
National Grid Downstate Rate Stabilization Proposal

A Rate Increase in Disguise

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EXECUTIVE SUMMARY

The Companies' proposal

National Grid Downstate—Brooklyn Union Gas Co. (KEDNY) and KeySpan Gas East Corp. (KEDLI) (collectively called “the Companies”)—filed a Rate Stabilization Proposal (“RSP” or “the proposal”) with the Public Service Commission in lieu of a traditional rate case. The Companies describe the RSP as a rate “freeze” holding Rate Year 4 (RY4/FY28) rates flat at Rate Year (RY3/FY27) levels.¹ Contrary to the Companies’ claim, in effect the proposal represents a rate increase relative to the existing, Commission-approved 2024 Joint Settlement.

Under this Joint Settlement, National Grid Downstate’s front-loaded rate increases were levelized and spread evenly across RY1–RY3; the levelization mechanism amounts will be fully amortized by the end of RY3. Absent further action (e.g., approval of the RSP), in RY4 this would allow the RY3 levelization amounts of roughly \$162 million (KEDNY) and \$86 million (KEDLI) to fall out of rates, resulting in a rate *decrease* beginning in RY4.

The Companies’ RSP would prevent this decrease: it continues collecting the same amounts from customers but reclassifies them as a regulatory liability, then uses that liability to offset new costs the Companies would defer as regulatory assets, including capital costs, City State Construction expenses, and uncollectible expenses.

The RSP would also allow the Companies to defer incremental property tax and Site Investigation and Remediation (SIR) costs via a “Rate Stabilization Mechanism” (RSM). These would be recovered starting in FY29 through a new surcharge capped at 2.5 percent of operating revenue annually, while accruing carrying charges.

A rate increase in disguise

While the Companies frame the RSP as “freezing rates” by holding rates constant at RY3 levels, the proposal actually represents an increase in rates relative to the Joint Settlement. Specifically, the RSP would hold nominal base rates flat from RY3 to RY4, but those RY4 rates would be higher than the Commission-approved post-RY3 rates that otherwise take effect on April 1, 2027. This is because the amortization of the levelized revenue requirement ends in RY3, but would effectively continue into RY4 per the Companies’ proposal. If the Joint Settlement carried into RY4, the revenue requirement would go *down* relative to RY3, not stay flat (discussed and quantified below). This element alone is a rate increase in disguise; that said, there are other aspects of the proposal that are expected to further

¹ The April 9, 2024 Joint Settlement established in the Companies’ previous rate case, Case Nos. 23-G-0225 and 23-G-0226, covers three rate years, referred to as RY1, RY2, and RY3. These years are also referred to as fiscal years: FY25 (April 1, 2024 – March 31, 2025), FY26 (April 1, 2025 – March 31, 2026), and FY27 (April 1, 2026 – March 31, 2027). We refer to the subsequent 12-month period as RY4 or FY28 (April 1, 2027 – March 31, 2028), following the Companies’ terminology.

increase customer rates in future years. The RSP does this through the use of several accounting and cost recovery mechanisms, which include the creation of new regulatory assets, regulatory liabilities, and a multi-year surcharge.²

The increased costs that the Companies plan to incur in FY28 (relative to FY27, which is RY3 in the approved three-year rate plan) are accounted for as regulatory assets. The RSP would allow the Companies to recover those regulatory assets in future years through two different mechanisms:

1. The RSP includes a Rate Stabilization Mechanism (RSM) that allows the Companies to defer certain costs incurred in FY28 and recover them in future years via a surcharge on customer bills, up to an annual cap of 2.5 percent of operating revenues. This mechanism pertains to costs associated with property taxes and site investigation and remediation (SIR) costs. As proposed, the RSM will take effect in FY29 and will continue annually up to the cap of 2.5 percent of operating revenues until the FY28 property tax, SIR, and associated carrying costs are fully recovered from rate payers.
2. The RSP would allow the Companies to create regulatory assets in order to defer several other categories of FY28 costs. These deferred costs would accrue carrying charges until the PSC approves their recovery. These provisions pertain to the costs associated with new capital costs (net utility plant and depreciation), City State Construction (CSC) expenses, and uncollectable expenses. For all of these costs, the Companies can reconcile any differences between their target and what they spend, subject to some caps.³

To “freeze” rates for RY4, the RSP would create regulatory liabilities equal to the rate plan’s levelization amortization expense in RY3—\$162 million for KEDNY and \$86 million for KEDLI under the Joint Settlement. These levelization amounts are fully amortized at the end of RY3 and would otherwise fall out of rates beginning April 1, 2027, representing a 5.5% (or \$162M) decrease for KEDNY customers and a 4.5% (or \$86M) decrease for KEDLI customers. However, because the RSP would continue collecting those amounts from customers in RY4, the Companies propose to record the resulting collections as regulatory liabilities—i.e., amounts owed to customers—rather than recognizing them as additional utility revenues. Further, the RSP includes the creation of *additional* regulatory assets that would result

² A regulatory asset is a “deferred expense that a regulated utility or company records on its balance sheet rather than expensing immediately. It represents a cost already incurred that a government regulator officially permits the company to recover from customers through future rates or tariffs” (Adam Hayes. Understanding Regulatory Assets: Definition, Function, and Examples. May 23, 2026. Investopedia. <https://www.investopedia.com/terms/r/regulatoryasset.asp>, accessed August 18, 2026). Regulatory liabilities have a similar accounting purpose except that they represent costs already collected from customers but not yet expended.

³ Net utility plant costs are capped at an approved forecasted level. The RSM does not have a specified cap, however, only 2.5% of operating revenues can be collected through the RSM surcharge annually. City state construction expenses are capped at their approved forecasted level. Uncollectible expenses are uncapped, but subject to certain proposed conditions (discussed below).

in revenue increases of 13.6% (or \$404M)⁴ for KEDNY and 10.1% (or \$195M)⁵ for KEDNY⁶, compared to the rate year 4 revenues proscribed by the Joint Settlement. These amounts would be recovered over multiple years through the RSM and future rate cases.

Thus, the RSP would hold nominal base rates flat relative to RY3, but it would prevent the rate decrease that the Joint Settlement provides for beginning April 1, 2027 when the levelization amounts are fully amortized. As a result, under the RSP customers would pay higher RY4 (i.e., FY28) rates than under the post-RY3 rates established by the Joint Settlement, while the additional collections would be retained as regulatory liabilities and used to offset a portion of the new RY4 regulatory assets. Then, beginning in FY29, customers would also pay an RSM surcharge on top of those base rates to recover the RY4 property-tax and SIR regulatory assets, with annual recovery capped at 2.5 percent of each Company's prior-year operating revenues and continuing in subsequent years, subject to the same cap, until those deferred balances and associated carrying charges are fully recovered.

The RSP deviates from sound ratemaking practice and is not in the public interest

In addition to the rate impacts of the RSP, Synapse finds that the proposal represents poor ratemaking practice. If approved, the RSP would change utility incentives to lower costs and remove appropriate regulatory oversight, which is not in the public interest. The reasons for this are as follows:

- The RSP reduces the financial consequences of cost overruns, which weakens the utility incentive to identify efficiencies or avoid unnecessary spending. By reducing the financial consequences when actual costs exceed the amounts reflected in forecast rates, these mechanisms weaken the cost-control incentives created by regulatory lag.
- The RSP does not allow for a reasonable review of additional RY4 capital expenditures (\$1.1 billion for KEDNY, \$665.2 million for KEDLI).
- The RSP allows the Companies to choose those costs that they want to increase over RY3 but does not allow for even a cursory review of costs that might decline in FY28 and future years and that would otherwise be passed on to ratepayers.

In sum, we find that the RSP would raise RY4 rates relative to the Joint Settlement by canceling a scheduled rate decrease and replacing it with new deferral and surcharge mechanisms. It also represents poor ratemaking practice by shifting risks from shareholders to ratepayers, providing

⁴ DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI. Order Approving Joint Settlement, Appendices, Appendix 3 Schedule 2. Order Approving Joint Settlement, Appendices, Appendix 3 Schedule 2.1.

⁵ DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI. Order Approving Joint Settlement, Appendices, Appendix 4 Schedule 2. Order Approving Joint Settlement, Appendices, Appendix 4 Schedule 2.1

⁶ The collection of these proposed regulatory assets would occur over multiple years through two different mechanisms (discussed below). These figures represent the total projected lifetime increase in revenue for the Companies that would result from the acceptance of this proposal.

insufficient cost containment incentives, while not providing for adequate review of significant incremental capital expenditures.

Recommendation

We therefore recommend that the Commission reject the RSP and allow the Commission-approved post-RY3 tariff rates to take effect in RY4 (April 1, 2027), with the other provisions of the Joint Settlement continuing according to their terms. If the Companies believe these rates are insufficient or seek new terms for treatment of cost overruns or underruns, they should seek that relief through a general rate case.



1. OVERVIEW OF THE COMPANIES' RSP

1.1. The Joint Settlement

On May 29, 2026, Brooklyn Union Gas Co. (KEDNY) and KeySpan Gas East Corp. (KEDLI) (collectively, “National Grid Downstate” or “the Companies”) filed a Rate Stabilization Proposal (RSP) with the Public Service Commission (PSC), in lieu of a rate case filing.⁷ Subsequently, the PSC opened Case 26-G-0384 for consideration of the RSP.

National Grid filed the RSP petition during the third year of a three-year rate plan⁸ established in the Companies’ previous rate case, Case Nos. 23-G-0225 and 23-G-0226. The PSC adopted the rate plan consistent with the terms of the April 9, 2024 Joint Proposal of the parties (Joint Settlement), which the PSC attached to its August 15, 2024 order.⁹

The PSC-approved rate plan reflected substantial increases in each Company’s underlying revenue requirement over the three-year term. To smooth bill impacts, the Joint Settlement leveled these increases, deferring collection early in the plan and recovering the deferrals, inclusive of carrying costs, to RY2 and RY3. Initial revenue requirement increases are shown in Table 1, and the leveled amounts in Table 2.¹⁰

Table 1. Joint Settlement Initial Revenue Requirement Increases (Annual and Cumulative)

	RY1	RY2	RY3	Cumulative
KEDNY	\$444.0M (+15.9%)	\$172.1M (+6.9%)	\$132.0M (+5.3%)	\$748.1M (+30.5%)
KEDLI	\$246.5M (+13.4%)	\$116.5M (+7.3%)	\$75.7M (+4.7%)	\$438.7M (+27.4%)

Table 2. Joint Settlement Revenue Requirement Increases after Levelization (Annual and Cumulative)

	RY1	RY2	RY3	Cumulative
KEDNY	\$256.9M (+10.5%)	\$287.5M (+10.5%)	\$320.1M (+10.5%)	\$864.5M (+34.9%)
KEDLI	\$147.1M (+9.4%)	\$163.1M (+9.4%)	\$180.4M (+9.4%)	\$490.6M (+30.9%)

⁷ Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid. Verified Petition of the Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid. (“RSP” or “RSP Petition”) May 29, 2026.

⁸ We refer to the three years of the rate plan as rate years (RY) 1, 2, and 3, respectively, which correspond to Fiscal Years (FY) 2025 (FY26), 2026 (FY2026) and 2027 (FY2027). RY4 (FY2028) is the year the RSP is proposed to be implemented.

⁹ The August 15, 2024 order approving the terms of the Joint Settlement also discussed and incorporated three corrections to the Joint Proposal: one correction clarifies the timing of adjustments to energy burden and benefit levels used pursuant to the Commission’s Energy Affordability Program (EAP) policies; and the remaining two corrections address typographical errors and added certain language to conform the Joint Proposal to the intent of Signatory Parties. (State of New York Public Service Commission. Order Approving Terms of Joint Proposal and Establishing Gas Rate Plans, with Minor Modification and Corrections (“Order Approving Joint Settlement”), August 15, 2024. Case Nos. 23-G-0225, 23-G-0226, and 23-G-0200. p. 6)

¹⁰ Order, p. 19; Joint Settlement pp. 7-8.



As shown above, levelization did not reduce the total revenue requirement collected over the three-year rate plan; it shifted the timing of its recovery from customers and added carrying costs. As a result, RY3 rates include levelization deferrals of approximately \$162 million for KEDNY and \$86 million for KEDLI. Those levelization deferrals will be fully amortized by the end of RY3. Accordingly, the Joint Settlement expressly provides that, if new rates are not otherwise in effect, the post-RY3 rates beginning April 1, 2027, should be based on the unleveled RY3 revenue requirement—meaning that the levelization amounts embedded in RY3 rates fall out causing rates to decline after RY3. Thus, the Joint Settlement does not contemplate continuation of RY3 rates after March 31, 2027; absent intervening Commission action, it expressly provides for an approximately 5.4 percent decrease in KEDNY revenues and 4.4 percent decrease in KEDLI revenues beginning April 1, 2027.

1.2. The rate stabilization proposal

National Grid Downstate proposes a continuation of RY3 rates, as set in the Joint Settlement.¹¹ In the interest of limiting rate volatility, the Joint Settlement included an accounting mechanism to levelize the comparatively high delivery revenue requirement from RY1 across all three rate years, including carrying costs. This included a projected undercollection of delivery revenues in RY1, followed by a projected overcollection in RY3.¹² The Joint Proposal did not establish a new RY4 revenue requirement. It did, however, expressly specify the rates that would take effect beginning April 1, 2027 if new rates were not otherwise in effect: rates based on the unleveled RY3 revenue requirement.¹³

Figure 1 and Figure 2 below illustrate the delivery revenue levelization outlined in the Joint Settlement for the Companies. Under the terms of the Joint Settlement, the Companies' projected revenue requirements (solid blue line) were levelized and adopted as rates for RY1 through RY3 (solid orange line). The RSP's request for an extension of RY3 delivery rates (dashed orange line) represents a clear increase from the "post rate year three" requirements (dashed blue line) outlined in the Joint Proposal, which would otherwise go into effect absent a rate case.¹⁴

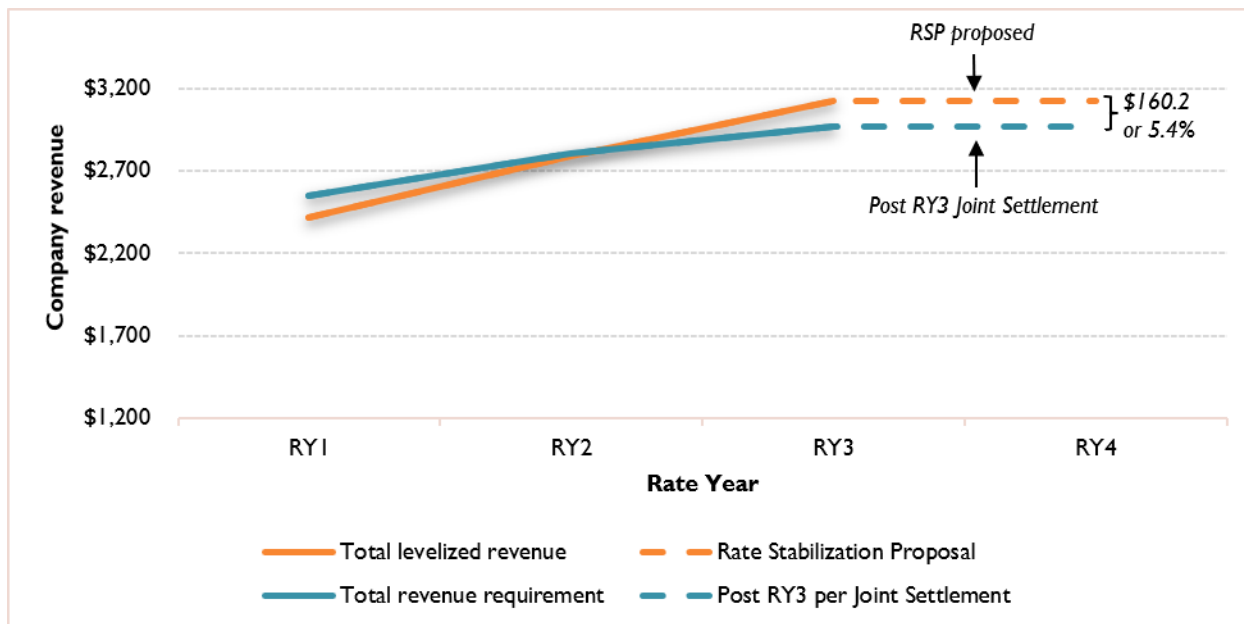
¹¹ Joint Settlement, p. 6-7.

¹² Joint Settlement, p. 10.

¹³ Order Approving Joint Settlement, Appendices. p. 12.

¹⁴ Order Approving Joint Settlement, Appendices, p. 12.

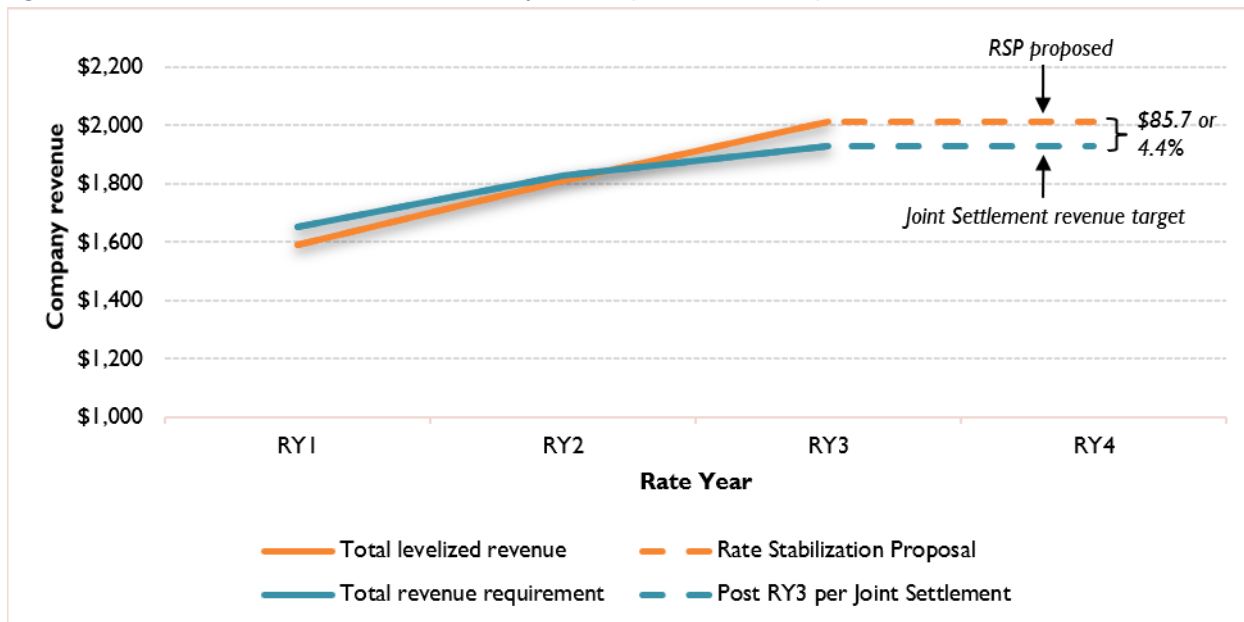
Figure 1. KEDNY levelized revenue versus revenue requirement (nominal, \$ million)



Sources: Order Approving Joint Settlement, Appendices, Appendix 3 Schedule 2. Order Approving Joint Settlement, Appendices, Appendix 3 Schedule 2.1.

Note: The Companies have since proposed updated regulatory liability totals which are displayed in subsequent figures. This figure shows the outcome of the revenue levelization calculation outlined by the Joint Settlement.

Figure 2. KEDLI levelized revenue versus revenue requirement (nominal, \$ million)



Sources: Order Approving Joint Settlement, Appendices, Appendix 4 Schedule 2. Order Approving Joint Settlement, Appendices, Appendix 4 Schedule 2.1.

Note: The Companies have since proposed updated regulatory liability totals which are displayed in subsequent figures. This figure shows the outcome of the revenue levelization calculation outlined by the Joint Settlement.

The RSP shifts additional costs and financial risks to ratepayers without the level of transparency, scrutiny, and comprehensive regulatory review ordinarily provided through a rate case. Despite the Companies' claim that the proposal "preserve[s] rate stability",¹⁵ we find that the proposal amounts to an increase in rates from RY3 to RY4 (with additional increases starting in FY29 through the RSM surcharge), as well as additional increases in the form of net regulatory assets that will be collected from customers in future years, as discussed further below.¹⁶

Though the levelization mechanism concluded in RY3, the RSP would charge this revenue requirement to ratepayers in RY4 through the creation of a regulatory liability. To be clear, the regulatory liability is not a continuation of the levelization deferral itself. Rather, because the RSP would continue collecting RY3 rates after the levelization deferral has been fully amortized, the Companies propose to record the resulting excess collections—measured by the expiring levelization amounts—as new regulatory liabilities owed to customers. Those liabilities would then be used to offset specified regulatory assets created for incremental RY4 costs. The components of this additional revenue requirement are discussed below; Figure 1 and Figure 2 illustrate why the post-RY3 rates specified in the Joint Proposal are the appropriate benchmark for assessing how the RSP changes what customers would otherwise pay beginning April 1, 2027.

By allowing such a mechanism, the PSC would forgo the regulatory review and associated consumer protections that were provided for RY1, RY2, and RY3 in the Joint Settlement. Further, the companies propose the collection of *additional* costs through the creation of new regulatory assets. These assets are to be collected through both an RSM surcharge starting post RY4. The structure and collection schedule of these proposed regulatory assets and liabilities is illustrated and described below.

Regulatory assets and liabilities

Figure 3 and Figure 4 depict the relationships between the rate years, the revenue requirement targets in the joint settlement, the regulatory liabilities, the regulatory assets, and the deferral of costs to future years. The figures include the following elements:

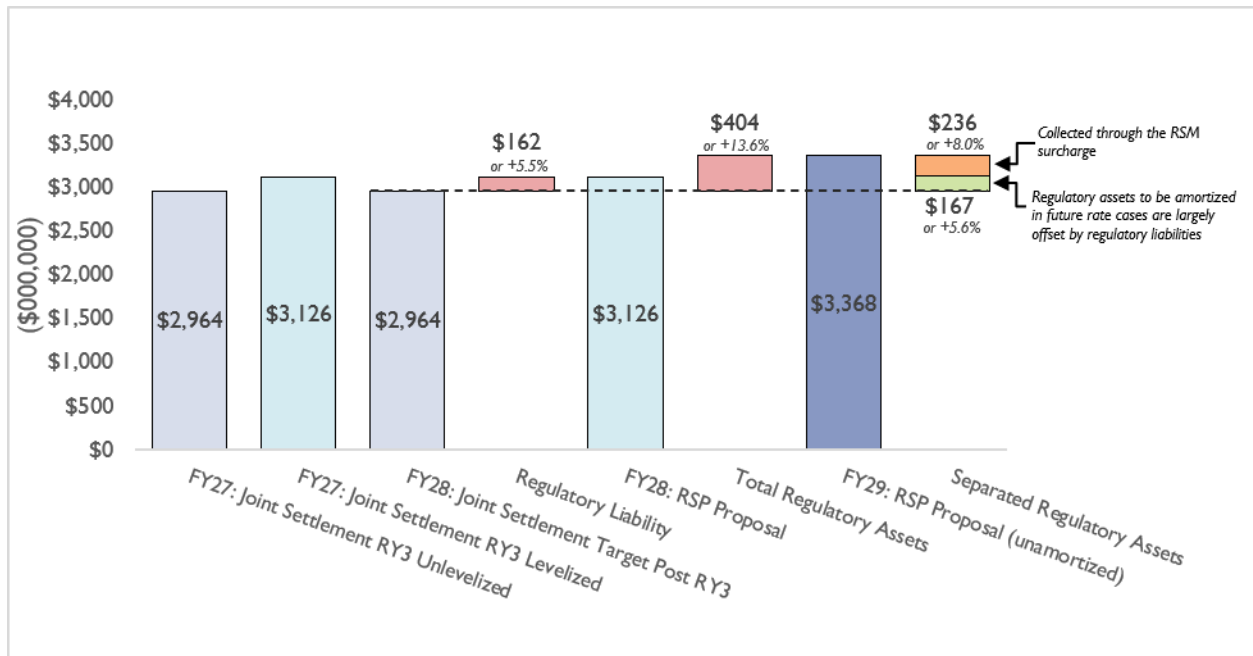
1. *FY27*: Joint Settlement RY3 unlevelized. These are the revenue targets that the Companies need to cover their costs in RY3, as agreed to in the Joint Settlement.

¹⁵ RSP Petition, p. 4.

¹⁶ In utility ratemaking, a regulatory asset is an accounting balance used to defer a cost that the utility is authorized to recover from customers in the future, rather than recovering the cost when it is incurred; depending on the approved treatment, the balance may also accrue carrying costs (i.e., the cost of debt and equity) until fully recovered. A regulatory liability operates in the opposite direction: it records amounts that have been collected from customers, or otherwise are owed to customers, and must ultimately be returned to customers or used to offset costs that customers would otherwise pay. A Commission action is required to approve the timing, method, and rate mechanism (such as inclusion in base rates or a surcharge) through which recovery or refund of regulatory assets and liabilities is implemented. A surcharge is one mechanism for doing so: it is an additional charge applied to customer bills, separate from base rates, to recover an approved regulatory asset or other specified cost over time.

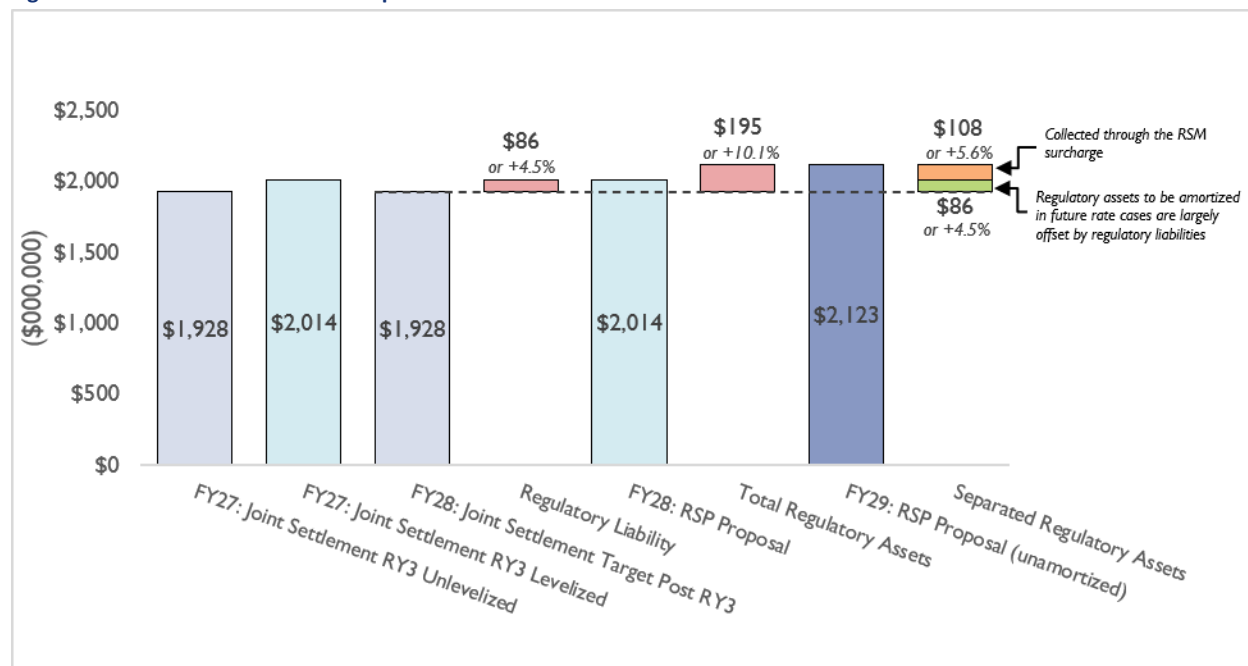
2. *FY27: Joint Settlement RY3 levelized.* These are the revenue targets that the Companies need to cover their costs in RY3, plus recovery of the unrecovered costs from RY1 and RY2 due to levelization, as agreed to in the Joint Settlement.
3. *FY28: Joint Settlement Target Post RY3.* These are the revenue targets outlined in the Joint Settlement for the year following RY3, also called RY4. These targets were chosen for Post RY3 because at that point, the levelization had been completed.
4. *Regulatory Liability.* This is the difference between RY3 levelized and RY3 unlevelized. The Companies use this difference to create a regulatory liability, i.e., amounts collected from customers that are owed back to customers or available to offset costs customers would otherwise pay.
5. *FY28: RSP Proposal.* This is the proposed RY4 revenue target outlined in the Companies' RSP petition. The Companies propose that it be equal to RY3 levelized revenue target.
6. *Total Regulatory Assets.* These are the costs that the Companies propose to incur in RY4, in excess of the RY3 revenue targets. Some of these regulatory assets are to be offset by the regulatory liabilities. The remaining, net, regulatory assets are deferred for collection in future years.
7. *FY29: RSP proposal (unamortized).* These are the total revenues to be collected in FY29 (or beyond, through amortization).
8. *Separated Regulatory Assets.* This shows the forecast RSM surcharge balance and total dollar value of regulatory assets created. The non-RSM value is mostly offset by the regulatory liability.

Figure 3. KEDNY RSP Total Revenue Impacts



Sources: DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI. Order Approving Joint Settlement, Appendices, Appendix 3 Schedule 2. Order Approving Joint Settlement, Appendices, Appendix 3 Schedule 2.1.

Figure 4. KEDLI RSP Total Revenue Impacts



Sources: DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI. Order Approving Joint Settlement, Appendices, Appendix 4 Schedule 2. Order Approving Joint Settlement, Appendices, Appendix 4 Schedule 2.1

Figures 3 and 4 depict how the RSP affects a revenue increase for both Companies in RY4 and RY5. First, ratepayers are charged for levelization amounts included in RY3 rates of amounts equal to \$162 million (KEDNY) and \$86 million (KEDLI), even though this levelization mechanism has already been fully amortized. In the meantime, the Company records additional revenues in the creation of various regulatory assets (quantified below), which the Companies forecast will more than offset the regulatory liability ultimately returned to customers, creating a net revenue increase going into FY29.¹⁷

The details of these proposed regulatory assets and liabilities are included below in Table 3 (KEDNY) and Table 4 (KEDLI). In addition to the higher FY28 collections resulting from retention of RY3 rates, both Companies propose to create regulatory assets for additional RY4 costs that would be recovered in later years.. These regulatory assets are comprised of expenses that have not undergone a regulatory review and would not undergo such a review under the Companies' proposal. The details of this mechanism are listed here and further discussed below.

¹⁷ DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI. KEDNY and KEDLI forecast net (regulatory asset – regulatory liability) balances after FY28 of \$5.5 million and \$175,000, respectively.

Table 3. KEDNY proposed regulatory assets and liabilities

Recovery mechanism	Regulatory assets (liabilities)	(\$000)
Future Rate Case	Estimated net utility plant deferral	\$106,900
	Estimated depreciation expense deferral	\$9,186
	Estimated city state construction expense deferral	\$23,146 ¹⁸
	Estimated uncollectible expense deferral	\$28,215
	Total regulatory assets recovered in future rate case	\$167,447
	Regulatory liability – from levelization deferral	-\$161,936
	Sub-total (net)	\$5,511
RSM	Estimated property tax expense deferral	\$117,373
	Estimated site investigation and remediation expense deferral	\$118,771
	Total RSM	\$236,144
Both	Gross regulatory assets (total future rate case + total RSM)	\$403,591

Source: DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI.

Table 4. KEDLI proposed regulatory assets and liabilities

Recovery mechanism	Regulatory assets (liabilities)	(\$000)
Future rate case	Estimated net utility plant deferral	\$64,591
	Estimated depreciation expense deferral	\$19,506
	Estimated uncollectible expense deferral	\$2,215
	Total regulatory assets recovered in future rate case	\$86,312
	Regulatory liability – from levelization deferral	-\$86,137
	Sub-total (net)	\$175
RSM	Estimated property tax expense deferral	\$111,239
	Estimated site investigation and remediation expense deferral	-\$2,845
	Total RSM	\$108,394
Both	Gross regulatory assets (total future rate case + total RSM)	\$194,706

Source: DPS-004, Supplemental Attachment 1, tab KEDNY and KEDLI.

Table 3 and Table 4 indicate which of the regulatory assets will be recovered from customers through the RSM and which will be recovered in future rate cases. As indicated, the regulatory liabilities will be used to offset the regulatory assets that are recovered in future rate cases.

¹⁸ The \$23.146 million amount shown here reflects the CSC O&M deferral included in DPS-004, Supplemental Attachment 1, and is the amount used in the related calculations in this table and Figure 3. In DPS-0016, Attachment 2, KEDNY subsequently increased its proposed CSC O&M deferral cap to \$27.803 million. Updating that amount would therefore have corresponding effects on the related KEDNY regulatory-asset totals, percentages, and Figure 3.

- For KEDNY: A total of \$236 million of regulatory assets will be collected through the RSM. A total of \$167 million of regulatory assets will be recovered in future cases; which will be offset by \$162 million in regulatory liabilities.
- For KEDLI: A total of \$108 million of regulatory assets will be collected through the RSM. A total of \$86 million of regulatory assets will be recovered in future cases; which will be offset by \$86 million in regulatory liabilities.

2. THE RSP WILL INCREASE RATES AND RATEPAYER RISK

2.1. Rate Stabilization Mechanism

The RSP Petition proposes a “rate stabilization mechanism” (RSM) to defer FY28 property tax and SIR cost under or over-collections, which would be collected from customers beginning in FY29 via a new surcharge. The RSM surcharge is separate from the RSP’s proposal to maintain RY3 base rates in FY28 and thereafter until new rates are set. As discussed above, those base rates are higher than the post-RY3 rates provided for under the Joint Settlement because they retain the otherwise-expiring levelization amounts.

Beginning in FY29, the Companies would add an RSM surcharge to customer bills to recover deferred RY4 property-tax and SIR balances. Annual recovery would be capped at 2.5 percent of each Company’s prior-year operating revenues and would continue, subject to that cap, until the balances are fully recovered. The Companies would begin recovery of over-runs from ratepayers starting in FY29, and deferred amounts would accrue carrying costs based on the Companies’ pre-tax weighted average costs of capital (WACC).¹⁹

Synapse discusses the RSP Petition’s proposal for property taxes and SIR expenses separately below. This is followed by a section quantifying the total and annual ratepayer impacts of the RSM for KEDNY and KEDLI based on the information provided by the Companies in the RSP Petition and through discovery.

¹⁹ RSP Petition, p. 10. Pre-tax WACC is currently 9.01 percent and 9.15 percent for KEDNY and KELI, respectively. RSP Petition, Exh. 6, p. 1.

Property taxes

Background

The Companies state they are likely to “significantly under-recover property taxes in Rate Year Four,”²⁰ based on under-recoveries of this expense in RY1 and RY2 for both companies.²¹ The Companies state that property tax expenditures are “generally beyond the Companies’ control” while also listing a variety of instances in which they have sought to “attempt to manage property taxes” and “achieved significant reductions in property and special franchise tax expense.”²² Property taxes are driven in part by capital expenditures, and thus more affordable alternatives or repair options can lower this expense.

The RSP Petition proposes to modify the existing property tax deferral mechanism to permit a two-way true-up of actual expenditures in RY4 compared with the currently approved RY3 revenues.²³ Under the RSP, ratepayers would be responsible for the entire difference between actual and forecast property taxes. This is a change from the treatment of property taxes in the Joint Settlement, where differences between actual and forecast expenditures were split 90 percent / 10 percent between ratepayers and the utility, respectively. The Companies’ 10 percent share of the difference was capped at 2.5 basis points (.025 percent) of return on equity in RY3.²⁴

Analysis

The primary difference between the Joint Settlement and RSP Petition regarding the treatment of property taxes is the elimination of shared responsibility for cost overruns between the utility and ratepayers.²⁵

This modification to the settlement has several implications. First, customers will bear higher total costs. Using the Companies’ forecasted property tax amounts, under the RSP customers would pay \$117.3 million for KEDNY and \$111.2 million for KEDLI. Under the Joint Settlement, these figures would be \$115.9 and \$110.3 million, respectively, a difference of \$2.4 million across KEDNY and KEDLI.²⁶

In addition to the increase in total costs, the RSP’s proposal to remove the Joint Settlement’s cost-sharing provision shifts all risk of overruns to ratepayers and weakens the Companies’ incentive to control these costs. Importantly, because property taxes are driven in part by infrastructure spending,

²⁰ RSP Petition, p. 16.

²¹ RSP Petition, p. 16 and footnote 17. The Companies state on page 16 that KEDNY under-recovered property tax expenditures by \$31.3 million and \$36.1 million in Rate Years 1 and 2, respectively. KEDLI’s under-recovery was \$33.8 million and \$61.4 million, for these years, respectively.

²² RSP Petition, p. 17.

²³ RSP Petition, p. 9.

²⁴ Joint Settlement, p. 65.

²⁵ RSP, Exhibit 6, p.1; Joint Settlement, Appendices 3 and 4.

²⁶ Calculated based on Joint Settlement, Appendix 6, Schedule 5, p.1, assumptions for RY3.

this ratemaking change also increases the risk of excess capital investment during RY4. In addition to other provisions of the RSP, this incentive structure will provide the Companies less incentive to pursue less capital-intensive options or shift expenditures from capital to O&M, such as repairing pipe rather than replacing it under the leak prone pipe program. In other words, changing the cost-sharing provision matters because the Joint Settlement terms leave the Companies financially exposed to a portion of property-tax overruns, giving them some incentive to limit both tax assessments and the utility-plant additions that contribute to the property-tax base. By eliminating that exposure and reconciling the full variance to customers, the RSP reduces that cost-control incentive and transfers the associated forecasting and spending risk to ratepayers.

Site investigation and remediation

Site Investigation and Remediation (SIR) costs are treated similarly under the RSP Petition and Joint Settlement, with actual costs reconciled against the rate allowance and resulting balances deferred for future recovery or refund. Under the Joint Settlement, KEDNY's SIR recovery surcharge is capped annually at 2 percent of prior-year aggregate revenues; under the RSP, SIR and property-tax deferral balances would be recovered through the RSM, which is capped annually at 2.5 percent of operating revenues..²⁷ The Joint Settlement stipulates that the Companies must use 50 percent of retained earnings above a certain amount to reduce SIR regulatory asset balances, if applicable.²⁸ It is not clear to Synapse whether this stipulation would carry through to the RSP.²⁹

Overall Ratepayer Impact of Rate Stabilization Mechanism

National Grid Downstate forecasts regulatory assets included in the RSM to be \$236.1 million for KEDNY and \$108.4 million for KEDLI.³⁰ Including carrying charges that accrue due to the annual cap on RSM (2.5 percent of operating revenue), Synapse estimates total revenue requirement for these regulatory assets to be about \$277.3 million (KEDNY) and \$121.5 million (KEDLI). Compared with total RY4 revenue requirements approved in the Joint Settlement, this represents a 9.4 percent and 6.3 percent increase for KEDNY and KEDLI, respectively. (See Figure 3 and Figure 4 above.)

The Companies' estimates of annual bill increases due to the RSM in FY29 are shown in Table 5. Data on bill increases in future years were not provided.

²⁷ Joint Settlement, p. 63; RSP Petition, p. 21.

²⁸ Joint Settlement, p. 23. In the Joint Settlement there was also a minimum threshold for SIR costs incurred by KEDNY (\$25 million) under which the charge was rolled over until a future year in which the threshold was exceeded. Joint Settlement, p. 63.

²⁹ In NRDC-0031, the Company states that it did not "expressly" seek modification of the relevant section of the Settlement, but that treatment of this term "will depend on the specific terms" of the Commission Order.

³⁰ DPS-004, Supplemental attachment 1, tabs KEDNY and KEDLI.

Table 5. Annual residential bill increases from RSM for FY29 (\$ Nominal)

	KEDNY	KEDLI
SC-1A Residential Non Heat	\$13.30 (1.8%)	\$34.67 (3.2%)
SC-1B Residential Heat	\$53.27 (1.6%)	\$58.85 (2%)

Source: DPS-004, Supplemental Attachment 1.

Note: Percentages shown are the Company's estimate of average monthly total bill impact, which should be equivalent to the annual average total bill impact.

2.2. Additional costs collected in future rate cases

New capital costs

Background

The Petition proposes FY28 capital expenditures affecting net plant of approximately \$1.103 billion for KEDNY and \$665.2 million for KEDLI. The proposed two-way tracker would not defer recovery of those capital expenditures dollar-for-dollar; rather, it would permit the Companies to defer recovery of the associated incremental net-plant and depreciation revenue requirement for future recovery.³¹ This represents an incremental revenue requirement relative to the Joint Settlement's RY4 revenue requirement to be collected in regulatory assets during RY4 of \$116 million and \$84 million for KEDNY and KEDLI, respectively.³² This is based on forecasted investment needs for various categories of investment including "mandated," "reliability," "customer connections," and other categories. Depending on the spending authorized by the Commission in this proceeding, the Companies would also update the CSC capital tracker and customer connection reconciliation mechanisms.³³ We assume these trackers would operate in the same manner as approved in the Joint Settlement.

Analysis

This proposal is a significant change from the Joint Settlement, which provided for no deferral of costs if the Company recorded higher expenditures than forecast in the Joint Settlement.³⁴ Additionally, RY3 rates already include RY3 revenue requirements of \$1.1 billion for KEDNY and \$784 million for KEDLI.³⁵

³¹ RSP Petition, p. 12.

³² DPS-004, Supplemental attachment 1, tabs KEDNY and KEDLI. Sum of net utility plant deferral regulatory asset and depreciation regulatory asset.

³³ RSP Petition, p. 8, footnote 9.

³⁴ Joint Settlement, p. 24.

³⁵ Joint Settlement, Appendix 6, Schedule 7, p.1; Appendix 7, Schedule 7, p. 1.

In the Joint Settlement, this represented a forecasted average plant balance increase of \$777 million for KEDNY and \$486 million for KEDLI from RY2 to RY3.³⁶

The Companies seek advance authorization for approximately \$1.77 billion of total FY28 capital expenditures and two-way deferral of the associated incremental net-plant and depreciation revenue requirements. Though the Companies provide some minimal detail about the nature of these investments, it is impossible to assess whether the expenditures are reasonable without a full rate case. For example, the Companies claim certain investments are “mandated.” According to the response to NRDC-001, these include “[i]nvestments required by regulation, statute, executive order, or Commission order. This category encompasses capital expenditures driven by compliance obligations including, but not limited to, federal Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations, New York City Administrative Code requirements, Commission-approved rate plan metrics, and 16 NYCRR Part 255.” Stakeholders have not been able to verify whether these investments are in fact mandatory, and at least one of the regulations referenced in this discovery response allow alternatives that may be less costly to ratepayers (lower expenses or smaller investments). If implemented as proposed in the RSP petition, the Companies’ decisions will go unchecked, and ratepayers will likely pay more than necessary.

Further, the two-way deferral mechanism removes an important customer protection from the terms of the Joint Settlement. Utilities have an inherent incentive to invest in capital projects because this is one way they can earn a return for private shareholders. Allowing for up to \$1.7 billion in incremental capital investment, above revenues already included in RY3, is irresponsible without a more robust process to conduct discovery, submit testimony, and evaluate the evidence for these investments. The proposed cursory review by the Commission in this proceeding is not in the public interest, as there are often less costly, more cost-effective approaches to utility proposals for large capital expenditures that can result in improvements to safety, affordability, and environmental outcomes.

KEDNY City and State Construction (CSC) O&M expense proposal

Background

KEDNY proposes a deferral mechanism to increase rates or issue a customer refund depending on the difference between actual CSC O&M costs in RY4 and the RY3 revenues approved in the Joint Settlement (around \$3 million).³⁷ Specifically, KEDNY proposes the ability to defer for later recovery up to \$27.803 million³⁸ in additional CSC O&M expenditures, which is the Company’s forecast of additional expenditures for RY4 “largely attributable to the expiration of the Cost Sharing Agreement (“CSA”) with

³⁶ Joint Settlement, Appendix 6, Schedule 7, p.1; Appendix 7, Schedule 7, p. 1. Compares forecasted average plant balance of RY3 to RY2.

³⁷ RSP Petition, Exhibit 3.

³⁸ DPS-0016, Attachment 2. This requested amount was increased from \$23.146 million in the RSP Petition (RSP Petition, p. 9).

New York City.”³⁹ Any deferred excess expenditures would accrue carrying charges at KEDNY’s 9.01 percent pre-tax WACC.⁴⁰

As a preliminary matter, given the significant difference between CSC expenditures in rates (around \$3.0 million) and the Company’s forecast (around \$26.2 million),⁴¹ the proposed deferral mechanism is highly likely to result in future rate increases.

Analysis

We have three primary concerns with KEDNY’s CSC O&M tracker proposal. First, KEDNY has not provided sufficient supporting documentation or calculations for its proposed deferral cap amount. Second, while the Joint Settlement did not explicitly address CSC O&M costs, it did allow the opportunity for parties to contest capital costs requested for recovery in excess of approved amounts; in these cases disagreements would be referred to the Commission for decision.⁴² The RSP Petition does not provide for any after-the-fact reasonableness review of excess O&M costs. Lastly, the Company’s proposal to apply carrying charges at the pre-tax WACC results in additional expenditures of around \$2 million pursuant to this deferral treatment.⁴³

This treatment is particularly significant because CSC O&M is an operating expense, not a capital investment on which the utility earns a return through rate base. Although the Joint Settlement applies pre-tax WACC carrying charges to many existing deferral balances, including differed expenses, the Commission should consider whether that treatment is appropriate for this newly created O&M deferral given the additional cost to customers. In our experience, WACC is appropriate for capital costs that require the utility to raise or deploy capital; however, for non-capital expenses, carrying charges based on short-term interest rates more closely reflect the utility’s actual financing costs and better protect customers. Accordingly, we believe carrying charges on non-capital deferrals should more closely track a short-term interest-rate benchmark, such as the federal funds rate, which is currently closer to 3.5–4 percent.

In sum, this provision is likely to increase rates after RY4 while reducing regulatory oversight and scrutiny of ratepayer expenditures in a manner that is not consistent with the Joint Settlement.

Uncollectable Expenses

The Companies’ RSP Petition requests a two-way tracking mechanism for differences between actual and RY3 approved revenues amount for uncollectible expenditures. The Companies state that it under-

³⁹ RSP Petition, p. 9.

⁴⁰ Response to NRDC-008(a).

⁴¹ DPS-004, Supplemental attachment 1.

⁴² Joint Settlement, p. 25.

⁴³ Assumes annual return calculation as follows: \$23.146 million * 9.01% = \$2.085 million (return). Rate year 3 equity percentage was set at 48 percent (Order Approving Joint Settlement, p. 9) so profit would be around \$1 million.

collected these costs in RY1 and RY2 by a total of \$38 million.⁴⁴ The Companies' RSP Petition proposes that 80 percent of any under-recovery would be deferred for future recovery from ratepayers, while 100 percent of over-recovery would be refunded.⁴⁵ By contrast, the Joint Settlement did not allow for any reconciliation of costs in RY3 (differences between actual and forecasted expenditures in RY1 and RY2 could be deferred for future recovery).⁴⁶

Compared with the Joint Settlement's RY3 treatment, the proposed ratemaking approach removes an important customer protection. The Companies forecast additional uncollectible expenses of \$28.2 and \$2.2 million for KEDNY and KEDLI, respectively.⁴⁷ Therefore, ratepayers are expected to be charged \$22.6 million and \$1.8 million for KEDNY and KEDLY uncollectibles, respectively—costs they would not have borne under the Joint Settlement's provision for uncollectible expenditures in RY3.⁴⁸

2.3. Leak-backlog change

The RSP also seeks substantive changes to gas-safety performance requirements that otherwise continue beyond RY3, directly undercutting the Petition's repeated assertion that the proposal would "preserve[] for customers all the benefits contained in the Joint Proposal" and maintain its existing protections.

Under the Joint Proposal, the total leak-backlog targets would continue declining in calendar year 2027 to 600 leaks for KEDNY and 500 for KEDLI. The RSP instead proposes targets of 650 and 800 leaks, respectively, and adds a 20 percent deadband before the associated negative revenue adjustment would apply. These are not merely administrative changes needed to extend the existing rate plan; they materially weaken an existing post-RY3 performance obligation (particularly for KEDLI) and reduce the financial consequences for failing to meet it. The RSP therefore does not simply preserve the Joint Proposal while holding rates stable, as the Petition suggests; it selectively retains provisions favorable to the Companies while modifying customer and public-interest protections that would otherwise remain in effect.

⁴⁴ RSP Petition, p. 17.

⁴⁵ RSP Petition, pp. 9-10.

⁴⁶ Joint Settlement, p. 67.

⁴⁷ DPS-004, Supplemental Attachment 1.

⁴⁸ Incremental deferral amounts from DPS-004, Supplemental Attachment 1, multiplied by 80%.

3. THE RSP DEVIATES FROM SOUND RATEMAKING PRACTICE AND IS NOT IN THE PUBLIC INTEREST

Under traditional cost-of-service ratemaking utilities are subject to “regulatory lag,” which means they cannot recover all costs in between rate cases, which gives them an incentive to be especially careful with managing their costs. Under multi-year rate plans (MRPs), which is what the Joint Settlement represents, utilities are given a set of target revenues and if they spend more than those targets, they have to absorb the additional costs while if they spend less, they get to keep the savings. In both cases, the utilities have an incentive to manage their costs as efficiently as possible. By allowing the Companies to reconcile or defer for future recovery the costs they incur, the RSP eliminates this key regulatory incentive. In practical terms, the RSP shifts much of the risk that actual costs exceed the amounts reflected in rates from the Companies and their shareholders to ratepayers, reducing the financial consequences of cost overruns and weakening the incentive to identify efficiencies or avoid unnecessary spending.

In addition, the RSP does not allow for a reasonable review of the proposed capital expenses (new utility plant). The Joint Settlement allowed for such a review, enabling stakeholders and the PSC to identify opportunities to reduce capital costs, e.g., through non-pipe alternatives. The RSP allows for only a very cursory review of one of the most important drivers of increased costs and rates, thereby limiting the stakeholders and ultimately the Commission’s ability to test the prudence and necessity of major capital investments before they are placed into rates.

Further, the RSP allows the Companies to choose those costs that they want to increase but does not allow for even a cursory review of any costs that might decline in FY28 and future years. This is an example of a “single issue rate case” that regulators typically prohibit; the big difference is that instead of one issue, the Companies have cherry-picked several issues to focus on, resulting in an unbalanced review that does not consider offsetting cost decreases or broader revenue requirements.

4. RECOMMENDATION

We recommend that the Commission reject the RSP and allow the Commission-approved post-RY3 tariff rates to take effect on April 1, 2027. If the Companies believe those rates are insufficient or seek new reconciliation and deferral mechanisms, they should seek that relief through a general rate case.

A rate case can help achieve several critical goals, including allowing stakeholders and the Commission the opportunity to:

- Thoroughly review the capital and other costs proposed by the Companies to make sure they are in the public interest.

- Account for costs that have declined in recent years, as well as those that have increased.
 - Ensure sufficient incentives for the Companies to identify opportunities to reduce costs between rate cases.
 - Investigate whether earnings adjustment mechanisms should be modified or established to buttress the incentives provided through the multi-year rate plan.
 - Identify transparent and efficient ways of “stabilizing” rates for more than one year than the complex and misleading mechanisms proposed in the RSP.
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