

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

Case 24-E-0322 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service.

Case 24-G-0323 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Gas Service.

STAFF REPLY STATEMENT IN SUPPORT OF THE JOINT PROPOSAL

JESSICA VIGARS
STEPHANIE MCDERMOTT
Staff Counsel

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STAFF REPLY STATEMENT IN SUPPORT OF THE JOINT PROPOSAL

I. INTRODUCTION

On April 25, 2025, Trial Staff of the New York State Department of Public Service (Staff); Niagara Mohawk Power Corporation d/b/a National Grid (referred to as Niagara Mohawk or NMPC, or the Company); Multiple Intervenors (MI); Walmart, Inc.; New York Solar Energy Industries Association (NYSEIA); Independent Power Producers of New York, Inc. (IPPNY); United States Department of Defense and all other Federal Executive Agencies (DoD); Turning Stone Enterprises, LLC; Fedrigoni Special Papers North America, Inc.; Empire Natural Gas Corporation;¹ New York Geothermal Energy Organization (NY-GEO); New Yorkers for Clean Power (NYCP); International Brotherhood of Electrical Workers Local Union No. 97 (IBEW);² Alliance for a Green Economy (AGREE); and New York Power Authority (NYPA) (collectively, the Signatory Parties), submitted a Joint Proposal recommending a comprehensive resolution of all issues raised in the above-captioned proceedings.³

Pursuant to the May 1, 2025 Ruling by the Administrative Law Judges (ALJs), Signatory Parties filed Initial Statements in Support of the Joint Proposal on May 14, 2025. Initial Statements in Support were filed by Niagara Mohawk, Staff, MI, Walmart, Inc., NYSEIA, IPPNY, DoD, Fedrigoni Special Papers, NY-GEO,⁴ NYCP, IBEW, AGREE, and NYPA; and

¹ Fedrigoni Special Papers and Empire Natural Gas Corporation's support of the Joint Proposal is limited to Case 24-G-0323.

² IPPNY and IBEW's support of the Joint Proposal is limited to Case 24-E-0322.

³ Cases 24-E-0322 et al., National Grid – Rates, Joint Proposal (filed April 25, 2025) (Joint Proposal).

⁴ NY-GEO's Statement in Support was filed on May 13, 2025.

Environmental Defense Fund filed a Statement of Neutrality. In addition, on May 14, 2025, Statements in Opposition were filed by the Public Utility Law Project (PULP), the Utility Intervention Unit of the Division of Consumer Protection, New York State Department of State (UIU), NRG Energy, Inc. (NRG), and by individuals Roger Caiazza and Constantine Kontogiannis.

By this Reply, Staff addresses the issues raised by PULP, UIU, NRG, and Roger Caiazza and Constantine Kontogiannis in their Statements in Opposition, and provides clarification regarding NY-GEO's Statement in Support, with regard to the Joint Proposal and recommends that the New York State Public Service Commission (Commission) adopt the provisions of the Joint Proposal and establish three-year electric and gas rate plans for Niagara Mohawk, without modification.

II. RESPONSE TO PULP

A. The Joint Proposal Sets Forth Enhancements for Energy Affordability Program (EAP) Communication and to Address EAP Enrollment

In its Initial Statement in Opposition, PULP sets forth its position that the Energy Affordability Program (EAP) is underenrolled and cites concern with the uncertainty of public benefit programs and the resulting bill impact on low-income and ineligible households.⁵ PULP commended the Signatory Parties' efforts for addressing EAP enrollment through in-person outreach in disadvantaged communities and setting annual program enrollment targets.⁶ However, PULP asserts that "large portions" of potentially eligible customers "may remain unenrolled" in the EAP.⁷ PULP states that "[m]ore is needed" to shield vulnerable households from the expected rate increases.⁸

The Joint Proposal contains several provisions that address PULP's concerns regarding EAP, specifically: (1) additional direct outreach and in-person events in disadvantaged communities to increase EAP enrollment and inform customers of other financial assistance programs, including the Home Energy Assistance Program (HEAP), Emergency HEAP, Home &

⁵ PULP Initial Statement in Opposition, pp. 3-4.

⁶ PULP Initial Statement in Opposition, p. 7.

⁷ PULP Initial Statement in Opposition, pp. 7-8.

⁸ PULP Initial Statement in Opposition, p.7.

Warmth Energy Fund, Care & Share, and Hearts Fighting Hunger;⁹ (2) requiring the Company to host in-person outreach events for potentially EAP-eligible customers in specific disadvantaged communities with an estimated EAP enrollment rate of less than 25 percent, as identified by one of the Signatory Parties;¹⁰ (3) establishment of an EAP enrollment target to increase the number of customers enrolled in the program each year;¹¹ and (4) establishment of a metric to track the number of EAP participants who self-certified or were manually enrolled outside of the automatic file-matching process.¹² These provisions directly address PULP's concerns with EAP enrollment and potential issues that may be caused by federal changes by requiring the Company to bolster its EAP outreach and establishing an enrollment metric that will allow the Company, Staff and stakeholders to monitor possible trends in enrollment.

PULP also raises concerns about potential changes with HEAP funding and changes in benefits for other assistance programs that qualify customers for EAP enrollment.¹³ These rate proceedings are not the appropriate venue to consider changes in EAP eligibility criteria, as any proposed changes should be addressed in the generic Energy Affordability Policy Proceeding, Case 14-M-0565, through the EAP Working Group due to the impacts of such changes on other utilities that would require Commission approval.¹⁴ In addition, the Commission requires every utility to update its EAP bill discount amounts on an annual basis and whenever the utility files tariff compliance for a new rate plan.¹⁵

The Joint Proposal reflects thoughtful consideration of the issues raised by PULP and includes several key provisions that are aimed at addressing customer communication, EAP enrollment and potentially mitigating the impact of the proposed rate increases. The Company's

⁹ Joint Proposal, p. 90.

¹⁰ Joint Proposal, pp. 90-91.

¹¹ Joint Proposal, pp. 91-92.

¹² Joint Proposal, p. 92.

¹³ PULP Initial Statement in Opposition, p. 5.

¹⁴ Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers, Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021), pp. 38-39.

¹⁵ Id., p. 44.

EAP will be enhanced through the adoption and implementation of the terms of the Joint Proposal and should be adopted.

B. The Joint Proposal Earnings Sharing Mechanism is Equitable

In its Statement of Opposition to the Joint Proposal, PULP argues that the Joint Proposal's Earnings Sharing Mechanism (ESM) is not in the public interest because it does not equitably share earnings when Niagara Mohawk's actual return on equity (ROE) exceeds the authorized level.¹⁶ PULP contends that Niagara Mohawk's 2017 and 2020 rate plans disproportionately benefited shareholders with only minimal contributions for the benefit of ratepayers.¹⁷ While PULP's concerns are rooted in a desire to ensure customers receive fair treatment, its analysis reflects a narrow and incomplete view of how the ESM is designed and why the ESM proposed in the Joint Proposal reflects a fair balance within the broader regulatory framework under the Commission's jurisdiction.

Contrary to PULP's assertion that the current ESM unfairly favors shareholders, the mechanism proposed in the Joint Proposal embodies an inherent fairness grounded in the asymmetry of risk borne by the Company. Under established regulatory practice in New York, ratepayers are shielded from utility underperformance because no sharing occurs when utilities earn below its authorized ROE.¹⁸ Shareholders alone assume the risk of unfavorable outcomes, from inflationary cost spikes to unforeseen capital demands. That risk is foundational to utility regulatory finance and justifies a structure in which a utility company retains a modest portion of any over-earnings, referred to as the deadband, without triggering immediate sharing with customers. Moreover, the design of the Joint Proposal's ESM, including the 50 basis point deadband, is not a flaw but a deliberate regulatory feature. It promotes cost discipline and encourages utilities to manage expenses efficiently, knowing they may retain modest gains.¹⁹ These operational efficiencies could ultimately benefit customers over time, particularly in future rate proceedings. It must be noted that beyond the deadband, the Joint Proposal's ESM includes

¹⁶ PULP Initial Statement in Opposition, p. 6.

¹⁷ PULP Initial Statement in Opposition, p. 7.

¹⁸ Staff Initial Statement in Support, p.62, citing examples of Commission-adopted joint proposals that apply ESM only above the authorized ROE.

¹⁹ Staff Initial Statement in Support, p. 62.

progressive sharing tiers that increase the customer share as earnings rise, meaning the mechanism scales with utility performance.²⁰ The more the Company earns above its authorized ROE, the greater the portion of excess earnings is shared with customers.

PULP also asserts that over an eight-year period, from calendar year 2012 to 2020, only about \$0.400 million of the Company's excess earnings was shared with customers by reducing regulatory balances associated with deferred SIR costs.²¹ However, this amount does not reflect the full structure of the ESM. The amount reflects only the portion of the Company's share that was used to reduce regulatory balances associated with deferred SIR costs as required by certain tiers of the earnings sharing mechanism. However, customers also received their prescribed share of excess earnings in each applicable tier 50%, 75%, or 90%, depending on the level of over-earnings achieved by the Company. Thus, the \$0.400 was in addition to those shared amounts, not the totality of customer benefit resulting from the ESM. Therefore, the ESM operated as intended by delivering customers their fair share of any excess earnings through the structured tiers, as well as Company contributions used to reduce regulatory balances associated with deferred SIR costs.

The ESM proposed in the Joint Proposal reflects a reasonable and balanced approach to address any excess earnings. Further, it aligns with the finance principle of risk and reward, encourages cost efficiency, and preserves the Company's financial stability while delivering meaningful customer benefits when earnings materially exceed expectations. Thus, PULP's critique, while well-intentioned, overlooks these key dynamics and does not justify altering a structure that already incorporates inherent fairness by design.

C. The Joint Proposal Provision Regarding Extreme Heat is Reasonable

In its Statement in Opposition, PULP states it is concerned with the Company's current extreme heat protections, which suspend residential service terminations on days when the heat index reaches 95 degrees for two or more consecutive days and/or when the heat index is forecasted at 100 degrees for one or more consecutive days.²² PULP acknowledges that the Commission instituted a generic proceeding, Case 24-M-0586, but is concerned with the timing

²⁰ Joint Proposal, p. 37.

²¹ PULP Initial Statement in Opposition, p. 7.

²² PULP Initial Statement in Opposition, p. 8.

of the proceeding and that the Joint Proposal should be modified to decrease the extreme heat threshold to 90 degrees.²³

The Joint Proposal continues the Company's current extreme heat protections, while acknowledging that the Commission may take action in the generic proceeding instituted under Case 24-M-0586, which may alter the utilities' procedures and protections for residential electric and water utility customers during extreme heat events. The Joint Proposal's provisions regarding extreme heat are reasonable and provide continued protection for customers for the upcoming summer season. In addition, given that these protections are the subject of an ongoing generic proceeding, the Joint Proposal's provisions are reasonable and should therefore be adopted so customers remain protected from service termination during extreme heat events until the Commission takes action in Case 24-M-0586.

III. RESPONSE TO UIU

A. Clarification of Revenue Requirement over the Rate Plan

In its Initial Statement in Opposition to the Joint Proposal, UIU included a table²⁴ on page 5 that shows the current electric and gas rates for service classification (SC)-1 and SC-2, as compared to the Rate Year (RY) 3 rates included in the Joint Proposal. UIU uses that rate comparison to claim that this Joint Proposal increases rates by 37.43 percent for SC-1 electric customers and by 40.55 percent for SC-1 gas customers over the term of the proposed rate plan. While this is technically correct, the percentage that rates increase from current rates to the proposed RY3 rates in the Joint Proposal is not the percentage increase that typical-use customers will experience on their bills and does not reflect customer usage or the bill impact customers will experience. Instead, the bill impacts included in the Joint Proposal²⁵ measure the true impact to customers from the proposed revenue increases, and are less than the rate percentage increases shown in UIU's table. For example, the bill impacts from current rates to the rates in effect at the end of the rate plan (RY3) are 17.4 percent for SC-1 electric and 28.4 percent for SC-1 gas customers. Therefore, UIU's characterization of the rate increases are

²³ PULP Initial Statement in Opposition, p. 8.

²⁴ UIU Initial Statement in Opposition, p. 5.

²⁵ Joint Proposal, Appendix 2 and Appendix 3.

unreasonable and instead, the bill impacts should be used to measure the impacts of the proposed revenue increases to customers' bills.

B. The Joint Proposal's Cost Classification is Reasonable

In its Initial Statement in Opposition to the Joint Proposal, UIU claims that the minimum system studies used in the electric and gas embedded cost of service (ECOS) studies fails to theoretically replicate a distribution system that serves only to connect customers and is a flawed representation of the customer portion of the distribution system. UIU also claims the minimum system studies do not correct for load-carrying capacity for gas as they do for electric, which UIU claims is incorrect. Finally, UIU points out that the Company's ECOS studies are not consistent in the use of minimum system studies between its Massachusetts and New York State entities.²⁶ UIU supports movement away from the minimum system approach and requests that the Commission refrain from adopting the Joint Proposal's proposed ECOS methodology for revenue allocation and, in addition, that the Commission direct future study into classification methodology.

As stated beginning on page 6 of the Rebuttal Testimony of the Staff Electric Rates Panel and Staff Gas Rates Panel, Staff supports the use of minimum system studies to classify costs as rates that customers pay to reflect cost causation as accurately as possible. A minimum system study recognizes that the diameter or size of pipes or wires are a function of demand, while the length of these assets is a function of the number of customers served. Classifying all electric Overhead and Underground Assets, or gas distribution mains as demand fails to recognize that some of those costs are customer related. As the Company states on page 15 of the Rebuttal Testimony of the Gas Rate Design Panel, the demand allocators were not adjusted on the gas side to account for load carrying capacity of the minimum system as a system with only two-inch diameter pipes could not supply gas to customers due to line pressurization requirements. Finally, for the reasons provided in this reply statement and in Staff's litigated position, the use of minimum system studies is appropriate. The New York State Public Service Commission does not have jurisdiction over the Company's business entities in other states or the application of those ECOS studies; decisions made by other jurisdictions are not binding on

²⁶ UIU Initial Statement in Opposition, pp. 5-6.

the Commission. In addition, the use of the ECOS in this Joint Proposal is limited to use of revenue allocation; the Joint Proposal in and of itself does not set precedent for any specific methodology.²⁷

C. The Proposed Return on Equity is Consistent with Approved ROEs in New York State and Strikes an Appropriate Balance

In its Statement in Opposition to the Joint Proposal, UIU opposes the Joint Proposal's recommended Return on Equity (ROE) of 9.50 percent, arguing that it is excessive and unsupported by objective market-based data.²⁸ UIU relies on the testimony of its ROE expert witness, David Garrett, who conducted Capital Asset Pricing Model and Discounted Cash Flow model analyses and concluded that a reasonable range for ROE is between 7.9 percent and 8.8 percent.²⁹ Based on this, UIU recommends a ROE of 8.5 percent, but also identifies 9.0 percent as an acceptable alternative if the Commission declines to adopt its preferred position.³⁰

While UIU's concerns are framed as a defense of customer interests, its ROE recommendation is based on a one-year rate plan analysis and does not fully account for the additional financial and business risks inherent in multi-year rate plans. These risks have been repeatedly acknowledged by the Commission in the context of multi-year rate plans as justifying a higher return in order to maintain utility financial integrity and creditworthiness.³¹

Moreover, UIU's proposed ROE of 8.5 percent, and its alternative recommendation of 9.0 percent, are both well below recent recommendations made by the Department of Public Service Staff (Staff) in rate proceedings. For example, in the current St. Lawrence Gas rate case, Staff recommended a 9.25 percent ROE for a one-year rate plan based on the long-standing cost of equity methodology that has been upheld by the Commission in numerous rate cases.³² Staff's recommendation of a 9.25 percent ROE in a lower-risk, single-

²⁷ Joint Proposal, pp. 16-17, 27.

²⁸ UIU Initial Statement in Opposition, p. 6.

²⁹ UIU Initial Statement in Opposition, p. 7.

³⁰ Id.

³¹ Staff Initial Statement in Support, p.16 (citing examples of Commission-adopted joint proposals with enhanced allowed ROEs to account for business and financial risks in multi-year rate plans).

³² Case 24-G-0668, Liberty Utilities (St. Lawrence Gas) Corp., Staff Finance Panel (Hasan Ahmed and Vincent Califano) Testimony, (filed April 1, 2025), p. 7.

year rate plan for the St. Lawrence Gas rate case supports the reasonableness of a 9.50 percent ROE under a multi-year plan, where financial and operational risks are more significant.

In the context of a multi-year agreement with inherent business and financial risk, a ROE of 9.50 percent is not only reasonable but necessary to ensure the financial stability of the Company and its ability to attract capital at favorable terms. The proposed ROE is consistent with recent returns authorized by the Commission in other multi-year rate plans and appropriately balances customer interests with the utility's need to maintain its credit rating.³³

Finally, UIU cites the 8.63 percent ROE recently approved by the Connecticut Public Utilities Regulatory Authority (PURA) for United Illuminating as a point of comparison.³⁴ UIU's reference reflects an apples-to-oranges comparison, given that the regulatory risk and investor confidence levels in Connecticut and New York are quite different. PURA's regulatory environment, capital structure authorizations, and treatment of financial risk differ meaningfully from those in New York. This is recognized by the Regulatory Research Associates, which ranks Connecticut's regulatory climate as "Below Average/3" and New York's as "Average/2."³⁵ Moreover, the 8.63 percent ROE in Connecticut was authorized under a one-year rate plan and included a 47 basis point downward adjustment due to performance penalties.³⁶ Absent that penalty, the base ROE would have been 9.10 percent, which is much more comparable to the recommendations proposed by Staff for a one-year plan as opposed to that proposed by UIU, and therefore supportive of the reasonableness of a 9.50 percent ROE under the multi-year structure of the Joint Proposal. The 9.50 percent ROE proposed in the Joint Proposal reflects more recent financial conditions in addition to negotiated outcomes specific to the Company and consistent with the New York regulatory framework. Moreover, the Joint

³³ Staff Initial Statement in Support, p. 16 (citing examples of recent Commission-adopted rate plans with allowed ROEs comparable to the 9.5 percent ROE of this Joint Proposal).

³⁴ UIU Initial Statement in Opposition, p. 7.

³⁵ For NYPSC RRA Ranking, see Witness Duah's Testimony p. 138. For Connecticut RRA Ranking, see [CIQ Pro: Connecticut Public Utilities Regulatory Authority](#).

³⁶ Connecticut Public Utilities Regulatory Authority Rate Case Decision in Docket No. 22-08-08 (issued on August 25, 2023), [https://www.dpuc.state.ct.us/dockcurr.nsf/4b3c728dd1c0d642852586db0069aa70/dd7c1a0c81056b1485258a16004f1d22/\\$FILE/220808-082523.pdf](https://www.dpuc.state.ct.us/dockcurr.nsf/4b3c728dd1c0d642852586db0069aa70/dd7c1a0c81056b1485258a16004f1d22/$FILE/220808-082523.pdf) (sourced May 20, 2025).

Proposal's 9.50 percent ROE would help support the Company's credit profile. By contrast, UIU's ROE recommendation, when combined with its proposal to apply the full pension and OPEBs negative adjustment to reduce the Company's revenue requirement, would materially reduce the Company's cash flow. This would risk pushing its Moody's CFO-Pre working capital to debt core metric below Moody's downgrade threshold of 14 percent, as discussed below, relating to pensions and OPEBs negative adjustment.

In conclusion, UIU's argument for a lower ROE does not reflect recent Commission precedent, nor does it account for the level of return required to maintain the Company's credit profile. Its comparison to the lower ROE in Connecticut overlooks key differences in the regulatory environment. The Joint Proposal's proposed 9.50 percent ROE is reasonable, supported by the Commission's recent ROE decisions in multi-year rate plans, and should therefore be adopted.

D. The Joint Proposal's Treatment of Pensions and OPEBs is Reasonable

In its Statement in Opposition to the Joint Proposal, UIU opposes the Joint Proposal's inclusion of 30% of the negative pension and other post-employment benefit (OPEB) cost and argues that the Joint Proposal should use 100% of the negative expense.³⁷ UIU asserts that the arbitrary reduction of the negative expense harms customers by not fully accounting for all changes in the pension and OPEB expenses in the rate years and that customers will contribute more than is required to fund the pension and OPEB plans. Further, UIU suggests that the Joint Proposal modifies the accounting treatment for pensions and OPEBs and utilizes a combination of both a cash basis method and an accrual method of accounting.³⁸

As an initial matter, UIU's assertion is flawed. Pursuant to the Commission's Policy Statement³⁹ utilities are required to reconcile any difference between their approved rate allowance for pension and OPEBs and their actual pension and OPEBs expense, therefore customers will not pay any more than is necessary to fund the pension and OPEB plans. Further,

³⁷ UIU Initial Statement in Opposition, pp 7-8.

³⁸ UIU Initial Statement in Opposition, p. 8.

³⁹ Case 91-M-0890, Statement of Policy on Pensions and Other Postretirement Benefits Other Than Pensions (issued September 7, 1993).

the Joint Proposal does not modify the accounting treatment for pension and OPEBs, it continues to use the accrual method of accounting as set forth in the Commission's Policy Statement.

In addition, UIU argues that there is no compelling evidence for a risk of downgrade in the Company's credit rating and characterizes the credit concerns as relying on "unsubstantiated speculation on what may or may not happen."⁴⁰ This argument dismisses published guidance from Moody's, which states that a downgrade could occur if the Company's core credit metric — CFO pre-working capital to debt — consistently falls below 14 percent.⁴¹ Applying the full negative pension and OPEBs expense combined with UIU's recommended ROE would materially reduce the Company's cash flow and push this core metric below Moody's downgrade threshold. Credit downgrades are not without consequence. They directly increase the utility's cost of borrowing, which ultimately affects customers over the long term through higher capital costs.

The Joint Proposal's balanced approach to pension and OPEBs is reasonable, consistent with the Commission's Policy Statement, ensures that customers only pay the amount necessary to fund the Company's pension and OPEBs expense, and provides sufficient cash flow to support the Company's credit profile.

E. The Depreciation Rates in the Joint Proposal are Reasonable

In its Initial Statement in Opposition, UIU claims the Commission should reject the proposed lives and net salvages rates included in the Joint Proposal. More specifically, UIU claims that depreciation rates are increasing at unsustainable rates due to the level of new investments and the acceleration of recovery for all investments and that the depreciation rates set out in the Joint Proposal are higher than historically approved rates. In addition, UIU claims that the Company states in other proceedings that the gas system will continue to be used, while stating in this proceeding that the CLCPA should accelerate the depreciation of gas assets. Regarding net salvage, UIU contends that the net salvage rates are increasing, which improperly presumes increased interim retirements in the future. UIU argues that the Joint Proposal ignores

⁴⁰ Id.

⁴¹ Staff Witness Duah's Testimony Exhibit __ (KXD-6).

the potential outcomes of retiring the gas system or using the gas system until its end of life and notes that the CLCPA does not specifically require the Company to remove gas pipe.⁴²

The depreciation rates in the Joint Proposal were developed using historic data and do not account for potential future outcomes for the gas distribution system such as abandonments, early retirements or the potential for accelerated depreciation pursuant to the CLCPA. The Joint Proposal takes a balanced and reasonable approach to developing depreciation rates based upon actual, historical information. Staff's initial testimony recommended that the Gas Planning Proceeding⁴³ is the most appropriate venue for changes to depreciation rates or methodology that stem from the CLCPA.⁴⁴ UIU's claims regarding the CLCPA and depreciation rates in this case are therefore not applicable. The Joint Proposal's depreciation rates have a reasonable basis and should be adopted.

F. The Joint Proposal Appropriately Plans for Capital Expenditures

In its Initial Statement in Opposition, UIU claims that the amounts included in the Joint Proposal for capital expenditures for electric and gas are too high. UIU recommends that the Commission approve a one-year capital budget at fiscal year (FY) 2025 amounts for both electric and gas, or alternatively on-going budgets for electric at FY2025 amounts and for gas a ten percent reduction from the levels included in the Joint Proposal. UIU also objects to the Pipeline Replacement Projects (PRP) surcharge, which would potentially recovery costs of the PL-16 and PL-E18 projects, and contends that the surcharge shifts additional costs and risk to ratepayers.⁴⁵

The reduction to the capital budgets recommended by UIU are arbitrary. UIU does not identify specific projects that it deems unnecessary to provide safe and reliable service. The projects and programs included in the Joint Proposal⁴⁶ have all been justified by the Company as necessary to continue to provide safe and reliable service. Regarding the PRP surcharge and PL-16 and PL-E18 projects, it is a benefit to ratepayers that these projects were

⁴² UIU Initial Statement in Opposition, pp. 8-9.

⁴³ Case 20-G-0131, Proceeding on Motion of the Commission in Regard to Gas Planning Procedures.

⁴⁴ Staff Depreciation Panel Testimony, pp. 34-35.

⁴⁵ UIU Initial Statement in Opposition, pp. 9-11.

⁴⁶ Joint Proposal, Appendix 5.

removed from base rates. If these projects are determined to be necessary to provide safe and reliable service, cost recovery of these projects has to be funded from rates, whether in base rates or through a surcharge. Shifting these projects outside of base rates during this rate plan balances reliability and affordability by allowing the Company to attempt to avoid these projects with more cost-effective solutions that would provide the same level of safety and reliability without increasing base rates. Therefore, these provisions of the Joint Proposal are a reasonable outcome for ratepayers.

IV. RESPONSE TO NRG

In its Initial Statement in Opposition, NRG sets forth its opposition to Section 16.5.1(iv) of the Joint Proposal and contends that the Commission should reject this sub-section in its entirety.⁴⁷ NRG contends that this section of the Joint Proposal conflicts with long-standing Commission policy permitting large commercial and industrial customers (like the Daily Balanced Customers in this rate proceeding) to choose to have gas supplies delivered using firm secondary pipeline capacity and, further, deprives Daily Balanced Customers of the freedom to choose to continue to rely on a mix of the Marketer's own PPC and firm secondary pipeline capacity.⁴⁸ In addition, NRG contends that other sections of the Joint Proposal already further reduce the need to "deprive" existing Daily Balanced Customers with the ability to choose to use secondary firm pipeline capacity.⁴⁹ Finally, NRG argues that there are no reliability issues on Niagara Mohawk's system and there is no need for this provision of the Joint Proposal.⁵⁰

A. NRG's Reliance on Commission Orders is Misplaced

NRG refers to two Commission Orders to support their position that the Joint Proposal Section 16.5.1(iv) is inconsistent with Commission policy. However, NRG's reliance on the Commission Orders is misplaced. First, with respect to the August 30, 2007 Order on Capacity Release Programs, issued in Case 07-G-0299, the language cited by NRG merely

⁴⁷ NRG states that its opposition is limited to Section 16.5.1(iv) of the Joint Proposal and further notes that it neither supports nor opposes any other provisions of the Joint Proposal. See NRG Initial Statement in Opposition, p. 2, fn. 3.

⁴⁸ NRG Initial Statement in Opposition, pp. 3-6.

⁴⁹ NRG Initial Statement in Opposition, pp. 6-7.

⁵⁰ NRG Initial Statement in Opposition, pp. 8-9.

demonstrates that this Order was limited to capacity planning and constraints for “marketer customers” who, at that time, were defined to include “residential and small commercial customers who lack access to alternative fuels and for whom marketers must acquire primary delivery point capacity for the five winter months if they do not accept assignment of LDC capacity.” The definition of “customer” and the Order language explains that the contemporaneous planning initiative was not intended to include commercial and industrial customers at that point in time.⁵¹ Additionally, this Order explains that, at that point in time, the Commission found no reason to expand the definition of “customer” to include these large customers because these customers could employ risk management strategies, such as maintaining alternative fuels or shutting down processes, to cover the possibility of their gas not getting to the LDC’s system or they could simply assume the risk of not receiving gas.⁵² However, the risk that these customers currently assume on the Company’s system is not one of simply not receiving gas but one of other customers not receiving gas as well, since significant customer growth has occurred since the time of the 2007 Order and pressure losses on the Company’s system could result in loss of service to core customer and firm transportation customers during peak cold temperatures, especially given the current and anticipated constraints on this system.⁵³

Second, with respect to the November 20, 2000 Order Denying Petition for Rehearing and Granting Petition for Clarification, issued in Case 97-G-1380, while the Commission rejected the contention of Consolidated Edison that large commercial and industrial customers should be required to obtain 100 percent PPC, this provision does not require existing Daily Balanced Customers to obtain 100 percent PPC. This provision only requires these customers to obtain a portion of available PPC. The passage cited by NRG from this Order also provides for a reevaluation of the situation regarding mandatory PPC requirements for large volume customers that are subscribed to a firm transportation service and are expected gas

⁵¹ Case 07-G-0299, In the Matter of Issues Associated with the Future of the Natural Gas Industry and the Role of Local Gas Distribution Companies, Order on Capacity Release Programs (issued August 30, 2007).

⁵² Case 07-G-0299, Order on Capacity Release Programs, p. 11.

⁵³ Joint Proposal, pp. 110-111; Staff Gas Reliability and Supply Panel Testimony, p. 18; NMPC Gas Supply Panel Testimony, p. 45; NMPC Exhibit__ (GIOP-3), pp. 34-35; NMPC Statement in Support of Joint Proposal, pp. 105-108.

supplies regardless of the peak cold weather events or should reliability concerns arise.⁵⁴ The Joint Proposal recognizes capacity constraints on interstate pipelines and the Company's gas distribution system and proffers a reasonable framework to address this and manage the system.⁵⁵

In its opposition, NRG contends that the Joint Proposal "would replace this long-established Commission policy with a new policy effectively prohibiting existing large commercial and industrial customers from continuing to rely on secondary firm pipeline capacity where PPC is or becomes available."⁵⁶ However, this term does not require these customers to drastically reduce or replace their respective contracted amounts of secondary firm pipeline capacity, but rather supplement for extreme or peak day conditions with a portion of PPC that becomes available. Moreover, the Joint Proposal term is proposed to address capacity concerns for Niagara Mohawk's system and is an appropriate measure for the Company to effectively manage its system.⁵⁷

Section 16.5.1(iv) of the Joint Proposal is reasonable because it offers a middle ground between the respective positions of the Company and NRG regarding mandatory PPC requirements for existing Daily Balanced Customers. This provision provides the Company with the opportunity to maximize the amount of PPC in the respective supply portfolios of existing Daily Balanced Customers and, in turn, the reliability of gas deliveries during peak day conditions for these existing customers, as well as the Company's gas system at large, without rendering their operations contingent upon the more rigorous 100 percent PPC requirements for new Daily Balanced Customers that the Company sought for all Daily Balanced Customers in its Initial Testimony. This provision may not necessarily entail a mandatory assignment of PPC because it requires the Company to notify existing Daily Balanced Customers of available PPC so that they may contract for this at their own volumes and prices rather than those determined by the Company. NRG also has not demonstrated a difference between new and existing Daily

⁵⁴ NRG Initial Statement of Opposition, p. 4.

⁵⁵ Joint Proposal, pp. 110-111; Staff Gas Reliability and Supply Panel Testimony, p. 18; NMPC Gas Supply Panel Testimony, p. 45; NMPC Exhibit __ (GIOP-3), p. 34.

⁵⁶ NRG Initial Statement in Opposition, p. 4.

⁵⁷ Joint Proposal, pp. 110-111; Staff Gas Reliability and Supply Panel Testimony, p. 18; NMPC Gas Supply Panel Testimony, p. 45; NMPC Exhibit __ (GIOP-3), pp. 34-35.

Balanced Customers that prevents the latter from operating under the same requirements as the former or that existing Daily Balanced Customers should be exempt from the requirements upon new Daily Balanced Customers.

B. The Joint Proposal Appropriately Considers the Needs of the Gas System

NRG contends that large commercial customers are sophisticated enough to determine the appropriate level of reliance on secondary capacity and the Joint Proposal effectively deprives them of the freedom to choose to use firm secondary pipeline capacity.⁵⁸ Further, NRG argues that the Company is already taking several steps to ensure Daily Balanced Customers are aware of their obligations to curtail gas usage, including a curtailment plan and the Daily Balanced Pool Alert, and there is no justification for depriving existing Daily Balanced Customers of the freedom to rely on secondary firm pipeline capacity.⁵⁹

However, Staff and the Company are prudently interested in the operations of the entirety of the system, not just the economic choices made by certain customers. The terms of the Joint Proposal recognize the realities of the current system and provide for the needs of the entire system.⁶⁰ Moreover, the customers that Marketers (such as NRG) serve are transportation customers in service classes that require firm service; as a result, it is of increasing importance for the underlying gas supply to be firm, and not just secondary pipeline capacity. Implementation of the curtailment plan under the proposed rate plan will demonstrate whether a curtailment plan is an effective tool in maintaining reliability on behalf of customers and firm transportation customers, who have yet to demonstrate a history of compliance with curtailments requested of them by the Company. In addition, Staff notes that Section 16.5.1(iv) is one piece of the measures the Company is taking to ensure reliable gas planning for the system. The Joint Proposal reasonably includes Section 16.5.1(iv), in conjunction with the companion sub-sections of Section 16.5.1 of the Joint Proposal. NRG is attempting to parse out one aspect of the Joint

⁵⁸ NRG Initial Statement in Opposition, pp. 4-6. Notably, although NRG refers to “firm secondary pipeline capacity,” NRG’s level of capacity is not “primary firm” capacity; and, thus, can be curtailed at the city gate for firm transportation customers expecting gas supplies on a peak design day.

⁵⁹ NRG Initial Statement in Opposition, pp. 6-7.

⁶⁰ Joint Proposal, pp. 110-111; Staff Gas Reliability and Supply Panel Testimony, p. 18; NMPC Gas Supply Panel Testimony, p. 45; NMPC Exhibit__ (GIOP-3), pp. 34-35; NMPC Statement in Support of Joint Proposal, pp. 105-108.

Proposal's measures to address gas supply constraints at the city gates, when it is part of a comprehensive proposal to address these issues.

C. The Joint Proposal Provisions that Ensure System Reliability are Appropriate

Finally, NRG contends that there are no reliability issues on the Company's system that would justify depriving existing Daily Balanced Customers of the freedom to choose to rely on firm secondary pipeline capacity. NRG relies on the Company's initial testimony of the Gas Supply Panel and Load Forecasting Panel.⁶¹ Contrary, to NRG's contentions, Staff's Gas Reliability and Supply Panel, the Company's Gas Supply Panel, and the Company's Statement in Support of the Joint Proposal demonstrate that there are reliability concerns.⁶² The Company is charged with maintaining the provision of safe and reliable service and measures such as Section 16.5.1(iv) support the provision of that service and are a reasonable measure for system stability.

V. RESPONSE TO CAIAZZA AND KONTOGIANNIS

A Statement in Opposition to the Joint Proposal filed by Roger Caiazza and Constantine Kontogiannis (Caiazza and Kontogiannis)⁶³ raises various issues, which will be address in turn, below. However, the issues alleged by Caiazza and Kontogiannis largely concern the CLCPA.⁶⁴ The CLCPA, adopted in 2019, established a nation-leading effort to reduce greenhouse gas emissions and respond to the effects thereof across New York State.

As discussed in Staff's Initial Statement in Support, the text of the CLCPA includes directives for the Commission.⁶⁵ CLCPA §7(2) requires the Commission to consider whether its decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law.

⁶¹ NRG Initial Statement in Opposition, pp. 7-9.

⁶² Staff Gas Reliability and Supply Panel Testimony, p. 18; NMPC Gas Supply Panel Testimony, p. 45; see also NMPC Exhibit __ (GIOP-3), pp. 34-35; NMPC Gas Infrastructure and Operations Panel Rebuttal Testimony, pp.36-39; NMPC Gas Supply Rebuttal Testimony, pp. 7-10; NMPC Statement in Support of Joint Proposal, pp. 105-108.

⁶³ Roger Caiazza and Constantine Kontogiannis each filed for party status in Cases 24-E-0322 and 24-G-0323 on April 30, 2025.

⁶⁴ Cases 24-E-0322, et. al., Statement in Opposition by Roger Caiazza and Constantine Kontogiannis (filed May 14, 2024) (Caiazza and Kontogiannis Initial Statement in Opposition).

⁶⁵ Staff Initial Statement in Support, p. 8.

Further, pursuant to CLCPA §7(3), the Commission shall not disproportionately burden disadvantaged communities and shall prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities.

Caiazza and Kontogiannis' arguments regarding the CLCPA ignore the fact that the aforementioned provisions of the CLCPA are statutory requirements that the Commission is obligated to comply with. Moreover, as discussed throughout the Joint Proposal, and in Staff's Statement in Support, the items that would help meet the goals of the CLCPA have been included to support ratepayers and are not a "substantial detriment" to ratepayers. Finally, the issues raised by Caiazza and Kontogiannis regarding the CLCPA are beyond the scope of this rate case. The Commission has instituted a proceeding to address the CLCPA, and Caiazza and Kontogiannis' statewide concerns are more appropriately addressed in that proceeding.⁶⁶

A. The Joint Proposal Supports Electrification Technologies

Caiazza and Kontogiannis raise concerns with the "CLCPA electrification initiatives,"⁶⁷ within the Joint Proposal, citing Company and NYSERDA support for cold climate air source heat pumps and geothermal heat pumps,⁶⁸ and electric school buses,⁶⁹ as examples of the CLCPA-related initiatives driving, in part, their opposition to the Joint Proposal. Regarding the air source and geothermal heat pump program, Caiazza and Kontogiannis raise concerns related to program design issues and implementation rules,⁷⁰ as well as concerns for future system reliability, and direct and indirect costs and potential unintended consequences experienced as a result of the program.⁷¹

⁶⁶ Case 22-M-0149, Proceeding on Motion of the Commission Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act.

⁶⁷ Caiazza and Kontogiannis Initial Statement in Opposition, p. 7.

⁶⁸ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 7-10.

⁶⁹ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 11-12.

⁷⁰ Caiazza and Kontogiannis Initial Statement in Opposition pp. 7-9. Caiazza and Kontogiannis raise a number of concerns regarding heat pump program design and implementation rules including the way in which applicable technologies are or are not vetted (p. 7); site, project, and customer eligibility screening (p. 7); the role decommissioning legacy heating systems plays within the program (p. 8); and the fact that the Company and NYSERDA have targeted school districts and higher education facilities (p. 9).

⁷¹ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 8-10.

As explained in the Initial Testimony of the Staff Energy Sustainability Panel and referenced in Staff's Initial Statement in Support, the concerns raised in Caiazza and Kontogiannis' Statement in Opposition have been considered and addressed within the generic EE/BE proceeding.⁷² In this generic proceeding, the Commission establishes EE/BE programs, policies, priorities, and funding levels associated with the state's EE/BE portfolios.⁷³ Specifically, and most recently, on May 15, 2025, the Commission issued two EE/BE related orders.⁷⁴ Specific provisions within the Non-LMI EE/BE Order related to the concerns raised by Caiazza and Kontogiannis include a prohibition on partial electrification projects to prevent instances where customers cannot rely on an installed heat pump to meet the customers full heating load;⁷⁵ the implementation of a study to gain further insights into the costs and benefits of various electrification approaches;⁷⁶ and directives to both Staff and the NYS Clean Heat Joint Management Committee to continue to refine programmatic rules and approaches.⁷⁷

In addition to ensuring safe and reliable service at just and reasonable rates, Staff must also ensure the Joint Proposal aligns with current Commission policy and State legislation (e.g., the CLCPA). As the Joint Proposal is aligned with these directives, the concerns raised by Caiazza and Kontogiannis are without merit and the elements of this Joint Proposal are therefore reasonable.

⁷² Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative, addresses utility EE/BE portfolios through the end of 2025. Case 14-M-0094, Proceeding on Motion of the Commission to Consider a Clean Energy Fund, addresses the various NYSERDA portfolios, including its EE/BE programs through the end of 2025. Case 25-M-0248, In the Matter of the 2026-2030 Non-Low- to Moderate-Income Energy Efficiency and Building Electrification Portfolios, addresses utility and NYSERDA 2026-2030 LMI EE/BE portfolios.

⁷³ SESP Initial Testimony, p. 13; Staff Initial Statement in Support, pp. 124-126.

⁷⁴ Cases 14-M-0094, 18-M-0084, 25-M-0249, Order Authorizing Low- to Moderate-Income Energy Efficiency and Building Electrification Portfolios (issued May 15, 2025) (referred to as the LMI EE/BE Order). Cases 14-M-0094; 18-M-0084; and 25-M-0248, Order Authorizing Non-Low- to Moderate-Income Energy Efficiency and Building Electrification Portfolios (issued May 15, 2025) (referred to as the Non-LMI EE/BE Order).

⁷⁵ Non-LMI EE/BE Order, p. 86.

⁷⁶ Non-LMI EE/BE Order, p. 88.

⁷⁷ Non-LMI EE/BE Order, p. 88.

B. Clarification of the NPA Heat Pump Monthly Credit

With respect to the NPA heat pump monthly credit, Caiazza and Kontogiannis oppose the inclusion of the credit in the Joint Proposal citing concerns associated with the increased heating costs as a result of electrification, and argue the NPA heat pump monthly credit will “likely [result] in more Energy Assistance Program (EAP) participants.”⁷⁸ Under the terms of the Joint Proposal, the NPA heat pump monthly bill credit is available to customers who have electrified their homes as part of an NPA project; the credit is available to those that electrify as a result of a specific NPA project.⁷⁹ While some of those projects may occur within a disadvantaged community, all eligible participants of an NPA project will qualify for the NPA bill credit regardless of whether the customer lives within a disadvantaged community or not. In addition, the bill credit provides an incentive for customers to switch from gas, or another heating fuel, to electric heat pumps by attempting to offset the additional electric costs associated with the switch. Participation in the NPA heat pump program will not change a customer’s eligibility for the EAP program and there is no support for Caiazza and Kontogiannis’ contention that the heat pump monthly credit will likely result in additional EAP enrollment. Regardless, the implementation of this NPA bill credit will provide data and experience that parties will be able to review and assess when considering whether to continue this credit in the Company’s next rate proceeding. Finally, regarding increased heating costs resulting from the Company’s electrification efforts within NPAs, the Joint Proposal requires the Company to assess and quantify the potential energy burden impacts of proposed NPAs, including the bill impacts and accounting for the bill credit, and where necessary, include actions to mitigate increases in energy burdens within their NPA proposals, which are submitted for Staff and/or Commission review and approval.⁸⁰

C. Issues Raised Regarding Electric School Buses Are Outside the Scope of the Rate Case

In their Statement, Caiazza and Kontogiannis contend the electric school bus mandate is an example of the application of technology that is both immature and improper; they

⁷⁸ Caiazza and Kontogiannis Initial Statement in Opposition, p. 9.

⁷⁹ Joint Proposal, pp. 110-111.

⁸⁰ Joint Proposal, Section IV.16.

also cite safety and reliability concerns.⁸¹ Caiazza and Kontogiannis express disappointment that the Company has failed to reconcile these considerations in its approval of the CLCPA electrification mandate.⁸² The Joint Proposal does not include EV School Bus projects and states that these projects and the cost recovery for these projects are more properly suited for the Make-Ready or the Proactive Planning generic proceedings.⁸³ Therefore, the issues raised by Caiazza and Kontogiannis, are outside the scope of the rate case and are more properly addressed in those generic proceedings.

D. The Provisions of PSL § 66-p Are Not Applicable to This Proceeding

In their Statement, Caiazza and Kontogiannis assert that the Joint Proposal does not acknowledge PSL § 66-p(4). The subject of PSL §66-p is the requirement for the Commission to establish a renewable energy program.⁸⁴ Caiazza and Kontogiannis contend that they have significant reliability and affordability concerns related to the programs that support the CLCPA in the Joint Proposal.⁸⁵ To support this claim, Caiazza and Kontogiannis cite to an increased number of customers in arrears; however, they note that it is “not clear how much the CLCPA costs affected the number of customers in arrears.”⁸⁶ Ultimately, Caiazza and Kontogiannis conclude that their concern supports the suspension of the CLCPA and any CLCPA-related programs in the Joint Proposal, pursuant to PSL §66-p(4).

First, the assertion that the Joint Proposal does not acknowledge PSL §66-p(4) is not a failing of the Joint Proposal. Neither the Joint Proposal nor the Signatory Parties have the power or authority to direct the Commission to conduct a hearing to consider a suspension of the CLCPA or CLCPA-related programs pursuant to PSL §66-p(4). Second, there are numerous

⁸¹ Caiazza and Kontogiannis Initial Statement in Opposition, p. 11.

⁸² Caiazza and Kontogiannis Initial Statement in Opposition, p. 11.

⁸³ Joint Proposal, p. 39.

⁸⁴ PSL §66-p(4) provides: “The commission may temporarily suspend or modify the obligations under such program provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that the program impedes the provision of safe and adequate electric service; the program is likely to impair existing obligations and agreements; and/or that there is a significant increase in arrears or service disconnections that the commission determines is related to the program.”

⁸⁵ Caiazza and Kontogiannis Initial Statement in Opposition, p. 14.

⁸⁶ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 16-18.

generic proceedings that were initiated or expanded to comply with the directive for the Commission to establish a renewable energy program.⁸⁷ Additionally, regarding Caiazza and Kontogiannis' statements regarding arrears, the Joint Proposal includes provisions that require additional outreach to customers who have unresolved arrears.⁸⁸ Finally, the concerns raised by Caiazza and Kontogiannis are likely not limited to the Niagara Mohawk service territory and the programs implemented by Niagara Mohawk and are potentially state-wide concerns. Caiazza and Kontogiannis' position that the Commission should suspend the CLCPA-related programming is outside the scope of the rate case and more properly addressed in the generic proceedings that are related to the renewable energy programs.

E. The Joint Proposal Acknowledges the Need for Dispatchable Emissions Free Resources (DEFR)

In their Statement in Opposition, Caiazza and Kontogiannis state that a fundamental flaw of the CLCPA “is the mistaken belief by the authors of the law that no new technology would be required.”⁸⁹ Regarding the Joint Proposal, Caiazza and Kontogiannis assert that “[t]he JP does not consider that a new category of DEFR must be identified, tested, and deployed to provide energy during extended periods of low wind and solar resource availability.”⁹⁰ However, these assertions are flawed. First, Caiazza and Kontogiannis cite no support for their statement that the authors of the CLCPA mistakenly believed that no new technology would be required. Indeed, the CLCPA does require the Climate Action Council to consider renewable energy and other clean energy technologies.⁹¹ Second, the Joint Proposal

⁸⁷ The Commission proceedings that address the requirements of PSL §66-p include, but are not limited to: Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard; Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources; Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative; Case 19-E-0735, Petition of New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025; Case 20-E-0497, In the Matter of New York Independent System Operator, Inc. Proposed Public Policy Transmission Needs for Consideration for 2020. An overview of the Commission's Clean Energy Initiatives can be found on the Department of Public Service website: <https://dps.ny.gov/clean-energy-initiatives>.

⁸⁸ Joint Proposal, p. 91.

⁸⁹ Caiazza and Kontogiannis Initial Statement in Opposition, p. 18.

⁹⁰ Id.

⁹¹ §75-0103(8)(a).

specifically includes funding for the Company to support an economic development grant program for “Renewable Energy and Economic Development,”⁹² which supports DEFR. Issues related to DEFRs are also being considered by the Commission in the Transmission Planning Proceeding and Caiazza and Kontogiannis’ comments are better addressed in that proceeding.⁹³

Throughout their Statement in Opposition, Caiazza and Kontogiannis point to nuclear generation as the solution to many of New York’s energy concerns. They suggest that there should be an initiation of a nuclear power long-term development plan as an approach to decarbonization.⁹⁴ Additionally, Caiazza and Kontogiannis posit that advanced small modular nuclear reactors are the most promising dispatchable emission-free resource, with all other investments in the Joint Proposal to support renewable energy development being “imprudent” and “worthless.”⁹⁵ Staff notes that there are no nuclear programs proposed in the Joint Proposal and Caiazza and Kontogiannis’ comments on nuclear energy are beyond the scope of this rate proceeding.⁹⁶

F. The Joint Proposal Adequately Addresses Reliability Concerns

In their opposition, Caiazza and Kontogiannis argue that the Joint Proposal overlooks significant risks associated with transitioning the electric grid towards weather dependent generation as outlined under the CLCPA Generation Plan. Caiazza and Kontogiannis address reliability planning concerns from the perspective of the CLCPA Generation Plan, but do not fully discuss the items included within the Joint Proposal that address overall reliability concerns.⁹⁷ The Joint Proposal describes and includes provisions for essential tools that the

⁹² Joint Proposal, p. 97.

⁹³ Case 20-E-0197, Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act (Transmission Planning Proceeding).

⁹⁴ Caiazza and Kontogiannis Initial Statement in Opposition, p. 14.

⁹⁵ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 20-22.

⁹⁶ Staff notes that New York State is developing a Master Plan for Responsible Advanced Nuclear Development in New York, as the first step of the Master Plan NYSERDA developed the Blueprint for Advanced Nuclear Energy Technologies, which sets out the scope of issues to be considered throughout the Master Plan Process. More information is available at: <https://www.nyserda.ny.gov/All-Programs/Advanced-Nuclear-Energy>.

⁹⁷ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 22-29.

Company uses to proactively manage the reliability challenges it faces, such as major and minor storm allowances,⁹⁸ vegetation management budgets,⁹⁹ and reliability performance metrics.¹⁰⁰ These measures and metrics help ensure system resiliency and focus on the prompt recovery of the electric system during weather and vegetation related incidents, which addresses concerns that reliance on renewable generation increases the risk and likelihood of blackouts. Overall, these measures and metrics support the reliability of the electric system as it transitions to a higher mix of renewable resource generation.

In addition, Caiazza and Kontogiannis argue that with respect to N-1 contingencies, grid planners need to ensure that the grid is robust enough to withstand and recover from disturbances such as line outages, generator trips, substation failures, and major faults without major consequences.¹⁰¹ Caiazza and Kontogiannis posit that it would be prudent to pause the CLCPA projects within the Joint Proposal until grid planning improves. We note that grid planners, including the New York Independent System Operator and the New York State Reliability Council, are tasked with the responsibility of developing plans and protocols that will ensure the reliability of the grid taking into account the adoption of requirements posed by CLCPA and the unique challenges these present. Further, it is not within the purview of this Joint Proposal to litigate the attributes or requirements set forth in the CLCPA Generation Plan.

VI. CLARIFICATION REGARDING NEW YORK GEOTHERMAL ENERGY ORGANIZATION'S STATEMENT IN SUPPORT

NY-GEO's Statement in Support of the Joint Proposal provides support and comments regarding various sections of the Joint Proposal. First, Staff acknowledges the considerations NY-GEO raises regarding the implementation of the NPA heat pump credit.¹⁰² The Joint Proposal sets out the agreed-upon structure for the credit and implementation.¹⁰³ Notably, the Joint Proposal requires the Company to file information on the

⁹⁸ Joint Proposal, pp. 40-42.

⁹⁹ Joint Proposal, p. 39.

¹⁰⁰ Joint Proposal, p. 81; Appendix 14.

¹⁰¹ Caiazza and Kontogiannis Initial Statement in Opposition, pp. 28-29.

¹⁰² NY-GEO Statement in Support, pp. 2-3.

¹⁰³ Joint Proposal, pp. 110-111.

number of customers participating. NY-GEO and other interested stakeholders will have the opportunity to review the implementation of the credit and consideration for the items raised in NY-GEO's Statement in Support may be beneficial to the future structure of the credit. With respect to NY-GEO's comments on NPAs and UTENs,¹⁰⁴ Staff notes that the Joint Proposal addresses the Company's measures to pursue NPAs through thermal energy networks in Section 16.1.1¹⁰⁵ and through UTENs in Section 17.2.¹⁰⁶ Further, with respect to outreach for NPAs, the Joint Proposal takes measures to increase customer outreach in Section 16.1.7.¹⁰⁷ In addition, NY-GEO comments in its Statement in Support of the Joint Proposal that the depreciation methodology should be updated to units of production in times of decreasing demand.¹⁰⁸ This proposal by NY-GEO to switch depreciation methodology to units of production should be considered in the Gas Planning Proceeding, as stated previously.

VII. CONCLUSION

For the reasons stated in Staff's Statement in Support and Reply Statement in Support of the Joint Proposal, Staff recommends that the Commission adopt the terms of the Joint Proposal without modification.

Respectfully submitted,

Jessica Vigars
Stephanie McDermott
Staff Counsel

Dated: Albany, New York
May 23, 2025

¹⁰⁴ NY-GEO Initial Statement in Support, p. 1.

¹⁰⁵ Joint Proposal, p. 100.

¹⁰⁶ Joint Proposal, p. 121.

¹⁰⁷ Joint Proposal, pp. 106-107.

¹⁰⁸ NY-GEO Initial Statement in Support, p. 3.