), Mothers Out Front, Alliance for a Green Economy, All Our Energy, HeatSmart Tompkins, 350Brooklyn, Fossil Free Tompkins, Sane Energy Project, Food and Water Watch, Grassroots Environmental Education, PUSH Buffalo, Consumer Energy Alliance, Public Interest Law Project (PULP).

Many commenters expressed disappointment in the Planning Proposal and requested that the Commission reject it and require Staff to propose a planning process that provides for a rapid, equitable, affordable transition off fossil fuels

and on to renewables. Some commenters specifically recommended that the Commission mandate limits on GHG emissions from the use of the LDCs' gas systems. A representative of Sane Energy Project stated that the Planning Proposal does not address environmental justice communities and fails to provide guidance and resources to municipalities, developers, and contractors so they can plan for a transition from gas. City councilmembers from Mount Vernon and Peekskill noted the need to invest in and educate communities to provide resources for them to move away from fossil fuels. Others recommended requiring all future rate increases to be directed only to renewables and decreasing the allowable rate of return on gas investments. Many asked that the Commission end incentives for conversions from oil to gas and require the LDCs to stop marketing natural gas as clean and beneficial. Some commentors asserted that there is no need for new gas pipelines or expanding gas infrastructure to new buildings, while others expressed concern about particular gas infrastructure. Additional commenters expressed concern about poor indoor air quality caused from the use of gas stoves and other indoor combustion. The representative from Fossil Free Tompkins urged the Commission to eliminate the benefit-cost analysis process for non-pipe alternatives.

Representatives of NY-GEO expressed appreciation for the work that went into the Planning Proposal, but state that it only as a start and not an end. NY-GEO expresses that, while the Planning Proposal has some good components, it needs more direction and to have outcome goals. NY-GEO also asserted that converting end-users from oil or propane to fossil gas does not solve GHG emissions problems, given production and transportation emissions, such as leaks. NY-GEO also requested that the Commission require LDCs to report the costs of the 100-

foot rule (providing gas facilities to applicants for new gas service at no direct cost) in a uniform manner.

In contrast, a representative from Consumer Energy Alliance spoke in favor of using natural gas as one of a balanced set of energy sources. Consumer Energy Alliance also expressed concern that the Planning Proposal's no infrastructure option and electrification would be too costly.

The representative from PULP expressed support for an Integrated Resource Planning Process with transparency and clear messages to the public about what to expect. Further, PULP recommended that LDCs that may propose infrastructure should think about whether it can be used for something else in the future. PULP also expressed concern about the affordability of accelerated depreciation. Finally, PULP argued that the 100-foot rule is not a subsidy rule, but rather functions as an anti-red-lining rule.